

Definition of "Stock Water Purposes"

The Proposal: Define "stock water purposes" in statute.

Elements of the Proposal: A definition of "stock water purposes" would be added to the Code. A proposed definition is as follows: "Stock water purposes" means: providing water for domestic farm animals for drinking and for maintenance of animal health and welfare. This includes water for cleaning animals and the buildings that the animals occupy and misting the animals for cooling purposes in hot weather. This does not include the use of water to cool or process and produce, irrigation of vegetation, or dust control, all of which constitute industrial or commercial water uses under this section.

Why it is needed: In order to address an ambiguity in the statute of what is included in "stock water purposes", a definition of "stock water purposes" should be added to the statute. There are various interpretations of what is included in "stock water purposes" from case law and when considering other state statutes.

In *DeVries v. Washington* PCHB 01-073 (2001), the court stated that stock watering is "all reasonable uses of water normally associated with the sound husbandry of livestock. This includes, but is not limited to, drinking, feeding, cleaning their stalls, washing them, washing the equipment used to feed or milk them, controlling dust around them and cooling them." The court also stated that "the use of water for washing the milk barn and milking equipment, suppressing dust, misting dairy cows, and providing for dairy worker sanitation is water used in an agricultural process as opposed to an industrial process."

The Idaho statute defines "Stock watering use" to mean the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day (Idaho 42-1401a). Utah issues a "livestock water right" that includes water for the livestock to consume and the associated uses of water related to the raising and care of livestock (Utah 73-3-5.6).

South Dakota considers stock watering a domestic use. The statute in South Dakota further provides that "[u]se of groundwater by water distribution systems, except for irrigation purposes is a domestic use except where groundwater and water in flowing streams constitute the same water supply source, but only to the extent the water was actually used prior to July 1, 1978." (South Dakota 46-16-4). The Kansas statute also considers watering of livestock, poultry, and farm and domestic animals used in operating a farm to be a domestic use (Kansas 82a-701). Texas considers domestic use and municipal use as water for sustaining human life and the life of domestic animals (Texas 11-023).

Related Elements: The addition of a definition of "stock water purposes" is needed for consistency throughout the Code.