

Oklahoma

Water
News

MONTHLY NEWSLETTER OF THE OKLAHOMA WATER RESOURCES BOARD

New Laws Clarify Water Rights, Fund Wastewater Construction

Two key water bills—one originating in the House of Representatives, the other in the Senate—were signed into law by Governor Bellmon last month. One law seeks to clarify the OWRB's water rights appropriation process clouded by a controversial Supreme Court opinion last year. The other clears the way for a new wastewater project loan program proposed by the Environmental Protection Agency.

According to OWRB Executive Director James Barnett, SB 354 is an attempt by the State Legislature to clarify its original intent in developing the water rights appropriation process used by the Board for 25 years. Several facets of that process were put into doubt by a May 1987 Supreme Court decision involving Franco-American Charolaise, Ltd. (a southeast Oklahoma cattle ranch operation), the OWRB and City of Ada.

The court case resulted when the City of Ada attempted to appropriate additional water from Byrd's Mill Spring, Ada's major source of water. The permit application to the OWRB was protested by Franco-American and other downstream water users who cited impairment of flow. Following the standard permit hearing and Board vote, an additional appropriation of 5,340 acre-feet was ap-

proved. Protestants appealed to District Court, where the Board ruling was reversed. In turn, the OWRB and City of Ada appealed the District

Oklahoma because entities which sponsor construction of reservoirs in other stream systems or those which receive water from another system may be in danger of losing those rights. Therefore, a major portion of SB 354 deals with reaffirming and ensuring the OWRB's appropriate powers while protecting rights of ri-



Gov. Bellmon signs HB 1914 with OWRB Executive Director Jim Barnett, Sen. Herb Rozell, Rep. Cal Hobson, Conservation Commission Director Mason Mungle.

Court decision to the Oklahoma Supreme Court.

"The high court ruled that area-of-origin water right holders and riparian landowners—those who reside next to a river or stream—have a greater right, above other water right holders, to the water in their drainage basin or that running adjacent to their land," Barnett pointed out.

"Apparently, the legislature believes such an interpretation could threaten industrial development in

riparian landowners and various other water right holders."

The Supreme Court's opinion recognized the old riparian system of water rights widely used before the appropriation system was created, Barnett said. Presently, Board records show 59 Oklahoma municipalities, 24 rural water districts and 27 industries use water supplies partially or entirely outside of the originating stream basin. According to Barnett,

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SB 354 attempts to alleviate the uncertainty faced by these water right holders by adding regulations that require the Board to determine whether proposed out-of-basin use interferes with in-basin uses.

The high court also determined that the OWRB must consider all sources of available water, even groundwater, before granting a stream water permit. OWRB officials and state lawmakers consider it best to utilize, where feasible, existing stream water sources rather than allowing unused water to flow out of the state.

"The Court's determination implies that entities may be forced to develop every available water source, which could lead to the exhaustion of groundwater supplies. And if groundwater is available, the expense of drilling deep wells can be prohibitive for many small towns and irrigators. SB 354 language states that the OWRB may consider the availability of groundwater in determining the water needs of an applicant—but there is no requirement to actually utilize groundwater," Barnett said.

SB 354, HB 1914 keys to Oklahoma's water future

Although the legislature has attempted to rectify the water rights controversy with the passage of SB 354, the Supreme Court will ultimately determine the constitutionality of the question, Barnett added. Almost 90 entities—cities, towns, rural water districts and other concerned groups—have petitioned the high court for a rehearing.

"Some are concerned that the legislation only muddies up the situation instead of clarifying it," says Barnett. "But we believe it safeguards our permitting process—which has worked well for many years—and acts as insurance for those permits issued since 1963 when the riparian and appropriative systems were merged. Water is a prime commodity and many industries establish themselves where they have a good and

reliable source of water available to them," he said.

In HB 1914, the legislature recognizes the federal government's diminishing role in the funding of local sewer projects over the next six years. It creates the State Wastewater Facility Construction Revolving Loan Fund which will replace EPA grants. According to terms of the bill, the state would appropriate \$2 million as "seed money" from the existing Statewide Water Development Revolving Fund, supervised by the OWRB, to match \$10 million in federal money.

According to OWRB Assistant Director Mike Melton, the proposal is part of the federal government's drive to reduce expenditures and increase state funding responsibilities.

"After 1994, states essentially will be on their own in providing financial assistance to municipalities and rural water districts. HB 1914 was created and passed to ensure that wastewater construction financing in Oklahoma will continue without interruption," Melton said. "The bill provides a system by which the OWRB and State Department of Health can combine their expertise in managing wastewater construction funds."

The legislation directs the State Department of Health to prepare a cost effective analysis on projects that will be considered for funding under the program, much like the agency conducts its Wastewater Construction Grants Program, Melton added. Among other related duties, the OSDH will establish an applicant priority system to determine the most deserving fund recipients.

"The Water Board's role is to actually manage monies in the account," he said. "As a result of State Question 581 and the Board's past history in water and sewer financing, the Legislature agreed the OWRB was the logical choice. We are the only water-related agency which has both the clear constitutional authority to execute a bond issue and necessary experience to administer such an account."

SQ 581 was a constitutional amendment, passed by popular vote

in 1984, which allowed the Water Development Revolving Fund to be used as collateral for state revenue bonds so communities can obtain long-term loans at affordable interest rates. Since inception of the Financial Assistance Program, the OWRB has provided more than \$9.3 million in 133 grants to eligible state entities. In addition, 32 loans totaling almost \$15 million have been approved. The FAP has been instrumental in the construction of more than \$32 million worth of projects.



EPA Honors Ardmore, Hominy

The U.S. Environmental Protection Agency has recognized two Oklahoma cities in EPA Region 6 for outstanding efforts in operating wastewater treatment plants. Ardmore received the Operation and Maintenance Excellence Award and Hominy's facility received special recognition by the EPA.

Nominations were submitted by state agencies to an awards committee composed of representatives from the Water Pollution Control Federation, Sierra Club, League of Women Voters, American Consulting Engineers Council, state agencies and the EPA Region 6.

60-, 90-Day Permits Available

Short-term provisional temporary permits for stream water and groundwater use are available from the OWRB, according to James R. Barnett, OWRB executive director.

"Emergency requests for water have increased as the dry conditions have worsened. Many water users discover that the 90-day stream water permit and 60-day groundwater permit are ideal for their immediate water needs," he said.

The provisional temporary permits require a \$75 filing fee and are usually processed in one day. For information, call Board offices in Oklahoma City, Tulsa, Lawton, Woodward or McAlester.

16 New Faces Join the OWRB to Assist in OKC and Branches

Their backgrounds range from microbiology to agronomy, from political science to engineering, but the bond they share is working with the Water Resources Board through the summer.

Perhaps sometime in the future, some of these seasonal employees will return to the OWRB to fill full-time positions. According to administrative Division chief Jim Schuelein, about a third of the agency's regular employees first came to the Board as seasonal employees. Schuelein says the program of employing college

students for the summer is terrific for the OWRB and the students.

Especially grateful and the biggest "user" of the helping hands is the Board's Water Quality division. This division relies on seasonal employees to assist in stream studies that are accomplished during the months of warm weather. Currently six young people are assigned to Water Quality for the summer. Four of them work in the Research and Standards Section: Allen Brinker, an OU med student from Tulsa with a BS degree in physics; Kevin Zeller of Broken Arrow

with a BS in microbiology; Joe Moore, a junior in aquatic biology at Southwest Texas State University at San Marcos; and Ravi Jayaraman of the Birla Institute in Pilani, India, doing post graduate work at OU in civil engineering.

Also in Water Quality's Enforcement Section: Mona Michaelis of Oklahoma City, with BS degrees in geology and geophysics and an MS in environmental science; and Jamie Poor, a former Dallas resident with a BS in geology from Iowa State University.

Three are busy at drawing tables in Administration's Drafting Section, preparing maps for a revised edition of the OWRB "Water Atlas." The temporary drafters are Jeff Matthews of Edmond, a senior business major at OSU; Don Loyd of Edmond, a senior finance major at OSU; Brad Nesom, a drafting student from OSU Tech.

Monty Gray, a graduate of OKC's Bishop McGuiness High School who will attend OU at summer's end, reviews temporary permits and assists in the Stream Water division.

Gail Hamill, a graduate geologist who is a student in education at OU, is updating groundwater permit information and entering well log data on the data base of the computer in the Groundwater division.

Jason Peterson, a Del City High School graduate headed for Kansas University in the fall, is working in Administration's Data Processing Section.

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Seasonal employees investigating pollution complaints and assisting in stream studies in the Water Quality division are Ravi Jayaraman, Kevin Zeller, Mona Michaelis, Allen Brinker and Jamie Poor.

Students are helping out with mapping and drafting tasks in preparation for a new Board publication. They are Jeff Matthews, Brad Nesom and Don Loyd, assigned to the Administrative division.



The enthusiasm of young seasonal employees equips them to handle a variety of tasks. From left, Jason Peterson and Tracy Kersey are assigned to Administration; Gail Hamill assists in the Groundwater division; Monty Gray reviews permits in the Stream Water division.



New faces, continued from page 3

Tracy Kersey of Oklahoma City, a sophomore political science major from OU, performs clerical duties for the Administrative division.

Willing seasonal helpers are not limited to the Board's Oklahoma City

headquarters. Mike Shropshire of Indianola is assisting in the McAlester Branch Office, but in the fall he will return to studies at Eastern Oklahoma State College in Wilburton.

Tulsan John Wofford, who will graduate from OU at the end of the fall

term with a degree in civil engineering, is assigned to the Tulsa Branch.

Deborah Chabonik, Geronimo, who is a senior majoring in agronomy at Cameron University, provides helping hands for the Board's Lawton Branch Office.

**ACTIVE CONSERVATION STORAGE IN SELECTED OKLAHOMA LAKES AND RESERVOIRS
AS OF JUNE 22, 1988**

PLANNING REGION LAKE/RESERVOIR	CONSERVATION STORAGE (AF)	PERCENT OF CAPACITY	PLANNING REGION LAKE/RESERVOIR	CONSERVATION STORAGE (AF)	PERCENT OF CAPACITY
SOUTHEAST			Wister	38,815	61.4 ¹
Atoka	101,781	82.2	Sardis	295,672	97.7
Broken Bow	876,564	95.5	NORTHEAST		
Pine Creek	69,738	89.8	Eucha	77,000	96.8
Hugo	144,774	91.9	Grand	1,378,360	92.4
McGee Creek	106,284	96.8	Oologah	476,081	87.5
CENTRAL			Hulah	30,076	98.3
Thunderbird	102,745	97.0	Fort Gibson	365,200	100.0
Hefner	69,555	92.3	Heyburn	6,364	96.4
Overholser	6,452	40.5	Birch	18,658	97.2
Draper	80,346	80.4	Hudson	200,300	100.0
Arcadia	27,238	99.5	Spavinaw	29,000	96.7
SOUTH CENTRAL			Copan	41,473	95.6
Arbuckle	61,643	98.5	Skiatook	309,342	96.9
Texoma	2,465,740	93.5	NORTH CENTRAL		
Waurika	202,788	99.9	Kaw	428,600	100.0
SOUTHWEST			Keystone	616,000	100.0
Altus	120,734	90.9	NORTHWEST		
Fort Cobb	76,917	98.1	Canton	97,500	100.0
Foss	157,847	64.8 ²	Optima	3,000	99.2
Tom Steed	82,220	92.4	Fort Supply	13,792	99.2
EAST CENTRAL			Great Salt Plains	31,400	100.0
Eufaula	2,202,895	94.6			
Tenkiller	610,833	97.3			
			STATE TOTALS	12,020,727	93.9³

1. In initial filling stage
2. Temporarily lowered for maintenance
3. Conservation storage for Lake Optima not included in state total

Data courtesy of U.S. Army Corps of Engineers, Bureau of Reclamation, Oklahoma City Water Resources Department, and City of Tulsa Water Superintendent's Office.

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