

**LIVESTOCK WATERING RIGHTS**

**AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: Dennis E. Stowell

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to a livestock watering right.

**Highlighted Provisions:**

This bill:

- ▶ repeals the authority of the Department of Agriculture and Food relating to a livestock water use certificate;
- ▶ defines terms;
- ▶ authorizes a beneficial user to file a nonuse application for a livestock watering right;
- ▶ repeals the provision relating to a forage right;
- ▶ clarifies who can apply for a livestock water use certificate and water right; and
- ▶ requires the state engineer to provide an online application for a livestock water use certificate.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**4-20-2**, as last amended by Laws of Utah 2008, Chapter 399

**73-3-31**, as enacted by Laws of Utah 2008, Chapter 399

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **4-20-2** is amended to read:

**4-20-2. Rangeland Improvement Fund -- Administered by department.**

(1) (a) There is created a restricted special revenue fund known as the "Rangeland Improvement Fund."

(b) The fund shall consist of:

(i) all monies received by the state from the United States Secretary of Interior under the Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;

(ii) grants or appropriations from the state or federal government;

(iii) grants from private foundations; and

~~[(iv) proceeds from the sale of a livestock watering right in accordance with Section 73-3-31; and]~~

~~[(v)]~~ (iv) interest on fund monies.

(2) Any unallocated balance in the fund at the end of a fiscal year is nonlapsing.

(3) The department shall:

(a) administer the fund;

(b) obtain from the United States Department of Interior the receipts collected from:

(i) fees in each grazing district; and

(ii) the receipts collected from the sale or lease of public lands; and

(c) distribute fund monies in accordance with Section 4-20-3.

Section 2. Section **73-3-31** is amended to read:

**73-3-31. Water right for watering livestock on public land.**

(1) As used in this section:

(a) "Acquire" means to gain the right to use water through obtaining:

(i) an approved application to appropriate water; or

(ii) a perfected water right.

(b) "Allotment" means a designated area of public land available for livestock grazing.

58 (c) (i) "Beneficial user" means the person that ~~[owns]~~ has the right to use the grazing  
59 permit.

60 ~~[(d) "Forage right" means a right for livestock to forage within 50 feet of:]~~

61 ~~[(i) a water source;]~~

62 ~~[(ii) the place to which water is diverted; or]~~

63 ~~[(iii) a right-of-way for the maintenance and enjoyment of a livestock watering right.]~~

64 (ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

65 ~~[(e)]~~ (d) "Grazing permit" means a document authorizing livestock to graze on an  
66 allotment.

67 ~~[(f)]~~ (e) "Livestock" means a domestic animal raised or kept for profit or personal use.

68 ~~[(g)]~~ (f) "Livestock watering right" means a right for:

69 (i) livestock to consume water:

70 (A) directly from the water source located on public land; or

71 (B) from an impoundment located on public land into which the water is diverted; and

72 (ii) associated uses of water related to the raising and care of livestock on public land.

73 ~~[(h)]~~ (g) (i) "Public land" means land owned or managed by the United States or the  
74 state.

75 (ii) "Public land" does not mean land owned by:

76 (A) the Division of Wildlife Resources; ~~[or]~~

77 (B) the School and Institutional Trust Lands Administration~~[-];~~ or

78 (C) the Division of Parks and Recreation.

79 (h) "Public land agency" means the agency that owns or manages the public land.

80 (2) On or after ~~[May 5, 2008, only a beneficial user may acquire]~~ May 12, 2009, a  
81 livestock watering right may only be acquired by a public land agency jointly with a beneficial  
82 user.

83 (3) The state engineer may not approve a change application under Section 73-3-3 for  
84 a livestock watering right without the consent of the beneficial user.

85 (4) A beneficial user may file a nonuse application under Section 73-1-4 on a

86 livestock watering right or a portion of a livestock watering right that the beneficial user puts  
87 to beneficial use.

88 [~~(4) (a) Except as provided by Subsection (6), a]~~

89 (5) A livestock watering right is appurtenant to the allotment on which the livestock is  
90 watered.

91 [~~(b) A forage right is appurtenant to a livestock watering right.]~~

92 [~~(5)~~ (6) (a) (i) A beneficial user or a public land agency may file a request with the  
93 state engineer for a livestock water use certificate.

94 (ii) The state engineer shall:

95 (A) provide the livestock water use certificate application form on the Internet; and

96 (B) allow electronic submission of the livestock water use certificate application.

97 (b) The state engineer shall grant a livestock water use certificate to:

98 (i) a beneficial user if the beneficial user:

99 [(i) (A) demonstrates that the beneficial user [owns a grazing permit for] has a right  
100 to use a grazing permit for the allotment to which the livestock watering right is appurtenant;  
101 and

102 [(ii) (B) pays the fee set in accordance with Section 73-2-14[-]; and

103 [~~(6) (a) Notwithstanding other provisions in this title, if a person ceases to be a~~  
104 ~~beneficial user, the livestock watering right acquired under Subsection (2) or the livestock~~  
105 ~~water use certificate granted under Subsection (5) transfers to the Department of Agriculture~~  
106 ~~and Food.]~~

107 [~~(b) (i) The Department of Agriculture and Food shall:]~~

108 [~~(A) file as a lien holder on a grazing permit with the agency responsible for managing~~  
109 ~~the public land; and]~~

110 [~~(B) hold the livestock watering right or livestock water use certificate in trust until the~~  
111 ~~Department of Agriculture and Food transfers the livestock watering right or livestock water~~  
112 ~~use certificate to a person who owns a grazing permit for the allotment to which the livestock~~  
113 ~~watering right is appurtenant.]~~

114           ~~[(ii) A livestock watering right held by the Department of Agriculture and Food is not~~  
115 ~~subject to forfeiture.]~~

116           ~~[(c) If no person obtains a grazing permit for the allotment within one year of the~~  
117 ~~Department of Agriculture and Food receiving title:]~~

118           ~~[(i) the Department of Agriculture and Food shall:]~~

119           ~~[(A) sever the livestock watering right from the allotment; and]~~

120           ~~[(B) sell the water right at public auction to a person who:]~~

121           ~~[(F) demonstrates the ability to divert the water and use the water right to water~~  
122 ~~livestock; and]~~

123           ~~[(H) submits the highest bid; and]~~

124           ~~[(ii) the livestock water use certificate is void:]~~

125           ~~[(d) The Department of Agriculture and Food shall deposit the proceeds of the~~  
126 ~~livestock watering right sale into the Rangeland Improvement Fund created by Section~~  
127 ~~4-20-2:]~~

128           (ii) the public land agency if the public land agency:

129           (A) (I) demonstrates that the public land agency owns a livestock watering right; or

130           (II) issues a grazing permit for the allotment to which the livestock watering right is  
131 appurtenant; and

132           (B) pays the fee set in accordance with Section 73-2-14.

133           (c) A livestock water use certificate is valid as long as the livestock watering right is:

134           (i) put to beneficial use within a seven-year time period; or

135           (ii) subject to a nonuse application approved under Section 73-1-4.