

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1901

By: Askins

COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; amending 82 O.S. 2001, Sections 105.16 and 105.17, which relate to stream water use; providing certain exemptions for certain entities; exempting certain entities from certain permits; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.16, is amended to read as follows:

Section 105.16 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. 1. 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.

2. This time shall be the useful life of the proposed project, improvement or structure as found by the Board.

3. 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.

4. If the schedule of use of incremental amounts within the corresponding time period is not attained as scheduled, it shall be an acceptable cause for nonuse. The permit holder shall not forfeit any water or permit right, if:

a. the need for the water did not develop as anticipated when the water right was obtained or when a schedule of use was added or amended, and

b. the water right holder acquired, and has properly maintained significant infrastructure, such as lakes, storage rights in lakes, pipelines, pumps and other appurtenances, at a capacity necessary to put the amount of water subject to forfeiture to the use authorized.

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 2. AMENDATORY 82 O.S. 2001, 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, unless otherwise provided in this act.

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, unless otherwise provided in this act.

C. Except as otherwise provided in this act, if the schedule of use of incremental amounts within the corresponding time period is not attained as scheduled, it shall be an acceptable cause for nonuse. The permit holder shall not forfeit any water or permit right, if:

1. The need for the water did not develop as anticipated when the water right was obtained or when a schedule of use was added or amended; and

2. The water right holder acquired, and has properly maintained significant infrastructure, such as lakes, storage rights in lakes, pipelines, pumps and other appurtenances, at a capacity necessary to put the amount of water subject to forfeiture to the use authorized.

SECTION 3. This act shall become effective November 1, 2005.

50-1-6870 SBH 02/23/05