

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1483

By: DeWitt

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5
6 AS INTRODUCED

7 An Act relating to waters and water rights; amending
8 82 O.S. 2001, Section 1020.9, as amended by Section
9 3, Chapter 365, O.S.L. 2003, Section 1, Chapter 365,
10 O.S.L. 2003, and Section 2, Chapter 365, O.S.L. 2003
11 (82 O.S. Supp. 2008, Sections 1020.9, 1020.9A and
12 1020.9B), which relate to groundwater law; updating
13 statutory references; modifying certain findings
14 requirement for action on a groundwater permit for a
15 sole source groundwater basin or subbasin; modifying
16 certain findings requirement for the hydrological
17 study on sole source groundwater basins and
18 subbasins; and declaring an emergency.

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

20 SECTION 1. AMENDATORY 82 O.S. 2001, Section 1020.9, as
21 amended by Section 3, Chapter 365, O.S.L. 2003 (82 O.S. Supp. 2008,
22 Section 1020.9), is amended to read as follows:

23 Section 1020.9 A. 1. Before the Oklahoma Water Resources
24 Board takes final action on an application, the Board shall
25 determine from the evidence presented, from the hydrologic surveys
26 or reports and from other relevant data available to the Board and
27 applicant, whether:

- a. the lands owned or leased by the applicant overlie a fresh groundwater basin or subbasin,
- b. the use to which the applicant intends to put the water is a beneficial use,
- c. waste as specified by Section 1020.15 of this title will occur, and
- d. the proposed use is not likely to substantially degrade or interfere with springs or streams emanating in whole or in part from water originating from a sensitive sole source groundwater basin or subbasin as defined in Section ~~4~~ 1020.9A of this ~~act~~ title.

2. The Board shall approve the application by issuing a regular permit, if the Board finds that:

- a. the lands owned or leased by the applicant overlie the fresh groundwater basin or subbasin,
- b. the use to which the applicant intends to put the water is a beneficial use,
- c. waste specified by Section 1020.15 of this title will not occur. When determining whether waste will occur pursuant to this subparagraph, if the activity for which the applicant intends to use the water is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental

1 Quality or the State Department of Agriculture, the
2 Board shall be precluded from making a determination
3 whether waste by pollution pursuant to paragraph 7 of
4 subsection A of Section 1020.15 of this title will
5 occur as a result of such activity. Each groundwater
6 protection agency, as such term is defined by Section
7 1-1-201 of Title 27A of the Oklahoma Statutes, shall
8 be responsible for developing and enforcing
9 groundwater protection practices to prevent
10 groundwater contamination from activities within their
11 respective jurisdictional areas of environmental
12 responsibility, and

13 d. the proposed use is not likely to substantially
14 degrade or interfere with springs or streams emanating
15 in whole or in part from water originating from a
16 sensitive sole source groundwater basin as defined in
17 Section ~~4~~ 1020.9A of this ~~act~~ title.

18 B. Except as otherwise provided in subsection C of this
19 section, a regular permit shall allocate to the applicant the
20 proportionate part of the maximum annual yield of the basin or
21 subbasin. The proportionate part shall be that percentage of the
22 total annual yield of the basin or subbasin, previously determined
23 to be the maximum annual yield as provided in Section 1020.5 of this
24 title, which is equal to the percentage of the land overlying the

1 fresh groundwater basin or subbasin which the applicant owns or
2 leases and which is dedicated to the application.

3 C. If the lands dedicated to the application overlie two or
4 more groundwater basins and both basins have had maximum annual
5 yields determined, the amount to be authorized by the regular permit
6 shall be calculated on the basin having the greatest maximum annual
7 yield. If the lands dedicated to the application overlie two or
8 more groundwater basins or subbasins and the maximum annual yield
9 has been determined for at least one but not all the basins or
10 subbasins, a temporary permit may be issued to the applicant if the
11 applicant demonstrates by substantial competent evidence that the
12 water to be withdrawn by the temporary permit will not be taken from
13 a basin or subbasin for which the maximum annual yield has been
14 determined. If the land overlies two or more groundwater basins or
15 subbasins and the maximum annual yield has not been determined for
16 any of the basins or subbasins, more than one temporary permit may
17 be issued for the land if the applicant demonstrates by substantial
18 competent evidence from which basin the water will be withdrawn for
19 each of the permits.

20 D. The permit shall specify the location of the permitted well
21 or wells and other terms and conditions as specified by the Board,
22 including, but not limited to, the rate of withdrawal, the level of
23 perforating and the level of sealing the well. A regular permit
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1 shall not be granted for less than the remaining life of the basin
2 or subbasin as previously determined by the Board.

3 SECTION 2. AMENDATORY Section 1, Chapter 365, O.S.L.
4 2003 (82 O.S. Supp. 2008, Section 1020.9A), is amended to read as
5 follows:

6 Section 1020.9A A. The Legislature finds that a moratorium is
7 necessary on the issuance of certain temporary permits on certain
8 sensitive sole source groundwater basins or subbasins to protect the
9 health, safety and welfare of the people of Oklahoma.

10 B. 1. A moratorium is hereby established on the issuance of
11 any temporary permit that would lead to any municipal or public
12 water supply use of groundwater from a sensitive sole source
13 groundwater basin or subbasin outside of any county that overlays in
14 whole or in part said basin or subbasin. "Sensitive sole source
15 groundwater basin" means a major groundwater basin or subbasin all
16 or a portion of which has been designated as a "Sole Source Aquifer"
17 by the United States Environmental Protection Agency pursuant to the
18 Safe Drinking Water Act as of the effective date of this act,
19 including any portion of any contiguous aquifer located within five
20 (5) miles of the known areal extent of the surface out-crop of the
21 sensitive sole source groundwater basin.

22 2. Said moratorium shall be in effect until such time as the
23 Oklahoma Water Resources Board conducts and completes a hydrological
24 study and approves a maximum annual yield that will ensure that any

1 permit for the removal of water from a sensitive sole source
2 groundwater basin or subbasin will not substantially reduce the
3 natural flow of water from springs or streams emanating from said
4 basin or subbasin.

5 3. The provisions of this act shall be applicable to
6 groundwater permit applications for which no final adjudication has
7 been made by the Oklahoma Water Resources Board before the effective
8 date of this act.

9 4. Any revalidation of a temporary permit, in effect upon the
10 effective date of this act, that allows for any municipal or public
11 water supply use of groundwater from a sensitive sole source
12 groundwater basin outside of any county that overlays in whole or in
13 part said basin shall be considered a new permit application and
14 subject to the provisions of this act.

15 SECTION 3. AMENDATORY Section 2, Chapter 365, O.S.L.
16 2003 (82 O.S. Supp. 2008, Section 1020.9B), is amended to read as
17 follows:

18 Section 1020.9B A. A moratorium is hereby established on any
19 municipality or other political subdivision of this state
20 prohibiting any such entity from entering into a contract or other
21 agreement which would lead to municipal or public water supply use
22 of groundwater from a sensitive sole source groundwater basin as
23 defined in Section ~~±~~ 1020.9A of this ~~act~~ title. Said moratorium
24 shall apply only to municipalities or political subdivisions which

1 are located outside of any county that overlays in whole or in part
2 said basin or subbasin.

3 B. Said moratorium shall be in effect until such time as the
4 Oklahoma Water Resources Board conducts and completes a hydrological
5 study and approves a maximum annual yield that will ensure that any
6 permit for the removal of water from a sensitive sole source
7 groundwater basin will not substantially reduce the natural flow of
8 water from springs or streams emanating from said basin or subbasin.

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

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