

THE HOUSE OF REPRESENTATIVES
Tuesday, February 26, 2008

House Bill No. 2238

HOUSE BILL NO. 2238 - By: SCHWARTZ of the House.

An Act relating to waters and water rights; amending 82 O.S. 2001, Section 105.10, which relates to streamwater use; prohibiting changes to identity of an applicant without approval; providing an exception; modifying date for pending applications; modifying review process of pending applications; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.10, is amended to read
2 as follows:
3 Section 105.10 A. 1. The date of receipt of an application for use of stream water
4 in the office of the Oklahoma Water Resources Board shall be endorsed and shall be
5 noted in the records of the Board.
6 2. If the application is defective as to form or unsatisfactory as to feasibility or
7 safety of the plan, or as to the showing of the ability of the applicant to carry the
8 construction to completion, the Board shall advise the applicant of the correction,
9 amendments or changes required. The applicant shall have not more than sixty (60)
10 days from the date the Board so advises to refile ~~such~~ the application. If refiled,
11 corrected as required, within the specified time limit, the application shall, upon being
12 accepted by the Board, take priority as of date of its original filing, subject to compliance

1 with the further provisions of the law and the rules promulgated thereto. Any corrected
2 application filed after the time allowed shall be treated in all respects as an original
3 application received on the date of its refiling.

4 3. The plans of construction may be amended, with the approval of the Board, at
5 any time, provided that no change shall authorize an extension of time for construction
6 or placing the water to beneficial use beyond that authorized in the permit, except as
7 provided in Section 105.15 of this title. A change in the proposed point of diversion of
8 water from a stream shall be subject to the approval of the Board and shall not be
9 allowed to the detriment of the rights of others having valid claims to the use of water
10 from the stream.

11 4. Other than to reflect a corporate name change, no amendment shall be made to
12 the identity of the applicant without the express, written approval of the Board.

13 B. 1. For applications that have been pending for more than three (3) years prior to
14 ~~the effective date of this section~~ June 5, 2000, the Board shall provide written notice to
15 the applicant at the applicant's last-known address of the applicant that the application
16 shall be deemed withdrawn and the priority date based on the original filing date shall
17 be lost unless the applicant provides notice of the application as instructed by the Board.
18 The Board shall provide an opportunity for a hearing if requested in order for the
19 applicant to show cause why:

- 20 a. notice should not be published, and
21 b. the application should not be deemed withdrawn and the priority date
22 lost.

1 2. Cause for not publishing notice may be shown by substantial competent evidence
2 that:

- 3 a. the applicant has been diligently pursuing plans for the project for
4 which the water is proposed to be used,
5 b. construction of the project is still practical, and
6 c. the applicant is still able to complete the project.

7 3. If the Board receives no response to the notice or cause is not shown, the
8 application shall be deemed withdrawn and priority date lost.

9 C. 1. After ~~the effective date of this section~~ June 5, 2000, applications may remain
10 pending for more than three (3) years and retain the priority date based on the original
11 filing date if the applicant files a request to extend pending status of the application
12 before the end of the first three-year period and each successive three-year period
13 thereafter and as required by rules promulgated by the Board.

14 2. If a request to extend pending status is not filed in time and as required by
15 Board rules, the application ~~will~~ may be deemed withdrawn, unless the applicant can
16 show good cause for the failure to timely file the request.

17 SECTION 2. It being immediately necessary for the preservation of the public
18 peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and be in full force from and
20 after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TECHNOLOGY, dated
22 02-25-08 - DO PASS.