

SENATE FILE NO. SF0135

Water rights-livestock on federal land.

Sponsored by: Senator(s) Hicks, Boner, Cooper, Driskill,
French and Steinmetz and Representative(s)
Clausen, Greear, Hunt, Laursen, Neiman and
Paxton

A BILL

for

1 AN ACT relating to water; providing requirements for a
2 water right permit secured for purposes of watering
3 livestock on federal land; providing for the perfection and
4 appropriation of springs and spring water located on
5 federal lands; identifying the appropriator of water on
6 federal lands as specified; providing definitions; and
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 41-3-116 is created to read:

12

13 **41-3-116. Livestock water right for watering**
14 **livestock on federal land.**

1

2 (a) As used in this section:

3

4 (i) "Allotment" means a designated area of
5 federal land available for livestock grazing;

6

7 (ii) "Animal unit month" or "AUM" means the
8 amount of forage needed to sustain one (1) cow and her
9 calf, one (1) horse or five (5) sheep or goats for one (1)
10 month;

11

12 (iii) "Federal agency" means the United States,
13 the President of the United States and any department,
14 corporation, agency or instrumentality heretofore or
15 hereafter created, designated or established by the United
16 States;

17

18 (iv) "Grazing permit" means a document
19 authorizing livestock to graze on an allotment;

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21 (v) "Livestock" means as defined by W.S.
22 11-22-101(a)(ii) but does not include wild horses claimed

1 by the federal government under the federal Wild
2 Free-Roaming Horses and Burros Act, P.L. 92-195.

3

4 (b) Notwithstanding any other provision of this
5 chapter, any permit or water right granted or issued under
6 this chapter for the purposes of watering livestock on
7 federal land shall:

8

9 (i) Only be issued in the name of a federal
10 agency jointly with the holder of a valid permit to graze
11 livestock on those federal lands;

12

13 (ii) Remain valid only if the permit or right
14 is:

15

16 (A) Put to beneficial use within the time
17 specified in W.S. 41-3-401(a); or

18

19 (B) Held by a person or grazing association
20 who has the right to use a grazing permit or who has
21 authorized grazing privileges granted by a federal agency
22 and who grazes livestock on the allotment.

23

1 (iii) Be appurtenant to the allotment or land on
2 which the livestock is watered;

3

4 (iv) Not be changed or amended under W.S.
5 41-3-104 without the consent of the holder or holders of a
6 valid permit to graze livestock on the federal land.

7

8 (c) No federal agency shall:

9

10 (i) Condition the issuance, renewal, amendment
11 or extension of any grazing permit or other permit,
12 approval, license, allotment, easement, right-of-way or
13 other land use occupancy agreement regarding livestock on
14 the transfer of any water right or permit directly to the
15 federal agency;

16

17 (ii) Require any water user to apply for or
18 acquire a water right or permit in the name of the federal
19 agency as a condition for the issuance, renewal, amendment
20 or extension of any grazing permit or other permit,
21 approval, license, allotment, easement, right-of-way or
22 other land use occupancy agreement regarding livestock;

23

1 (iii) Acquire a water right or permit for the
2 purposes of watering livestock on federal land if the
3 federal agency is not or will not put that water to
4 beneficial use.

5

6 (d) Any water right or permit issued under this
7 chapter shall be appurtenant to the federal land and shall
8 automatically transfer to a person or grazing association
9 that receives an allotment or grazing permit on that
10 federal land.

11

12 (e) Any holder of a valid permit to graze livestock
13 on federal land may access or improve an allotment as
14 necessary for the person to put the water to beneficial use
15 and to develop and maintain the water right appurtenant to
16 the allotment, consistent with any grazing agreement,
17 allotment or resource management plan.

18

19 (f) Notwithstanding W.S. 41-3-401, no water right
20 shall be deemed abandoned or partially abandoned when:

21

1 (i) The abandonment or nonuse is caused by, in
2 whole or in part, a federal agency's reduction of the AUMs
3 on federal land; or

4

5 (ii) The nonuse is voluntary because a grazing
6 permit holder chooses not to graze livestock on that
7 allotment, provided that the nonuse shall not exceed three
8 (3) years.

9

10 (g) Nothing in this section shall affect any
11 livestock water right or permit held by a federal agency on
12 or before July 1, 2021.

13

14 **Section 2.** W.S. 41-3-902, 41-3-905 and 41-3-935(c)
15 are amended to read:

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17 **41-3-902. Spring waters; perfection of right to use;**
18 **limitation.**

19

20 All springs and spring waters where the yield does not
21 exceed twenty-five (25) gallons per minute and where the
22 use is for domestic or stock purposes only and all springs
23 and spring waters located on federal lands in Wyoming,

1 shall be considered as groundwater. Perfection of the right
2 to use spring water up to twenty-five (25) gallons per
3 minute for domestic or stock use and to use all spring
4 water located on federal lands shall be made in accordance
5 with the laws pertaining to groundwater.

6

7 **41-3-905. Application; generally; registration of**
8 **vested rights; permit to construct well; registration of**
9 **formerly exempted wells.**

10

11 (a) Nothing herein contained shall be construed so as
12 to interfere with the right of any person to use water from
13 any existing well where such water is economically and
14 beneficially used for irrigation or for municipal, railway,
15 industrial or other beneficial use, to the extent only that
16 such continued right does not injuriously affect existing
17 adjudicated surface rights not heretofore abandoned, and
18 such use is hereby declared to constitute a vested right,
19 provided, that the owner of any such right acquired before
20 April 1, 1947, must have filed with the state engineer the
21 statement required by W.S. 41-3-901 through 41-3-938, on or
22 before December 31, 1957, and the owner of any right
23 acquired on or after April 1, 1947, must have registered

1 his well with the state engineer as required by W.S.
2 41-3-901 through 41-3-938, prior to the effective date of
3 this act, and provided further, that the right to take
4 underground water from any well exempted from the
5 provisions of W.S. 41-3-901 through 41-3-938, that is not
6 exempted from the provisions of this act, and that shall be
7 registered with the state engineer prior to the effective
8 date of this act, shall also constitute a vested right in
9 the use of water with priority as of the time of completion
10 of the well. No well shall be constructed after the
11 effective date of this act unless a permit has been
12 obtained from the state engineer. All existing stock and
13 domestic wells formerly exempted may be registered with the
14 state engineer prior to December 31, 1972. The state
15 engineer shall make appropriate forms for such registration
16 available with each county clerk and at such other places
17 as he deems feasible.

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19 (b) Appropriations of underground water for stock use
20 where the water is applied to beneficial use on federal
21 lands shall be granted in the name of a federal land agency
22 jointly with the holder of a valid permit to graze
23 livestock on those federal lands.

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2 **41-3-935. Adjudication procedure.**

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4 (c) Adjudication shall proceed in the same manner
5 prescribed for the adjudication of surface water
6 appropriations once the state engineer or his authorized
7 representative has reported his findings to the board. A
8 ground water appropriation attaches to the land for
9 irrigation, or ~~for~~to such other purposes or object for
10 which it was acquired.

11

12 **Section 3.** This act is effective July 1, 2021.

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14

(END)