

## Oklahoma Water Law

Oklahoma water law covers three classes of water; stream water, groundwater, and diffused surface water, sometimes called sheet water/flow because it runs over the surface of land before it flows into a definite stream.

Since territorial days, Oklahoma has had laws regarding who owns water and how it is used. In 1957, the Oklahoma Legislature created the Oklahoma Water Resources Board (OWRB) to manage the state's water resources. The

OWRB issues permits for the use of stream and groundwater in Oklahoma. As of March 2007, there are 10,462 active long-term permits to use groundwater, and 2,680 active long-term permits to use stream water.

### *Stream/Surface Water*

Stream water is water in a "definite stream". A "definite stream" is a "watercourse in a definite, natural channel with defined beds and banks, originating from a definite source or sources of supply." This includes water in rivers, creeks, lakes and ponds. A stream does not have to flow year round, if that is normal in that area.

Stream water is considered to be water that is owned by the public and is subject to appropriation. An appropriation is a right to use water. If there is not enough water to satisfy all uses of a river, creek, lake or pond, the permit filing date determines who gets the water. "First in time, first in right."

Also, beneficial use is required to establish and maintain the right. If the water is not used at

least once during any consecutive seven-year period the right of the unused amount is lost. Any time water is to be diverted out of a stream, the law requires a permit application be filed, unless its for "domestic use".

Domestic use is defined as water used by individuals, fami-



lies, or households for household purposes. Domestic use includes farm and domestic animal use, so long as the number of grazing animals does not exceed the normal grazing capacity of the land. Irrigation is included but is limited to three acres for household gardens, orchards and lawns. Other minor uses must not exceed five acre-feet per year.

The OWRB reviews each permit application to determine if four conditions are met. (1) Is the requested amount of water available? (2) Is there a present or future need for the water and is the intended use beneficial? (3) Does the use interfere with either domestic or existing uses? (4) If the use includes transportation of water outside a stream system, then the use must not interfere with current or proposed beneficial uses or the needs of the area's water users. The permit process also requires publication of a notice of the application in the local county and downstream county newspaper, and a hearing is held if the application is protested.

### *Groundwater*

Prior to 1973, the Oklahoma Groundwater Law regulated use of groundwater by the prior appropriation system, like use of stream water is regulated now. However, in 1973 the law changed from the "first in time, first in right" rule to an allocation system. The al-

location system ties ownership of groundwater to surface land ownership so that the amount of water al-

located to each landowner is determined by the number of acres of land overlying the basin he or she owns.

The OWRB regulates the use of groundwater, even though the groundwater is considered private property like oil, gas, coal and other minerals. A permit is required for non-domestic use of water, but even domestic users are prohibited from wasting groundwater pumped from a well.

The permit process is a little more involved for groundwater use than for surface water use. Applicants are required to notify, by certified mail, landowners within one-quarter mile of the proposed well-site and must publish notice in the county newspaper.

The OWRB is required to determine that (1) the party requesting the permit owns or leases the land, (2) the land lies atop a fresh groundwater basin or sub-basin, (3) the use will be beneficial, and (4) waste by either depletion or pollution will not occur. The OWRB is required to hold a hearing if there is a protest of the ap-

plication.

### *Types of Water Usage and Preferences Among Uses*

Beneficial uses include such purposes as agriculture, irrigation, water supply, hydroelectric power generation, municipal, industrial, navigation, recreation, and propagation of fish and wildlife. There are no preferences among uses in Oklahoma law, except that stream water appropriations cannot interfere with domestic uses. Therefore, in times of severe drought, all beneficial uses may be affected, and even public water suppliers cannot demand that water use for other purposes cease.

## Contact Information

### Water Research Institute

003 Life Sciences East  
Stillwater, OK 74078

405.744.9994

405.744.7074 (fax)

### E-mail

[waterplan@okstate.edu](mailto:waterplan@okstate.edu)

### Web site

<http://okwaterplan.info>

Dr. Will Focht  
Mike Langston  
Jeri Fleming  
Alison Stone



# Water Terms

**303(d) List** – A list, prepared by DEQ, of water bodies that do not meet water quality standards and are not supporting their beneficial uses [303(d) is the section of the Clean Water Act mandating these lists]

**319 Program Money** - Grants to states for implementation of management programs regarding non-point source pollution. The money is controlled by the Environmental Protection Agency (EPA)

**Acre-Foot** - An amount of water equal to one acre of land covered in one foot of water. Equal to 325,851 gallons or 43,560 cubic ft.

**Alluvial Aquifer** - A water-bearing deposit of uncompact material (sand and gravel) left behind by a river or other flowing water

**Aquifer** - An underground geological formation or group of formations, containing water. The source of groundwater for wells and springs

**Artesian Spring/Water**-Groundwater that is naturally under pressure, and so, when tapped by a well, it rises above the level at which it is first encountered

**Bedrock Aquifer** - An aquifer composed of solid rock, but where most water flows through cracks and fractures in the rock instead of through pore spaces. Flow through fractured rock is typically relatively fast

**Commercial Water Use** - Water used for hotels, restaurants, office buildings and other commercial facilities and institutions (differs from Domestic Use and Industrial Use)

**Conjunctive Use/Management** - The integrated use or management of two or more water re-

sources, such as groundwater and a surface water body

**Conservation** - The careful utilization of a natural resource in order to prevent depletion

**CREP (Conservation Reserve Enhancement Program)** - A voluntary program of the USDA's Farm Service Agency that offers agricultural producers compensation for keeping land out of production. Goals include protecting environmentally sensitive land, decreasing erosion, restoring wildlife habitat, and safeguarding ground and surface water

**Domestic Use** - Water used for household purposes (also Residential Water Use) (differs from Industrial Use and Commercial Use)

**Drainage Basin** - Land area where precipitation runs off into streams, rivers, lakes and reservoirs (also Basin or Watershed)

**EQIP (Environmental Quality Incentives Program)** - a voluntary conservation program of the NRCS for farmers and ranchers that offers financial and technical help to assist with installing or implementing management practices to enhance environmental quality

**Eutrophication** - The process of enrichment or degradation of water bodies by nutrients (usually nitrogen or phosphorus). Numerous human activities can accelerate the process

**Graywater** - Wastewater considered clean enough for reuse. Usually from washing machines, showers, bathtubs, hand washing and sinks

**Groundwater** - The supply of fresh water beneath the Earth's surface, usually in aquifers, which

supply wells and springs

**Hardness** - A water quality indication of the concentration of alkaline salts in water, mainly calcium and magnesium

**Industrial Use** - Water used for industrial purposes in such industries as steel, chemical, paper and petroleum refining (differs from Commercial Use and Domestic Use)

**Infiltration** - Flow of water from the land surface down into the ground

**Injection Well** - A well constructed for injecting treated wastewater directly into the ground

**MCL (Maximum Contaminant Level)** - The greatest amount of contaminant that can be present in drinking water without causing risk to human health

**Minimum Instream Flow** - The specific amount of water required to support aquatic life, to minimize pollution, or for recreation.

**NRCS (Natural Resource Conservation Service)** - A federal agency within the USDA that provides conservation planning and technical assistance to clients (individuals, groups, and units of government) to develop and implement conservation plans to protect, conserve, and enhance natural resources within their related social and economic interests

**Non-Point Source Pollution** - Pollution discharged over a wide area (in other words, not from one specific location or pipe). Examples include stormwater runoff from fertilized lawns or agricultural fields (differs from Point Source Pollution)

**Nutrient Pollution** - Contamina-

tion of water resources by excessive inputs of nutrients

**Permeability** - The ease with which water flows through a material such as a layer of rock or soil

**Point Source Pollution** - Pollutants discharged from a fixed location (differs from Non-Point Source Pollution)

**Potable Water** - Water that is of drinking water quality

**Prior Appropriation** - A doctrine of water law that allocates the rights to use water on a first-come, first-served basis

**Recharge** - Water added to an aquifer

**Reservoir** - A pond, lake or basin either natural or artificial, for the storage, regulation and control of water

**Riparian Area** - The land bordering a stream, river or other generally flowing bodies of water

**Riparian Water Rights** - A landholder's right to water that crosses or is adjacent to his land. Generally governed by state law

**Safe Yield** - The amount of water that can be taken from a source without depleting it beyond its ability to replenish itself. Usually calculated on a yearly basis

**Salinity** - The concentration of salt in water

**Stakeholder** - Anyone interested in or affected by a decision. The management of a state's water resources affects every citizen. Therefore, every citizen is a water stakeholder

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**Subsidence** - A dropping of the land surface as a result of ground-water pumping

**Surface/Stream Water**-All water naturally open to the atmosphere

**TMDL (Total Maximum Daily Load)** - Maximum amount of pollution that a particular watershed can tolerate without adverse effects - calculated on a daily basis

**Turbidity** - The amount of solid particles that are suspended in water and that cause light rays shining through the water to scatter (also Cloudiness)

**Watershed** - The area that drains into a stream, river or lake

**Wetland** - An area that is saturated by surface or groundwater with vegetation adapted for life under those soil conditions such as swamps, bogs, marshes and lake shores



# Public Participation Process

Oklahoma law requires that the Oklahoma Water Resources Board (OWRB) develop a Comprehensive Water Plan and revise it about every ten years. The original plan was published in 1980 and updated in 1995. OWRB is now working on the second update, which is due in 2011.

The Oklahoma Water Resources Research Institute, established in 1965 at Oklahoma State University but serving the entire State, is leading the effort to urge Oklahomans from all across the state to contribute to this update of the water plan.

The Institute’s primary mission is to sponsor water research that meets the needs of Oklahoma and to train future water resource management professionals. Dr. Will Focht, the current Institute Director, specializes in engaging citizens in environmental decision-making. As a result, the OWRB has asked the Institute to lead the public participation effort.

### Process Goals

The goals of the public participation process are to produce a water resource management plan that is (1) based on the best available science and (2) enjoys broad public support.

The plan will serve as a guide for decision-making by OWRB and other state agencies as they work to assure a safe and reliable supply of water to meet the needs of all Oklahomans for the next 50 years.

To assure that the plan is well informed, the Institute is assembling a team

of technical and policy experts from all across Oklahoma to provide advice as needed. To gain public support, we are leading a process that is inclusive, fair, and transparent to all.

The Water Research Institute



is not responsible for writing the Water Plan. However, the Institute is committed to making sure all interests are fairly represented and will encourage discussions that will result in recommendations that represent the interests of all Oklahomans.



### Process Description

The public engagement process will be conducted in five steps over the next four years. Every meeting will be professionally facilitated, by either Institute staff or facilitators working with the Institute for Dispute Resolution, located

at Oklahoma State University.

### Local Input Meetings

During 2007, the Institute will sponsor 42 local input meetings across the State, which will give Oklahomans the opportunity to (1)

identify the issues that should be considered, (2) voice concerns about these issues, (3) specify the questions that should be answered in considering these issues, and (4)

offer suggestions about how the issues should be addressed in the plan. Everyone is encouraged to attend and participate.

The facilitator will ask participants to identify their county of residence and keep their comments brief so everyone has the

opportunity to be heard.

No votes will be taken; therefore, it is not necessary that large numbers of people sharing the

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same interest attend. The Institute is interested only in soliciting a broad range of comments; we will not be assessing comment popularity.

#### *Regional Input Meetings*

In 2008, the Institute will sponsor 11 regional input meetings, one in each of the 11 sub-state planning regions of Oklahoma, to group the issues raised in local input meetings into similar categories and to rate the categories as to their relative importance.

The Institute will invite about 30 citizens from each region to participate in a facilitated discussion about issue categories and priorities.

Participant nomination is open to the public with selection based on nominees’ knowledge of regional water issues, willingness to listen and reflect on others’ interests, a commitment to developing recommendations that meet the needs of all Oklahomans, and assurance that all water interests are represented.

The meetings will be open to area residents and public comments will be encouraged towards the end of the meeting. The results of the local and regional input meetings will form the agenda for all meetings to follow.

#### *Planning Workshops*

The Institute will sponsor a series of workshops, in 2009, to formulate alternative water resource management strategies. These workshops will be organized around the issues and issue categories that were identified in the input meetings.

We anticipate that 12 such issue-specific workshops will be held in Oklahoma City. Each of the 12 workshops will be repeated twice (three in all) so that experts can respond to questions raised by

the participants.

Approximately 20 Oklahomans will be invited to participate in each of the workshops (about 240 in all). Selections will be based on the same criteria as for the regional input sessions except that we will especially seek individuals who are knowledgeable of water issues across the state.

#### *Town Hall Meeting*

During 2010, the Institute will work with the Oklahoma Academy for State Goals to host a 3-day town hall meeting, in Norman.

Approximately 150 Oklahomans will be invited to consider the alternative water resource management strategies that were formulated in the planning workshops and reach agreement on a series of recommendations for inclusion in the comprehensive water plan.

Town hall meetings have been held by the Oklahoma Academy for a number of years and have been very successful in generating policy recommendations that have been subsequently embraced by the Oklahoma Legislature, Governor, and Agency Directors.

The Institute will issue invitations to nominees who are knowl-

edgeable about Oklahoma water issues and are committed to generating recommendations that can gain broad public support.

The recommendations will be delivered to the OWRB for its use in preparing a draft of the water plan.

#### *Comment and Implementation Meetings*

During 2011, the Institute will return to the 11 sub-state planning regions to review and discuss the draft water plan. Participants will be encouraged to offer suggestions about how the plan should be carried out.

The Institute will invite about 30 regional representatives to each meeting. Selection of participants will be based on the same criteria as in the regional input meetings and likely will involve many of the same people. Like the regional input sessions, these meetings will also be open to anyone who would like to watch the proceedings.

Evening meetings will follow

that are open to all. Participants will be encouraged to offer their comments on the draft plan as well as the implementation suggestions originating from the afternoon sessions.

All comments and implementation suggestions will be communicated to the OWRB for its use in developing the final water plan that will be delivered to the Governor and Legislature in 2011.

All reports generated during the process will be posted on a website for all to view. Citizens who can not attend a local meeting may submit their comments and suggestions on the Institute’s website <http://okwaterplan.info>.

We encourage you to contact us with any questions or comments throughout the process.



Photos courtesy of OWRB