

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 1480

By: Leist of the House

and

Easley and Muegge of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; amending 82 O.S. 1991, Sections 1020.9, as amended by Section 14, Chapter 164, O.S.L. 1993 and 1020.15, as amended by Section 322, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 2000, Sections 1020.9 and 1020.15), which relate to groundwater and waste; updating language; providing certain determinations of waste by the Oklahoma Water Resources Board; providing for responsibilities of certain agencies; specifying conditions; modifying responsibility for institution of certain actions; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 1020.9, as amended by Section 14, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 2000, Section 1020.9), is amended to read as follows:

Section 1020.9 A. 1. Before the Oklahoma Water Resources Board takes final action on ~~the~~ an application, the Board shall determine from the evidence presented, from the hydrologic surveys or reports and from other relevant data available to the Board and applicant, whether:

- a. the lands owned or leased by the applicant overlie ~~the~~
a fresh groundwater basin or subbasin ~~and whether,~~

- b. 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, and~~
- c. waste as specified by Section 1020.15 of this title will occur.

2. The Board shall approve the application by issuing a regular permit, if the Board finds that:

- a. the lands owned or leased by the applicant overlie the fresh groundwater basin or subbasin,
- b. the use to which the applicant intends to put the water is a beneficial use, and
- c. waste specified by Section 1020.15 of this title will not occur. When determining whether waste will occur pursuant to this subparagraph, if the activity for which the applicant intends to use the water is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental Quality or the State Department of Agriculture, the Board shall be precluded from making a determination whether waste by pollution pursuant to paragraph 7 of subsection A of Section 1020.15 of this title will occur as a result of such activity. Each groundwater protection agency, as such term is defined by Section 1-1-201 of Title 27A of the Oklahoma Statutes, shall be responsible for developing and enforcing groundwater protection practices to prevent groundwater contamination from activities within their respective jurisdictional areas of environmental responsibility.

B. Except as otherwise provided in subsection C of this section, a regular permit shall allocate to the applicant the

proportionate part of the maximum annual yield of the basin or subbasin. 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 1020.5 of this title, which is equal to the percentage of the land overlying the fresh groundwater basin or subbasin which 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 2. AMENDATORY 82 O.S. 1991, Section 1020.15, as amended by Section 322, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 2000, Section 1020.15), is amended to read as follows:

Section 1020.15 A. The Oklahoma Water Resources Board shall not permit any fresh groundwater user to commit waste by:

1. Drilling a well, taking, or using fresh groundwater without a permit, except for domestic use;
2. Taking more fresh groundwater than is authorized by the permit;
3. Taking or using fresh groundwater in any manner so that the water is lost for beneficial use;
4. Transporting fresh groundwater from a well to the place of use in such a manner that there is an excessive loss in transit;
5. Using fresh groundwater in such an inefficient manner that excessive losses occur;
6. Allowing any fresh groundwater to reach a pervious stratum and be lost into cavernous or otherwise pervious materials encountered in a well;
7. Permitting or causing the pollution of a fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin. The Board shall be precluded from determining whether waste by pollution will occur pursuant to the provisions of this paragraph if the activity for which the applicant or water user intends to or has used the water as specified under Section 1020.9 of this title is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental Quality or the State Department of Agriculture;
8. Drilling wells and producing fresh groundwater therefrom except in accordance with the well spacing previously determined by the Board;

9. Using fresh groundwater for air conditioning or cooling purposes without providing facilities to aerate and reuse such water; or

10. Failure to properly plug abandoned fresh water wells in accordance with rules of the Board and file reports thereof.

B. 1. Any employee of the Board having evidence that an act of waste is being committed in his or her presence, or on the filing of a complaint by another individual, shall immediately proceed to cite such violator and shall thereupon file a complaint in the district court of the county wherein such violation has occurred, and it shall be the duty of the district attorney of said county to prosecute such complaint. ~~In addition thereto~~

2. Except as otherwise provided by paragraph 7 of subsection A of this section, if any person commits waste as specified by subsection A of this section, the Board shall immediately institute action to enjoin in a court of competent jurisdiction and may suspend any permit to take water as long as such waste continues.

~~Provided, however, that in~~

C. In cases of waste by pollution pursuant to paragraph 7 of subsection A of this section, any complaint or investigation, or any enforcement matter other than an individual proceeding involving the suspension of an Oklahoma Water Resources Board permit shall be referred to and subject to the jurisdiction of the Department of Environmental Quality or other appropriate state environmental agency or state agency with limited environmental responsibility.

SECTION 3. 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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