



ADVANCING THE LEGACY

8833 Ralston Road
Arvada, CO 80002
303.431.6422

info@coloradocattle.org
www.coloradocattle.org

Stock Watering and Instream Flow – What Does HB 20-1159 Affirm?



House Bill 20-1159, which became effective September 14, 2020, directs the state engineer of the Colorado Division of Water Resources to confirm a claim of an existing beneficial use – including stock watering - if the use or exchange has not been previously confirmed by court order or decree. The new law affirms that Colorado Water Conservation Board's instream flow rights are subject to existing uses and exchanges of water “whether or not previously confirmed by court order or decree.”

The issue of stock watering and instream flow rights arose in Routt County during 2012. The Division 6 Engineer directed irrigators to stop watering livestock out of irrigation ditches once the irrigation season ended if their water rights did not specify “stock watering” as a decreed use.

Many livestock producers have historically used irrigation ditches to water their livestock, both during and outside of the irrigation season. Often, stock water use was not specified in an irrigation water right decree because the use was considered incidental and the practice was common.

HB 20-1159 enables a rancher to obtain protection from having their historical but un-decreed stock watering usage called out of priority by junior instream-flow rights. However, it does not establish seniority in relation to any other type of water right.

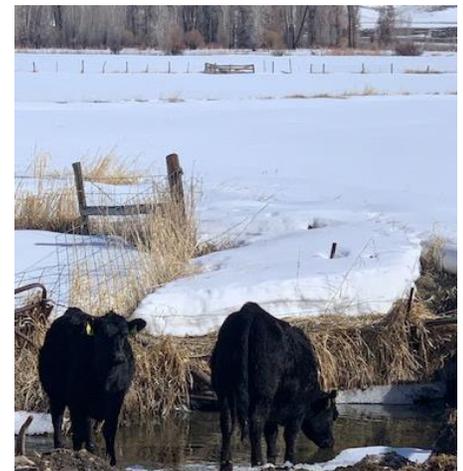


Photo: Doug Monger

To obtain confirmation of an existing but unadjudicated stock watering use, a claimant must provide records supporting the claim. The state engineer is required to confirm the extent of the claimed use (or exchange of water) that was in existence on the date of the appropriation of an instream flow right. The confirmation of an existing use is not a water right.

For more information visit www.agwaternet.org.



Phil Brink is Consulting Coordinator of Colorado Cattlemen's [Ag Water NetWORK](http://www.agwaternet.org). David Kueter is an attorney with Holsinger Law, LLC; dkueter@holsingerlaw.com.