

Effective 5/13/2014

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.
 - (c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.
 - (d)
 - (i) "Beneficial user" means the person that has the right to use the grazing permit.
 - (ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.
 - (e) "Grazing permit" means a document authorizing livestock to graze on an allotment.
 - (f) "Livestock" means a domestic animal raised or kept for profit or personal use.
 - (g) "Livestock watering right" means a right for:
 - (i) livestock to consume water:
 - (A) directly from the water source located on public land; or
 - (B) from an impoundment located on public land into which the water is diverted; and
 - (ii) associated uses of water related to the raising and care of livestock on public land.
 - (h)
 - (i) "Public land" means land owned or managed by the United States or the state.
 - (ii) "Public land" does not mean land owned by:
 - (A) the Division of Wildlife Resources;
 - (B) the School and Institutional Trust Lands Administration; or
 - (C) the Division of Parks and Recreation.
 - (i) "Public land agency" means the agency that owns or manages the public land.
- (2) A public land agency may not:
 - (a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;
 - (b) require any water user to apply for, or acquire a water right in the name of, the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or
 - (c) acquire a livestock watering right if the public land agency is not a beneficial user.
- (3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right without the consent of the beneficial user.
- (4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.
- (5) A livestock watering right is appurtenant to the allotment on which the livestock is watered.
- (6)
 - (a)
 - (i) A beneficial user or a public land agency may file a request with the state engineer for a livestock water use certificate.
 - (ii) The state engineer shall:
 - (A) provide the livestock water use certificate application form on the Internet; and
 - (B) allow electronic submission of the livestock water use certificate application.

- (b) The state engineer shall grant a livestock water use certificate to a beneficial user if the beneficial user:
 - (i) demonstrates that the beneficial user has a right to use a grazing permit for the allotment to which the livestock watering right is appurtenant; and
 - (ii) pays the fee set in accordance with Section 73-2-14.
- (c) A livestock water use certificate is valid as long as the livestock watering right is:
 - (i) held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;
 - (ii) put to beneficial use within a seven-year time period; or
 - (iii) subject to a nonuse application approved under Section 73-1-4.
- (7) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the beneficial user's water right appurtenant to the allotment.
- (8) If a federal land management agency reduces livestock grazing AUMs on federal grazing allotments, and the reduction results in the partial forfeiture of an appropriated water right, the amount of water in question for nonuse as a livestock water right shall be held in trust by the state engineer until such water may be appropriated for livestock watering, consistent with this act and state law.
- (9) Nothing in this section affects a livestock watering right or a livestock water use certificate held by a public land agency on May 13, 2014.

Amended by Chapter 420, 2014 General Session