

*UNOFFICIAL***TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 30. TAKING AND USE OF GROUNDWATER****Introduction:**

This document contains permanent amendments to Chapter 30 adopted by the Oklahoma Water Resources Board that became effective May 27, 2008. Also, this document was prepared by Oklahoma Water Resources Board staff as a convenience to the reader, and is not a copy of the official Title 785 of the Oklahoma Administrative Code. The rules in the official Oklahoma Administrative Code control if there are any discrepancies between the Code and this document.

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Appendix A. Application for a Permit to Use Groundwater

[**Authority:** 82 O.S., Sections 1020.1 et seq. and 1085.2]

SUBCHAPTER 1. GENERAL PROVISIONS

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785:30-1-1. Purpose

This Chapter of the Board's rules sets out the requirements to obtain authority to use fresh groundwater, and details procedures for determining the maximum annual yield of basins and subbasins and for issuing final orders recognizing prior rights to use groundwater.

785:30-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agricultural use" means water used for livestock, poultry, fish farms, fish hatcheries, veterinary services, feed lots, etc. (see also "Irrigation use").

"APA" means and refers to the Oklahoma Administrative Procedures Act set forth in 75 O.S., §§301 et seq., as amended.

"Application" means a formal request to the Board and the first step required by law to acquire the right to perform or engage in activities regulated by the Board.

"Artificial recharge" means any man-made process specifically designed for the primary purpose of increasing the amount of water entering into a groundwater basin or subbasin.

"Beneficial use" means the use of such quantity of stream or groundwater when reasonable intelligence and reasonable diligence are exercised in its application for a lawful purpose and as is economically necessary for that purpose. Beneficial uses include but are not limited to municipal, industrial, agricultural, irrigation, recreation, fish and wildlife, etc.

"Board" means the Oklahoma Water Resources Board authorized by law to make final adjudications, execute contracts, adopt rules and carry out other powers and duties set forth by law or, duties authorized by law to be delegated to the Executive Director, or any employee or agent or staff member thereof as assigned by the Executive Director.

"Commercial use" means use which includes but is not limited to water for businesses, industrial parks, laundries, cafes, motels/hotels, institutions, food processing and water used in the transportation of metal ores and non-metals by pipelines.

"Dedicated land" means the tract or tracts of land which the applicant owns, leases, or from which the applicant holds a valid right to withdraw groundwater and which is listed in the application and used to calculate the amount of groundwater requested.

"Definite stream" means a *watercourse in a definite, natural channel, with defined beds and banks, originating from a definite source or sources of supply. The stream may flow intermittently or at irregular intervals if that is characteristic of the sources of supply in the area. [82:105.1(A)]*

"Domestic use" means *the use of water by a natural individual or by a family or household for household purposes, for farm and domestic animals up to the normal grazing capacity of the land whether or not the animals are actually owned by such natural individual or family, and for the irrigation of land not exceeding a total of three (3) acres in area for the growing of gardens, orchards, and lawns [82:1020.1(2)].* Domestic use also includes:(1) the use of water for agriculture purposes by natural individuals, (2) use of water for fire protection, and (3) the use of water by non-household entities for drinking water purposes, restroom use, and the watering of lawns, provided that the amount of groundwater used for any such purposes does not exceed five acre-feet per year.

"Enhanced recovery of oil and gas" means a long-term process using fresh water to recover substantial quantities of additional oil or gas which would not be recoverable under ordinary primary methods or under short-term stimulation techniques. This definition applies to all non-primary forms of oil and gas recovery including but not limited to secondary, tertiary, or other enhanced recovery operations.

"Equal proportionate part or share" means the maximum annual yield of water from a groundwater basin or subbasin which shall be allocated to each acre of land overlying such basin or subbasin. It shall be that percentage of the maximum annual yield, determined as provided by 82 O.S., §1020.5 and 785:30-9-2 which is equal to the percentage of the land overlying the fresh groundwater basin or subbasin which is owned or leased by an applicant for a regular permit.

"Fresh water" means *water which has less than five thousand (5,000) parts per million total dissolved solids. All other water is salt water. [82:1020.1(7)]*

"Groundwater" means *fresh water under the surface of the earth regardless of the geologic structure in which it is standing or moving outside the cut bank of any definite stream. [82:1020.1(1)]*

"Groundwater basin" means *a distinct underground body of water overlain by contiguous land having substantially the same geological and hydrological characteristics and yield capabilities. [82:1020.1(3)]* The area boundaries of a major or minor basin can be determined by political boundaries, geological, hydrological, or other reasonable physical boundaries.

"Groundwater subbasin" means *a subdivision of a major or minor groundwater basin overlain*

by contiguous land and having substantially the same geological and hydrological characteristics and yield capabilities. [82:1020.1(4)] Examples are a lateral or vertical subdivision of a groundwater basin delineated by either physical or political boundaries. Physical boundaries would be different in geological, hydrological or yield capabilities; bedrock; faults; low permeability zones or limits of pressure areas, etc. Political boundaries would be irrigation districts, planning districts, counties, city limits, etc.

"Industrial use" means the use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value.

"Irrigation use" means use of water for the production of food, fiber, crops, timber, fruits, nuts; and water applied to pastures, fields, landscaping, horticulture services, and golf courses.

"Life of a groundwater basin or subbasin" means that period of time during which at least fifty (50) percent of the total overlying land of the basin or subbasin will retain a saturated thickness allowing pumping of the maximum annual yield for a minimum twenty (20) year life of such basin or subbasin, provided that after July 1, 1994, the average saturated thickness will be calculated to be maintained at five feet (5') for alluvium and terrace aquifers and fifteen feet (15') for bedrock aquifers unless otherwise determined by the Board; provided further that after July 1, 1994, whether fifty (50) percent of the total overlying land of the basin or subbasin retains a saturated thickness allowing pumping for a minimum twenty (20) year life of the basin or subbasin need not be considered by the Board.

"Major groundwater basin" means a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and from which groundwater wells yield at least fifty (50) gallons per minute on the average basinwide if from a bedrock aquifer and at least one hundred fifty (150) gallons per minute on the average basinwide if from an alluvium and terrace aquifer, or as otherwise designated by the Board. [82:1020.1(3)]

"Maximum annual yield" means a determination by the Board of the total amount of fresh groundwater that can be produced from each basin or subbasin allowing a minimum twenty (20) year life of such basin or subbasin.

"Mining use" means any use wherein the water is applied to mining processes including but not limited to oil and gas recovery operations, for drilling and reworking wells, and for conducting oil and gas field operations.

"Minor groundwater basin" means a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and which is not a major groundwater basin. [82:1020.1(9)]

"Municipal and rural water use" means the use of water by a municipality, rural water district, water corporation, or community for the promotion and protection of safety, health and comfort, distribution to natural persons for the maintenance of life and property, public and private business pursuits, and the furtherance of all generally recognized municipal purposes, except large recreational uses such as lakes unless in conjunction with other uses.

"Natural recharge" means all flow of water into a groundwater basin or subbasin by natural processes including percolation from irrigation.

"Notice by publication" means unless otherwise specifically provided, publication in a daily or weekly newspaper of general circulation once a week for two (2) consecutive weeks (minimum seven day interval).

"Party or interested party" means a person or agency named and participating, or properly seeking and entitled by law to participate, [75:250.3(7)] in hearings other than hearings on Board rules, regulations and standards.

"Permittee" means the person to whom a permit to use water has been issued by the Board or

the person to whom such permit has been duly and properly transferred under Board rules.

"Person" means any individual, firm, partnership, association, corporation, business or public trust, federal agency, state agency, the State or any political subdivision thereof, municipalities, and any other duly constituted legal entity.

"Power use" means water used for power generation, including, but not limited to, fossil-fueled electric power generation.

"Prior groundwater right" means the right to use ground water established by compliance with the laws in effect prior to July 1, 1973, the effective date of the Groundwater Act, and determined pursuant to 82 O.S., §1020.14 and Subchapter 11 of this Chapter.

"Public water supply" means the use of water for drinking water purposes by housing developments, trailer parks, churches, schools, etc., other than water used for "municipal and rural water use."

"Recreation, fish and wildlife use" means use which includes but is not limited to the use of water for swimming, water skiing, boating, fishing, hunting or other forms of water recreation, and water for fish and wildlife conservation.

"Salt water" means any water containing more than five thousand (5,000) parts per million total dissolved solids.

"Sensitive sole source groundwater basin or subbasin" means a major groundwater basin or subbasin all or a portion of which has been designated as a "Sole Source Aquifer" by the United States Environmental Protection Agency, and includes any portion of an contiguous aquifer located within five (5) miles of the known areal extent of the surface outcrop of the sensitive sole source groundwater basin [82:1020.9A].

"Special use" means and includes but is not limited to the use of groundwater for groundwater heat pump systems or artificially recharging a groundwater basin or subbasin.

"Total discharge from the basin or subbasin" means and shall include but may not be limited to the amount of fresh groundwater withdrawn and placed to beneficial use prior to July 1, 1973, which amount shall be determined from the applicable final orders of the Board determining prior groundwater rights.

"Waste by depletion" means unauthorized use of wells or groundwater; *[d]rilling a well, taking, or using fresh groundwater without a permit, except for domestic use; [t]aking more fresh groundwater than is authorized by the permit; [t]aking or using fresh groundwater in any manner so that the water is lost for beneficial use; [t]ransporting fresh groundwater from a well to the place of use in such a manner than there is an excessive loss in transit; [u]sing fresh groundwater to reach a pervious stratum and be lost into cavernous or otherwise pervious materials encountered in a well ... drilling wells and producing fresh groundwater therefrom except in accordance with the well spacing previously determined by the Board; [82:1020.15(A)] or [u]sing fresh groundwater for air conditioning or cooling purposes without providing facilities to aerate and reuse such water [82:1020.15(A)].*

"Waste by pollution" means *[p]ermitting or causing the pollution of a fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin ... or [f]ailure to properly plug abandoned fresh water wells in accordance with rules of the Board and file reports thereof [82:1020.15(A)].*

"Water right" means a right to the use of stream or groundwater for beneficial purposes.

"Water supply" means a natural body of water, whether static or moving either on or under the surface of the ground, or in a man-made reservoir, available for beneficial use on a reasonably dependable basis.

"Well" means any type of excavation for the purpose of obtaining groundwater or to monitor or observe conditions under the surface of the earth but does not include oil and gas wells.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg _____, eff 7-1-96; Amended at 14 Ok Reg 2767, eff 7-1-97; Amended at 16 Ok Reg 3228-3230, eff 7-12-99; Amended at 19 Ok Reg 2484, eff 7-1-2002; Amended at 21 Ok Reg 2627, eff 7-1-2004]

785:30-1-3. Violations and prohibitions

(a) *Any person who, after notice from the Board, violates, refuses, or neglects to comply with any provision of [82:1020.22] 82 O.S. 1981, §§1020.1 through 1020.22, as amended or of any rule or regulation pursuant thereto or who commits waste as defined in 82 O.S. 1981, §1020.15, shall be guilty of a misdemeanor and upon conviction shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each offense. After notice that he is in violation, any person who continues to violate and fails to comply within a reasonable length of time is guilty of a separate offense for each day the violation continues. [82:1020.22]*

(b) The Board shall not permit any fresh groundwater user to commit waste as defined by §1020.15 of Title 82 of the Oklahoma Statutes.

785:30-1-4. Requirement for water right

(a) **Who should file.** *Any person intending to [82:1020.7] initiate a use of groundwater for beneficial use as defined herein, other than domestic use as defined herein, shall make application and obtain an appropriate permit before completing any fresh water well for such purposes. An application for a permit to use groundwater is not required to be filed for testing. For purposes of this section, testing shall be considered the conducting of a pump, well acceptance, drawdown or aquifer test that will require the continuous pumping of the well for twenty-four (24) hours or less, or the cumulative pumping for seventy-two (72) hours or less within a five (5) day period. If pumping for longer periods occurs or is intended, an application must be filed.*

(b) **Forms to be furnished by the Board.** The Board will furnish, without charge, blank application forms and instructions for filing for a groundwater permit. Each blank on the application shall be filled in by the applicant as accurately and completely as the circumstances permit with all the relevant data. Supplements may be attached if space on the form is insufficient. If a supplement is used, the data entered thereon should be segregated into paragraphs with numbers corresponding to the paragraph numbers of the forms and properly cross-referenced thereto.

(c) **Applications to be amended by applicant.** Groundwater applications will be altered, corrected, amended or revised by the Board only upon written request signed by the applicant or his duly authorized agent. Changes may also be made directly on the application, or filed through the Board's online application service, by the applicant or his duly authorized agent or by telephone instructions to the Board from the applicant or his duly authorized agent to be followed by written confirmation. All changes must meet the requirements of 82 O.S. §§1020.1 et seq. and these rules and regulations.

(d) **Corrections, changes, or amendments to defective applications.** If the application is defective as to form, the Board shall advise the applicant of the corrections, amendments, or changes required and sixty (60) days shall be allowed for the refiling thereof. If the application is not corrected, amended, or changed within the time required, the Board may inactivate the application.

(e) **Corrected applications not filed in time allowed.** Any corrected application filed after the time allowed shall be treated in all respects as an original application received on the date of its refiling.

[Source: Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 20 Ok Reg _____, eff 7-11-2003]

785:30-1-5. Fees

Fees required in filing for groundwater permits and other matters will be charged in accordance with Chapter 5 of this Title.

785:30-1-6. Policy and applicability to prior rights

(a) **Policy.** *It is declared to be the public policy of the State of Oklahoma, in the interest of the agricultural stability, domestic, municipal, industrial and other beneficial uses, general economy, and health and welfare of the State and its citizens, to utilize the groundwater resources of the State, and for that purpose to provide reasonable regulations for the allocation for reasonable use based on hydrologic surveys of fresh groundwater basins or subbasins to determine a restriction on the production based upon the acres overlying the groundwater basin or subbasin. [82:1020.2]*

(b) **Applicability to prior rights.** Several provisions of this Chapter apply to prior rights as well as permits to use groundwater, which prior rights are determined to exist through proceedings of the Board conducted under Subchapter 11 of this Chapter pursuant to Title 82 O.S., Section 1020.14.

SUBCHAPTER 3. PERMIT APPLICATION REQUIREMENTS

Section

785:30-3-1. General application requirements

785:30-3-2. Additional application requirements for enhanced recovery of oil and gas

785:30-3-3. Acceptance of application

785:30-3-4. Notice of application

785:30-3-5. Approval of application

785:30-3-5.1. Prohibition to issuance or amendment of permit and waiver

785:30-3-6. Well spacing

785:30-3-1. General application requirements

(a) **Application form to be used.** The applicant shall complete an application for a groundwater permit on the approved form set out in Appendix A to this chapter, or on an electronic or other form approved by the Board, copies of which are provided by the Board, and in the manner described by the form. The application form may be presented to the Board in person, by mail, by readable facsimile transmittal, or through the Board's online application service. With copies of the application form, the Board will provide copies of a sample plat on which information as required by the application form must be indicated. The Board may require that relevant portions of the approved form be completed for applications or petitions to amend an existing groundwater right.

(b) **Written permission of owner required if applicant does not own land.** Except as provided in 82 O.S., §1020.21, *no permit shall be issued to an applicant who is not the surface owner of the land on which the well is to be located, or hold a valid [82:1020.11(D)] right from such surface owner permitting withdrawal of water [82:1020.11(D)]*, provided that an owner (or lessee) of a mineral estate severed prior to May 28, 1985, shall not be required to get separate authorization from the surface estate owner, pursuant to the Oklahoma Supreme Court case of Unit Petroleum Co. v. Okla. Water Res. Board. A copy of the ownership documentation or written permission may be required as part of the application.

(c) **Existing and proposed well locations; potential well areas; maximum number of wells to be completed.**

(1) **Locations of existing wells.** The applicant may in the application form Appendix A describe or show the actual location of existing wells by distances in feet from readily identifiable objects or monuments such as section lines or provide latitude/longitude

coordinates of existing wells requested to be authorized.

(2) **Locations of proposed wells.** If specific information is known, for instances by test drilling, the actual locations of proposed wells may be shown in the application plat by distances in feet from readily identifiable objects or monuments such as section lines or by latitude/longitude coordinates.

(3) **Potential well areas.** If the applicant does not have specific information as to location of existing or proposed wells, the potential area or areas where such wells are located or may be drilled and completed on the dedicated lands must be indicated on the application plat. Unless specified well location information is provided, the potential well area information for proposed well locations as indicated on the plat will be used to determine the certified mail notice that the applicant must provide. To be authorized by the permit, specific location information about existing and proposed wells must be provided or the wells must be located in the potential well area or areas.

(4) **Maximum number of wells to be completed.** If the requested permit is issued, it will authorize a maximum number of existing wells and proposed wells to be drilled and completed.

Absent information to the contrary, a maximum of three wells will be authorized for each 100 acre-feet of groundwater to be withdrawn per year. Pursuant to subchapter 7 of this Chapter 30, a permittee may request authority to complete additional wells after the permit is issued.

(d) **Additional information.** In addition to the information specified in (a) and (b) of this Section and in the application form, the applicant may be required to submit additional information necessary for proper consideration of the application.

[Source: Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2871, eff 7-1-96; Amended at 15 Ok Reg 2439, eff 6-11-98; Amended at 16 Ok Reg 3230, eff 7-12-99; Amended at 17 Ok Reg 2753-2754, eff 7-1-00; Amended at 20 Ok Reg _____, eff 7-11-2003]

785:30-3-2. Additional application requirements for enhanced recovery of oil and gas

(a) To aid the Board in making its determinations, applicants filing for the use of fresh water for enhanced recovery of oil and gas, in addition to all other requirements, must furnish the following as part of and at the time of filing the application:

- (1) A copy of the easements or leases from the surface right owners giving the applicant the right to develop and use the fresh groundwater for the recovery process;
- (2) An estimated schedule of use showing the amount of fresh water used each year in the recovery process;
- (3) An economic study containing the following information:
 - (A) A detailed analysis of the relative cost of obtaining salt water and any other feasible alternative versus the relative cost of obtaining fresh water,
 - (B) Total project costs and the amount of oil and gas expected to be recovered and the value expected to be realized,
 - (C) The estimated value of fresh water for other purposes (purposes or uses common to the area or vicinity subject of the application) as measured against the overall estimated value of the oil or gas to be recovered,
 - (D) The additional expense per barrel recovered if the applicant is required to use or treat salt water instead of fresh water in the recovery process, and
 - (E) An evaluation of other recovery methods or alternatives considered and why recovery requiring the use of fresh water was deemed to be necessary or the most feasible.
- (4) An inventory of all wells, fresh water, salt water, oil, gas, disposal, injection, both active and abandoned, within the boundaries of the proposed unitization and within two (2) miles of the

- outside boundaries of the proposed unitization;
- (5) The permeability, thickness, and estimated porosity of the injection zone; and
 - (6) Information about reuse and recycling the fresh groundwater.
- (b) The applicant may also be required to furnish other relevant material upon request which may include the following:
- (1) A copy of the unitization plan on file with the Corporation Commission;
 - (2) A copy of each injection well application and the approval of such application by the Corporation Commission;
 - (3) A copy of all logs of each injection well showing the name of each zone containing salt water; and
 - (4) The name and chemical composition of any material or substance proposed to be injected underground in connection with the proposed enhanced recovery operation (other than fresh water).

[Source: Amended at 13 Ok Reg 2871, eff 7-1-96]

785:30-3-3. Acceptance of application for filing; when applications deemed withdrawn

- (a) The date of receipt of an application in the office of the Board shall be endorsed thereon and the application noted in the records.
- (b) If an applicant does not correct an application or publish notice as instructed by the Board, and no further proceedings are initiated by the applicant for six months or more after last contact with the Board, the application shall be deemed withdrawn. The Board shall provide notice to the applicant that the application has been deemed withdrawn.

[Source: Amended at 16 Ok Reg 3230, eff. 7-12-99]

785:30-3-4. Notice of application

- (a) **Application notice.** Notice of the application, including hearing date, time and place if scheduled prior to notice, shall be provided by the applicant as required by law and Board instructions. Unless otherwise directed by the Board, such notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where each existing or proposed well is located. Notice shall also be provided by certified mail to all surface estate owners of lands located within one-thousand three hundred twenty feet (1,320') from actual locations of existing or proposed wells shown on the application plat and from the outside boundaries of any potential well areas shown on the application plat. Accuracy and adequacy of notice shall be the responsibility of the applicant.
- (b) **Proof of notice.** Adequate proof that notice was provided as instructed by the Board shall be submitted to the Board by the applicant within fifteen days after the last date of newspaper publication, or as otherwise directed by the Board. Such proof shall show the dates on which said notice was published in such newspaper and that the applicant did properly notify the surface estate owners as instructed.
- (c) **Failure to give adequate notice.** If adequate notice and proof of notice is not provided by the applicant, the application may be dismissed and the application fee forfeited.
- (d) **Revised published notice of hearing.** The Board may require a revised notice to be published at the applicant's expense in case material error or deviation is made in the description of the land, the well location, *or the manner in which a protest to the application may be made* [82:1020.8], or if the applicant makes substantial amendments to his application after notice of the original application, or fails to effect proper publication in any manner.
- (e) **Protests and hearings.**
- (1) *If the Board does not schedule a hearing on the application before instructing the applicant*

to provide notice, a hearing on the application shall be scheduled by the Board upon receipt of a protest which meets the requirements of Section 785:4-5-4, and the Board shall notify the applicant and protestant of such hearing [82:1020.8].

(2) Any interested person shall have the right to protest said application and present evidence and testimony in support of such protest. Such protests shall be made in accordance with Chapter 4 of this Title.

(3) Even if no protest is received, the applicant shall be advised and given opportunity for hearing if the application cannot be recommended for approval to the Board.

(4) For limited quantity permit applications, interested persons may submit written comments about the application. A hearing on such application may be required by the Executive Director pursuant to 785:30-5-4.1(d) if it is shown that a significant public interest or property right would be affected by approval of the application.

[**Source:** Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2872, eff 7-1-96; Amended at 14 Ok Reg 2767, eff 7-1-97; Amended at 17 Ok Reg 2754, eff 7-1-2000]

785:30-3-5. Approval of application

(a) When a person makes an application for a groundwater permit, the Board shall consider relevant evidence and data before taking final action on the application. Subject to subsection (f) of this section, if the Board finds that the applicant owns the surface of the dedicated land or has a valid lease or other legal authority for the taking of groundwater from the land; the dedicated land overlies a fresh groundwater basin or subbasin; the applicant's intended use for the water is a beneficial use; and that waste by depletion and waste by pollution as specified in 82 O.S. § 1020.15 will not occur, then the Board shall approve the application and issue the appropriate permit.

(b) In making the determination of whether the lands are owned or leased by the applicant, the Board will only consider language on the face of legal instruments used to support or oppose this element.

(c) In making the determination of whether the lands owned or leased overlie the fresh groundwater basin or subbasin, if a hydrologic survey or report and determination of the maximum annual yield have not been completed, and absent specific evidence to the contrary, the Board will presume that the groundwater underlying the lands dedicated is contained in one groundwater basin as shown in United States Geological Survey and Oklahoma Geological Survey hydrologic atlases. The Board will presume that no subbasin exists unless clear and convincing evidence is presented that the groundwater subject of the application is contained in a confined aquifer and is not hydrologically connected to a main body of water underlying the general area as shown in hydrologic atlases.

(d) The Board may approve applications proposing well locations on dedicated lands which are not contiguous to other lands dedicated, as long as the lands on which the wells are to be located and the other non-contiguous lands overlie the same groundwater basin. This provision shall be subject to any well spacing orders issued by the Board.

(e) In determining whether waste will occur, the Board shall consider the following:

(1) Regarding waste by depletion, evidence concerning the manner and method of use proposed, efficiency of system proposed to be used, history and incidents of past waste and applicant's response thereto and the amount of groundwater needed for the purpose proposed in relation to the amount allocated to the land dedicated to the application may be considered by the Board.

(2) Regarding waste by pollution, the Board may consider relevant and admissible evidence regarding the manner and method of all of applicant's uses of fresh groundwater; applicant's

well and water distribution system; history and incidents of permitting or causing pollution of groundwater or *failure to properly plug abandoned fresh water wells in accordance with rules of the Board and file reports thereof* [82:1020.15]; and anything else that tends to prove that the applicant will or will not cause or allow groundwater pollution. Provided, however, *[i]f 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 Quality or the State Department of Agriculture, the Board shall be precluded from making a determination whether waste by pollution will occur as a result of such activity* [82:1020.9].

(3) To ensure that waste by pollution or waste by depletion will not occur and that the activities to be conducted by the applicant will not violate Oklahoma Water Quality Standards, the Board may impose conditions on the use of the groundwater.

(f) **Applications for use from sensitive sole source groundwater basin; moratorium.** When a person makes an application for a permit to use groundwater from a sensitive sole source groundwater basin or subbasin, in addition to the findings described in subsection (a) of this section, the Board must find that *the proposed use of groundwater is not likely to degrade or interfere with springs or stream emanating in whole or in part from water originating from the sensitive sole source groundwater basin or subbasin* [82:1020.9(A)(2)(d)] before it may approve the application and issue the appropriate permit; provided that under Title 82 of the Oklahoma Statutes, Section 1020.9A, effective August 28, 2003, a *moratorium is established on the issuance of any temporary permit that would lead to any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin or subbasin outside of any county that overlays in whole or in part said basin or subbasin* [82:1020.9A(B)(1)] and that *said moratorium shall be in effect until such time as the . . . Board conducts and completes a hydrological survey and approves a maximum annual yield that will ensure that any permit for the removal of water from a sensitive sole source groundwater basin or subbasin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin* [82:1020.9A(B)(2)].

[**Source:** Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 16 Ok Reg 3230-3231, eff. 7-12-99; Amended at 19 Ok Reg 2484-2485, 2002, eff 7-1-2002; Amended at 21 Ok Reg 2629, eff. 7-1-2004]

785:30-3-5.1. Prohibition to issuance or amendment of permit and waiver

(a) *Except for renewals, the . . . Board shall not issue any permit or amendment thereto or other authorization for the use of water for any swine animal feeding operation wholly or partially located within three (3) miles of the outside boundary of any area or facility owned or operated as a camp or recreational site by a nonprofit organization.*

(b) *The provisions of this subsection shall apply only if the real property was owned or leased by such organization prior to the construction or establishment of the swine animal feeding operation.*

(c) *The setback requirement contained in subsection (a) of this section shall not apply to any property owner who executes a written waiver with the owner or operator of the swine feeding operation, under such terms and conditions as are agreed to by the parties. The written waiver shall be effective upon recording of the waiver in the office of the county clerk of the county in which such property is located. . . . A change in ownership of the applicable property or change in ownership of the property on which the swine feeding operation is located shall not affect the validity of the waiver* [82:1020.11a].

(d) For purposes of this section, the following shall apply:

(1) Nonprofit organizations include but are not limited to organizations recognized by the

Internal Revenue Service as tax exempt pursuant to Section 501(c) of the federal Internal Revenue Code, organizations registered with the Oklahoma Secretary of State as a nonprofit corporation or otherwise pursuant to Title 18 of the Oklahoma Statutes, and federal, state and local governments.

(2) The boundary of the swine animal feeding operation shall be considered the outside perimeter of any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. Such structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto.

(3) The outside boundary of any area or facility owned or operated as a camp or recreational site by a nonprofit organization:

(A) or governments, shall be considered that line drawn along the outside perimeter of any tract or tracts of land designated as a wildlife management area, wildlife refuge, park, camping or recreational site shown on U.S.G.S. topographic or other widely disseminated maps or other information submitted to the Board; and

(B) for all other nonprofit organizations, shall be presumed to be the outside boundary of the tract of land on which the area or facility used as a camp or recreational site by such organization is located.

(4) In making the factual determination whether a given parcel of land is owned or operated as a camp or recreational site by a nonprofit organization, the Board shall consider the following factors:

(A) the manner of use, including but not limited to camping, cooking, picnicking, hiking, swimming, wading, boating, fishing, team sports, or other leisure or play activities;

(B) whether the area or site features permanent equipment or fixtures such as cabins, picnic tables, grills, playground equipment, swimming pools, or playing fields;

(C) the regularity, frequency and duration of use for camping or recreational purposes by the nonprofit organization, its members or invitees;

(D) the number of persons who use the land under the authority of the nonprofit organization for camping or recreational purposes; and

(E) whether the nonprofit organization holds the land on which the camp or recreational site lies by a deed or lease filed of record in the county clerk's office.

(e) With the filing of their applications or as soon as possible thereafter, applicants for permits or amendments to existing permits to use groundwater for swine production shall provide information about areas or facilities owned or operated as camps or recreational sites by nonprofit organizations that may exist within three miles of the swine animal feeding operation and shall submit copies of any written waivers obtained pursuant to Section 1020.11a of Title 82 of the Oklahoma Statutes. The notice of the application for new permit or to amend an existing permit for swine production shall contain a statement that no known areas or facilities owned or operated as camps or recreational sites by nonprofit organizations exist within three miles of the swine animal feeding operation, or that written waivers have been obtained from owners or operators of such areas or facilities.

(f) In addition to other notice required by this Chapter of the rules, the applicant shall be required to provide notice by certified mail, return receipt requested, to all record owners or lessees of the surface estate of lands located wholly or partially within three miles of the outside boundary of the swine animal feeding operation. Evidence of such mailing shall be provided by an affidavit certifying such mailing and including a list of names and addresses of those persons to whom the notice was mailed. Return receipt cards shall be made available upon request of staff of the Board or the Hearing Examiner.

[Source: Added at 16 Ok Reg. 3235-3236, eff 7-12-99]

785:30-3-6. Well spacing

(a) **Spacing.** Within groundwater basins where the maximum annual yield has been determined, no new or proposed well(s) shall be drilled and completed within one thousand three hundred twenty feet (1320') of an authorized existing well or proposed well location on lands of another, provided that the well on lands of another is capable of taking water from the same basin. This well spacing provision shall not be applicable to plugged or abandoned wells or wells authorized pursuant to a provisional temporary permit if no regular, temporary, special or limited quantity permit application requesting authorization to use the same wells is filed.

(b) **Location exceptions.** A location exception shall be granted if the person requesting the exception shows in an individual proceeding that drilling or completing the new or proposed well at the location required to comply with the established well spacing set forth in subsection (a) of this section would be inequitable or unreasonable, that notice, as set forth in 785:30-3-4, of the location exception request is provided and that one of the following conditions is met:

(1) No objection is received from any landowner having a well located within the established well spacing distance of the proposed well requested to be authorized.

(2) There is presented substantial, competent evidence to the Board and the Board determines that the well requested to be authorized will not be pumped at a rate and/or duration that creates a cone of depression which will cause an excessive drawdown in the existing wells located within the established well spacing distance of the well proposed to be authorized.

(3) The amount or dimensions of the land dedicated to the permit precludes the drilling of a well in compliance with the spacing requirement set forth in (a) of this section.

(4) The well requested to be authorized is a well which was drilled, completed and used prior to the date of the maximum annual yield determination and which does not meet the spacing requirements of (a) of this section.

(5) The applicant presents substantial, competent evidence to the Board and the Board determines that the amount of groundwater available in locations that would meet spacing requirements is insufficient for the purposes to be authorized.

[Source: Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2873, eff 7-1-96; Amended at 14 Ok Reg 2767, eff 7-1-97; Amended at 15 Ok Reg 2439, eff 6-11-98; Amended at 17 Ok Reg 2754-2755, eff 7-1-2000; Amended at 21 Ok Reg 2630, eff 7-1-2004]

SUBCHAPTER 5. GROUNDWATER PERMITS

Section

- 785:30-5-1. Regular permits
- 785:30-5-2. Temporary permits
- 785:30-5-3. Special permits
- 785:30-5-4. Provisional temporary permits
- 785:30-5-4.1 Limited quantity permits
- 785:30-5-5. Contents of permits
- 785:30-5-6. Acceptance of permit by permittee
- 785:30-5-7. Cancellation or suspension of permits
- 785:30-5-8. Voluntary surrender of permits
- 785:30-5-9. Annual reports of water use

785:30-5-1. Regular permit

- (a) *A regular permit is an authorization to put groundwater to beneficial use for other than domestic purposes. [82:1020.11(A)]*
- (b) *The regular permit shall be granted only after completion of the hydrologic survey and determination of the maximum annual yield for the appropriate basin or subbasin. [82:1020.11(A)]*
- (c) *A regular permit shall allocate to the applicant his proportionate part of the maximum annual yield of the basin or subbasin. [82:1020.9]*
- (d) *His proportionate part shall be that percentage of the total annual yield of the basin or subbasin previously determined to be the maximum annual yield...which is equal to the percentage of the land overlying the fresh groundwater basin or subbasin which he owns or leases. [82:1020.9]*
- (e) *The permit shall specify the location of the permitted well or wells. [82:1020.9]*
- (f) *A regular permit shall not be granted for less than the remaining life of the basin or subbasin as previously determined by the Board. [82:1020.9]*
- (g) *If the lands dedicated to the application overlie two or more groundwater basins which overlie each other and both basins have had maximum annual yields determined, the amount to be authorized by the regular permit shall be calculated on the basin having the greatest maximum annual yield. [82:1020.9]*
- (1) *If the existing or proposed well(s) are completed in both groundwater basins or subbasins, so that the well(s) are capable of taking water from both basins or subbasins, the amount to be authorized by the regular permit shall be calculated on the basin or subbasin having the greatest maximum annual yield.*
- (2) *If the existing or proposed well(s) are completed in only one of the groundwater basins or subbasins, the amount of water authorized by the regular permit shall be calculated on the maximum annual yield for that basin or subbasin.*
- (h) *If the lands dedicated to the application overlie two or more groundwater basins which overlie each other and the maximum annual yield has been determined for at least one but not all the basins or subbasins, a regular permit shall be issued. See also 785:30-5-2(b)(4).*

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 17 Ok Reg 2755 eff 7-1-2000]

785:30-5-2. Temporary permits**(a) Temporary permit purposes; procedures for granting.**

- (1) *A temporary permit is an authorization for the same purposes as a regular permit but is granted by the...Board prior to completion of the hydrologic survey and the determination of the maximum annual yield of the basin or subbasin and must be revalidated annually during its term. [82:1020.11(B)]*
- (2) *The procedures provided for the granting of regular permits shall be applicable to the granting of temporary...permits except that the completion of the hydrologic survey shall not be a condition precedent. [82:1020.10]*

(b) Amount of water allocated by temporary permit.

- (1) *Except as provided in this subsection, unless requested by a majority of the...owners of the land [82:1020.11(B)] overlying the fresh groundwater basin or subbasin, or by the applicant, the water allocated by a temporary permit shall not be less than two (2) acre-feet annually for each acre of land owned or leased by the applicant in the basin or subbasin. [82:1020.11(B)]*
- (2) *However, if the applicant presents clear and convincing evidence that allocations in excess of two (2) acre-feet annually for each acre of land overlying the basin or subbasin will not exhaust the water thereunder in less than twenty (20) years, then the Board may issue temporary permits in such basin or subbasin in such amounts in excess of said limitation as will*

assure a minimum of twenty (20) year life for such basin or subbasin. [82:1020.11(B)]

(3) *Less than two (2) acre-feet per acre annually may be granted if the applicant requests a lesser amount, or if the evidence submitted shows that an amount at two acre-feet per acre would not be of beneficial use or would constitute waste.*

(4) *If the lands dedicated to the application overlie two or more groundwater basins or subbasins which overlie each other and the maximum annual yield has been determined for at least one but not all the basins or subbasins, a temporary permit may be issued to the applicant if the applicant demonstrates by substantial competent evidence that the water to be withdrawn by the temporary permit will not be taken from a basin or subbasin for which the maximum annual yield has been determined. [82:1020.9]*

(A) *If applicant intends to take water from both groundwater basins or subbasins, then a temporary permit may be issued only if the individual well(s) are or will be completed in only the basins or subbasins which have not had a maximum annual yield determined and a separate permit will be required for the withdrawal of groundwater from well(s) in each basin or subbasin for which a maximum annual yield has been determined.*

(B) *If existing or proposed well(s) dedicated to the application are completed in more than one groundwater basin or subbasin so that the wells are capable of taking water from both basins or subbasins, a temporary permit may not be issued.*

(5) *If the land overlies two or more groundwater basins which overlie each other and the maximum annual yield has not been determined for any of the basins or subbasins, more than one temporary permit may be issued for the land if the applicant demonstrates by substantial competent evidence from which basin the water will be withdrawn for each of the permits. [82:1020.9]*

(c) Annual revalidation and expiration of temporary groundwater permits.

(1) *A temporary groundwater permit must be revalidated annually during its term. [82:1020.11(B)]*

(2) *Water use report forms will be mailed in January to each temporary permit holder. [82:1020.11(B)]* The water use report form shall include information about the requirement to return the completed form in a timely manner, and shall specify the date by which the form must be returned.

(3) *Timely return of the completed, signed, and dated water use report form to the Board shall automatically revalidate a temporary groundwater permit if the revalidation is not protested and if the use report does not reflect any permit-water use violations [82:1020.11(B)].* The return of the completed, signed and dated water use report on or before the specified return date shall be considered timely and shall be considered a timely request to revalidate the temporary permit.

(4) *The temporary permit shall lapse at expiration of its term, revocation, cancellation, suspension, or upon the issuance of a regular permit, whichever shall occur first. [82:1020.11(B)]* Failure to return a completed, signed and dated water use report form by the date specified may be considered a willful failure to report annual water usage and subject to the provisions of 785:30-5-7.

(5) *Revalidation protest procedures are as follows:*

(A) *If an objection against the revalidation of a temporary groundwater permit is in writing, satisfies the requirements of 785:4-5-4, and is received by the Board by February 28th of the year following the water use report year, or by a later date specified by the Board in its newsletter or on its website, then the objection shall constitute a protest against the application and the Board [82:1020.11(B)] will immediately set a date for hearing and notify the applicant and protestant(s) of the time and place of the hearing [82:1020.11(B)].* Objections that are not timely received or do not satisfy 785:4-5-5 will be considered only as

comments in opposition to the application, but such comments will be made part of the permanent record of the proceeding. Persons who submit objections that do not qualify as protests will not be named as parties to the proceeding.

(B) *At the hearing, any interested person may appear and present evidence and argument in support of or in opposition to the protest and revalidation.* [82:1020.11(B)]

(C) *At the hearing on the revalidation protest, matters previously presented or considered and adjudicated shall not be subject to reconsideration or readjudication.* [82:1020.11(B)]

(D) *The protest issues which may be entertained shall be limited to matters not previously determined, such as (for example only) a material or substantial change in conditions since issuance of the permit; evidence of the applicant's noncompliance with any of the terms, provisions or conditions of the permit; or subsequent violation of the Oklahoma Groundwater Law...or these rules and regulations* [82:1020.11(B)] related to the permit issued. Proposed findings of fact, conclusions of law and Board Order will be presented to the Board for its consideration.

(d) Requests for revalidation of certain temporary permits to be considered as applications for new permits; moratorium.

(1) Pursuant to Title 82 of the Oklahoma Statutes, Section 1020.9A, *[a]ny revalidation of a temporary permit, in effect on August 28, 2003, that allows for any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin outside any county that overlays in whole or in part said basin shall be considered a new permit application and subject to the provisions of Senate Bill No. 288 of the First Regular Session of the 49th Legislature.*

(2) A provision of Senate Bill No. 288 of the First Regular Session of the 49th Legislature establishes a moratorium *on the issuance of any temporary permit that would lead to any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin or subbasin outside of any county that overlays in whole or in part said basin or subbasin* [82:1020.9A(B)(1)] and that *said moratorium shall be in effect until such time as the . . . Board conducts and completes a hydrological survey and approves a maximum annual yield that will ensure that any permit for the removal of water from a sensitive sole source groundwater basin or subbasin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin* [82:1020.9A(B)(2)].

(3) If the holder of a temporary permit that lists municipal use or public water supply use as an authorized purpose certifies that the groundwater will not be used outside any county that overlays in whole or in part a sensitive sole source groundwater basin or subbasin, the request to revalidate such a temporary permit shall not be considered a new permit application. The filing of such a certification shall be deemed to be a request to amend the temporary permit to add a condition to prohibit the use of the groundwater outside any county that overlays in whole or in part a sensitive sole source groundwater basin or subbasin.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 17 Ok Reg 2755-2756, eff 7-1-2000; Amended at 21 Ok Reg 2630, eff 7-1-2004]

785:30-5-3. Special permits

(a) Special permit purpose.

(1) *A special permit is an authorization by the Board in lieu of or in addition to a regular or temporary permit. The special permit is granted to put groundwater to a beneficial use which shall require quantities of water in excess of that allocated under a regular or temporary permit.* [82:1020.11(C)]

(2) *The water so authorized may be used only for the purpose designated in the permit.*

[82:1020.11(C)]

(3) The applicant must establish that the lands dedicated to the special permit overlie a fresh groundwater basin, are owned or leased by the applicant, and that waste will not occur.

(b) **Duration of special permits.**

(1) A special permit shall be granted for a period not to exceed six (6) months and may be renewed three (3) times upon written request of the applicant prior to the expiration of said permit and approval by the Board. [82:1020.11(C)]

(2) Successive special permits shall not be granted for the same purpose. [82:1020.11(C)]

(3) A special permit is subject to revocation or cancellation upon failure to use the water for the purpose granted. [82:1020.11(C)]

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94]

785:30-5-4. Provisional temporary permits

(a) A provisional temporary permit is a nonrenewable permit granted by and at the discretion of the Executive Director.

(b) The permit is only effective for a period not to exceed ninety (90) days [82:1020.10] and is subject to cancellation at any time during its term.

(c) No hearings are held, no application notice or data is published and no notice to surface estate owners is required on applications for this type of permit.

(d) The application may be approved and the permit may be issued summarily and immediately upon administrative approval where it appears from the verified application and supporting material filed therewith that the permit issuance conditions described in 82 O.S. 1981, §§1020.9 and 1020.11(D) are satisfied and that well spacing distances, as specified in 785:30-3-6, and other conditions as may be required by the Board, are met.

(e) On applications in which the applicant is not the surface owner of the lands upon which the water well is to be located, the applicant must satisfy the requirements of 82 O.S. 1981, §1020.11(D) and 785:30-3-1(b).

(f) Provisional temporary permit holders are required to notify the Board in writing within thirty (30) days after the expiration of their permit as to the disposition of the well covered under the permit.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95]

785:30-5-4.1. Limited quantity permits

(a) The Executive Director of the Board may administratively issue regular, temporary or special permits to use 15 acre-feet or less of groundwater in a calendar year or during its term if the term is less than one year [82:1020.10].

(b) Notice of the application shall be given by the applicant to owners of land located within six hundred feet (600') or within the applicable well spacing distance (if greater) of the boundaries of the ten acre tract within which applicant's wells will be located; or as otherwise directed by the Board.

(c) Written comments about the application must be filed with the Board within ten (10) days after the date of receipt of notice.

(d) The permit may be issued or denied summarily and immediately after the ten (10) day period at the discretion of the Executive Director, provided that the Executive Director may require that a hearing on the application be held. After such hearing, the application shall be presented to the Board with proposed findings of fact and conclusions of law for consideration.

(e) Limited quantity permits cannot be combined to authorize the use of more than a total of 15 acre-feet per year.

[Source: Added at 14 Ok Reg 2771; eff 7-1-97]

785:30-5-5. Contents of permits

(a) Every regular, temporary, special, and provisional temporary permit issued by the Board shall contain substantially the following:

- (1) Date of filing.
- (2) The county or counties in which the well(s) is or are located.
- (3) The permit number and date issued, which shall be the date the permit is approved by the Board or where appropriate, by the Executive Director.
- (4) The name and address to whom issued.
- (5) The amount of water in acre-feet authorized to be withdrawn annually.
- (6) The purpose for which the water will be used and the legal description of the land dedicated to the permit.
- (7) The legal description of the well location(s) to the nearest ten (10) acre subdivision, or by indicating "center of" when applicable for a larger tract of land.
- (8) Groundwater basin(s) from which water is to be withdrawn.
- (9) If a proposed well is not drilled and completed within one (1) year of permit issuance, groundwater will no longer be authorized to be withdrawn from that location unless a written request to extend the drilling period is approved by the Executive Director.

(b) In addition to the above, the permit shall contain any additional terms, conditions, limitations, or restrictions the Board may prescribe and on which the applicant agrees or as ordered after notice and hearing.

[Source: Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 14 Ok Reg 2771, eff 7-1-97]

785:30-5-6. Acceptance of permit by permittee

Acceptance of the permit shall be an acknowledgement and agreement by the permittee that permittee will comply with all the terms, provisions, limitations, conditions and restrictions contained in such permit.

[Source: Amended at 12 Ok Reg 2689, eff 7-1-95]

785:30-5-7. Cancellation or suspension of permits

(a) Any regular, temporary, or special permit may be cancelled by the Board upon willful failure of the applicant to report annual usage upon proper notice and hearing as provided in the Administrative Procedures Act.

(b) In addition thereto, if any person commits waste as defined in 82 O.S. 1981, §1020.15, *the Board shall immediately institute action to enjoin in a court of competent jurisdiction and may suspend any permit to take water as long as such waste continues.* [82:1020.15]

785:30-5-8. Voluntary surrender of permits (a) *The Board may accept the surrender of groundwater permits by the holder thereof.* [82:1020.13]

(b) Forms for surrender shall be furnished by the Board, and the holder's signature thereon shall be notarized.

785:30-5-9. Annual reports of water use

(a) Water use report forms will be mailed during January of each year to every holder of a valid prior right and every regular and temporary permit holder, with the exception of persons holding special permits, who must complete same and return to the Board within thirty (30) days of receipt.

(b) This report shall become a part of each permit record.

- (c) *Willful failure to report annual usage may result in cancellation of the permit.* [82:1020.12]
(d) Holders of special permits are required to complete and return a water use report within thirty (30) days after expiration of such permit. Holders of provisional temporary permits will not be required to complete and return a water use report.

[Source: Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2873, eff 7-1-96]

SUBCHAPTER 7. AMENDMENTS TO GROUNDWATER RIGHTS

Section

- 785:30-7-1. Adding or changing uses, or increasing the amount of water allocated to a permit
785:30-7-2. Adding or changing location of use
785:30-7-3. Changing well location (Revoked)
785:30-7-4. Adding or replacing a well for the purpose of exercising prior rights or existing permits
785:30-7-5. Dedicating additional land and groundwater to an existing permit
785:30-7-6. Change of address
785:30-7-7. Transfer of groundwater rights
785:30-7-8. Consolidation and unconsolidation of permits
785:30-7-9. Change of basin or subbasin for proposed or existing well(s)

785:30-7-1. Adding or changing uses, or increasing the amount of water allocated to a permit

- (a) Adding or changing a use, or increasing the amount of water allocated to a permit.
(1) The permittee may add a use or change a use from that specified in the permit upon approval of such addition or change by the Board. The permittee may increase the amount of water authorized by an existing permit for lands already dedicated to that permit upon approval of such addition by the Board.
(2) Petitions for such addition or change shall be made in writing.
(b) The petition to add or change a use or increase the amount of water allocated to a permit, shall be considered and granted pursuant to the following:
(1) The permittee must give notice as set forth in 785:30-3-4.
(2) *Upon receipt of a protest which meets the requirements of Section 785:4-5-4, the Board shall schedule a hearing on the petition and notify the applicant and protestant of such hearing.* [82:1020.8] Even if no protest is received, the petitioner shall be advised and given an opportunity for hearing if the petition cannot be recommended for approval to the Board. The Board shall determine whether the proposed use is a beneficial use and whether waste as described in 785:30-3-5 will occur by the proposed use.
(3) If the Board finds that the use is beneficial and that there is no indication that waste will occur, the Board shall approve the request by amending the permit.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2874, eff 7-1-96]

785:30-7-2. Adding or changing location of use

- (a) The prior right holder or permittee may add or change a location of use from that specified in the prior right or permit upon approval of such addition or change by the Board.
(b) Requests for such addition or change shall be made in writing.
(c) Notice as required in 785:30-3-4 shall not be required unless otherwise determined by the Board.

[Source: Amended at 16 Ok Reg 3231, eff 7-12-99]

785:30-7-3. Change of well location (REVOKED)

[Source: Revoked at 11 Ok Reg 2935, eff 6-13-94]

785:30-7-4. Adding or replacing a well for the purpose of exercising prior rights or existing permits**(a) Additional wells.**

(1) The holder of a permit or prior right may make a written petition to the Board for approval of an additional well(s) where such well(s) is or are necessary in order to withdraw the amount authorized by the existing permit. If ownership of the land, permit or prior right changes after the petition is filed, the petitioner must promptly notify the Board and notice of such change may be required.

(2) The petition shall be filed prior to drilling the well(s) on forms provided by the Board and shall be accompanied by a map or plat (see APPENDIX A of this Chapter). The additional well(s) must be located on lands dedicated to the permit, be drilled and used to prevent waste and meet applicable well spacing requirements or location exceptions.

(3) The Executive Director shall approve the petition, provided:

(A) That the new well location meets established well spacing or is not closer than one-thousand three hundred twenty feet (1320') from lands owned by another if well spacing is not applicable; or

(B) That, if well spacing is not applicable, there is submitted a written statement from each surface estate owner owning land closer than one-thousand three hundred twenty feet (1320') from the well requested to be authorized, stating that he or she has no objection to the new well location.

(4) If one of the above enumerated conditions cannot be met, the permittee must give notice as set forth in 785:30-3-4 regarding each additional proposed well. If a protest is received, the Board shall schedule a hearing and notify the applicant and protestant of such hearing. Even if no protest is received, the petitioner shall be given opportunity for hearing if the petition cannot be recommended for approval to the Board.

(b) Replacement well.

(1) For well locations authorized by a permit or prior right, a replacement well may be drilled on dedicated lands without prior approval from the Executive Director if the proposed replacement well will not be closer than meets established well spacing or will not be closer than one-thousand three hundred twenty feet (1320') from lands owned by another if well spacing is not applicable.

(2) For a well location authorized by permit or prior right where the proposed replacement well location is within one-thousand three hundred twenty feet (1,320') of lands owned by another, the replacement well may be drilled on lands relied on to establish the prior right or dedicated lands without prior approval of the Executive Director, provided the replacement well is within two-hundred fifty feet (250) of the well to be replaced.

(3) If paragraphs (1) or (2) of this subsection cannot be met, a petition for an additional well may be filed.

(c) Location of wells identified. A legal description or multi-purpose completion report such as that required by 785:35-5-3 showing the location of the well to the nearest ten (10) acre tract shall be submitted to the Board within sixty (60) days after completion of any additional or replacement well.

[Source: Amended at 10 Ok Reg 3293, eff 6-25-93; Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg, 2874 eff 7-1-96]

785:30-7-5. Dedicating additional land and groundwater to an existing permit

(a) The Board may approve a petition by the holder of an existing permit issued after July 1, 1973 to amend the permit by dedicating additional land and groundwater, and increasing the amount of water authorized to be withdrawn under the permit, provided that the additional land must overlie the same groundwater basin or subbasin from which groundwater is withdrawn under the existing permit and any new wells on the added lands must withdraw groundwater from the same groundwater basin.

(b) The permit holder shall give notice of such petition as set forth in 785:30-3-4.

(c) *Upon receipt of a protest which meets the requirements of Section 785:4-5-4, the Board shall schedule a hearing on the petition and notify the petitioner and protestant of such hearing.* [82:1020.8] Any interested person shall have the right to protest such petition and present evidence and testimony in support of such protest. Even if no protest is received, the petitioner shall be given opportunity for hearing if the petition cannot be recommended for approval to the Board.

(d) Such protests shall be made in accordance with Chapter 4 of this Title.

(e) Action by the Board shall be in accordance with 785:30-3-5.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 13 Ok Reg 2874, eff 7-1-96; Amended at 16 Ok Reg 3231, eff. 7-12-99]

785:30-7-6. Change of address

When the owner of a water right makes a change in his mailing address, he or his agent shall notify the Board in writing of the new address and shall reference his water right number(s).

785:30-7-7. Transfer of groundwater rights (a) Upon transfer of groundwater rights, the new owner shall provide a notarized statement or other evidence deemed necessary to the Board of the transfer and change of address and submit the transfer fee as specified in Chapter 5 of this Title. If notification is made by the previous owner, the Board shall advise the new owner of the transfer procedure, and he shall then have thirty (30) days to submit the transfer fee and notarized statement or other evidence of the transfer, or the water right or permit, as the case may be, will be subject to cancellation.

(b) Upon transferring a portion of groundwater rights, the new owner shall notify the Board of the transfer and change of address and submit evidence of such transfer and the transfer fee as specified in Chapter 5 of this Title. Unless the parties to the transfer submit specific evidence establishing their respective rights to the groundwater, the existing groundwater right will be divided proportionately based on the amount of the land relied on to establish a prior right or dedicated to a permit and transferred to the new owner. If the groundwater right authorizes more than one purpose, the amounts for each purpose will be adjusted proportionately, unless the parties have specified otherwise. The original groundwater right number with additional designations will be used to identify the files.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95]

785:30-7-8. Consolidation and unconsolidation of permits (REVOKED)

[Source: Added at 10 Ok Reg 3293, eff 6-25-93; Amended at 13 Ok Reg 2875, eff 7-1-96; Revoked at 14 Ok Reg 2772, eff 7-1-97]

785:30-7-9. Change of basin or subbasin for proposed or existing well(s)

(a) The permittee may petition to change the groundwater basin or subbasin indicated on the permit from which the authorized well(s) will withdraw groundwater. Such requests must be for all well(s) authorized by the permit.

- (b) The petition shall be filed prior to drilling the proposed well(s) or deepening the existing well(s).
- (c) Notice of the petition as specified in 785:30-3-4 must be given.

[Source: Added at 11 Ok Reg 2935, eff 6-13-94]

SUBCHAPTER 9. MAXIMUM ANNUAL YIELD DETERMINATIONS

Section

- 785:30-9-1. Hydrologic surveys and investigations
- 785:30-9-2. Determination of maximum annual yield
- 785:30-9-3. Annual yield hearings
- 785:30-9-4. Final determination as to the maximum annual yield to be allocated
- 785:30-9-5. Updating hydrologic surveys
- 785:30-9-6. Issuance of regular permit to temporary permit holder

785:30-9-1. Hydrologic surveys and investigations

(a) *Prior to making orders establishing the tentative maximum annual yield for major groundwater basins or subbasins therein, the Board shall make hydrologic surveys and investigations. The Board is authorized to cooperate with state and federal agencies engaged in similar surveys and investigations and may accept and use the findings of such agencies.* [82:1020.4]

(b) *Prior to making orders establishing the tentative maximum annual yield for minor groundwater basins or subbasins therein, the Board shall prepare reports using information from hydrologic surveys and investigations of groundwater basins or subbasins having substantially the same geological and hydrological characteristics and data from wells in such basin or subbasins and other relevant information.* [82:1020.4]

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94]

785:30-9-2. Determination of maximum annual yield

(a) *After completing the hydrologic survey, the Board shall make a tentative determination of the maximum annual yield of groundwater to be produced from each major groundwater basin or subbasin therein. Such determination shall be based upon the following:*

- (1) *The total land area overlying the basin or subbasin;*
- (2) *The amount of water in storage in the basin or subbasin at the time of the survey or investigation;*
- (3) *The rate of recharge to the basin or subbasin and total discharge from the basin or subbasin the time of the survey or investigation;*
- (4) *Transmissibility or transmissivity of the basin or subbasin; and*
- (5) *The possibility of pollution of the basin or subbasin from natural sources.*

(b) *The maximum annual yield of each groundwater basin or subbasin shall be based upon a minimum basin or subbasin life of twenty (20) years from the order establishing the final determination of the maximum annual yield.* [82:1020.5]

(c) *For minor groundwater basins or subbasins therein, the tentative determination of the maximum annual yield shall be based upon present and reasonably foreseeable future use of groundwater from such basin or subbasin, recharge and total discharge, the geographical region in which the basin or subbasin is located and other relevant factors.* [82:1020.5(C)]

(d) *The maximum annual yield of each minor groundwater basin or subbasin shall be based upon a minimum basin or subbasin life of twenty (20) years from the order establishing the final determination of the maximum annual yield.*

(e) *The maximum annual yield for a sensitive sole source groundwater basin or subbasin will ensure that any permit for removal of water from the basin or subbasin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin* [82:1020.9A(B)(2)].

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 21 Ok Reg 2632, eff 7-1-2004]

785:30-9-3. Annual yield hearings

(a) *Once the Board has set a tentative maximum annual yield for the groundwater basin or subbasin, the Board shall call and hold hearings at centrally located places within the area of the major groundwater basin or subbasin or in the county for minor groundwater basins or subbasins [82:1020.6] if such hearings are requested.*

(b) *Copies of the order and notices of the tentative determination and how to formally request a hearing shall be mailed by first class mail or post card to the address of record of all holders of permits to use groundwater from the basin or subbasin subject of the yield proceedings.*

(c) *Notice of the tentative determination and how to formally request a hearing on the tentative order such hearings shall be published in a newspaper of general circulation in each county having lands that overlie the basin or subbasin. The notice shall be published at least once per week for two (2) consecutive weeks and the last publication shall be at least thirty (30) days prior to the date of the hearing if a hearing is requested and held. Notice and hearing on the tentative determination of the maximum annual yield for minor groundwater basins or subbasins may be consolidated. [82:1020.11(B)] Notice of the tentative determination and how to formally request a hearing on the tentative order may also be published in the Oklahoma Water News, the periodic newsletter of the Board.*

(d) *Such hearings, if requested, will be held in accordance with the Administrative Procedures Act and Chapter 4 of this Title.*

(e) *Prior to such hearings being held, the Board shall make copies of such hydrologic survey available for inspection and examination by all interested persons and, at such hearings, shall present evidence of the geological findings and determinations upon which the tentative maximum annual yield has been based.*

(f) *Any interested party shall have the right to present evidence in support or opposition thereto. [82:1020.6]*

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94; Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2875, eff 7-1-96]

785:30-9-4. Final determination as to the maximum annual yield to be allocated

(a) *After hearings are completed, but no longer than one (1) year after the tentative order has been approved unless otherwise deemed necessary by the Board, the Board shall then proceed to make its final determination as to the maximum annual yield of groundwater which shall be allocated to each acre of land overlying such basin or subbasin by issuing a final order containing findings of fact and conclusions of law, which order shall be subject to judicial review pursuant to Article II of the Administrative Procedures Act. [82:1020.4(C)]*

(b) *Determinations of maximum annual yields are not rules, rulemaking procedures of the APA are not followed; and the declaratory judgment provision of the APA is inapplicable. [Source: Amended at 11 Ok Reg 2935, eff 6-13-94]*

785:30-9-5. Updating hydrologic surveys

The Board shall review and update, if necessary, the hydrologic surveys...at least every twenty (20) years after issuance of the final order determining the maximum annual yield. [82:1020.4]

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94]

785:30-9-6. Issuance of regular permit to temporary permit holder

(a) *As soon as practical after the maximum annual yield and equal proportionate share have been*

determined for a groundwater basin or subbasin, the Board shall issue a regular permit to each holder of a temporary permit to use groundwater from said basin.

(b) In issuing these regular permits, the Board shall notify the temporary permit holder by first class mail that his equal proportionate share of the basin or subbasin has been determined, that a regular permit has been issued to him based on this allocation, and that his temporary permit has lapsed. A copy of the regular permit shall be included with this notification.

(c) If the temporary permit listed more than one purpose and amounts for each, and the equal proportionate share is less than the total allocated by the temporary permit, the amounts for each purpose will be adjusted proportionately in a ratio equal to the amount for each purpose and the total under the temporary permit.

(1) A request to adjust amounts may thereafter be granted without notice and hearing, provided that the maximum amount for any one of the purposes cannot be greater than the amount allocated for that purpose in the temporary permit.

(2) Such request must be filed within 30 days of receipt of the regular permit.

(d) The regular permit shall contain the condition that no new wells shall be drilled closer than the established well spacing distance, as provided in 785:30-3-6(b), unless a location exception is granted.

[Source: Amended at 12 Ok Reg 2689, eff 7-1-95; Amended at 13 Ok Reg 2876, eff 7-1-96]

SUBCHAPTER 11. ADMINISTRATIVE DETERMINATION OF PRIOR RIGHTS TO GROUNDWATER

Section

785:30-11-1. General provision relating to prior rights

785:30-11-2. Procedures for determining prior rights

785:30-11-3. Actions after prior rights are determined

785:30-11-1. General provisions relating to prior rights

(a) Applications filed prior to effective date of groundwater act.

Applications filed with the Board prior to July 1, 1973, shall be used in granting permits for wells existing prior to July 1, 1973.

(b) **Prior use of groundwater.** *Nothing in [82:1020.14] 82 O.S. 1981, §§1020.1 through 1020.22 inclusive, shall be construed to deprive any person of any right of groundwater in such quantities and amounts as were used or were entitled to be used prior to enactment thereof. Any person having the right to place groundwater to beneficial use prior to the effective date [82:1020.14] of the Groundwater Act (July 1, 1973) shall have the right to bring his use under the provisions of this act [82:1020.14] as provided in these rules and regulations.*

(c) Determination of prior rights to groundwater.

(1) In establishing total discharges, as provided in 82 O.S. 1981, §1020.5 and 785:30-9-2, the Board shall establish the prior rights in effect on July 1, 1973, in each county.

(2) The rights to be determined are those which are protected by 82 O.S. 1981, §1020.14, and are those which are:

(A) Based on actual taking of groundwater for beneficial use prior to the date of adoption of the original Oklahoma Groundwater Law (which date was August 26, 1949) to the extent that the water was put to beneficial use within two (2) years thereafter, i.e. before August 26, 1951; or

(B) Based on an application filed with the Board subsequent to August 26, 1949, and prior to July 5, 1961 (the effective date of certain amendments of the Oklahoma Groundwater Law to be found in Laws 1961, page 615, §§5 and 6), to the extent that the water applied for

- was put to beneficial use within two (2) years of the filing of the application; or
- (C) Based on the actual taking of groundwater for beneficial use prior to July 5, 1961 (the effective date of certain amendments to the Oklahoma Groundwater Act found in Laws 1961, page 615, §§5 and 6), to the extent that groundwater was actually taken and put to beneficial use within five (5) years of the filing of the application; or
- (D) Based on an application filed with the Board after July 5, 1961 (the effective date of certain amendments to the Oklahoma Ground Water Act found in Laws 1961, §§5 and 6) and prior to July 1, 1973 (the effective date of the repeal of the Oklahoma Ground Water Act of 1949), to the extent that the water was or is put to beneficial use within five (5) years of the filing of the application; or
- (E) Based on a permit issued by the Board subsequent to October 21, 1965 (the effective date of certain amendments to the Groundwater Act to be found in Laws 1965, Chapter 471, §7) and prior to July 1, 1973, to the extent that the water has been put to beneficial use pursuant to the terms of 82 O.S. 1971, §1013.

785:30-11-2. Procedure for determining prior rights to groundwater

(a) **General.**

- (1) In determining prior rights to groundwater the Board shall make use of all data available to it.
- (2) Such data shall include, but shall not be limited to, the names and last known mailing address of all applicants or claimants for the use of groundwater of record with the Board, including application number and date thereof, the legal description of the location of the well or wells and place of use, the quantity of water applied for or claimed in gallons or acre-feet per year, purposes of use, and amount of water actually put to beneficial use each year.
- (3) Such information shall be compiled and made a matter of record in the office of the Board.

(b) **Tentative order of prior groundwater rights.** (1) As soon as data on any county has been compiled, the Board shall make an order listing the applicants or claimants who, in the Board's opinion from the information then available to it, are holders of prior water rights to use groundwater by virtue of the bases described in 785:30-11-1(c).

- (2) Said order shall set out the priority date, place of well(s), parcel of land upon which the prior right was established, and the purpose and amount of water proposed to be determined for each applicant or claimant in the county.
- (3) This order shall be plainly marked "Tentative Order Recognizing Prior Rights in...County."
- (4) The tentative order shall be an alphabetical listing of each applicant and claimant known to the Board.
- (5) The tentative order shall include the amount of groundwater the Board determines the applicant or claimant has established as a prior right, the purpose of the prior right, the location of the well or wells, and the legal description of the land on which the prior right was perfected.
- (6) A subsection shall be included in the tentative order listing all applicants and claimants who, according to information on file at the Oklahoma Water Resources Board, did not perfect a prior right at the time the tentative order was prepared as determined by the Board.
- (7) In determining the amount of groundwater used by an applicant or claimant to set out in the prior rights order, the Board shall use the following information and presumptions absent specific evidence to the contrary:

- (A) When the amount of water is reported by number of inches over number of acres, the water will be calculated as such.
- (B) Where the amount of water is reported by number of acres times the number of applications, each application will be computed as four (4) inches up to six (6) applications,

three (3) inches per application from seven (7) to ten (10) applications; two (2) inches per application from eleven (11) to fifteen (15) applications; and one (1) inch per application when more than sixteen applications are applied.

(C) Where there is evidence that groundwater was put to beneficial use, however the number of inches applied or the number of applications is not known, the Board will consider one (1) application or four (4) inches was applied when the tentative order is prepared provided the number of acres irrigated is known.

(8) Where an application was filed for two (2) acre-feet per year when the intention was to file for two (2) acre-feet per acre per year, the Board will consider the application to be for two (2) acre-feet per acre per year.

(9) The following standards have been established in order to determine prior groundwater rights:

(A) When based upon making application to the Board prior to July 1, 1973, the amount of groundwater actually taken and placed to beneficial use will be calculated to the last day of the second or fifth year.

(B) When based upon taking and using groundwater without an application to the Board prior to July 5, 1961, the priority date will be the last day of the year when the date of first beneficial use is known only to that year, and the amount of water actually taken and placed to beneficial use will be calculated to the last day of the fifth year. If a crop was reported as having been irrigated the year of first beneficial use, the priority date will be established the first day of the growing season for that crop. The following dates shall be considered as the beginning of the respective growing season:

- (i) Winter Wheat September 1
- (ii) Sorghum May 1
- (iii) Cotton May 1
- (iv) Corn April 1
- (v) Maize April 1
- (vi) Alfalfa March 15
- (vii) Pasture March 15

(C) Where more land was irrigated than was requested by the application prior to July 5, 1961, and there is no indication that the extra land is owned or leased by the applicant, the water will be split according to the amount of water applied to the excess acres in order to perfect the second prior right.

(c) **Notice by registered or certified mail of hearing on tentative order.** As soon as the tentative order as determined by the Board is prepared, a copy of said order shall be forwarded by registered or certified mail to each applicant or claimant to the use of water within the area in which prior rights are to be determined, and a notice of a hearing to be held thereon shall be enclosed which shall contain a statement of the intended action, a description of the subject and issues involved, the time when, the place where, and the manner in which interested persons may present evidence thereon.

(d) **Published notice by newspaper of hearing on tentative order.**

(1) The Board shall also give notice of such hearing by publication in a newspaper of general circulation in each county in which prior rights to groundwater are to be determined in the proceedings, once a week for two (2) consecutive weeks prior to the hearing; and the last notice shall be published at least thirty (30) days prior to the date set for the hearing.

(2) The published notice shall contain the date and place of the hearing together with a general description of the location in which prior rights to the beneficial use of ground water are to be determined and the address to which requests for a copy of the tentative order may be

sent.

- (e) **Requests for tentative orders.** A copy of the tentative order shall be sent to any person requesting same in writing to the Board.
- (f) **Appearance at hearing.**
- (1) Any person claiming a prior right to the beneficial use of groundwater within the area for which prior rights are to be determined may appear at the hearing in person or be represented by legal counsel.
 - (2) For an applicant or claimant to submit evidence in support of the amount of groundwater use unknown to the Board, said individual must sign a sworn statement setting out the amount of groundwater used each year.
- (g) **Impairment of rights.** Any party may present evidence in support of or opposition to the tentative order of prior rights to ground water under consideration at the hearing and shall file at the hearing, or to the Board at its office prior to the hearing, the following:
- (1) The name and post office address of the applicant or claimant.
 - (2) The location of the well or wells to which the claim relates.
 - (3) The amount of water claimed or disputed.
 - (4) The purpose for use of the water claimed or disputed and the place of its use.
 - (5) The dates of applications, if any, and the dates of beneficial uses made.
 - (6) A description of the land irrigated if the claim or contested claim relates to irrigation, together with a designation of the number of irrigable acres in each forty (40) acre tract or fractional part thereof.
 - (7) The population served by the amount of the claim if the claim or contest relates to municipal use.
 - (8) The type or kind of industrial use if the claim or contest relates to such use.
 - (9) Any additional information the Board may require.
- (h) **Tentative order hearing.**
- (1) At the hearing the Board shall hear the evidence of any person interested party.
 - (2) The hearing record will be left open for sixty (60) days from the hearing date to insure every party the opportunity to submit additional evidence concerning groundwater put to beneficial use under the requirements of the groundwater laws prior to July 1, 1973.
 - (3) All such evidence shall be considered by the Board in its determination of prior rights to the beneficial use of groundwater.
- (i) **Final order determining prior rights to groundwater.** As soon as possible after the hearing, the Board shall make and approve a final order for each county determining the prior rights to such applicants, claimants, and contestants and the dates, place of wells, parcels of land upon which the prior rights were established, purposes and amounts of their prior rights, and shall notify all applicants, claimants, and contestants as to the contents of such final order.
- (j) **Service of final notice.** Service of such final notice shall be deemed completed:
- (1) Upon depositing a copy of such final order in the post office as registered or certified mail addressed to each applicant, claimant, and contestant whose name and address is known to the Board; and
 - (2) Upon the filing of two (2) or more copies of the final order in the office of the county clerk of each county in which prior rights were determined by the order.
- (k) **Final order conclusive.** After the final order establishing prior groundwater rights has been completed pursuant to the Administrative Procedures Act (75 O.S. 1981, §§301 et seq., as amended), no further prior groundwater rights shall be determined within the county.

785:30-11-3. Actions after prior rights are determined

- (a) **Creation of file.** Claimants granted a prior right based on beneficial use with no application on

file will have a file created by the Board which will contain all pertinent data presented at the public hearing and that portion of the final order which determined their prior right. Prior rights files created by the Board based on beneficial use will be given a number at the end of the year for the earliest priority date.

(b) **Priority of prior rights.** All prior rights based on the criteria in 785:30-11-2 shall have priority over any rights acquired subsequent to July 1, 1973, the effective date of the Ground Water Act. They shall have priorities among themselves according to the date of taking for those based on actual taking and according to the date of filing of the application where based on an application.

(c) **Exercise of prior rights.**

(1) The prior rights determined by the procedures in this subchapter shall be exercised only through wells located within that segment of land relied upon for perfection of the right and which was leased or owned by the right holder on the date of the priority of the right.

(2) Application for an additional or replacement well(s) to exercise an established prior right, must be made in the same manner and procedure as in 785:30-7-4.

(3) Application for adding or changing uses to exercise an established prior right, must be made in the same manner and procedure as in 785:30-7-1.

(d) **Protection of prior rights.** The prior rights determined by this subchapter of these rules shall not include any right to be protected by requiring junior right holders or groundwater rights acquired subsequent to July 1, 1973, to curtail production of groundwater unless the prior right holder asking for that relief proves that such relief is necessary to prevent material impairment of his prior right and that such relief will, in fact, benefit his exercise of his prior right materially.

(e) **Division of right.** Where an application or permit is split which has established a prior right, the prior right is proportionately divided based on acres divided.

(f) **Maximum amount to be withdrawn under temporary permit by persons having prior right to use of groundwater.** If a person has a recognized prior right to use groundwater and applies for a temporary permit dedicating a tract of land which includes land relied upon to establish the prior right, an amount of land and water therefrom at two-acre feet per surface acre to equal the prior right amount will be excluded from the total amount of land used to calculate the water allocated by the temporary permit.

[Source: Amended at 12 Ok Reg 2689, eff 7-1-95]

SUBCHAPTER 13. MISCELLANEOUS PROVISIONS

Section

785:30-13-1. Domestic use of groundwater

785:30-13-2. Taking, using, or disposal of salt water and water trapped in producing mines

785:30-13-3. Metering of wells

785:30-13-4. Unitizing and communitizing of land for water production purposes

785:30-13-5. Allocation of municipal water

785:30-13-6. Drilling of wells within municipalities

785:30-13-7. Dewatering a portion of a groundwater basin or subbasin for purposes of construction

785:30-13-8. Artificial recharge requirements

785:30-13-9. Reclaiming and cleaning up groundwater

785:30-13-1. Domestic use of groundwater

Any landowner has a right to take groundwater from land owned by him for domestic use as defined herein without a permit. Wells for domestic use are not subject to well spacing orders but are subject to sanctions against waste. [82:1020.3] If the well is located within a municipality, the landowner may be required to obtain a municipal permit.

785:30-13-2. Taking, using, or disposal of salt water and water trapped in producing mines

These rules and regulations *shall not apply to the taking, using or disposal of salt water associated with the exploration, production, or recovery of oil and gas or to the taking, using, or disposal of water trapped in producing mines.* [82:1020.2]

785:30-13-3. Metering of wells

(a) *Upon request of a majority of the landowners residing within a basin or subbasin, the Board is authorized to require that water wells be metered and that such meters as the Board shall approve be utilized by the applicant and placed under seal, subject to reading by the agents of the Board at any time.*

(b) *The Board may also require that the applicant report the reading of such meters at reasonable intervals.* [82:1020.19]

785:30-13-4. Unitizing and communitizing of land for water production purposes

The owners of land and the Commissioners of the Land Office are authorized to unitize and communitize lands for the purpose of production of water therefrom, provided the production therefrom does not exceed the maximum annual yield. [82:1020.20]

785:30-13-5. Allocation of municipal water

(a) Allocation of all municipal water from beneath lands which are either inside or outside the corporate municipal limits shall be governed by 82 O.S. 1981, §§1020.1 et seq., as amended.

(b) When a municipality elects to invoke the provisions of §1020.21 (allocation of water from beneath platted lands), its allocation shall be based upon the amount of acres dedicated to the application which are platted and subdivided into lots within the corporate municipal limits and which overlie the basin or subbasin

(c) The Board shall issue the permit if the following additional conditions can be met:

(1) The municipality shall make water reasonably accessible and available to residents on the platted lands dedicated to the application.

(2) The wells are or will be located not less than six hundred (600) feet within the municipal limits.

(3) The wells are or will be on the platted land dedicated to the application, provided that the municipality demonstrates that it owns or otherwise has valid authority to place the wells on the land where the wells are or will be located.

(d) The requirements of this Section have no application to water allocated to municipalities from beneath unplatted lands either inside or outside the corporate municipal limits or the use of water from wells drilled by municipalities where groundwater rights were established under prior law unless the municipality elects to bring its use from such wells under provisions of 82 O.S. 1981, §§1020.1 et seq.

(e) A municipality may not allocate groundwater from beneath lands dedicated to a permit unless the municipality acquires ownership of that previously issued permit and changes the purpose of such permit to municipal use if necessary.

[Source: Amended at 17 Ok Reg 2756, eff 7-1-2000]

785:30-13-6. Drilling of wells within municipalities

(a) The Board has jurisdiction of all wells other than domestic wells within corporate municipal limits.

(b) Municipalities have the authority to regulate and/or permit the drilling of such domestic wells

within corporate municipal limits.

(c) The Board and municipalities have concurrent jurisdiction to regulate and/or permit industrial wells within the corporate municipal limits.

785:30-13-7. Dewatering a portion of a groundwater basin or subbasin for purposes of construction.

(a) Dewatering of a portion of a groundwater basin or subbasin for the purpose of construction is not necessarily considered either a beneficial or wasteful use of groundwater, but is a temporary necessity to be justified by the benefits accrued from its utilization, and as such does not require the issuance of a permit from the Board.

(b) If a written complaint is received by the Board concerning dewatering of a portion of a groundwater basin or subbasin, such action is subject to investigation and review by the Board to insure that the best management practices are being utilized to prevent waste and/or pollution of fresh groundwaters.

(c) When permanent dewatering is proposed, a groundwater permit for such activity will be required if the dewatering may result in lowering the historic static water table under immediately adjacent lands.

(d) Water withdrawn in such a permanent dewatering process must be returned to the groundwater basin or subbasin from which it was drawn unless such water would otherwise naturally discharge into a stream on the property where the dewatering is taking place.

785:30-13-8. Artificial recharge requirements

The artificial recharge of a groundwater basin or subbasin must be done in compliance with 785:30-1-3(b) to prevent pollution and/or waste of water. Other than for domestic use, the use of water for this purpose requires a permit.

785:30-13-9. Reclaiming and cleaning up groundwater

(a) If a person plans to withdraw groundwater containing wastes for the sole purpose of reclaiming and/or cleaning up pollution, no permit shall be required.

(b) If the applicant proposes to use the reclaimed and treated groundwater, an appropriate permit to use groundwater shall be required.

[Source: Amended at 11 Ok Reg 2935, eff 6-13-94]

APPENDIX A. APPLICATION FOR A PERMIT TO USE GROUNDWATER

APPLICATION FOR A PERMIT TO USE GROUNDWATER
OKLAHOMA WATER RESOURCES BOARD
PLANNING & MANAGEMENT DIVISION
3800 N. CLASSEN BLVD.
OKLAHOMA CITY, OKLAHOMA 73118 (405) 530-8800

FILING FEE MUST

OFFICE USE ONLY

ACCOMPANY APPLICATION:

Application No. _____ Type of Permit _____

Amount applied for

Fee

0 - 320 acre-feet

\$125.00

Groundwater Basin _____

320- 640 acre-feet

\$200.00

641 - 1500 acre-feet

\$250.00

Equal Proportionate Share _____

Over 1500 acre-feet

\$250.00

Plus \$100.00 for each increment

of 500 acre-feet over 1500 acre- feet

1. NAME AND ADDRESS

a. *Print the applicant's full name and mailing address, complete with zip code. If the applicant is a corporation, use the name and business address of the corporation.*

Applicant Name _____ Phone (____) _____ - _____

Address _____

City _____ State _____ Zip _____

b. *If the contact during the application process is someone other than the applicant listed above, print the name and mailing address of the contact person.*

Contact Name _____ Phone (____) _____ - _____

Address _____

City _____ State _____ Zip _____

2. AMOUNT OF WATER REQUESTED

State total amount of water applied for in acre-feet per calendar year. One acre-foot of water will cover one acre of land one foot deep and is equal to 325,851 U. S. gallons.

Application is made to take and use _____ acre-feet of water annually.

**DATE OF RECEIPT OF APPLICATION
(FOR OFFICE USE ONLY)**

3. PURPOSE(S) FOR WHICH WATER WILL BE USED

a. List the purpose or purposes for which the water would be used if the permit is granted and list the number of acre-feet for each purpose. Be sure that the sum of the amounts listed below equals the total acre-feet in #2 above. If the water is to be used to irrigate crops, list IRRIGATION as the purpose and list the sum total acre-feet for all crops.

OFFICE USE ONLY
SIC Codes

_____ acre-feet of water will be used for _____ . _____

_____ acre-feet of water will be used for _____ . _____

_____ acre-feet of water will be used for _____ . _____

_____ acre-feet of water will be used for _____ . _____

Describe fully how the water will be used, and include a description of the system proposed to be used:

If the water requested is for irrigation purposes, state the total number of acres that will be irrigated.

_____ acres of land are proposed to be irrigated. The proposed crops are _____. Will you follow applicable requirements, guidelines and best management practices recommended by the Natural Resources Conservation Service or other applicable guidelines? ____ Yes ____ No

4. OWNERSHIP AND LEGAL DESCRIPTION OF LAND DEDICATED

a. No permit of any kind shall be granted without the WRITTEN PERMISSION OF THE SURFACE OWNER OF THE LAND from which the water is to be withdrawn. If the applicant does not own the groundwater underlying the dedicated land, a copy of the lease or agreement giving the applicant the right to withdraw the groundwater must be furnished with the application. Said lease or agreement must specify the number and location of the acres under lease. A municipality may dedicate platted land within its corporate limits under certain conditions.

_____ acres are owned, _____ acres are leased and/or _____ acres are platted, and dedicated to this application. Lands must be shown in attached application plat(s). Attach copy of deed, lease or other written authorization from owner, etc., showing right to use groundwater from the land.

b. The full legal description of all lands dedicated must be given with the number of acres in each legal description stated. The legal descriptions should be checked against the plats to make sure they agree. Please do not use city lot and block numbers, but show the land on the plat and then convert to the nearest legal description. If more space is needed for legal descriptions, list on a separate sheet of paper and attach it to the application, referencing paragraph 4. b.

_____ acres in ___ 1/4 of ___ 1/4 of ___ 1/4 of Sec ___ Twp ___ N or S, Rge ___ E or W, IM or ECM in _____ County.

_____ acres in ___ 1/4 of ___ 1/4 of ___ 1/4 of Sec ___ Twp ___ N or S, Rge ___ E or W, IM or ECM in _____ County.

_____ acres in ___ 1/4 of ___ 1/4 of ___ 1/4 of Sec ___ Twp ___ N or S, Rge ___ E or W, IM or ECM in _____ County.

c. The water will be used in _____ County, Oklahoma.

5. WELL INFORMATION

a. Please specify the number of wells requested to be authorized and describe below to the closest quarter section the location of existing and proposed wells. On the attached plat, show the actual location of existing wells and proposed wells by distances in feet from readily fixed points of reference such as section lines, or provide latitude/longitude coordinates of existing wells requested to be authorized. If the applicant does not have specific information as to locations of existing and any proposed wells, the potential well area or areas within the dedicated lands must be indicated on the application plat. Actual well locations and the potential area information for well locations as indicated on the plat will be used to determine the certified mail notice that the applicant must provide. If the requested permit is issued, it will authorize a maximum number of existing wells and proposed wells to be drilled and completed. Absent information to the contrary, a maximum of three wells will be authorized for each 100 acre-feet of groundwater to be withdrawn per year. Proposed wells which are authorized must be drilled and completed within one year of permit issuance. **Please note:** The well (s) must be drilled according to minimum construction standards established by the Oklahoma Water Resources Board in Chapter 35 of the Board's rules.

Water is to be withdrawn from _____ well(s) located in : Legal description must agree with plat.

___ Existing
 ___ Proposed ___ 1/4 of ___ 1/4 of ___ 1/4 of Sec___ Twp ___ N or S, Rge ___ E or W, IM or ECM in _____ County

___ Existing
 ___ Proposed ___ 1/4 of ___ 1/4 of ___ 1/4 of Sec___ Twp ___ N or S, Rge ___ E or W, IM or ECM in _____ County

___ Existing
 ___ Proposed ___ 1/4 of ___ 1/4 of ___ 1/4 of Sec___ Twp ___ N or S, Rge ___ E or W, IM or ECM in _____ County

b. Has the well(s) to be used already been drilled? ___ Yes ___ No

(1) If yes, please answer the following questions.

(A) Did a licensed water well driller drill and complete the well(s)? ___ Yes ___ No

[Please attach a copy of the well log(s) if available.]

If no, who drilled your well(s)?

_____ Was your well(s) constructed to meet the Oklahoma Water Resources Board's minimum construction standards for water wells? ___ Yes ___ No

(B) List the depth of the well(s) and anticipated pumping rates for each well:

(2) If the well(s) to be used has not been drilled yet, will a licensed water well driller drill and complete the well(s)? ___ Yes ___ No

(A) If no, who will drill your well(s)? _____

(B) Will your well(s) be constructed to meet the Oklahoma Water Resources Board's minimum construction standards for water wells? ___ Yes ___ No

(C) Is the well(s) located, or will the well(s) be located, (i) 50 feet or more from possible pollution sources if the well is upgradient from those possible pollution sources; (ii) 75 feet or more from possible pollution sources if the well is on the same ground level as those possible pollution sources; or (iii) 100 feet or more from possible pollution sources if the well is downgradient from those possible pollution sources? Yes No If the possible pollution source is a waste lagoon for a feedlot or confined animal feeding operation, will the well(s) be located at least 300 feet away from this possible pollution source? Yes No

c. ABANDONED WELL PLUGGING. To your knowledge, are there any abandoned or unused water wells, hand dug wells or windmills on the property where the water is proposed to be used? Yes No If yes, have all abandoned wells been, or will they be, properly plugged before your use of the water begins? Yes No Have all wells which are temporarily out of service been, or will they be, capped before your use of the water begins? Yes No

6. APPLICATION PLAT

An application plat showing the land and wells and potential well areas dedicated, existing wells within 1/4 mile of the proposed and existing wells and any potential well location area dedicated and other information pertinent to this application must be completed on the Application Plat form and must accompany the application. Municipal and rural water entities may show dedicated lands and wells on other appropriate maps (see #8).

7. SURFACE ESTATE OWNERS MAP

A Surface Estate Owners map must be completed on the Surface Owners Map form for each well requested to be authorized and must accompany the application.

8. MUNICIPALITIES AND RURAL WATER ENTITIES

Municipalities and rural water entities must submit a map of the municipality or rural water entity showing the land dedicated, well locations and which land is owned / leased / or platted. The map must show reference points or scale.

If platted lands within the municipal boundaries are dedicated, will the municipality make water available to the platted lands? Yes No Will the wells be located not less than 600' within the boundaries of the municipal limits? Yes No Will the wells be drilled on the platted lands? Yes No If platted lands are dedicated show the service area and water lines.

9. SYSTEM LOSSES AND LEAKS. How will water system losses or leaks be detected and repaired, and how much time will detection and repair take?

PI

ease note: Any incomplete or unresponsive answers may cause a delay in the processing of your application.

SIGNATURES

The application must be signed as follows:

- a. If the applicant is an individual, the application shall be signed by the applicant, or his duly appointed agent who shall present evidence of authority to act as agent with the application.
- b. A joint application shall be signed by each applicant or his duly authorized agent, provided that a joint application by husband and wife may be signed by either party. (Joint applicants are required to select one among them to act for and represent the others in dealing with the Board.)
- c. If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "a Partnership" and the application shall be signed by each of the general partners or, if signed by one partner or other agent, a written statement of that person's authorization to make the application, signed by the other parties in interest, shall be attached to the application.
- d. In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate, and a certified copy of the letters issued by the court shall be attached to the application.
- e. In the case of a water district, county, municipality, etc., the application shall be signed by a duly authorized official, and a certified copy of the resolution or other authorization to make the application shall be attached.
- f. In the case of a private corporation, the application shall be signed by a duly authorized person and, if not attested by the secretary or assistant secretary, a copy of the authorization shall be attached to the application.

STATE OF _____)
)
 COUNTY OF _____) ss.

Upon my oath or affirmation, I swear or affirm (1) that all information submitted to the Oklahoma Water Resources Board in connection with this application is true and accurate to the best of my knowledge; and (2) that I or the person or entity I represent will comply with all applicable laws and regulations of the State of Oklahoma or its agencies, and any lawful conditions imposed by the Oklahoma Water Resources Board, which apply or pertain to the use of fresh groundwater.

_____ Telephone (____) _____ - _____
 SIGNATURE OF APPLICANT

 TITLE (IF APPLICABLE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____.

 Notary Public

(SEAL)
 My commission expires:

APPLICATION SUBMISSION AND PROCESSING

To be deemed complete, the submitted application must include:

- a. The appropriate filing fee;
- b. The original application, typed or printed in ink, signed and notarized and one copy.
- c. One copy of the plat(s) showing the information requested in item #6 above and as otherwise instructed on this form.
- d. Deed(s), lease(s), and/or letter (s) of consent as required.

After review for accuracy and completeness, you will be contacted about correcting any errors. When the application is deemed complete, you will receive instructions about publishing notice of the application in a newspaper and sending notice of the application to surface estate owners within one-fourth (1/4) mile of the location of existing and proposed wells and any potential well location areas subject of this application. If a proper protest to your application is received, a hearing will be scheduled. After the protest period and hearing if required, the application will be presented to the Board for consideration. Application processing time is about 60 to 90 days. You may apply for a provisional temporary permit which is effective for up to 90 days if you have an immediate need for water.

Oklahoma Water Resources Board

Application Plat

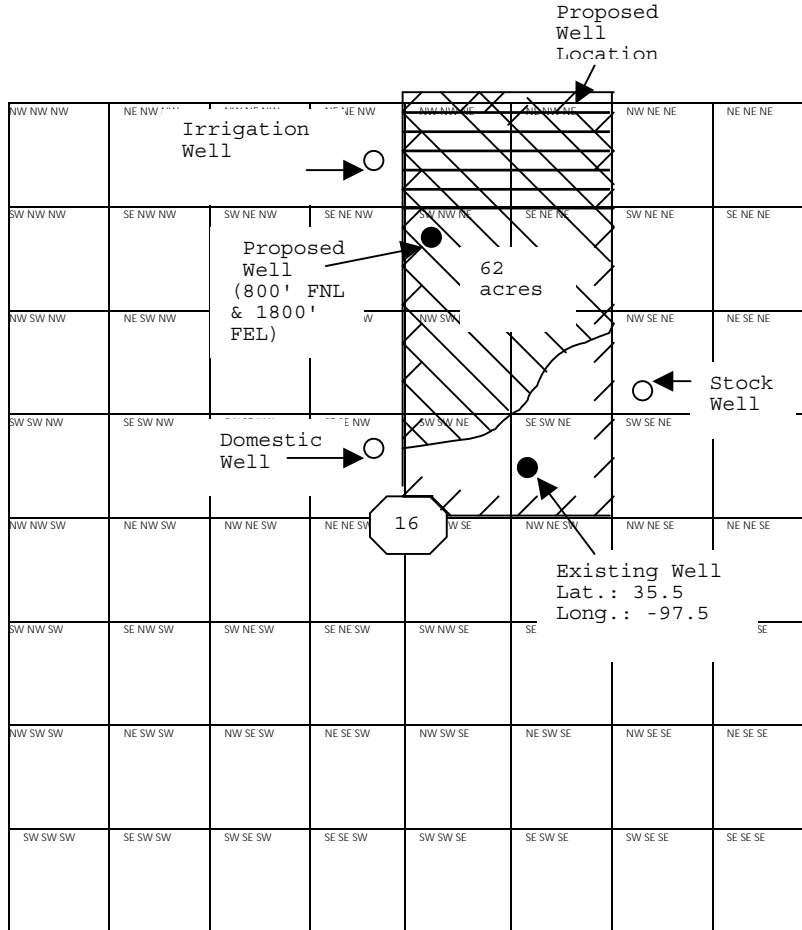
(Instructions provided on back)

Applicant _____ Groundwater Application # _____

NW NW NW	NE NW NW	NW NE NW	NE NE NW	NW NW NE	NE NW NE	NW NE NE	NE NE NE
SW NW NW	SE NW NW	SW NE NW	SE NE NW	SW NW NE	SE NW NE	SW NE NE	SE NE NE
NW SW NW	NE SW NW	NW SE NW	NE SE NW	NW SW NE	NE SW NE	NW SE NE	NE SE NE
SW SW NW	SE SW NW	SW SE NW	SE SE NW	SW SW NE	SE SW NE	SW SE NE	SE SE NE
NW NW SW	NE NW SW	NW NE SW	NE NE SW	NW NW SE	NE NW SE	NW NE SE	NE NE SE
SW NW SW	SE NW SW	SW NE SW	SE NE SW	SW NW SE	SE NW SE	SW NE SE	SE NE SE
NW SW SW	NE SW SW	NW SE SW	NE SE SW	NW SW SE	NE SW SE	NW SE SE	NE SE SE
SW SW SW	SE SW SW	SW SE SW	SE SE SW	SW SW SE	SE SW SE	SW SE SE	SE SE SE

Oklahoma Water Resources Board Application Plat Instructions (Sample)

Applicant John Doe Groundwater Application # 99-000



Instructions for Use of Symbols on the Application Plat

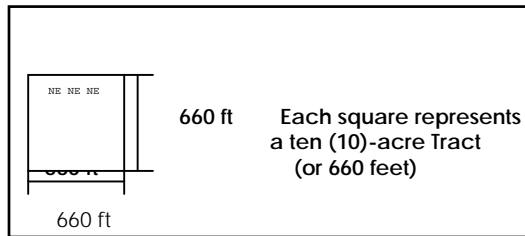
- Spot the actual location of each existing well and proposed well with known locations to be authorized and provide distances in feet from section lines or boundaries, or provide lat./long. coordinates.
- Show the location of other existing water wells (stock, domestic, irrigation, etc.) within 1/4 mile of dedicated land.

Note: Use additional plats if necessary.

FNL = From the North Line
 FEL = From the East Line
 Lat. = Latitude
 Long. = Longitude



Potential Well Location Area on Dedicated Lands



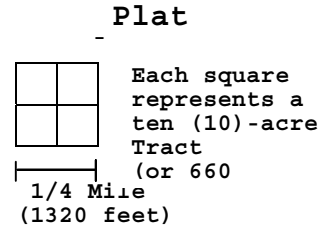
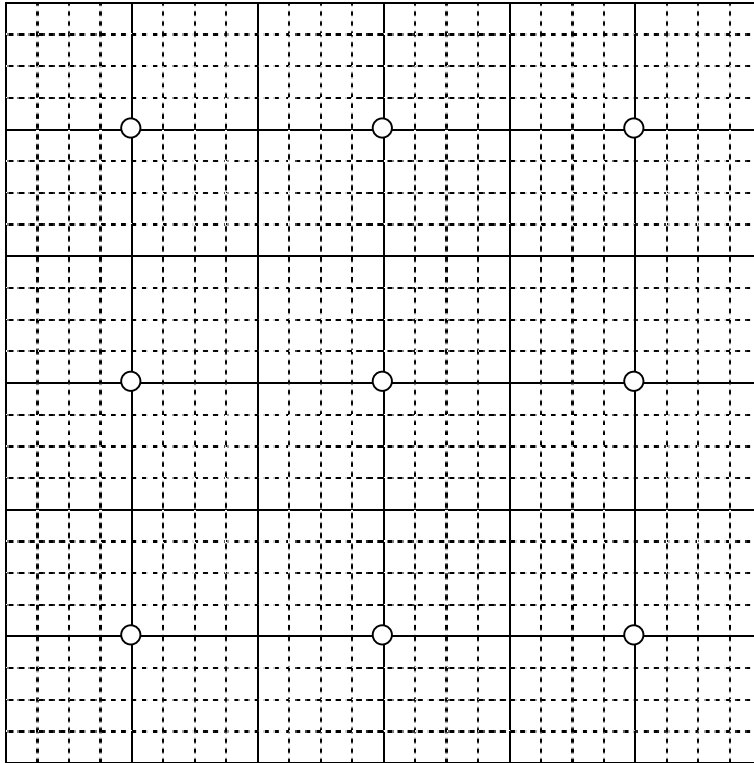
(if exact proposed well location within the area is not known)

Oklahoma Water Resources Board
Surface Estate Owners Map
 (Instructions provided on back)

Groundwater Application # _____

The applicant must furnish names and mailing addresses of all surface estate owners of land located within one-thousand three hundred twenty (1320') from the actual location of existing or proposed wells, and from the outside boundaries of all potential well location areas subject of this application, unless otherwise directed by the Board. Mark the actual location of existing and proposed wells and shade all potential well location areas subject of the application.

One copy of this form must be filed with the Groundwater application.



SURFACE ESTATE OWNERS OF LANDS LOCATED WITHIN 1320 FEET OF WELL LOCATIONS OR AREAS

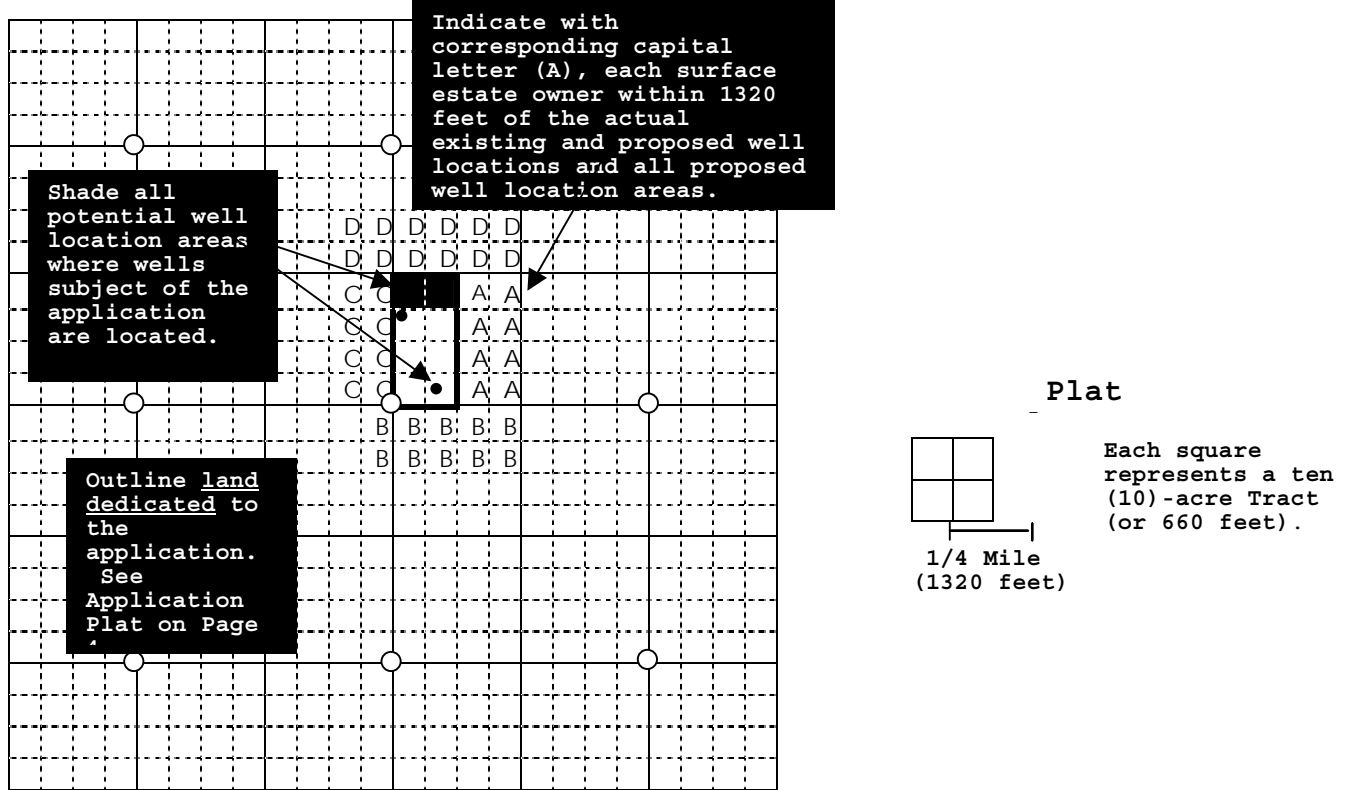
Name	Address
A. _____	_____
B. _____	_____
C. _____	_____
D. _____	_____
E. _____	_____

Oklahoma Water Resources Board Surface Estate Owners Map (Sample)

Groundwater Application # _____

The applicant must furnish names and mailing addresses of all surface estate owners of land located within one-thousand three hundred twenty (1320') from the actual location of existing or proposed wells, and from the outside boundaries of all potential well location areas subject of this application, unless otherwise directed by the Board. Mark the actual location of existing and proposed wells and shade all potential well location areas subject of the application.

One copy of this form must be filed with the Groundwater application.



SURFACE ESTATE OWNERS OF LANDS LOCATED WITHIN 1320 FEET OF WELL LOCATIONS OR AREAS

Name	Address
A. <u>Jesse Thomas</u>	<u>16200 N. Pennsylvania, Oklahoma City, OK</u>
B. <u>Jim and April Ferguson</u>	<u>13429 W. Memorial, Oklahoma City, OK</u>
C. <u>Steve and Mary Burgess</u>	<u>P.O. Box 156, El Reno, OK</u>
D. <u>Sue Ellen Mayes Estate</u>	<u>P.O. Box 149, El Reno, OK</u>
E. _____	_____