

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2548

By: Richardson

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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 rules
9 governing applications for stream water use;
10 requiring separate applications for each diversion
11 point in each stream system; clarifying statutory
12 language; and 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
(60) days from the date the Board so advises to refile ~~such~~ the

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

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

17 B. A separate application shall be required for each point of
18 diversion of water from each stream system from which the applicant
19 is intending to acquire the right to the beneficial use of the
20 water.

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

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

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16 application shall be deemed withdrawn and priority date lost.

17 ~~C. D.~~ 1. After ~~the effective date of this section~~ June 5,
18 2000, applications may remain pending for more than three (3) years
19 and retain the priority date based on the original filing date if
20 the applicant files a request to extend pending status of the
21 application before the end of the first three-year period and each
22 successive three-year period thereafter and as required by rules
23 promulgated by the Board.

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

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

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