

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 998

By: Murdock of the Senate

and

Patzkowsky of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to water; amending 82 O.S. 2011,
11 Section 1020.15, which relates to waste prohibition;
12 clarifying language; declaring the taking and use of
13 marginal water to be considered a beneficial use;
14 requiring the Oklahoma Water Resources Board
15 promulgate and implement certain rules; stating that
16 any use of marginal water is in addition to any
17 domestic use or any other permitted use; providing
18 for codification; and providing an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 82 O.S. 2011, Section 1020.15, is
21 amended to read as follows:

22 Section 1020.15 A. The Oklahoma Water Resources Board shall
23 not permit any ~~fresh~~ groundwater user to commit waste by:

24 1. Drilling a well, taking, or using ~~fresh~~ groundwater without
a permit, except for domestic use;

2. Taking more ~~fresh~~ groundwater than is authorized by the
permit;

- 1 3. Taking or using ~~fresh~~ groundwater in any manner so that the
2 water is lost for beneficial use;
- 3 4. Transporting ~~fresh~~ groundwater from a well to the place of
4 use in such a manner that there is an excessive loss in transit;
- 5 5. Using ~~fresh~~ groundwater in such an inefficient manner that
6 excessive losses occur;
- 7 6. Allowing any ~~fresh~~ groundwater to reach a pervious stratum
8 and be lost into cavernous or otherwise pervious materials
9 encountered in a well;
- 10 7. Permitting or causing the pollution of a fresh water strata
11 or basin through any act which will permit fresh groundwater
12 polluted by minerals or other waste to filter or otherwise intrude
13 into such a basin or subbasin. The Board shall be precluded from
14 determining whether waste by pollution will occur pursuant to the
15 provisions of this paragraph if the activity for which the applicant
16 or water user intends to or has used the water as specified under
17 Section 1020.9 of this title is required to comply with rules and
18 requirements of or is within the jurisdictional areas of
19 environmental responsibility of the Department of Environmental
20 Quality or the Oklahoma Department of Agriculture, Food, and
21 Forestry;
- 22 8. Drilling wells and producing ~~fresh~~ groundwater therefrom
23 except in accordance with the well spacing previously determined by
24 the Board;

1 9. Using ~~fresh~~ groundwater for air conditioning or cooling
2 purposes without providing facilities to aerate and reuse such
3 water; or

4 10. Failure to properly plug abandoned ~~fresh~~ water wells in
5 accordance with rules of the Board and file reports thereof.

6 B. Except as otherwise provided by paragraph 7 of subsection A
7 of this section, any employee of the Board having evidence that an
8 act of waste is being committed in his or her presence, or after
9 investigation of a complaint filed by another individual, shall take
10 steps to assure that the waste ceases. Such steps shall include but
11 shall not be limited to pursuing voluntary compliance, obtaining the
12 issuance of a cease and desist order by the Executive Director,
13 instituting action in a court of competent jurisdiction to enjoin
14 the waste, pursuing a suspension of any permit or other
15 administrative remedies by the Board, and filing a complaint in the
16 district court of the county wherein such violation has occurred,
17 and it shall be the duty of the district attorney of said county to
18 prosecute such complaint.

19 C. In cases of waste by pollution pursuant to paragraph 7 of
20 subsection A of this section, any complaint or investigation, or any
21 enforcement matter other than an individual proceeding involving the
22 suspension of an Oklahoma Water Resources Board permit shall be
23 referred to and subject to the jurisdiction of the Department of
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1 Environmental Quality or other appropriate state environmental
2 agency or state agency with limited environmental responsibility.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1021.1 of Title 82, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The ability to take and use marginal water has the potential
7 to augment water supply in many areas of Oklahoma. Therefore, the
8 taking and use of marginal water in accordance with the Oklahoma
9 Groundwater Law and the rules of the Oklahoma Water Resources Board
10 shall be considered a beneficial use and not waste. Except as
11 provided in this section and Sections 1020.15 and 1020.16 of Title
12 82 of the Oklahoma Statutes, the provisions of this act shall not
13 apply to the taking and use of marginal water.

14 B. The Oklahoma Water Resources Board shall promulgate and
15 implement rules for the taking and use of marginal water, including
16 the well construction standards, well spacing, and water use
17 reporting. Rules related to well construction standards shall
18 ensure that the taking and use of marginal water shall not impair
19 any fresh water basins, and shall include, but not be limited to,
20 the rate of withdrawal, the level of perforating and the level of
21 sealing the well.

22 C. Any use of marginal water under this section is in addition
23 to any domestic use authorized under Section 1020.3 of Title 82 of
24 the Oklahoma Statutes or any other use authorized pursuant to a

1 permit issued under Section 1020.11 of Title 82 of the Oklahoma
2 Statutes.

3 SECTION 3. This act shall become effective November 1, 2019.

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