



Oklahoma
State
Senate

Legislative Brief

June 2002

OKLAHOMA WATER SALES

Moratorium

SB 1410 (authored by Senator Kevin Easley and Representative Debbie Blackburn) was overwhelmingly approved by the Legislature in the final days of the 2002 session and signed by the Governor on June 6th. The bill establishes a three-year moratorium on out of state sales of Oklahoma water and creates the Joint Committee on Water Planning which is directed to conduct a comprehensive statewide water study and make specific recommendations to the Legislature. The moratorium created in SB 1410 applies to any contracts by state agencies or political subdivisions of the state and any compacts entered into by any Indian tribes.

Background

Sales of surface water from the vast resources in southeastern Oklahoma have been in various stages of discussion for more than 10 years, motivated in part to address the outstanding payment owed by the State of Oklahoma to the federal Corps of Engineers for the construction of Sardis Reservoir and storage of water. The state has been delinquent in payments to the federal government since 1997 and is approximately \$38 million dollars in arrears. Repayment of the Sardis project, as provided in the 1974 contract, was anticipated to come from development and sale of the Sardis Lake water supply which has not materialized.

In an effort to address the Sardis Lake repayment issue, the Legislature, in 1999, enacted HCR 1066 authorizing the Oklahoma Water Resources Board (OWRB) to work in conjunction with the Choctaw and Chickasaw Tribal Nations to prepare a Kiamichi River Basin Water Resources Development Plan. The completed plan made two recommendations: (1) the State should pursue development of a formal compact with the Choctaw/Chickasaw Tribal Nations, and (2) the State and the two Tribal Nations should invite public comments regarding any plan to allow water transfers out of the Kiamichi River basin. In 2000 the Legislature adopted HCR 1109 directing the OWRB to: (1) coordinate with the Corps of Engineers on a study of southeast Oklahoma's water resources, and (2) bring proposals for development of those water resources to the State Legislature for consideration.

A draft State/Tribal Water Compact was negotiated and made public earlier this year. The main subjects addressed in the Compact are: (1) water rights administration, (2) water quality standards administration, and (3) economic development. Under terms of the Compact, the Tribes would delegate any of their authority over surface water and groundwater to the State. In accordance with state law and terms expressed in the Compact, groundwater, which is considered private property, cannot be sold. The Tribes would further agree to application of the State's water quality standards in the 22

county area which comprises the Choctaw and Chickasaw nations. Net revenues deriving from any out of state water sales would be split 50/50 between the State and Tribal Nations, and the Compact would have to be approved by the full Legislature prior to submission to the United States government for final ratification.

Two proposals for use of southeast Oklahoma's water resources have been considered prior to the enactment of the moratorium. The North Texas Water Agency (NTWA), a consortium of public entities supplying water to the Dallas/Fort Worth metropolitan area, proposes to use up to 320,000 acre-feet of water per year from two of the six major river basins in southeast Oklahoma. The NTWA would contract with the State-Tribal Intergovernmental Compact Commission (STICC) which would own the water supply system infrastructure to be developed over a 20 year period. Environmental studies would be required and licenses and permits would have to be obtained before the water transfer system could be constructed. Negotiations over the price to be paid by NTWA broke down in January 2002 with NTWA last offering a present value of \$174 million (amortized to produce about \$1.4 billion over 100 years) and Oklahoma calculating the present value at \$339 million (amortized to produce more than \$5 billion over 100 years). Two different options were made in a proposal by the Oklahoma City Water Utilities Trust (OCWUT) to provide additional resources from southeast Oklahoma water resources for long-term future supply to several central Oklahoma cities. Oklahoma City currently uses water from Atoka Lake and McGee Creek Reservoir for about one-half of its total water supply. The additional requirements for future needs would result in the OCWUT assuming the obligations of the State for the Sardis Lake contract and would allow waters from the Kiamichi River to be utilized for instate development.

Future action

The Joint Committee on Water Planning as created in SB 1410, consisting of 19 Legislative members, will be appointed at the beginning of the next legislative session. Seven members of the Senate will be appointed by the President Pro Tempore, seven members of the House of Representatives will be appointed by the Speaker of the House of Representatives and five legislative members will be appointed by the Governor. The committee must finalize their work no later than January 15, 2005.

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