



Champions for Effective Municipal Government

February 9, 2009

Mr. Duane Smith, Executive Director
Oklahoma Water Resources Board
3800 North Classen Boulevard
Oklahoma City, OK 73118

Re: Proposed Amendments to Chapter 20 of Permanent Rules

Dear Mr. Smith:

The Oklahoma Municipal League has recently become aware of proposed amendments to the Oklahoma Water Resources Board's permanent rules. On behalf of the cities and towns of Oklahoma, OML respectfully submits the following comments and concerns about the changes to Chapter 20 therein.

The amendments to both 785:20-5-5 and 785:20-5-6 interpose several additional elements into the permitting process thereunder: the Oklahoma Comprehensive Water Plan, update studies for the Plan and information extraneous to a pending application. Thus, the proposed amendments exceed the authority of the Board by enlarging the parameters for determining "existing or proposed beneficial uses" beyond the statutory factors. At the direction of 82 O.S. §105.12, A, 4, in making its determination of proposed beneficial uses the Board "shall utilize the review conducted pursuant to subsection B of this section." That review is limited to pending applications. 82 O.S. §105.12, B.

OML submits that it is premature to incorporate into permanent rules extra-statutory considerations from a yet-to-be-developed comprehensive plan prior to its acceptance by the Oklahoma legislature. Additionally, the additional analysis in proposed 785:20-5-5, (c), (4) of "whether use of the proposed source is consistent with the" Plan goes beyond the statutory authority for the Board to "consider availability of groundwater as an alternative source." 82 O.S. § 105.12, A, 2.

Current law contains objective standards by which both the Board and an applicant can determine whether a permit may be available and reliable. The proposed changes add instability by introducing subjective factors not provided for in the statutes. OML is convinced that certainty and stability are essential to Oklahoma's water resource development.

OML respectfully requests the Board to defer consideration of the proposed amendments to Chapter 20 pending further analysis and comment. OML would be pleased to participate in any such study.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Pedicord".

Diane Pedicord
General Counsel