

*Protecting Oklahoma's
Water Resources*

Stream
Adjudication

State of Oklahoma
OWRB
WATER RESOURCES BOARD
the water agency

www.owrb.ok.gov/legal.php

Stream Adjudication

General stream adjudication is a widely recognized process whereby the State works with the State court and individual water users to confirm and validate rights to their use of water under State law (and to the extent applicable, federal law). All 18 western states have laws allowing for general stream adjudications, and adjudications are currently occurring in 13 of these states.

Through general stream adjudication, the court confirms the existing water rights in a particular stream system. Every Oklahoman holding a water use permit from the OWRB in the Kiamichi, Muddy Boggy, and/or Clear Boggy Basin stream systems will receive a notice from the OWRB and will be provided with an opportunity to confirm the validity of their permitted water right(s). Those claiming a right to the use of the water in any of the three Basins will also be provided an opportunity to be heard regarding their respective claims. Ultimately, the court will enter a final judgment determining and confirming water rights, including the amount, priority, place and purpose of each use. The process should be relatively uncomplicated for those holding permits as those permits set forth the amount, priority, place, and purpose of those holders' uses. Similarly, all riparian uses recognized by state law will be confirmed. However, the process could be considerably more complicated and time-consuming for those claiming water rights but lacking a permit (e.g., the Chickasaw and Choctaw Nations).

When Oklahoma was admitted as the 46th state in 1907, it was provided "equal footing" with the original states. Being so admitted recognizes Oklahoma's sovereign authority to regulate use of the natural resources located within its boundaries. In the 100 plus years since, the State of Oklahoma has responsibly managed and protected its water resources for all citizens. Not only has the State expertly performed this charge, it has enacted specific laws to protect local water users throughout Oklahoma and continues to aggressively defend in court its ability to enforce those laws. This defense includes provisions against the transportation of stream water out of its area of origin (stream basin) unless the basin's long-term needs are first satisfied.

In August 2011, the Choctaw and Chickasaw Nations initiated a lawsuit against State of Oklahoma officials seeking total control over the water in 22 southeastern Oklahoma counties. The Tribes claim that their water rights are "superior and paramount" to those claimed under State law and that their water rights and regulatory

authority are "the supreme law of the land." If successful, the Tribes' claims could render all State permits and related water uses invalid. Tribal law would effectively displace State law.

More specifically, the Tribes claim in their lawsuit that the Oklahoma Water Resources Board, the State's water management agency since 1957, cannot take action on water use permits from the Kiamichi, Muddy Boggy, and Clear Boggy Basin stream systems unless and until a comprehensive adjudication—a formal legal determination—of all water rights within those basins is completed. Consequently, on February 10, 2012, after the Tribes refused to drop their lawsuit and negotiate without litigation, the State formally petitioned the Oklahoma Supreme Court to settle the Tribes' claims through such a comprehensive stream adjudication. Thus, the State has chosen to counter the Tribes' direct threat to State sovereignty and southeastern Oklahoma water rights through a commonly accepted, congressionally recognized process that will confirm the water rights of all claimants to water within the three identified stream systems.

Some Frequently Asked Questions

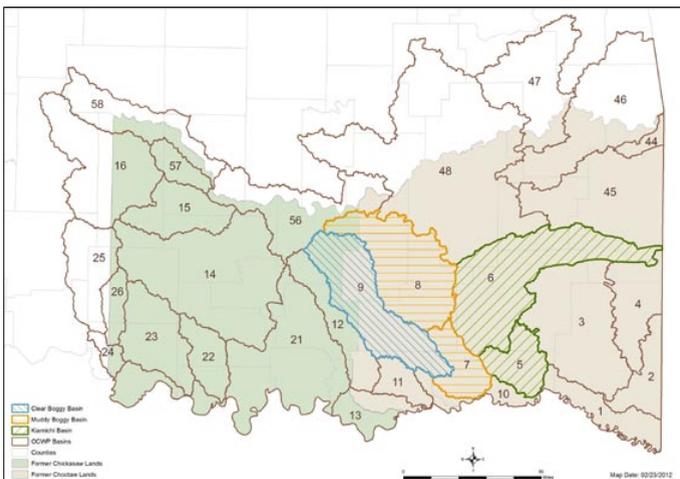
Are my water rights currently threatened?

If you currently use or claim the right to use water in the 22-county region of southeastern Oklahoma, the Choctaw and Chickasaw Tribes have threatened your water rights by claiming “dominion over” that water. The general stream adjudication process is designed to protect your rights against such threats.

What is the benefit of a general stream adjudication to me as a water user?

An adjudication will provide certainty to your claim to water in the Kiamichi, Muddy Boggy and Clear Boggy Basin stream systems. It will provide for a final determination of all water rights, as well as the State’s ability to administer and protect these invaluable water rights and resources.

Southeast Oklahoma Basin Boundaries (Including Clear Boggy, Muddy Boggy & Kiamichi Stream Systems)



OWRB staff are ready to assist water users throughout the adjudication process. Visit www.owrb.ok.gov/legal.php to view general stream adjudication documents and download associated forms as they become available. Concerned citizens may also call (405) 530-8800 for assistance.

Western States Currently Undergoing Adjudication



What is the State’s authority and role in a general stream adjudication?

The State, through the OWRB, is authorized to commence a general stream adjudication to protect and confirm the water rights of Oklahoma water claimants when it is deemed necessary and in the best interest of those claimants. The State will work with both the court and water users throughout the process to confirm and determine rights.

What is the process for a general stream adjudication?

All water claimants will be provided notice, time, and opportunity to adequately present and address all of their claims to water in the Kiamichi, Muddy Boggy, and Clear Boggy Basin stream systems. For those currently holding a permit, the process should be quite simple as the permit should contain all the information the court requires to confirm permit holders’ rights.

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

No. To the extent you have a valid water right, it will be recognized. All State law-based claims based on beneficial uses of water and valid riparian uses will be validated by State law. Claims premised on federal law will be recognized to the extent allowed by applicable federal law.

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

No. The process will allow those noticed to file a claim through use of forms either accompanying or following the notice. However, claimants could choose to hire an attorney if their claim is disputed by another citizen or the Tribes.

Water Use Permits & Applications Receiving Adjudication Notice

