

SENATE FILE NO. SF0122

Water rights-federal lands.

Sponsored by: Senator(s) Hicks and Driskill

A BILL

for

1 AN ACT relating to water; providing for the perfection and
2 appropriation of surface waters located on federal lands as
3 specified; providing for the perfection and appropriation
4 of underground waters located on federal lands as
5 specified; identifying the owner of a water right issued on
6 federal lands as specified; restricting the holding of a
7 water right on federal land as specified; and providing for
8 an effective date.

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

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

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14 **41-3-116. Water rights issued on federal lands;**
15 **identification of the water right owner.**

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1 (a) Pursuant to W.S. 41-3-101, the permitting and
2 appropriations of water for stock use, or stock and
3 wildlife use jointly, with a point of appropriation on
4 federal lands shall be issued in the name of the holder or
5 holders of a valid permit to graze livestock issued by the
6 appropriate federal land management agency.

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8 (b) Where livestock grazing is allowed on federal
9 land but no grazing permit is issued by a federal land
10 management agency, any water right issued to support the
11 livestock grazing may be issued in the name of any
12 subdivision of state government, local government, state
13 established special district, livestock association or
14 grazing board that can provide for beneficial use of the
15 water pursuant to W.S. 41-3-101.

16

17 (c) Whereas wildlife is the property of the state, no
18 person other than the state of Wyoming or any subdivision
19 of state government, local government or established
20 special district that can provide for beneficial use of the
21 water shall own a water right on federal lands where the
22 intended water use solely benefits wildlife, wildlife
23 habitat or environmental purposes pursuant to W.S.
24 41-3-101.

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2 (d) Nothing in this section shall be construed to
3 require the owner of a water right on federal land to
4 maintain federally constructed facilities, works or
5 infrastructure necessary for the issuance of a water right
6 under this section.

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8 (e) For the purposes of this section:

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10 (i) A feral horse under federal jurisdiction
11 shall not be considered stock; and

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13 (ii) A federal land management agency shall not
14 be considered a holder of a valid permit to graze livestock
15 on federal land.

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17 **Section 2.** W.S. 41-3-907 is amended to read:

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19 **41-3-907. Application; preferred right of**
20 **appropriations for stock or domestic use.**

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22 (a) Appropriations of underground water for stock or
23 domestic use, the latter being defined as household use and
24 the watering of lawns and gardens for noncommercial family

1 use where the area to be irrigated does not exceed one (1)
2 acre, where the yield or flow does not exceed .056 cubic
3 feet per second or twenty-five (25) gallons per minute,
4 shall have a preferred right over rights for all other
5 uses, regardless of their dates of priority, subject to the
6 provisions of W.S. 41-3-911, as amended, if an
7 appropriation is for two (2) or more uses, and includes one
8 (1) of the above preferred uses, the preferred use shall be
9 limited to .056 cubic feet per second or twenty-five (25)
10 gallons per minute, and the application shall specify one
11 (1) acre upon which such preferred uses shall be made. Such
12 preferred use shall not include municipal use by any person
13 of water appropriated by a municipality or company, or any
14 instance where water is purchased or held out for sale.

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16 (b) Pursuant to W.S. 41-3-101, the permitting and
17 appropriations of underground water for stock use, or stock
18 and wildlife use jointly, with a point of appropriation on
19 federal lands shall be issued in the name of the holder or
20 holders of a valid permit to graze livestock issued by the
21 appropriate federal land management agency.

22

23 (c) Where livestock grazing is allowed on federal
24 land but no grazing permit is issued by a federal land

1 management agency, any underground water right issued to
2 support the livestock grazing may be issued in the name of
3 any subdivision of state government, local government,
4 state established special district, or livestock
5 association board that can provide for beneficial use of
6 the water pursuant to W.S. 41-3-101.

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8
9 (d) Whereas wildlife is the property of the state, no
10 person other than the state of Wyoming or any subdivision
11 of state government, local government or established
12 special district that can provide for beneficial use of the
13 water shall own an underground water right on federal lands
14 where the intended water use solely benefits wildlife,
15 wildlife habitat or environmental purposes pursuant to W.S.
16 41-3-101.

17
18 (e) Nothing in this section shall be construed to
19 require the owner of an underground water right on federal
20 land to maintain federally constructed facilities, works or
21 infrastructure necessary for the issuance of a water right
22 under this section.

23
24 (f) For the purposes of this section:

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(i) A feral horse under federal jurisdiction shall not be considered stock; and

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(ii) A federal land management agency shall not be considered a holder of a valid permit to graze livestock on federal land.

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

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(END)