

Oklahoma General Stream Adjudication Process Fact Sheet

Much misinformation is being circulated about the action taken by the Oklahoma Water Resources Board at today's meeting. The OWRB voted to authorize its legal counsel, in their discretion, to file a comprehensive adjudication of the rights to the waters in the Kiamichi River, Muddy Boggy Creek and Clear Boggy Creek basins.

The action was in response to a lawsuit that was filed by the Chickasaw and Choctaw Nations. In that lawsuit, the Nations seek total control over the water in 22 counties in southeastern Oklahoma. In their lawsuit:

- The Tribes claim that they have a right to regulate 100 percent of the water in over 22 counties—not just the right to regulate water located on their patches of Indian Country.
- The Tribes claim that Oklahoma City's pipeline from Atoka County, which supplies the bulk of Oklahoma City's water, violates federal law, and that Oklahoma City has "no right to use" that pipeline to transport water to its citizens.
- The Tribes claim that the OWRB cannot take action on permits for water from the Kiamichi River, Muddy Boggy Creek and Clear Boggy Creek basins until a comprehensive adjudication of all water rights within those basins is completed.

As long as the Tribes lawsuit remains filed, the State must take action to protect the rights of all citizens in the waters of the state of Oklahoma. Because the Tribes have challenged the OWRB's authority to issue permits until a general stream adjudication is completed, the State needs to be in a position to file such an adjudication if necessary. The OWRB's action today put the State in that position.

The OWRB's authorization to file a comprehensive stream-wide adjudication was given in order to protect the citizens' rights to the waters which the Tribes seek. The authorization simply puts the State in the position to file the adjudication **if necessary based on the Tribes' actions**.

Frequently Asked Questions

What is a general stream adjudication?

In a general stream adjudication, a court decides the water rights in a particular stream system. The court will determine priority, place of use, purpose of use and amount of right, all relative to each other. It is not a suit by the State to take away water rights. It is a process through which all legally-recognized water rights will be confirmed.

Is a general stream adjudication like a traditional lawsuit?

No, a general stream adjudication is not like a traditional lawsuit. Rather, it is a process whereby the State works with the state court and individual water users to confirm and validate rights to the use of water under state law (and to the extent applicable, federal law).

All water claimants will be provided notice, time, and opportunity to adequately present and address all of their claims to water in the basins to the court. The OWRB will be available to assist with regard to questions on the process throughout the adjudication.

If I receive notice, will I be required to hire a lawyer to have my claim recognized?

No. The process will allow those noticed to file claim through use of forms accompanying the notice. Some claimants might decide to hire a lawyer if their claim is disputed by someone like a neighbor or an Indian Tribe.

Will I lose my existing valid water rights in a general stream adjudication?

No. To the extent you have a valid water right, your right will be recognized. For state law-based claims, all claims based on beneficial uses of water and valid riparian uses will be recognized and determined as allowed by state law. Claims premised on federal law will be recognized to the extent allowed by the applicable federal law.

Who is threatening my water rights?

The only present threat to your valid water rights comes from claims made by the Chickasaw and Choctaw Nations, who claim that their water rights and regulatory authority are “prior and paramount” to any water rights or regulatory authority claimed under State law in the 22 counties that make up southeastern Oklahoma. In short, the Tribes seek to have sole regulatory authority over all the water in those 22 counties, to the exclusion of the State and the OWRB.

In response to these claims, the OWRB intends to vigorously defend its right to regulate the waters in the basins, and will defend the validity of state law governing water rights, so that those with valid rights retain those rights.

Do other states have a general stream adjudication process?

Yes. All 18 western states have laws allowing for general stream adjudications. In fact, general stream adjudications are currently occurring in 13 of the 18 western states. The various adjudication statutes in the 18 western states are very similar. The general stream adjudication statutes of New Mexico, North Dakota and South Dakota are the most similar to Oklahoma’s statute. New Mexico currently has 12 active adjudications, and over 20% of the water in New Mexico has been adjudicated through general stream adjudications like the one that the OWRB intends to initiate for the Kiamichi, Muddy Boggy, and Clear Boggy basins.

Does a general stream adjudication include riparian uses?

All valid existing riparian uses will be recognized in the general stream adjudication. To the extent allowed by applicable law, future rights to development of a riparian right will be recognized.