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Public Lands Watering Rights Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses livestock watering rights on public lands.

Highlighted Provisions:

This bill:

- modifies the definition provision;
- repeals language regarding livestock water use certificates;
- addresses when a federal land management agency reduces livestock grazing animal unit month (AUMs);
- addresses a claim under Public Water Reserve No. 107; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-14, as last amended by Laws of Utah 2020, Chapter 421

73-3-31, as last amended by Laws of Utah 2022, Chapter 68

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

Section 1. Section **73-2-14** is amended to read:

73-2-14 . Fees of state engineer -- Deposited as a dedicated credit.

(1) The state engineer shall charge fees pursuant to Section 63J-1-504 for the following:

- (a) applications to appropriate water;

- 28 (b) applications to temporarily appropriate water;
- 29 (c) applications for a change;
- 30 (d) applications for exchange;
- 31 (e) applications for nonuse of water;
- 32 (f) applications to appropriate water, or make a change, for use outside the state filed
- 33 pursuant to Title 73, Chapter 3a, Water Exports;
- 34 (g) groundwater recovery permits;
- 35 (h) diligence claims for surface or underground water filed pursuant to Section 73-5-13;
- 36 (i) republication of notice to water users after amendment of application where required
- 37 by this title;
- 38 (j) applications to segregate;
- 39 (k) requests for an extension of time in which to submit proof of appropriation not to
- 40 exceed 14 years after the date of approval of the application;
- 41 (l) requests for an extension of time in which to submit proof of appropriation 14 years
- 42 or more after the date of approval of the application;
- 43 (m) groundwater recharge permits;
- 44 (n) applications for a well driller's license, annual renewal of a well driller's license, and
- 45 late annual renewal of a well driller's license;
- 46 (o) certification of copies;
- 47 (p) preparing copies of documents; and
- 48 (q) reports of water right conveyance[; ~~and~~] .
- 49 [~~(r) requests for a livestock water use certificate under Section 73-3-31.~~]
- 50 (2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon the
- 51 rate of flow or volume of water. If it is proposed to appropriate by both direct flow and
- 52 storage, the fee shall be based upon either the rate of flow or annual volume of water
- 53 stored, whichever fee is greater.
- 54 (3) Fees collected under this section:
- 55 (a) shall be deposited [~~in~~] into the General Fund as a dedicated credit to be used by the
- 56 Division of Water Rights; and
- 57 (b) may only be used by the Division of Water Rights to:
- 58 (i) meet the publication of notice requirements under this title;
- 59 (ii) process reports of water right conveyance; and
- 60 [~~(iii) process a request for a livestock water use certificate; and~~]
- 61 [~~(iv)~~] (iii) hire an employee to assist with processing an application.

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

63 **73-3-31 . Water right for watering livestock on public land -- Public Water**

64 **Reserve No. 107.**

65 (1) As used in this section:

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

67 (i) an approved application to appropriate water; or

68 (ii) a perfected water right.

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

70 (c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and
71 her calf, one horse, or five sheep and goats for one month.

72 (d)(i) "Beneficial user" means the person that has the right to use the grazing permit.

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

74 (e) "Grazing permit" means a document authorizing livestock to graze on an allotment.

75 (f) "Livestock" means a domestic animal raised or kept for profit or personal use.

76 (g) "Livestock watering right" means a right for:

77 (i) livestock to consume water:

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

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

80 and

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

82 (h)(i) "Public land" means land owned or managed by the United States or the state.

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

84 (A) the Division of Wildlife Resources;

85 (B) the School and Institutional Trust Lands Administration;

86 (C) the Division of State Parks; or

87 [~~(D) the Division of Outdoor Recreation.~~]

88 (D) the Division of Forestry, Fire, and State Lands.

89 (i) "Public land agency" means the agency that owns or manages the public land.

90 (j) "Public Water Reserve No. 107" means a claim for water under Public Water Reserve
91 No. 107, Exec. Order of April 17, 1926.

92 (2) A public land agency may not:

93 (a) condition the issuance, renewal, amendment, or extension of any permit, approval,
94 license, allotment, easement, right-of-way, or other land use occupancy agreement
95 regarding livestock on the transfer of any water right directly to the public land

96 agency;

97 (b) require any water user to apply for, or acquire a water right in the name of[;] the
98 public land agency as a condition for the issuance, renewal, amendment, or extension
99 of any permit, approval, license, allotment, easement, right-of-way, or other land use
100 occupancy agreement regarding livestock; or

101 (c) acquire a livestock watering right if the public land agency is not a beneficial user.

102 (3) The state engineer may not approve a change application under Section 73-3-3 for a
103 livestock watering right or Public Water Reserve No. 107 claim without the written
104 consent of the beneficial user.

105 (4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock
106 watering right or a portion of a livestock watering right that the beneficial user puts to
107 beneficial use.

108 (5) A livestock watering right or Public Water Reserve No. 107 claim is appurtenant to the
109 allotment on which the livestock is watered.

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

112 [~~(ii) The state engineer shall:~~]

113 [~~(A) provide the livestock water use certificate application form on the Internet;
114 and]~~

115 [~~(B) allow electronic submission of the livestock water use certificate application.~~]

116 [~~(b) The state engineer shall grant a livestock water use certificate to a beneficial user if
117 the beneficial user:]~~

118 [~~(i) demonstrates that the beneficial user has a right to use a grazing permit for the
119 allotment to which the livestock watering right is appurtenant; and]~~

120 [~~(ii) pays the fee set in accordance with Section 73-2-14.]~~

121 [~~(c) A livestock water use certificate is valid as long as the livestock watering right is:]~~

122 [~~(i) held by a beneficial user who has the right to use the grazing permit and graze
123 livestock on the allotment;]~~

124 [~~(ii) put to beneficial use within a seven-year time period; or]~~

125 [~~(iii) subject to a nonuse application approved under Section 73-1-4.]~~

126 [~~(7)] (6) A beneficial user may access or improve an allotment as necessary for the~~

127 beneficial user to beneficially use, develop, and maintain the [~~beneficial user's-~~]water
128 right appurtenant to the allotment.

129 [~~(8)] (7) If a federal land management agency reduces livestock grazing animal unit month (~~

130 AUMs) on federal grazing allotments, and the reduction results in the potential, partial
131 forfeiture of an appropriated water right[-:] :

132 (a) a beneficial user may file a nonuse application under Section 73-1-4 for the amount
133 of water in question for nonuse as a livestock water right [shall be held in trust by the
134 state engineer until such water may be appropriated for livestock watering,]
135 consistent with this [act and] section and other state law[-:] :

136 (b) the state engineer shall approve a nonuse application filed under this Subsection (7);
137 and

138 (c) the amount of water in question for nonuse as a livestock water right may not be used
139 for a purpose other than watering livestock.

140 ~~[(9)]~~ (8) [Nothing] Except under Subsection (9), nothing in this section affects a livestock
141 watering right [or a livestock water use certificate-]held by a public land agency on May
142 13, 2014.

143 (9)(a) To recognize a Public Water Reserve No. 107 claim for a spring or water hole on
144 public land owned or managed by a federal public land agency, the state engineer
145 shall:

146 (i) require that the public land agency:

147 (A) file a statement of claim pursuant to Section 73-4-5 with the state engineer;

148 (B) file the statement of claim described in Subsection (9)(a)(i)(A) with the
149 written consent of the beneficial user of the Public Water Reserve No. 107
150 claim; and

151 (C) establish the extent to which, as of April 17, 1926, the Public Water Reserve
152 No. 107 use supported the beneficial use of livestock watering and human
153 consumption by grazing permittees, including the quantity of water required to
154 fulfill the purpose of the claim;

155 (ii) determine whether the spring or water hole claimed under Public Water Reserve
156 No. 107:

157 (A) is an important spring or a water hole that provides enough water for general
158 use for livestock watering purposes;

159 (B) affords more than enough water for the use of one family and the family's
160 domestic animals;

161 (C) is accessible to livestock and satisfies the need for livestock watering and
162 human consumption by grazing permittees;

163 (D) existed on April 17, 1926; and

164 (E) is formed naturally and not due to artificial development or human-made
165 structures; and

166 (iii) determine whether the purposes described in this Subsection (9) would be
167 frustrated without the water.

168 (b) The state engineer may not recognize more than one Public Water Reserve No. 107
169 claim within a 40-acre parcel or a Public Water Reserve No. 107 claim that is closer
170 than 1/4 mile from another Public Water Reserve No. 107 claim.

171 (c) The state engineer may not recognize a Public Water Reserve No. 107 claim that has
172 as its beneficial use the watering of wildlife, as defined in Section 23A-1-101.

173 (d) A Public Water Reserve No. 107 claim may not impair a water right that existed
174 before April 17, 1926.

175 **Section 3. Effective Date.**

176 This bill takes effect on May 7, 2025.