

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1509

By: Gumm and Bingman

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6 AS INTRODUCED

7 An Act relating to waters and water rights; amending
8 82 O.S. 2001, Section 105.2, which relates to water
rights; updating statutory reference; and declaring
an emergency.
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.2, is
14 amended to read as follows:

15 Section 105.2 A. Beneficial use shall be the basis, the
16 measure and the limit of the right to the use of water; provided,
17 that water taken for domestic use shall not be subject to the
18 provisions of this act, Section 105.1 et seq. of this title, except
19 as provided in Section 105.5 of this title. Any person has the
20 right to take water for domestic use from a stream to which he is
21 riparian or to take stream water for domestic use from wells on his
22 premises. Water for domestic use may be stored in an amount not to
23 exceed two (2) years' supply. The provisions of this act shall not
24 apply to farm ponds or gully plugs which are not located on definite

1 streams and which have been constructed under the supervision and
2 specifications of the Soil and Water Conservation Districts.

3 B. Priority in time shall give the better right. From and
4 after the date of June 10, 1963, the following priorities for the
5 use of water and no other shall exist:

6 1. Prestatehood uses. Priorities to the quantity of water put
7 to beneficial use prior to November 15, 1907, to the extent to which
8 the priority has not been lost in whole or in part pursuant to
9 Section 105.16 of this title when the same shall have been perfected
10 as provided by this act and rules and regulations adopted by the
11 Board. Such said priorities shall date from the initiation of the
12 beneficial use.

13 2. Spavinaw, Grand, North Canadian, Blue and North Boggy
14 adjudications. Priorities decreed to exist in adjudications brought
15 in pursuance of this act where such adjudications have been
16 initiated prior to the date of June 10, 1963, to the extent to which
17 these priorities have not been lost in whole or in part pursuant to
18 Section 105.16 of this title. Such said priorities shall be dated
19 as of the date assigned to them in the respective adjudication
20 decrees.

21 3. Spavinaw, Grand, North Canadian, Blue and North Boggy Rivers
22 - Applications prior to June 10, 1963. Priorities based upon
23 applications for appropriations where the same shall have been
24 perfected heretofore under the law heretofore applicable to the

1 extent to which the priority has not been lost in whole or in part
2 pursuant to Section 105.16 of this title. Such said priorities
3 shall be dated as of the date of the application therefor.

4 4. All other applications. Priorities based upon applications
5 for appropriations to the extent the priority has not been lost in
6 whole or in part pursuant to Section 105.16 of this title where the
7 same shall be perfected after June 10, 1963, as provided by this act
8 and rules and regulations adopted by the Board pursuant thereto.
9 Such said priorities shall date from the date of application for the
10 priority. Any permit to appropriate water issued by the Board from
11 and after June 10, 1963, is hereby presumed to be valid and in full
12 force and effect to the extent not lost in whole or in part due to
13 nonuse, forfeiture or abandonment, pursuant to this title.

14 5. Federal withdrawals. Priorities based on the withdrawal of
15 water by the United States pursuant to Section 105.29 of this title
16 to the extent to which the priority has not been lost in whole or in
17 part through nonutilization as provided by the said section or
18 pursuant to Section 105.16 of this title. Such said priorities
19 shall vest in the users of said water as of the date of notification
20 given pursuant to Section 105.29 of this title.

21 6. Poststatehood - Nonapplicant uses. Priorities based upon
22 present beneficial use prior to June 10, 1963, and initiated on or
23 subsequent to November 15, 1907, to the extent to which the priority
24 has not been lost in whole or in part pursuant to Section 105.16 of

1 this title where the same has been perfected as provided by this act
2 and rules and regulations adopted by the Board pursuant thereto.
3 Such said priorities as to each quantity of water shall date from
4 the initiation of the beneficial use of that quantity of water.
5 Provided, however, that no priority based solely upon this paragraph
6 shall take priority over priorities which bear a priority date
7 earlier than the effective date of June 10, 1963, and which arise by
8 virtue of compliance with the provisions of the first five
9 paragraphs of this subsection.

10 7. Soil Conservation Service sediment pools. Priorities based
11 upon beneficial use of that portion of the water designated by the
12 Soil Conservation Service engineers as necessary for the sediment
13 pool where landowners have granted easements without compensation
14 for upstream flood control impoundments under the sponsorship of
15 Soil and Water Conservation Districts prior to June 10, 1963, to the
16 extent to which the priority has not been lost in whole or in part
17 pursuant to Section 105.16 of this title when the same shall have
18 been perfected as provided by this act and rules and regulations
19 adopted by the Board. Such said priorities shall date from the date
20 of the grant of the easement. Subsequent to June 10, 1963, those
21 landowners who shall grant easements for such upstream flood control
22 impoundments may acquire a priority for beneficial use of that water
23 designated as the sediment pool by complying with paragraph 4 of
24 subsection B of this section.

1 C. When any person might claim a priority under more than one
2 of the numbered paragraphs of subsection B of this section, he may
3 elect which paragraphs shall control his priority date. Nothing in
4 this provision shall be construed to prohibit his electing different
5 priorities under one or more of the paragraphs of subsection B of
6 this section for different quantities of water.

7 D. From and after June 10, 1963, the only riparian rights to
8 the use of water in a definite stream, except water taken for
9 domestic use, are those which have been adjudicated and recognized
10 as vested through the proceedings under 82 O.S. Supp. 1963, Sections
11 5 and 6, orders of the Oklahoma Water Resources Board entered
12 thereunder which became final, and those decreed to exist in the
13 Spavinaw, Grand, North Canadian, and Blue and North Boggy
14 adjudications, all to the extent such rights have not been lost, in
15 whole or in part, due to nonuse, forfeiture or abandonment, pursuant
16 to this title.

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

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