

THE HOUSE OF REPRESENTATIVES
Monday, March 3, 2008

House Bill No. 2548

HOUSE BILL NO. 2548 - By: RICHARDSON of the House and ____ of the Senate.

An Act relating to waters and water rights; amending 82 O.S. 2001, Section 105.10, which relates to rules governing applications for stream water use; requiring separate applications for each diversion point in each stream system; clarifying statutory language; 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

13 with the further provisions of the law and the rules promulgated thereto. Any corrected

1 application filed after the time allowed shall be treated in all respects as an original
2 application received on the date of its refiling.

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

10 B. A separate application shall be required for each point of diversion of water from
11 each stream system from which the applicant is intending to acquire the right to the
12 beneficial use of the water.

13 C. 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 may be shown by substantial competent evidence that:

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

6 3. If the Board receives no response to the notice, the application shall be deemed
7 withdrawn and priority date lost.

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

13 2. If a request to extend pending status is not filed in time and as required by
14 Board rules, the application will be deemed withdrawn.

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

18 COMMITTEE REPORT BY: COMMITTEE ON NATURAL RESOURCES, dated 02-28-
19 08 - DO PASS.