The background of the cover is a dark, grainy photograph of a pond. In the center, there is a lily pad floating on the water. Above the lily pad, a small, light-colored object, possibly a seed or a small animal, is visible on the water's surface. The overall tone is somber and naturalistic.

The Oklahoma Stream Law and Rules

E-1017

**Oklahoma Cooperative Extension Service
Division of Agricultural Sciences and Natural Resources
Oklahoma State University**

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Oklahoma Stream Water Law and Rules

Many people ask who “owns” stream water (i.e. water in a “defined stream”) in Oklahoma. The answer is that stream water is actually a *public* resource, owned by the people of Oklahoma.¹ As a result, you may not *own* stream water, but you may have the right to use the stream water.

The process for determining who holds rights to stream water is much more complicated than determining who can use runoff water. There are two main ways someone can get the rights to use stream water. The first is by owning the land that surrounds a stream or is bordered by a stream. We refer to these landowners as “riparian” owners (“riparian” simply refers to land that runs along the banks of a stream). The second is to get an “appropriation,” or permit, from the OWRB to use stream water.

Domestic Use by Riparian Landowners

Riparian owners have property rights to use some stream water for “domestic use.”² As long as domestic use is the only use made of the stream water, the riparian owner does not need a permit to use it. So what does “domestic use” mean? Under Oklahoma law, domestic use includes the use of water for:

1. Household purposes;
2. Producing farm and domestic animals (so long as the number of animals using the water is no more than the land could support in a natural grazing system); and
3. Irrigation of land for the growing of gardens, orchards and lawns, but only up to three (3) acres in area.³

Following are some examples of what does and what does not qualify as “domestic use” for a household:

<i>Domestic use; Permit NOT required</i>	<i>Non-domestic use; Permit REQUIRED</i>
Drinking water for household use	Bottling stream or spring water for sale
Watering of grazing livestock	Watering livestock in a feedlot or other confinement operation
Irrigation of garden, three (3) acres or less in size	Irrigation of cropland, orchard, or grassland greater than three (3) acres in size

Agricultural use is one of the most common uses of stream water, but they are often misunderstood. For example, many people think that as long as they own land adjoining a stream, they can use the stream water for irrigation or for watering livestock in a feedlot, but this is incorrect. These uses require an appropriation of stream water from OWRB using the procedure discussed later in this chapter.

Another common misunderstanding is that only households can make “domestic use” of water. Businesses and other non-household entities can use stream water if they own land adjoining a stream. They do not need an appropriation if their uses fit within one of the following categories: (1) drinking water, (2) restroom use, and (3) the watering of lawns. Businesses using water for these purposes must keep their use to less than five (5) acre-feet per year.⁴ Following are some examples of what does and what does not qualify as “domestic use” for a business:

¹ See 60 OKLA. STAT. § 60. Some Indian tribes in Oklahoma have claimed ownership to all water within their historic tribal boundaries.

² 60 OKLA. STAT. § 60, 82 OKLA. STAT. § 105.1. See also OKLA. STAT. § 105.1A and *Franco-American Charolaise, Ltd. V. Oklahoma Water Resources Board*, 855 P.2d. 568 (Okla. 1990)

³ 82 OKLA. STAT. § 105.1.

⁴ OKLA. ADMIN. CODE 785:20-1-2.

<i>Domestic use; Permit NOT required</i>	<i>Non-domestic use; Permit REQUIRED</i>
Drinking water for employees	Bottling water for sale
Restroom use	Car washing, industrial cleaning
Watering lawns	Irrigation for a turfgrass operation

No fixed limit exists for how much water a riparian owner can consume for domestic use. Courts have, however, limited the definition of domestic use to an amount that “does not substantially or materially injure those riparian owners downstream who have a corresponding right.”⁵ In other words, a riparian owner can use as much water as needed for their domestic uses, so long as that use does not leave other downstream riparian owners without the amount of the water they need for their domestic uses.

Appropriating Water Use Rights

If someone wants to use stream water for something that is not a domestic use, or if they do not own land next to a stream, then they must get an “appropriation” from OWRB. The application process can involve a significant amount of homework, but proper preparation can make it go much smoother. Let’s examine this process step-by-step.

Step 1: Calculate the amount of water needed.

While this might seem like an obvious step, many people either overlook this (“I just need some water – I don’t know how much”) or don’t know how to estimate the amount of water needed for the activity in question (“How can I possibly know in advance how much water I will need?”). Fortunately, there are a number of resources available to help you estimate the water needed for various activities. For example:

- Irrigation Water Measurement - [http://pods.dasnr.okstate.edu/docushare/dsweb/Get/](http://pods.dasnr.okstate.edu/docushare/dsweb/Get/Document-2225/BAE-1502web.pdf)

[Document-2225/BAE-1502web.pdf](http://pods.dasnr.okstate.edu/docushare/dsweb/Get/Document-6022/PSS-2140web.pdf).

- Fate of Precipitation Falling on Oklahoma Cropland - <http://pods.dasnr.okstate.edu/docushare/dsweb/Get/Document-6022/PSS-2140web.pdf>
- Determination of land use and irrigated crop acres by remote sensing - http://pubs.usgs.gov/wri/wri034155/pdf/section_2.pdf
- Oklahoma Mesonet AgWeather Models - <http://agweather.mesonet.org/>

Additionally, you may be able to get assistance through your local Oklahoma Cooperative Extension Service office, the USDA Natural Resources Conservation Service office for your county, your rural water district, the OWRB, or other agencies. Once you have calculated the amount of water needed, you will also need to calculate the rate at which the water will be needed (i.e. the flow your use of the water will require, measured in gallons per minute).

You should consider what type of permit is will needed. The OWRB has six different types of appropriations:

Regular: The allows you to get a particular amount of water from a particular source on a year-round basis, and it lasts as long as you continue using the water. This permit basically grants the permit holder a permanent right to the water, subject to the restrictions discussed in this chapter for appropriated water.

Seasonal: Similar to a regular permit, but allows you to divert available water for a specific time period during the year instead of year-round.

Term: This allows you to use a certain amount of water for a term of years. The holder of this permit must cease using the water at the end of the term (compare this to the Regular or Seasonal permit, which can be permanent in some cases).

Temporary: Allows the permit holder to have a certain amount of water from a certain source for a period of time less than three months. The permit holder does not have any permanent right to the use of the water, and after the three months is up, they cannot use the water anymore.

Provisional temporary: This is a permit that is authorized by the Executive Director

⁵ *Franco-American Charolaise, Ltd. V. Oklahoma Water Resources Board*, 855 P.2d. 568,575 (Okla.1990). See also M. Walker and D. Couch, “Oklahoma Environmental Law Handbook,” Chapter V, Section B, p. V-B-6 (Oklahoma Bar Association Environmental Law Section, 2009).

of the OWRB for a period less than 90 days. No hearings are held, no application notice or data are published and no notice to surface estate owners is required on applications for this type of permit. It is not renewable and does not give any permanent right. This permit uses a special form – “Surface Water Application for 90-Day Provisional Temporary Permit,” Form SW T7010/07-00, which carries a \$150.00 application fee and is most frequently used for oil and gas operations.⁶

Limited Quantity: Limited quantity permits are administered by the Executive Director of the OWRB in a very abbreviated application procedure. The Executive Director of OWRB can issue a regular, seasonal, temporary, or term permit to use up to 15 acre-feet of water in the year or term of the permit.

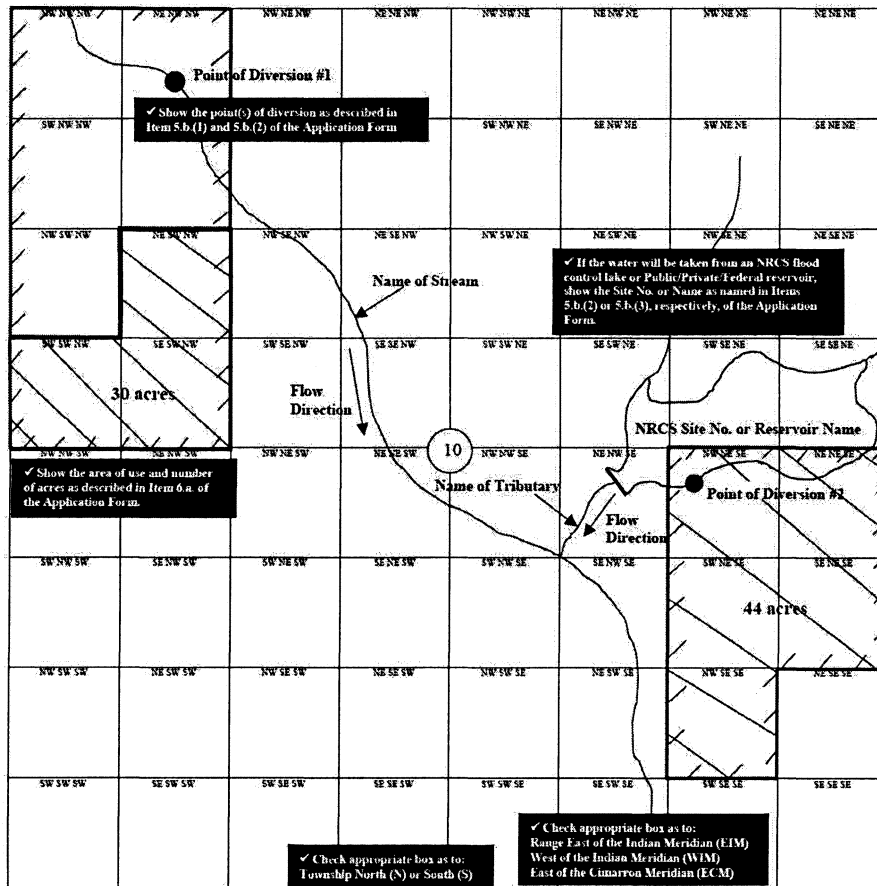
⁶ M. Walker and D. Couch, “Oklahoma Environmental Law Handbook,” Chapter V, Section B, p. V-B-32.

The calculations you complete in Step 1, along with what you know about how and when you will use the water, will help you determine which kind of permit you need.

Step 2: Design your water works.

Now that you have determined how much water is needed, you will design your “water works.” Water works is the term used to describe the land and equipment (such as dams, channels, piping, pumps, etc.) that will transport the water from the stream to the place where it will be used.

Once your water works is designed, you will need to prepare a diagram showing the location where the water will be taken from the stream, pond, reservoir, or other water body – this diagram is called a “plat.” This plat should also show the direction of flow for the streams in the area, the area of land that you own, the area where the water will be used, and any other important features in the area. Here is an example of a plat for an OWRB Stream Water Appropriation:



(Image courtesy OWRB)

As you plan the layout of your water works, be sure you can draw it on the plat provided with the application discussed in Step 4 below. The application plat will show one section (640 acres) of property, broken into ten-acre blocks.

Step 3: Secure access to the stream.

Another important step in the application process is getting permission to access the stream. If you are a riparian landowner, this is not a problem, as you already own land adjoining the stream. However, if applying for an appropriation because you are not a riparian landowner, you will have to negotiate an "easement," which is an agreement with the owner of the land crossed to access the stream for the water works. Since an easement is an important document that affects the property rights of both the person who owns the land near the stream and the person who will be using the water, get the help of an attorney in drafting the easement.

Once you have negotiated access to the stream, you will also need to document the agreement with a "Right of Access for Stream Water Use" form provided by the OWRB. This form can be obtained at http://www.owrb.ok.gov/supply/watuse/pdf_wat/sw_access.pdf.

Step 4: Prepare an "Application for Permit to Use Surface or Stream Water."

Once you have completed those steps, it's time to start working on the permit application itself. For a Regular, Seasonal, or Term permit, the form used by OWRB is the "Application for a Permit to Use Surface or Stream Water," Form 503/5-08. The application is available on-line at http://www.owrb.ok.gov/supply/watuse/pdf_wat/app_sw.pdf, or you can get a copy by calling OWRB at (405) 530-8800. The application must be filled out completely and accurately, and must be typewritten or in ink.

Along with the application, you will also be required to provide an application fee to OWRB that is based on the amount of water you want to appropriate:

<i>Amount of Water Requested</i>	<i>Fee</i>
0 - 320 acre-feet	\$190.00
321 - 640 acre-feet	\$300.00
641 - 1500 acre-feet	\$375.00
More than 1500 acre-feet	\$375.00 + \$150.00 for each 500 acre-feet (or any increment thereof) more than 1500 acre-feet. (maximum fee is \$3,000.00)

Part 1 of the application consists of your contact information including your name, address, and phone and fax numbers.

Part 2 of the application will ask for the kind of permit you seek (refer to the discussion of the different kinds of permits in Step 2 above).

Part 3 of the application will ask for the amount of water you are requesting (in acre-feet) and the rate you will be taking the water (in gallons per minute).

Part 4 of the application will ask you to list all the uses of the water for which you have applied. For example, if you are asking for a total of 150 acre-feet with 100 acre-feet of that amount to be used for irrigating an alfalfa field and 50 acre-feet to be used for a confined livestock operation, each use needs to be listed separately. Be sure the total of all your listed uses equals the total amount of water requested in Part 3. For requests of water that will be used to irrigate crops, the specific crops to be irrigated must be listed.

Part 5 of the application will ask for details of your plan to get the water from the point where you are taking it from the stream, pond, reservoir, etc. You will need to provide the location of the "diversion point" (that is, the location where you will be taking water from the stream for your water works) and the name of the water body from which the water will be taken – be sure that this the "official" name of the water body and not just the local name for the water body. If the body has no name, it can be left as an unnamed body, such as "unnamed tributary of Wolf Creek." Should you need some help with the legal description of the locations involved,

consult OSU Fact Sheet AGEC-9407, "Legal Descriptions." You can also use the OWRB's Water Map server at <http://www.owrb.ok.gov/maps/server/wims.php> to help you get a better view of your land and the water resources nearby. Part 5 will also ask for details of how the water will be transported from the diversion point to where the water will be used. If you don't own the land where the diversion point and/or water works will be located, you will need to provide the "Right of Access for Stream Water Use" form discussed in Step 3 above.

Part 6 of the application asks you to detail the legal description of the area of use for the water requested. If the use of the water is for the irrigation of crops, a copy of the deed or lease for the irrigated property must also be provided.

Part 7 of the application will ask for the completed plat discussed in Step 2 above. On the plat, draw a basic map of the water resources in the area, the land where you will use the water, and the configuration of your water works.

Part 8 will ask for the "justification" of the amount of water requested. If applying for irrigation water, this step is not required, as you will have already provided the information required in Part 4 of the application. If applying for water for another use, you will be required to provide the methods, calculations, and information you relied upon when you were calculating how much water you need.

The final part of the application is where you will sign. But first, you must figure out who is responsible for signing:

<i>If the entity applying for the appropriation is...</i>	<i>...then the party(ies) who need to sign is(are):</i>
An individual person	The individual
A husband and wife	Either spouse (or both may sign)
A general partnership	All the partners
A limited partnership, corporation, LLC, trust, estate, government agency, or other any type of entity	The entity's "authorized agent" – usually the company's manager or president, the trustee of a trust, executor of the estate, etc.

Timing of the Application and its Affect on Priority to the Water

It is important to complete the application as soon as you can determine the need for the water. When the OWRB must allocate water due to drought conditions or other shortages, the priority use of water goes first to the riparian owners for domestic use. Next in priority will be the oldest appropriations (with the date of an appropriation being set as the date a complete and correct application is filed).⁷ Thus, filing your application sooner rather than later can help give you a higher priority to the water.

On the other hand, it is important to only apply for water when it is needed, rather than "speculating" in water (i.e., applying for water rights "just in case" you might need it later). If you do not use all the water that has been appropriated, you will forfeit the remaining amount of water in the future. The OWRB examines water use on a seven-year cycle for this purpose. For example, if you appropriate the right to use for 300 acre-feet of water, and during the next seven years, you only use 200 acre-feet, you will only be allowed to use 200 acre-feet for the re-

⁷ 82 OKLA. STAT. § 105.2(B).

remainder of your appropriation, and the remaining 100 acre-feet (300 acre-feet appropriated – 200 acre-feet used) will revert back to the state.⁸ However, if you can prove the circumstances for not using the water were beyond your control, you may be able to keep your water rights.

The Appropriation Process

Although it will save time to complete the application correctly the first time, don't get too anxious. If there are any major problems with the application due to problems with the form or feasibility of the plan, the OWRB will return the

⁸ O.S. §105.17.

application with a list of the changes needed. You will then have 60 days to make the corrections.⁹ If you don't correct and resubmit it within 60 days, the OWRB will consider your application withdrawn and you lose your original priority date. You can file the application again, but it will be treated as a new application on the new date of filing.¹⁰

Publishing Notice / Submitting Proof of Publication: If the OWRB deems your application complete, they will send you instructions on how to publish a notice of the application. The instruction notice will likely look like this:

⁹ OKLA. ADMIN. CODE §785:20-3-9(a).

¹⁰ OKLA. ADMIN. CODE §785:20-3-9(c).

RE: Stream Water Application No. XXXX

Dear Mr. Pete:

Your application to use stream water has been reviewed by Board staff. In order to obtain a permit, you must provide notice of the essential facts about your intended use by newspaper publication.

In accordance with 82 O.S. 2001, Sec. 105.11, we have enclosed Notices of Application to be published at your expense in newspapers having a general circulation in the county of your point of diversion, Tulsa County, and the adjacent downstream county, Rogers County. The notice must appear in the newspapers once a week for the two consecutive weeks beginning on February 1 and February 8. Please send us or have the publishers forward the copy of the Certified Proof of Publications within fifteen (15) days after the last publication date. Because the Board is not responsible for the form, content or accuracy of the enclosed notices, please review the notices and contact this office if you note any errors.

If your application is protested, we will notify you and schedule a hearing. If you have any questions concerning this matter, please contact Mary Nell Brueggen at the address below or call (405) 530-8800.

Sincerely,

**Julie Cunningham, Chief
Planning & Management Division**

mnb

Enclosures

The notice describes: (1) the amount of water that will be used, (2) for what purpose, (3) where it will be taken from, (4) the name and address of the applicant, and (5) if there will be a hearing on the application.¹² The notice must be posted for two consecutive weeks in a newspaper distributed in the area that will be affected by the use of the water (some people refer to this as a county "newspaper of record" or a "legal newspaper"). After the notice has been printed, you must submit proof to the OWRB that the notice was printed. Many newspapers will provide you with a form used for this proof. For help on

preparing the notice and finding the newspaper that serves your county, visit the Oklahoma Press Association website at <http://www.okpress.com/legal-notice-guide> and click on the "Legal Notice Guide" link. Click on the "List of Members" link and then go to the "Business Members" for a list of newspapers that meet the definition of a "legal newspaper." Once you have completed the publication notice, submit your proof in a form that will look something like this example (and although the provided example shows a ground water permit notice, the form will be quite similar for a stream water appropriation:

¹² 82 OKLA. STAT. § 105.11.

NewsPress

PROOF OF PUBLICATION

STATE OF OKLAHOMA)
) SS.
COUNTY OF PAYNE)

ANGELA C TINKER

of lawful age, being duly sworn and authorized, says that she is the authorized agent of the Stillwater NewsPress, a daily newspaper printed in the City of Stillwater, Payne County, Oklahoma, a newspaper qualified to publish legal notices, advertisements, and publications as provided in Section 106 of Title 25, Oklahoma Statutes 1971, as amended, and complies with all other requirements of the laws of Oklahoma with reference to legal publications.

That said notice, a true copy of which is attached hereto, was published in the regular edition of said newspaper during the period and time of publication and not in a supplement, on the following dates:

July 27, August 3, 2009

Angela C. Tinker

Subscribed and sworn to before me this 3rd day of August, 2009.

Sherley J. Dryden

Notary Public

My Commission Expires: June 30, 2012
No. 08006780



Publication Fee: \$118.89
App 2009-503

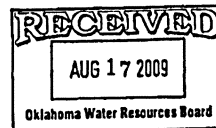
(Published in the Stillwater NewsPress July 27, August 3, 2009-21)

NOTICE OF APPLICATION TO USE GROUNDWATER
Leo and Arieta Whitmore c/o Wayne Whitmore of 10320 West 140th, Coyle, OK 73027 #2009-503, with the Oklahoma Water Resources Board (Board) for permit to use 160 acre-feet of groundwater per year. The groundwater is proposed to be used for irrigation (44 a.l.) and mining - primarily drilling and completion of oil & gas wells (116 a.l.). The water will be taken from 80 acres located in the W2 SW of Section 10, T17N, R18E, Payne County. The water is to be withdrawn from one well in the NW SW SW of the same Section 10. The applicants propose to use the groundwater in Payne County, Oklahoma. Use of groundwater is governed by Sections 1020.1 and following of Title 82 of the Oklahoma Statutes and rules of the Board, Oklahoma Administrative Code (OAC), Title 785, Chapter 30.

Protosts to the application must be in writing and received by the Board at the address listed below and by the applicant at the address listed about no later than August 24, 2009, and contain the following: (1) name, address, and telephone number of the interested person; (2) the particular application number to which the protest relates; (3) specific information to show how approval of the application proposed may directly and adversely affect legally protected interests of the person filing the protest; and (4) a statement the relief sought by the interested person. A person who sends a letter containing only a general objection or comment will not be deemed to be

a party, but the letter will be made part of the permanent record.

If a person that meets the requirements listed in the paragraph above is filed with both the applicant and Board, a hearing on this application will be scheduled and the applicant and protestant(s) will be advised of the hearing date. Protestants or their representatives must appear at the hearing and present the protest to be considered. Hearings are governed by Section 309 of Title 75 and Section 1020.8 of Title 82 of the Oklahoma Statutes, and the rules of Board, OAC title 785, chapters 4 and 30. If you have any questions, please contact Mary Not Bruggen at (405) 530-8900. Board mailing address: Oklahoma Water Resources Board, Planning & Management Division, 3800 N. Classen Blvd., Oklahoma City, OK 73118-2881. Board fax number (405) 530-8900.



Hearings on the Application: After notice of the application is published, the public is given an opportunity to protest the application. A protest may not be made by just anyone. To protest an application, someone must have an “interest” in the application.¹³ This means that the party filing the protest must have some claim to water in the area that will be affected if your appropriation is granted (for example, they may already have a stream water appropriation themselves). If the OWRB finds that the protest is valid, it may schedule a hearing where you

¹³ 82 OKLA. STAT. § 105.11.

may present evidence in support of your appropriation request, and the protesting party may present evidence supporting its request for a denial of the appropriation.¹⁴ The OWRB will consider the information gathered at the hearing in making its decision on whether to grant the requested appropriation.

Application Decision: To make a decision about whether to grant the appropriation of water rights, the OWRB must evaluate the following four factors:¹⁵

¹⁴ See OKLA. ADMIN. CODE § 785:20-5-3.

¹⁵ OKLA. ADMIN. CODE § 785:20-5-4(a).

<i>Factor</i>	<i>Meaning</i>
(1) Unappropriated water is available in the amount applied for;	There is enough water available in the water body from which you will be drawing to supply the amount you requested.
(2) The applicant has a present or future need for the water and the use to which applicant intends to put the water is a beneficial use;	“Beneficial use” is a very broad term that includes almost any positive use of the water and prevents the waste or pollution of the water. the OWRB may consider whether there are other sources of water that would be more suitable to the request, including other streams or groundwater.
(3) The proposed use does not interfere with domestic or existing appropriative uses; and	Approving the request will not cause a hardship to other users of the water body.
(4) If the application is for the transportation of water for use outside the stream system wherein the water originates, the provisions of [Oklahoma Administrative Code] Section 785:20-5-6 are met.	If the water is going to be transported from one watershed to another, additional requirements will have to be met before the appropriation is approved.

If all of these requirements have been satisfied, then the OWRB will issue a permit to appropriate the water.¹⁶ The permit will contain many of the same items that were submitted in your application – the only difference is that those items will now become *requirements*. For example, the amount of water requested per year now becomes the maximum amount of water that can be used, the uses you requested are now the uses to which you are limited in using the water, and so on.¹⁷

Once the permit has been issued, the clock begins to run on two items. First, you have two years to start building the water works proposed in your application to get the water from the water body to your land.¹⁸ Additionally, you have seven years to put the full amount of water to use or else you run the risk of your appropriation being reduced to the amount of water you have

actually used.¹⁹ If there is a reason the water cannot or should not be used in the full amount before the seven-year period is over, a request for a modification of the “use scheduling” of the water can be made to the OWRB (in other words, the OWRB may modify the amounts of water used under your appropriation and the dates those amounts are used).

Water Use Reporting: The use of the water must be provided to the OWRB in the form of an annual use report. The OWRB will mail these annual use report forms to its permit holders, and those reports must be completed within 30 days of being received. If these reports are not completed, the OWRB may assume that you have not used the water under your appropriation and, as a result, may reduce the amount of water you are permitted to use.²⁰ Your water use report for stream water will look like this:

¹⁶ OKLA. ADMIN. CODE § 785:20-5-4(b); 785:20-5-9.
¹⁷ OKLA. ADMIN. CODE § 785:20-5-2.
¹⁸ OKLA. ADMIN. CODE § 785:20-9-1(a)(1).

¹⁹ OKLA. ADMIN. CODE § 785:20-9-2(a).
²⁰ OKLA. ADMIN. CODE § 785:20-9-5(a)(1).

WR
WATER RESOURCES BOARD
THE WATER POLICE

RECEIVED
FEB 02 2009

OKLAHOMA WATER RESOURCES BOARD
Planning and Management Division
3800 N Classen Boulevard
Oklahoma City, OK 73118-2855
405-530-8800

Oklahoma Water Resources Board

OWRB No. 010071 2008 ANNUAL SURFACE WATER USE REPORT
- IRRIGATION / AGRICULTURE

Page 1 of 2

ATTN: TRAVIS LEVINGS
COWBOY GOLF, INC
1800 S MEMORIAL DR
STILLWATER, OK 74074-1072

Water Right Information	WATER RIGHT NO. 19920025	FACILITY SCS Site #48 Stillwater Cre	
	COUNTY Payne	SOURCE	
Legal Description of Diversion Points	NE NW NW 27 19N 01E1		
Legal Description of Land	W2 22 19N 01E1	NW 26 19N 01E1	
Amount of Water Authorized	537.0 Acre Feet / Year		

SEE BACK FOR INSTRUCTIONS

A. If you wish to cancel this water right, check this box.

B. Check here if no water was used.

C. Complete each column for all crops irrigated.

CROP	NUMBER OF ACRES IRRIGATED	NUMBER OF TIMES IRRIGATED	INCHES PER APPLICATION
1. ALFALFA			
2. CORN (GRAIN)			
3. CORN (HAY)			
4. COTTON			
5. HORTICULTURE CROPS			
6. PASTURE			
7. PEANUTS			
8. WHEAT			
9. OTHER SMALL GRAINS			
10. SOYBEANS			
11. SORGHUM (GRAIN)			
12. SORGHUM (FORAGE)			
13. OTHER (SPECIFY)			
<i>Turfgrass</i>	<i>125</i>		<i>1/2"</i>

D. If relying on another method to measure the amount of water used, indicate the method (meter, pumping rate and hours operated, etc.), the amount of water used and the units (acre-feet or gallons). Provide the number of acres irrigated for each crop grown in Part C.
 Other measurement method *Meter*
 Amount and units *160,000,000 gallons*

E. Number of acres double-cropped *None*

F. Check the type of power used. G. Check the type of system used.

<input checked="" type="checkbox"/> 1. PUMP	<input type="checkbox"/> 1. GRAVITY OR FLOOD
<input checked="" type="checkbox"/> 2. ELECTRIC	<input type="checkbox"/> 2. TRICKLE DRIP
<input type="checkbox"/> 3. NATURAL GAS	<input type="checkbox"/> 3. CENTER PIVOT SPRINKLER
<input type="checkbox"/> 4. GASOLINE	<input checked="" type="checkbox"/> 4. SPRINKLER (OTHER THAN C-P)
<input type="checkbox"/> 5. DIESEL	<input type="checkbox"/> 5. SUB SURFACE

H. Specify the gallons used for each purpose other than irrigation.

PURPOSE	AMOUNT IN GALLONS
<i>Recreation, Fish & Wildlife</i>	
<i>Recreation of Waterfowl</i>	<i>5,000,000</i>

Sign and date the report. Please return within 30 days. See reverse side for name, address or ownership changes.

Travis Levings *Staff Counsel* *Signature* (405) 743-3100 *1-9-09*
 Signature of Water Right Holder or Authorized Agent Title Telephone Date

An Example of a Completed Application

Pistol Pete has some property in Tulsa County, and he decided he wants to start growing pecans on this land. To get some economic productivity from the land until his orchards are established, he will plant Bermuda grass in the orchard areas for grazing cattle. Pete has set aside 24 acres for his pecan/grazing operations. To get the yields he wants, he will need to irrigate his orchards. Fortunately for Pete, his land adjoins a stream. Reading the Oklahoma Water Law Handbook, Pete realized that using the water for 24 acres of orchards is not "domestic" use of the water. This means Pete must apply for a stream water appropriation. Let's look at how Pete will work through this process.

Step 1: Calculate the Amount of Water You Need.

As we mentioned, Pete wants to grow 24 acres of pecan trees in Tulsa County. How can he determine how much water will be needed for this crop? First, he can go to the list of references contained in the Handbook to find resources that will help him estimate how much water his crops will need, rainfall his property may receive in an average year, and irrigation water he will need. In this case, Pete consulted the NRCS Irrigation Guide (and the Irrigation Guide supplements for Oklahoma). After a little homework, Pete figures out the following:

- Given the annual rainfall and evaporation for the location of his land and the water requirements for pecans with Bermuda grass as a cover crop, Pete will need 16 inches of supplemental water per year.
- Pete has decided to use a solid-set sprinkler system. Looking at the resources available for determining the efficiency of these systems in the climate of his property (how much water will be lost to evaporation, runoff, and other causes on his property given the humidity, temperatures, and soils of the area), Pete estimates his irrigation system would have an efficiency of 80 percent. Since that's the case, Pete will actually need 20 inches of water for his crop (16 inches of water applied at an 80 percent efficiency means he will need to apply $16 \div 0.8 = 20$ inches of water to get 16 inches of effective water).

- Since Pete knows he needs to apply 20 inches of water to his 24 acres of cropland, he needs to convert that amount to "acre-feet" for the OWRB application. He carries out the following calculations:
 - o $20 \text{ inches} \times 24 \text{ acres} = 480 \text{ acre-inches}$
 - o $480 \text{ acre-inches} \div 12 \text{ acre-inches/acre-foot} = 40 \text{ acre-feet}$. This is the amount Pete would need in a normal year. Since Oklahoma weather is rarely "typical," though, Pete does some additional research and runs his numbers for a drier-than-average year and determines that in such a year, he would actually need 24 inches of water per acre per year, or 48 acre-feet for the entire area.

Step 2: Design Your Water Works.

Now that Pete has identified how much water he needs for his orchards, he has to figure out how to get the water from the stream. Given the layout of his land along the stream, he thinks he can place a 200 gpm horizontal centrifugal pump in the stream flow, and pump the water to the fields using 6-inch pipe. This pipe will then connect to an irrigation-system at each of the two orchards. Pete plots out the system on an aerial photograph of the property. The dotted line represents the path of the stream, dashed lines represent the outlines of the fields, and solid lines represent the proposed route of the water pipeline.



Step 3: Secure Access to the Stream.

In our example, Pete owns the land next to the stream, so securing access to the stream won't be a problem for him. On the other hand, if Pete did not own land on the stream, he would have to negotiate an easement with the person who did own that property. The easement would give Pete permission to build his water works on the property and transport the water to his own property (if Pete didn't have such an easement, he would be trespassing on the other landowner's property).

Step 4: Prepare an "Application for Permit to Use Surface or Stream Water".

Now, Pete has to complete his OWRB application to appropriate the water he needs. First, he'll complete Section 1 of the application, which will include his contact information. Since Pete is preparing the application himself without a consultant or other party, he will only need to fill in the first portion, as shown below:

1. NAME AND ADDRESS		
<i>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.</i>		
Applicant Name <u>Pistol Pete</u>	Phone <u>(405) 555 - 0000</u>	
	FAX# <u>(405) 555-0001</u>	
Address <u>101 Cowboy Way</u>		
City <u>Stillwater</u>	State <u>OK</u>	Zip <u>74078</u>
<i>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.</i>		
Contact Name <u>N/A</u>	Phone () <u> </u> - <u> </u>	
	FAX# () <u> </u> - <u> </u>	
Address _____		
City _____	State _____	Zip _____

Next, Pete will fill in Section 2 of the application, which asks for the kind of permit Pete is seeking. Since Pete believes he will need the water year-round, and for the foreseeable future, he is seeking a "Regular" permit (see the discussion on permit types above).

2. TYPE OF SURFACE WATER PERMIT REQUESTED (Check one)
<input checked="" type="checkbox"/> Regular Permit - authorizes diversion and use of water on a year-round basis.
<input type="checkbox"/> Seasonal Permit - authorizes diversion and use of water for specified time periods during the calendar year.
<input type="checkbox"/> Term Permit - valid for a term of years and does not vest the holder with any permanent right. (Provide ending date for term permit _____).

Section 3 of the application requires Pete to indicate the amount of water requested for appropriation. He'll need to indicate both the total amount of water needed as well as the rate at

which the water will be taken from the stream. Remember, Pete is using a 200 gallon per minute pump for his water works, so we will use this as the rate he will be pumping the water.

3. AMOUNT OF WATER TO BE APPROPRIATED

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. The diversion rate is the maximum rate of withdrawal, in gallons per minute, of water from the pond, lake, spring or other definite stream.

Application is made to take and use 48 acre-feet of surface water annually at a rate not to exceed 200 gallons per minute.

Next, in Section 4 of the application, Pete will detail how the water is to be used. Since he is using the water for irrigation, he will indicate "irrigation" as the use in subsection 4.a., and will then detail the specific uses of that irrigation water in subsection 4.b. as shown here:

4. 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 #3 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.

48 acre-feet of water will be used for IRRIGATION
 _____ acre-feet of water will be used for _____
 _____ acre-feet of water will be used for _____
 _____ acre-feet of water will be used for _____

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b. If the water requested is for irrigation purpose, state the total number of acres that will be irrigated. The land to be irrigated must be shown on plat(s) attached to the application. The amount of water requested should be based on types of crops to be grown and cropping patterns proposed. The Board will use appropriate publications and information the applicant submits in determining amount of water needed.

24 acres of land are proposed to be irrigated. The proposed crops are pecan orchards,
with Bermuda grass cover.

Section 5 of the application consists of several different subsections. Subsection 5.a. asks if the water requested in the application will be used "in place." In Pete's case, he will be pumping water out of the stream for use in another location, so he will not need to check the box for subsection 5.a. Since Pete will be taking water from the stream, he will need to complete subsection 5.b. of the application, which details how the water will be diverted from the stream (remember, the location where the water will be

withdrawn from the stream is referred to as the "diversion point"). Subsection 5.b. of the application first asks for information regarding each diversion point that will be used. Since Pete is only using one diversion point, he can simply use the portion of the application provided. If, however, he were using multiple diversion points, he would need to make additional copies of this portion of the application to provide information for each diversion point.

5. DIVERSION(S) OF WATER: Source, Location and Method of Diversion

a. If the water is to be used in a pond, lake or reservoir and will not be pumped or moved from one location to another, check here.

b. For each diversion point, state the amount of water, in acre-feet, to be diverted annually and give the legal description to the nearest ten (10)-acre tract. Also show the point(s) of diversion on the plat, as shown on the sample provided. If you are applying for more than one diversion point, then a photocopy of Section 5 shall be filled out completely for each additional diversion point and attached to the application. If the water is to be used in a pond, lake or reservoir and will not be pumped or moved from one location to another, then use the location of the dam or spillway as the point of diversion.

48 acre-feet of water will be diverted from:

SE 1/4 of SW 1/4 of NE 1/4 of Sec. 32 Twp. 21 N S 13 Rge. EIM WIM ECM in Tulsa County

(1) If the water will be taken from a stream or spring, enter the stream or spring name. If the stream or spring is unnamed, enter as tributary of a named stream, such as "Unnamed tributary of Wolf Creek."

Direct diversion from stream: Bird Creek Name of Stream

Additional information is required about the diversion point, and this information is detailed in the remaining portions of subsection 5.b. Subsection 5.b.1 asks for the name of the stream from which the water will be taken. If the stream does not have a name, use the name of the named stream into which the stream in question flows (using the example in the application, if the stream flowed into Wolf Creek, we would use "unnamed tributary of Wolf Creek). In our

example, Pete is drawing water from a named stream, so he can simply use the name of the stream.

Subsection 5.b.2. asks if the water source is a Soil Conservation Service detention pond. Since Pete will draw his water from a stream, this section will not apply. If it did, we would need to indicate the site number for the pond, as well as the name of the watershed in which the pond was located.

(2) If the water will be taken from a Soil Conservation Service (S.C.S.) Detention Reservoir, enter the number of the site and the watershed name:

S.C.S. Site No. N/A Watershed Name _____

Subsection 5.b.3 applies if the source of the water is a reservoir. Again, since Pete will be taking the water from a stream, this section will not apply. If the water source was a reservoir, the name of the reservoir and the stream that forms

it would be needed, along with the completion date of the reservoir, its storage capacity (the amount of water it can hold, measured in acre-feet of water), its depth, and its surface area (the acreage of land area occupied by the reservoir).

(3) if the water will be taken from some other public or private reservoir, enter the name of the stream dammed and name of the reservoir if available. If the stream is unnamed, enter it as a tributary of a named stream, such as "Unnamed tributary of Wolf Creek."

Name of reservoir N/A on _____ Name of Stream

Reservoir is Existing (Date completed _____) Under Construction Planned

Storage of the reservoir: _____ acre-feet Average water depth: _____

Surface acres: _____ Yield: _____

Subsection 5.b.4. discusses the method that will be used to get the water from the stream to where it will be used. As discussed earlier, Pete is going to be using a 200 gallon per minute pump, so he will complete this section as follows:

(4) Method of Diversion:
If by gravity, enter the size and carrying capacity of the main canal or conduit and the size of headgate.
If by pump, enter the size, type and number of pumps, kind and horsepower of engine or motor, inlet and outlet size and the maximum capacity of each pump, in gallons per minute.

Method of diversion will be by: Gravity _____
Size, etc.

Pump 200 gallon per minute; horizontal centrifugal pump
Size, Type of pump, etc.

Subsection 5.b.5 will ask if the applicant owns the land where the diversion point is located. Remember, if the applicant does not own that land, then proof that they have permission from the owner of the land where the diversion

point will be located to build their water works on the other party's property must be provided along with the application. In our case, though, Pete does indeed own the land along the stream, and thus no permission must be shown.

(5) Do you own or lease the land on which the point of diversion will be located? Yes No *If available, attach a copy of the deed, lease, etc. showing the right to use the point of diversion. If not available, the permit, if issued, will contain a condition requiring submittal of a copy of the right before water use begins.*

Subsection 5.b.6 will ask if any of the lines, pipes, or other portions of the waterworks will cross any public right-of-ways or other property owners' parcels. Since Pete's waterworks will be located entirely upon his own property, he can check "no" for this question.

(6) Will water lines cross public right-of-ways or another landowner's property? Yes No *If yes, attach a copy of the easement. If not available, the permit, if issued, will contain a condition requiring submittal of a copy of the easement before water use begins.*

Section 6 of the application asks for a description of the land where the water will be used. It may not be possible to give the exact description of the area where the water will be used in Section 6, as the form will only allow for descriptions down to the "quarter of a quarter" section. This is fine, because we will also be in-

cluding a plat of the area that will allow us to show a precise representation of the property in question. For now, Pete will describe the two fields where the water will be used as closely as possible. Subsection 6.a. will provide for the legal descriptions of the property in question.

6. LEGAL DESCRIPTION OF AREA OF USE

a. Describe the legal description of the area of use below. Please do not use lots or blocks but convert to the nearest legal description. Also show this area on a plat as shown on the sample attached. Your local ASCS or NRCS office may provide you with an aerial photograph of your land. (Municipal and rural water entities refer to #8 below).

<u>14</u> acres <u>NW</u> <u>1/4</u> <u>SW</u> <u>1/4</u> of Sec. <u>32</u> Twp. <u>21</u>	N <input checked="" type="checkbox"/> S <input type="checkbox"/> Range <u>13</u>	EIM <input checked="" type="checkbox"/> WDM <input type="checkbox"/> ECM <input type="checkbox"/> of <u>Tulsa</u> County
<u>10</u> acres <u>NW</u> <u>1/4</u> <u>SE</u> <u>1/4</u> of Sec. <u>32</u> Twp. <u>21</u>	N <input checked="" type="checkbox"/> S <input type="checkbox"/> Range <u>13</u>	EIM <input checked="" type="checkbox"/> WDM <input type="checkbox"/> ECM <input type="checkbox"/> of <u>Tulsa</u> County
_____ acres _____ <u>1/4</u> _____ <u>1/4</u> of Sec. _____ Twp. _____	N <input type="checkbox"/> S <input type="checkbox"/> Range _____	EIM <input type="checkbox"/> WDM <input type="checkbox"/> ECM <input type="checkbox"/> of _____ County
_____ acres _____ <u>1/4</u> _____ <u>1/4</u> of Sec. _____ Twp. _____	N <input type="checkbox"/> S <input type="checkbox"/> Range _____	EIM <input type="checkbox"/> WDM <input type="checkbox"/> ECM <input type="checkbox"/> of _____ County

Subsection 6.b. (which applies if the water will be used for irrigation) will ask if the applicant owns or leases the property. If the applicant does own the property, they will need to provide either a deed (if the property is owned by the applicant) or a lease indicating that the applicant is the lessee. If the applicant doesn't own or lease the property, there are two alternatives: either the owner of the property where

the water will be used must make the application themselves, or the water appropriation will come with a restriction that states the water cannot be used until proof that the land has been purchased or leased has been provided to the OWRB. In our example, Pete owns the land, so he will indicate this in subsection 6.b. and will also attach a copy of his deed to the property with his application.

b. **FOR IRRIGATION ONLY** Do you own or lease this land? Yes No If yes, attach a copy of the deed or lease. If no, application should be made by the owner or the permit, if issued, will require that a deed or lease be submitted before use of water begins.

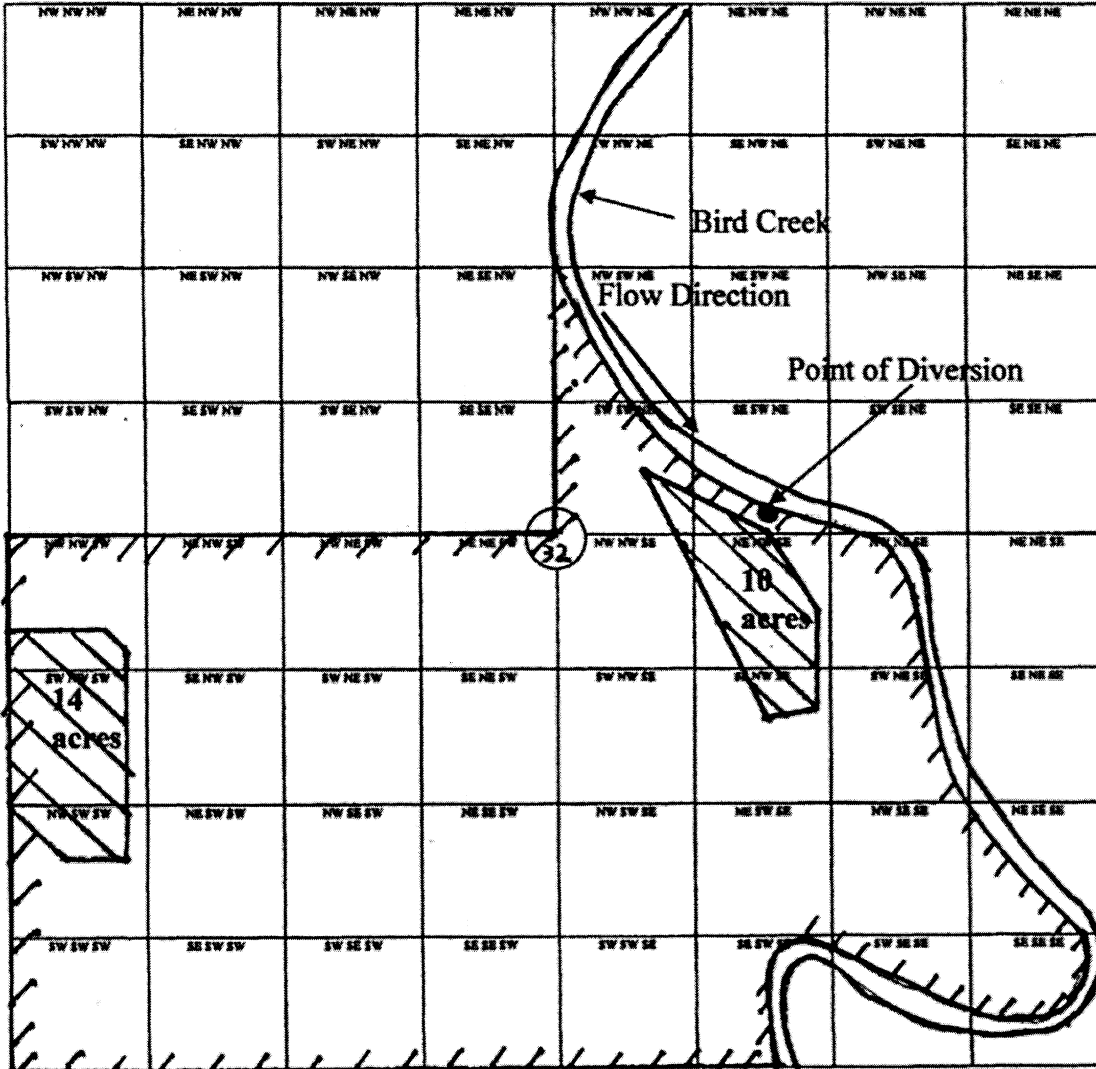
Section 7 of the application consists of a plat of the property that pulls together much of the information contained in Sections 4.b., 5, and 6 of the application, giving an overview of how the system fits together. Before starting the plat,

Pete gathers together the diagram he prepared based on the aerial photo of the property, and confirms the legal description of the property. All of this information will be important as he prepares the plat. When he is completed, Pete's plat looks like this:

Oklahoma Water Resources Board
Application Plat

(Instructions provided on back)

Applicant Name PISTOL PETE Stream Water Application # _____
Stream System Code _____ (office use only)



Legend:

- Point of Diversion
- ▨ Land Owned or Leased
- ▧ Area of Use

Section 32 Twp. 21 N S Rge. 13 EIM WIM ECM County Tulsa

Prepared by: Pistol Pete Date: XX/XX/XXXX
Signature
Title: APPLICANT

Section 8 of the application is the justification for the use of the water. In the case of an irrigation system, such as Pete's, no additional work is required, as the justification is covered in Section 4.b, where Pete discussed the crops to which he would be applying the stream water. If, on the other hand, Pete were going to use the water for some other purpose, he would need to provide calculations detailing how much water is needed for the specified use.

All that remains now for the application is the signature. Since Pete is applying as an in-

dividual, he can sign the application for himself. The application needs to be notarized (it should be signed in front of the notary). If the application were being completed on behalf of an entity such as a corporation, LLC, trust, then the application must be signed by a person who has the authority to act on behalf of that entity (for example, if the application were being submitted on behalf of a trust, the trustee would most likely be the party authorized to sign the application).

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.

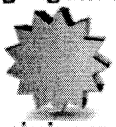
Pistol Pete
SIGNATURE OF APPLICANT

Pistol Pete
PRINT NAME

TITLE (IF APPLICABLE)

STATE OF Oklahoma)
COUNTY OF Payne) ss.

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

 (SEAL)
My commission expires: XX, XX

Amy Aquifer
Notary Public

All that remains is to await the return letter from the OWRB notifying Pete that the application is complete. If he receives a request for additional information or corrections, he will need

to resubmit his responses to those requests as soon as possible so he does not lose his priority for the application.

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