

1 STATE OF OKLAHOMA

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

3 SENATE BILL 58

By: Ellis

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6 AS INTRODUCED

7 An Act relating to waters and water rights; amending
8 82 O.S. 2001, Section 105.10, which relates to water
9 permit applications; deleting obsolete language; and
10 declaring an emergency.

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

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

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

18 2. If the application is defective as to form or unsatisfactory
19 as to feasibility or safety of the plan, or as to the showing of the
20 ability of the applicant to carry the construction to completion,
21 the Board shall advise the applicant of the correction, amendments
22 or changes required. The applicant shall have not more than sixty
23 (60) days from the date the Board so advises to refile such
24 application. If refiled, corrected as required, within the

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

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

16 B. 1. For applications that have been pending for more than
17 three (3) years prior to the effective date of this section, the
18 Board shall provide written notice to the applicant at the
19 applicant's last-known address that the application shall be deemed
20 withdrawn and the priority date based on the original filing date
21 shall be lost unless the applicant provides notice of the
22 application as instructed by the Board. The Board shall provide an
23 opportunity for a hearing if requested in order for the applicant to
24 show cause why:

1 a. notice should not be published, and

2 b. the application should not be deemed withdrawn and the
3 priority date lost.

4 2. Cause may be shown by substantial competent evidence that:

5 a. the applicant has been diligently pursuing plans for
6 the project for which the water is proposed to be
7 used,

8 b. construction of the project is still practical, and

9 c. the applicant is still able to complete the project.

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

12 C. 1. ~~After the effective date of this section, applications~~
13 Applications may remain pending for more than three (3) years and
14 retain the priority date based on the original filing date if the
15 applicant files a request to extend pending status of the
16 application before the end of the first three-year period and each
17 successive three-year period thereafter and as required by rules
18 promulgated by the Board.

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

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

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