

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1308

By: Benson of the House

and

Easley of the Senate

AS INTRODUCED

An Act relating to waters and water rights; amending 82 O.S. 1991, Sections 105.10, 105.11, 105.12, 105.15, 105.16, 105.17 and 105.18, which relate to groundwater rights, 1020.1, 1020.4, 1020.5, 1020.6, 1020.7, 1020.8, 1020.9, 1020.10, 1020.11, 1020.16 and 1020.19, which relate to groundwater and well drillers and pump installers; modifying application process for water rights for certain purposes; modifying certain time restraints; providing for expiration of certain applications; providing for certain losses and forfeitures of water rights; providing for certain avoidance of forfeiture or losses; specifying certain types of evidence; modifying definitions; clarifying language; adding term; requiring certain reports; specifying time; providing for updates; providing for certain tentative determinations and final determinations; specifying basis; adding locations for hearings; requiring publication; specifying publication requirements; modifying process for taking and use of groundwater; modifying time periods; requiring hearings; providing for certain determinations, reports and calculations; authorizing and providing for certain temporary permits; specifying conditions for certain permits; providing for terms; providing for determination of maximum annual yields and effective permit periods; providing for and modifying types of permits and conditions; providing for licensing of persons plugging certain wells related to water; providing for certain deposits and expenditures; authorizing administrative fines; authorizing the requiring of certain information and data; providing for type; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 82 O.S. 1991, Section 105.10, is amended to read as follows:

Section 105.10 The date of receipt of such application in the Board office shall be endorsed thereon and noted in its records. If the application is defective as to form or unsatisfactory as to

feasibility or safety of the plan, or as to the showing of the ability of the applicant to carry the construction to completion, ~~it shall be returned with a statement~~ the Board shall advise the applicant of the correction, amendments or changes required, ~~within thirty (30) days after its receipt,~~ and sixty (60) days from the date the Board so advises shall be allowed for the refiling thereof. If refiled, corrected as required, within such time, the application shall, upon being accepted, take priority as of date of its original filing, subject to compliance with the further provisions of the law and the regulations thereunder. Any corrected application filed after the time allowed shall be treated in all respects as an original application received on the date of its refiling. The plans of construction may be amended, with the approval of the Board, at any time; but no such change shall authorize an extension of time for construction or placing the water to beneficial use beyond that authorized in the permit, except as provided in Section ~~15~~ 105.15 of this title. A change in the proposed point of diversion of water from a stream shall be subject to the approval of the Board and shall not be allowed to the detriment of the rights of others having valid claims to the use of water from said stream.

SECTION 2. AMENDATORY 82 O.S. 1991, Section 105.11, is amended to read as follows:

Section 105.11 A. Upon the ~~filing~~ acceptance of an application which complies with the provisions of this act and the rules and regulations established thereunder, the Board shall instruct the applicant to publish, within ~~ninety (90) days after the filing of the application~~ the time required by the Board, a notice thereof, at the applicant's expense, in a form prescribed by the Board in a newspaper of general circulation in the county of the point of diversion, and in a newspaper of general circulation published within the adjacent downstream county and any other counties designated by the Board once a week for two (2) consecutive weeks. Such notice shall give all the essential facts as to the proposed appropriation, among them, the places of appropriation and of use, amount of water, the purpose for which

it is to be used, name and address of applicant ~~and the time and place when the application will be taken up by the Board for consideration~~ and the manner in which a protest to the application may be made. In case of failure to give such notice in accordance with the rules and regulations applicable thereto within the time required, or if such notice is defective, the priority of application shall be lost; however, if proper notice shall be given within thirty (30) days after the Board has given him notice of his failure to give effective and proper notice, the application shall thereafter carry the original date of filing, and shall supersede any subsequent application to the same source of water supply. Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest.

B. Upon receipt of a protest which meets the requirements of the Board's rules, the Board shall schedule a hearing on the application and notify the applicant and protestant of such hearing.

SECTION 3. AMENDATORY 82 O.S. 1991, Section 105.12, is amended to read as follows:

Section 105.12 A. ~~After the hearing~~ Before the Board takes final action on the application, the Board shall determine from the evidence presented whether:

1. There is unappropriated water available in the amount applied for;
2. The applicant has a present or future need for the water and the use to which applicant intends to put the water is a beneficial use. In making this determination, the Board shall consider the availability of all stream water sources and such other relevant matters as the Board deems appropriate, and may consider the availability of groundwater as an alternative source;
3. The proposed use does not interfere with domestic or existing appropriative uses; and
4. If the application is for the transportation of water for use outside the stream system wherein the water originates, the proposed use must not interfere with existing or proposed

beneficial uses within the stream system and the needs of the water users therein. In making this determination, the Board shall utilize the review conducted pursuant to subsection B of this section.

If so determined, and subject to subsection B of this section, the Board shall approve the application by issuing a permit to appropriate water. The permit shall state the time within which the water shall be applied to beneficial use. In the absence of appeal as provided by the Administrative Procedures Act, the decision of the Board shall be final.

B. In the granting of water rights for the transportation of water for use outside the stream system wherein water originates, pending applications to use water within such stream system shall first be considered in order to assure that applicants within such stream system shall have all of the water required to adequately supply their beneficial uses.

The Board shall review the needs within such area of origin every five (5) years to determine whether the water supply is adequate for municipal, industrial, domestic, and other beneficial uses.

C. The review conducted pursuant to subsection B of this section shall not be used to reduce the quantity of water authorized to be used pursuant to permits issued prior to such review. Such permits, however, remain subject to loss, in whole or in part, due to nonuse, forfeiture or abandonment, pursuant to this title.

SECTION 4. AMENDATORY 82 O.S. 1991, Section 105.15, is amended to read as follows:

Section 105.15 A. Any permit shall expire unless the applicant begins construction of the works within two (2) years of the issuance of the permit by the Board. The Board may, as necessary and deemed appropriate under the circumstances, extend the time for the beginning of construction beyond the time allowed in the permit for good cause shown, such as engineering difficulty or other valid reason over which the applicant has no control.

B. If the Board does not receive a written notice of commencement of works or request to extend time within thirty (30) days after the end of the two-year period, the permit shall be deemed expired after written notice to the applicant.

C. Provided, nothing in this section shall be construed as extending the time within which the waters authorized for use must be placed to actual beneficial use as provided in the permit and Sections 105.16 through 105.18 of this title.

SECTION 5. AMENDATORY 82 O.S. 1991, Section 105.16, is amended to read as follows:

Section 105.16 ~~In no event shall~~ A. Unless a schedule of use is provided by the Board as authorized in this section, a regular permit shall require that the whole of the amount of the water authorized by the permit be put to beneficial use within a period of less than seven (7) years.

B. If, upon evidence presented to the Board, and considering the present and future needs of the stream system of origin, it appears that the proposed project, improvement or structure will promote the optimal beneficial use of water in the state, and it further appears that the total amount of water to be authorized by the permit cannot be put to beneficial use within seven (7) years, then the Board shall provide in the permit the time within which the total amount to be authorized shall be put to beneficial use. This time shall be the useful life of the proposed project, improvement or structure as found by the Board. In order to insure orderly progress toward total beneficial utilization within the said time set by the Board, the Board shall provide in the permit a schedule of times within which certain percentages of the total amount to be authorized must be put to beneficial use.

C. Nothing in this act shall be deemed to reestablish any right to the use of any water which has been lost by failure to use same or by forfeiture prior to July 5, 1961.

SECTION 6. AMENDATORY 82 O.S. 1991, Section 105.17, is amended to read as follows:

Section 105.17 A. To the extent that the water authorized is not put to beneficial use as provided by the terms of the permit,

that amount not so used shall be forfeited by the holder of the permit and shall become public water and available for appropriation.

B. When the party entitled to the use of water commences using water but thereafter fails to beneficially use all or any part of the water claimed by him, for which a right of use has been vested for the purpose for which it was appropriated for a period of seven (7) continuous years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

SECTION 7. AMENDATORY 82 O.S. 1991, Section 105.18, is amended to read as follows:

Section 105.18 A. When the Board has reasonable cause to believe that the right to use water has been lost in whole or in part, as provided in Section 105.17 of this title, the Board may proceed to cancel administratively such right by notifying the claimant of such right, or his latest successor in such rights, by written notification mailed by registered or certified mail to his last known address that there is reasonable cause for believing that he has lost his water rights under the provisions of Sections 105.16 or 105.17 of this title.

B. Such notice shall be mailed at least thirty (30) days prior to the date set for the hearing and shall give the time and place set for the hearing on such water rights; provided that if there is evidence that delivery of such notice by registered or certified mail cannot be made to the claimant, or his successor in such water rights, the Board shall give notice by publishing the same in a local newspaper qualified to publish such notice, nearest the point where said water right had attached, once each week for ~~three (3)~~ two (2) consecutive weeks. Such hearing date shall be set not earlier than thirty (30) days after the last publication date of said notice.

C. At such hearing the claimant of such water right, or his successor in such right, shall have the right to show cause why such water right should not be declared to have been lost through nonuse. ~~Within sixty (60) days after the hearing, the Board shall~~

~~notify the claimant, or his successor in such water right, of its determination by registered or certified mail. If the claimant or his successor in such water right is aggrieved by the determination of the Board, he may appeal to the district court as provided~~ Such cause may be shown by substantial competent evidence that the failure to beneficially use the water subject to forfeiture was caused by circumstances beyond the control of the claimant and the claimant was ready and willing to use the water.

Forfeiture of the water right may be avoided and the priority date maintained if the claimant demonstrates by substantial competent evidence that:

1. The forfeiture can be avoided without detriment to other existing rights; and
2. The claimant reestablishes a present or future need for the water for the purpose originally authorized; and
3. No applications are pending for the water which would otherwise be subject to the reversion. Procedures of hearings and appeals shall be governed by the Administrative Procedures Act.

D. Provided, that the failure of the Board to determine that a right to use water has been lost in whole or in part for nonuse shall not in any way revive or continue the said right.

SECTION 8. AMENDATORY 82 O.S. 1991, Section 1020.1, is amended to read as follows:

Section 1020.1 ~~A.~~ As used in this act, ~~unless the context clearly indicates otherwise, the term "groundwater" shall mean:~~

1. "Groundwater" means fresh water under the surface of the earth regardless of the geologic structure in which it is standing or moving outside the cut bank of any definite stream.

~~B. As used in this act, unless the context clearly indicates otherwise, "domestic"~~ 2. "Domestic use" means the use of water by a natural individual or by a family or household for household purposes, for farm and domestic animals up to the normal grazing capacity of the land and for the irrigation of land not exceeding a total of three (3) acres in area for the growing of gardens, orchards and lawns.

~~C. The term 3. "Major groundwater basin" shall mean a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and yield capabilities. from which groundwater wells yield at least fifty (50) gallons per minute on the average basinwide if from a bedrock aquifer and at least 150 gallons per minute on the average basinwide if from an alluvium or alluvium and terrace aquifer, or as otherwise designated by the Board;~~

~~D. The term "subbasin" shall mean 4. "Subbasin" means a subdivision of a water major or minor groundwater basin overlain by contiguous land and having substantially the same geological and hydrological characteristics and yield capabilities;~~

~~E. The term 5. "Board" shall mean means the Oklahoma Water Resources Board;~~

~~F. The term "person" shall mean 6. "Person" means any individual, firm, partnership, association, corporation, business trust, federal agency, state agency, the state or any political subdivision thereof, municipalities, and any other legal entities;~~

~~G. The term "fresh water" shall mean 7. "Fresh water" means water which has less than five thousand (5,000) parts per million total dissolved solids. For the purpose of this act all other water is salt water;~~

~~H. As used in this act, the terms "commercial 8. "Commercial drilling", "commercial plugging" and "commercial installation" shall mean drilling or plugging and installation as a business, trade or occupation for compensation; and~~

~~9. "Minor groundwater basin" means a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and which is not a major groundwater basin.~~

SECTION 9. AMENDATORY 82 O.S. 1991, Section 1020.4, is amended to read as follows:

Section 1020.4 ~~The~~ A. Prior to making orders establishing the tentative maximum annual yield for major groundwater basins or subbasins therein, the Oklahoma Water Resources Board shall make

hydrologic surveys and investigations ~~of each fresh ground water basin or subbasin.~~

B. Prior to making orders establishing the tentative maximum annual yield for minor groundwater basins or subbasins therein, the Board shall prepare reports using information from hydrologic surveys and investigations of groundwater basins or subbasins having substantially the same geological and hydrological characteristics and data from wells in such basin or subbasins and other relevant information.

C. The Board is authorized to cooperate with state and federal agencies engaged in similar surveys and investigations and may accept and use the findings of such agencies. At least every ~~ten (10)~~ twenty (20) years after issuance of the final order determining the maximum annual yield, the Board shall review and update if necessary the hydrologic surveys.

SECTION 10. AMENDATORY 82 O.S. 1991, Section 1020.5, is amended to read as follows:

Section 1020.5 A. After ~~making~~ completing the hydrologic survey, the Board shall make a tentative determination of the maximum annual yield of ~~fresh water~~ groundwater to be produced from each ground water basin or subbasin therein. Such determination must be based upon the following:

1. The total land area overlying the basin or subbasin;
2. The amount of water in storage in the basin or subbasin;
3. The rate of ~~natural~~ recharge to the basin or subbasin and total discharge from the basin or subbasin;
4. Transmissibility of the basin or subbasin; and
5. The possibility of pollution of the basin or subbasin from natural sources.

B. The maximum annual yield of each ~~fresh~~ major ground water basin or subbasin shall be based upon a minimum basin or subbasin life of twenty (20) years from the effective date of ~~this act~~ the order establishing the final determination of the maximum annual yield.

C. For minor groundwater basins or subbasins therein, the tentative determination of the maximum annual yield shall be based

upon present and reasonably foreseeable future use of groundwater from such basin or subbasin, recharge and total discharge, the geographical region in which the basin or subbasin is located and other relevant factors.

SECTION 11. AMENDATORY 82 O.S. 1991, Section 1020.6, is amended to read as follows:

Section 1020.6 A. ~~Once such hydrologic survey has been completed and~~ the Board has set a tentative maximum annual yield for the groundwater basin or subbasin, the Board shall call and hold hearings at centrally located places within the area of the major groundwater basin or subbasin or in the county for minor groundwater basins or subbasins. Prior to such hearings being held, the Board shall make copies of such hydrologic survey available for inspection and examination by all interested persons and, at such hearings, shall present evidence of the geological findings and determinations upon which the tentative maximum annual yield has been based. Any interested party shall have the right to present evidence in support or opposition thereto. The hearings shall be conducted pursuant to Article II of the Administrative Procedures Act.

B. Notice of such hearings shall be published in a newspaper of general circulation in each county having lands that overlie the basin or subbasin. The notice shall be published at least once per week for two consecutive weeks and the last publication shall be at least thirty (30) days prior to the date of the hearing. Notice and hearing on the tentative determination of the maximum annual yield for minor groundwater basins or subbasins may be consolidated.

C. After such hearings are completed, the Board shall then proceed to make its final determination as to the maximum annual yield of ~~water~~ groundwater which shall be allocated to each acre of land overlying such basin or subbasin by issuing a final order containing findings of fact and conclusions of law, which order shall be subject to judicial review pursuant to Article II of the Administrative Procedures Act.

D. The Board may, in subsequent basin or subbasin hearings, and after additional hydrologic surveys, increase the amount of water allocated but shall not decrease the amount of water allocated.

SECTION 12. AMENDATORY 82 O.S. 1991, Section 1020.7, is amended to read as follows:

Section 1020.7 Any person intending to use ground water shall, ~~after his testing is completed,~~ make application to the Board for an appropriate permit as provided in Section ~~11~~ 1020.11 of this title before commencing any drilling for such purposes and before taking water from any completed well heretofore drilled. Such application to take and use ground water shall be on a form provided by the Board and pursuant to the rules and regulations established by the Board. The application heretofore filed with the Board shall be used in granting permits for existing wells and the Board shall publish the notice of the hearing thereon.

SECTION 13. AMENDATORY 82 O.S. 1991, Section 1020.8, is amended to read as follows:

Section 1020.8 ~~The Board shall hold a hearing upon each application filed.~~ Upon the filing of an application which complies with the provisions of this act and the rules and regulations established thereunder, the Board shall instruct the applicant to ~~publish within ninety (90) days after the filing of the application,~~ provide notice thereof, at the applicant's expense, ~~in a form prescribed by the Board in a newspaper of general circulation in the county in which the well is located and any adjacent counties designated by the Board once a week for two consecutive weeks to give actual notice by certified mail to all immediately adjacent landowners and as required by the Board's~~ rules. Such notice shall give all the essential facts as to the proposed taking, among them, the places of taking and of use, amount of water, the purpose for which it is to be used, name and address of applicant and the ~~time and place when the application will be taken up by the Board for consideration~~ manner in which a protest to the application may be made. No hearing shall be had upon the application until proper notice shall have been given.

Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest. Upon receipt of a protest which meets the requirements of the Board's rules, the Board shall schedule a hearing on the application and notify the applicant and protestant of such hearing.

SECTION 14. AMENDATORY 82 O.S. 1991, Section 1020.9, is amended to read as follows:

Section 1020.9 ~~At the hearing~~ A. Before the Board takes final action on the application, the Board shall determine from the evidence presented ~~by the parties interested,~~ from the hydrologic surveys or reports and from other relevant data available to the Board and applicant, whether the lands owned or leased by the applicant overlie the fresh ground water basin or subbasin and whether the use to which the applicant intends to put the water is a beneficial use. If so, and if the Board finds that waste will not occur, the Board shall approve the application by issuing a regular permit.

~~A~~ B. Except as otherwise provided in subsection C of this section, a regular permit shall allocate to the applicant ~~his~~ the proportionate part of the maximum annual yield of the basin or subbasin. ~~His~~ The proportionate part shall be that percentage of the total annual yield of the basin or subbasin, previously determined to be the maximum annual yield as provided in Section ~~5~~ 1020.5 of this title, which is equal to the percentage of the land overlying the fresh ground water basin or subbasin which ~~he~~ the applicant owns or leases and which is dedicated to the application.

C. If the lands dedicated to the application overlie two or more groundwater basins and both basins have had maximum annual yields determined, the amount to be authorized by the regular permit shall be calculated on the basin having the greatest maximum annual yield. If the lands dedicated to the application overlie two or more groundwater basins or subbasins and the maximum annual yield has been determined for at least one but not all the basins or subbasins, a temporary permit may be issued to

the applicant if the applicant demonstrates by substantial competent evidence that the water to be withdrawn by the temporary permit will not be taken from a basin or subbasin for which the maximum annual yield has been determined. If the land overlies two or more groundwater basins or subbasins and the maximum annual yield has not been determined for any of the basins or subbasins, more than one temporary permit may be issued for the land if the applicant demonstrates by substantial competent evidence from which basin the water will be withdrawn for each of the permits.

D. The permit shall specify the location of the permitted well or wells and other terms and conditions as specified by the Board, including but not limited to the rate of withdrawal, the level of perforating and the level of sealing the well. A regular permit shall not be granted for less than the remaining life of the basin or subbasin as previously determined by the Board.

SECTION 15. AMENDATORY 82 O.S. 1991, Section 1020.10, is amended to read as follows:

Section 1020.10 The procedures provided herein for the granting of regular permits shall be applicable to the granting of temporary or special permits except that the ~~completion of the hydrologic survey~~ determination of the maximum annual yield shall not be a condition precedent. Provided a provisional temporary permit for water may immediately be granted upon administrative approval by the Oklahoma Water Resources Board. This permit will not be effective for a period of more than ~~sixty (60)~~ ninety (90) days.

SECTION 16. AMENDATORY 82 O.S. 1991, Section 1020.11, is amended to read as follows:

Section 1020.11 A. Regular Permit. A regular permit is an authorization to put ground water to beneficial use for other than domestic purposes. The regular permit shall be granted only after completion of the hydrologic survey and determination of the maximum annual yield for the appropriate basin or subbasin. It can be revoked or canceled only as provided in Sections 1020.12 and 1020.15 of this title.

B. Temporary Permit.

1. A temporary permit is an authorization for the same purposes as a regular permit but granted by the Oklahoma Water Resources Board prior to completion of the hydrologic survey and the determination of the maximum annual yield of the basin or subbasin. ~~Unless~~

2. Except as otherwise provided by this subsection, unless requested by a majority of the surface owners of the land or by the applicant, the water allocated by a temporary permit shall not be less than two (2) acre-feet annually for each acre of land owned or leased by the applicant in the basin or subbasin; ~~provided, however, if.~~ If the applicant presents clear and convincing evidence that allocations in excess of two (2) acre-feet annually for each acre of land overlying the basin or subbasin will not exhaust the water thereunder in less than twenty (20) years, then the Board may issue temporary permits in such basin or subbasin in such amounts in excess of said limitation as will assure a minimum twenty-year life for such basin or subbasin. If the Board determines that the withdrawal of the whole two (2) acre-feet per acre for the use proposed would not be a beneficial use or would constitute waste, then the Board may issue a temporary permit for a lesser amount.

3. A temporary permit must be revalidated annually during its term. The permit shall lapse at expiration of its term or upon the issuance of a regular permit, whichever shall occur first. It is subject to revocation or cancellation as provided in Sections 1020.12 and 1020.15 of this title. For temporary permit revalidation purposes, water use report forms shall be mailed by the Board to each temporary permit holder. Timely return of the completed, signed, and dated water use report form to the Board shall automatically revalidate a temporary groundwater permit if the revalidation is not protested and if the water use report form does not show or reflect any permit-water use violations.

4. If the revalidation of a permit is protested, the Board shall immediately set a date for hearing and notify the applicant and each protestant of the time and place of the hearing. At the hearing, any interested person may appear and present evidence and

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argument in support of or in opposition to the protest and revalidation. At the hearing on the revalidation protest, matters previously presented or considered and adjudicated shall not be subject to reconsideration or readjudication. The protest issues which may be entertained shall be limited to matters not previously determined, including but not limited to: a material or substantial change in conditions since issuance of the permit; evidence of the applicant's noncompliance with any of the terms, provisions, or conditions of the permit; or subsequent violations of the Oklahoma Groundwater Law, ~~Section 1020.1 et seq. of this title,~~ or Board rules and regulations.

5. Subject to compliance with all other and applicable provisions of this chapter and rules and regulations of the Board, all temporary permits "revalidated" by the Board prior to the effective date of this act are hereby validated.

C. Special Permit. A special permit is an authorization by the Board in lieu of or in addition to a regular or temporary permit. The special permit is granted to put ground water to a beneficial use which shall require quantities of water in excess of that allocated under a regular or temporary permit. The water so authorized may be used only for the purpose designated in the permit. The permit shall be granted for a period not to exceed six (6) months and may be renewed three (3) times. Successive special permits shall not be granted for the same purpose. It is subject to revocation or cancellation upon failure to use the water for the purpose granted or as provided in Sections 1020.12 and 1020.15 of this title.

D. Except as provided in Section 1020.21 of this title, no permits shall be issued to an applicant who is not the surface owner of the land on which the well is to be located, or does not hold a valid lease from such owner permitting withdrawal of water from such basin or subbasin.

SECTION 17. AMENDATORY 82 O.S. 1991, Section 1020.16, is amended to read as follows:

Section 1020.16 A. All persons engaged in the commercial drilling or commercial plugging of groundwater wells, monitoring

wells, observation wells, wells utilized for heat exchange purposes, including but not limited to heat pump wells and geothermal wells, and in the commercial drilling or plugging of geotechnical borings and all persons engaged in the commercial installation of water well pumps in this state shall make application for and become licensed with the Board. After July 1, 1990, persons required to be licensed pursuant to this section shall pay an annual fee as required by the Board ~~and~~. Such fees shall be deposited and expended as provided in subsection B of this section:

B. 1. There is hereby created within the Oklahoma Water Resources Board the Well Drillers and Pump Installers Remedial Action Indemnity Fund. The Indemnity Fund shall be administered by the Board.

2. The Indemnity Fund shall be excluded from budget and expenditure limitations. Except as otherwise provided by subsection C of this section, the monies deposited in the Indemnity Fund shall at no time become part of the general budget of the Oklahoma Water Resources Board or any other state agency. Except as otherwise provided by subsection C of this section, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Board or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expenses. Monies in the Indemnity Fund shall only be expended for remedial actions necessary, without notice and hearing, to protect groundwater from pollution or potential pollution from wells, or boreholes under the jurisdiction of the Board that do not meet minimum standards for construction or that have been abandoned.

3. The fees collected pursuant to subsection A of this section shall be first credited to the "Well Drillers and Pump Installers Remedial Action Indemnity Fund". The Indemnity Fund shall be maintained at Fifty Thousand Dollars (\$50,000.00).

4. Expenditures from the Indemnity Fund required pursuant to the provisions of this section shall be made pursuant to the provisions of the Oklahoma Central Purchasing Act upon terms and

conditions established by the ~~Office of Public Affairs~~ Department of Central Services and shall not exceed Five Thousand Dollars (\$5,000.00) for each well, borehole or pump for which action is taken.

5. The Board shall seek reimbursement for any remedial action taken or required by the Board. Any monies received as reimbursement shall be deposited in the Well Drillers and Pump Installers Remedial Action Indemnity Fund except as otherwise provided in subsection C of this section.

C. When the Well Drillers and Pump Installers Remedial Action Indemnity Fund reaches Fifty Thousand Dollars (\$50,000.00), the fees, monies received as reimbursement, and administrative penalties recovered under subsection E of this section shall be deposited in a separate account in the Water ~~Quality~~ Management Fund designated as the Well Drillers and Pump Installers Regulation Account, which shall be a continuing account not subject to fiscal year limitations. Monies in said account shall be used by the Board for inspections, licensing, enforcement and education and as otherwise determined to be necessary to implement the provisions of this section.

D. Before any person or firm licensed pursuant to this section shall commence the commercial drilling or plugging of any well or borehole or commence installation of any pump, such person or firm shall file with the Board such data or information as the Board may by rule require. After completion, the driller or installer shall file a completion report showing such data as the Board may require together with a log of the well and pumping test data if applicable.

E. The Board may, after notice and hearing, impose administrative penalties of up to Five Hundred Dollars (\$500.00) and may revoke, suspend or deny renewal of the license or operator certification for each violation of the Board's rules and regulations regarding license or certification requirements or minimum construction or installation standards. Each day a violation continues shall constitute a separate violation. Such administrative penalties shall be deposited in the Well Drillers

and Pump Installers Remedial Action Indemnity Fund except as otherwise provided in subsection C of this section.

SECTION 18. AMENDATORY 82 O.S. 1991, Section 1020.19, is amended to read as follows:

Section 1020.19 Upon request of a majority of the landowners residing within a basin or subbasin, or if the Board supplies the meters, the Board is authorized to require that water wells be metered and that such meters as the Board shall approve be utilized by the applicant and placed under seal, subject to reading by the agents of the Board at any time. The Board may also require that the applicant report the reading of such meters at reasonable intervals. If the Board determines, after notice and hearing, that the previous use has been underreported, the Board is authorized to require that information and data that can be used to accurately calculate use be furnished to the Board. Such information and data may include but not be limited to power or fuel consumption, well and pump capacity, and hours of pump operation.

SECTION 19. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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