

1 STATE OF OKLAHOMA

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

3 SENATE BILL 545

By: Justice

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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 (82 O.S. Supp. 2008,
10 Section 1020.9), which relates to water permit
11 applications; modifying certain criteria standards
12 for approval by Oklahoma Water Resources Board;
13 amending Section 1, Chapter 365, O.S.L. 2003 (82 O.S.
14 Supp. 2008, Section 1020.9A), which relates to
15 moratorium on certain water permits; modifying
16 certain moratorium criteria; amending Section 2,
17 Chapter 365, O.S.L. 2003 (82 O.S. Supp. 2008, Section
18 1020.9B), which relates to water moratorium for
19 certain entities; modifying certain moratorium
20 criteria; and declaring an emergency.

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

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

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

- 1 a. the lands owned or leased by the applicant overlie a
2 fresh groundwater basin or subbasin,
3 b. the use to which the applicant intends to put the
4 water is a beneficial use,
5 c. waste as specified by Section 1020.15 of this title
6 will occur, and
7 d. the proposed use is not likely to substantially
8 degrade or interfere with springs or streams emanating
9 in whole or in part from water originating from a
10 sensitive sole source groundwater basin or subbasin as
11 defined in Section ~~1 of this act~~ 1020.9A of this
12 title.

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

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

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

14 d. the proposed use is not likely to substantially
15 degrade or interfere with springs or streams emanating
16 in whole or in part from water originating from a
17 sensitive sole source groundwater basin as defined in
18 Section ~~1 of this act~~ 1020.9A of this title.

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

1 title, which is equal to the percentage of the land overlying the
2 fresh groundwater basin or subbasin which the applicant owns or
3 leases and which is dedicated to the application.

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

21 D. The permit shall specify the location of the permitted well
22 or wells and other terms and conditions as specified by the Board,
23 including, but not limited to, the rate of withdrawal, the level of
24 perforating and the level of sealing the well. A regular permit

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~~ August
19 29, 2003, including any portion of any contiguous aquifer located
20 within five (5) miles of the known areal extent of the surface out-
21 crop of the 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~~ August 29, 2003.

9 4. Any revalidation of a temporary permit, in effect upon ~~the~~
10 ~~effective date of this act~~ August 29, 2003, that allows for any
11 municipal or public water supply use of groundwater from a sensitive
12 sole source groundwater basin outside of any county that overlays in
13 whole or in part said basin shall be considered a new permit
14 application and 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 ~~1 of this act~~ 1020.9A of this title. Said
24 moratorium shall apply only to municipalities or political

1 subdivisions which are located outside of any county that overlays
2 in whole or in part 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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