

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2238

By: Schwartz

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5  
6 AS INTRODUCED

7 An Act relating to waters and water rights; amending  
8 82 O.S. 2001, Section 105.10, which relates to  
9 streamwater use; prohibiting changes to identity of  
10 an applicant without approval; providing an  
exception; modifying date for pending applications;  
11 modifying review process of pending applications; and  
12 declaring an emergency.

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

14 SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.10, is  
15 amended to read as follows:

16 Section 105.10 A. 1. The date of receipt of an application  
17 for use of stream water in the office of the Oklahoma Water  
18 Resources Board shall be endorsed and shall be noted in the records  
19 of the Board.

20 2. If the application is defective as to form or unsatisfactory  
21 as to feasibility or safety of the plan, or as to the showing of the  
22 ability of the applicant to carry the construction to completion,  
23 the Board shall advise the applicant of the correction, amendments  
24 or changes required. The applicant shall have not more than sixty

1 (60) days from the date the Board so advises to refile ~~such~~ the  
2 application. If refiled, corrected as required, within the  
3 specified time limit, the application shall, upon being accepted by  
4 the Board, take priority as of date of its original filing, subject  
5 to compliance with the further provisions of the law and the rules  
6 promulgated thereto. Any corrected application filed after the time  
7 allowed shall be treated in all respects as an original application  
8 received on the date of its refiling.

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

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

21 B. 1. For applications that have been pending for more than  
22 three (3) years prior to ~~the effective date of this section~~ June 5,  
23 2000, the Board shall provide written notice to the applicant at the  
24 ~~applicant's~~ last-known address of the applicant that the application

1 shall be deemed withdrawn and the priority date based on the  
2 original filing date shall be lost unless the applicant provides  
3 notice of the application as instructed by the Board. The Board  
4 shall provide an opportunity for a hearing if requested in order for  
5 the applicant to show cause why:

- 6 a. notice should not be published, and
- 7 b. the application should not be deemed withdrawn and the  
8 priority date lost.

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

- 11 a. the applicant has been diligently pursuing plans for  
12 the project for which the water is proposed to be  
13 used,
- 14 b. construction of the project is still practical, and
- 15 c. the applicant is still able to complete the project.

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

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

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

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

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