

1 ENGROSSED SENATE
2 BILL NO. 1080

By: Treat of the Senate

3 and

4 McCall of the House

5
6 An Act relating to mining; amending Section 3 of
7 Enrolled House Bill No. 2471 of the 1st Session of
8 the 57th Oklahoma Legislature; clarifying certain
9 Oklahoma Water Resources Board requirement; and
10 providing an effective date.

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

12 SECTION 1. AMENDATORY Section 3 of Enrolled House Bill
13 No. 2471 of the 1st Session of the 57th Oklahoma Legislature, is
14 amended to read as follows:

15 Section 3. A. For the purposes of this section, a "subject
16 mine" shall mean a mine, as defined in paragraph 2 of Section 723 of
17 Title 45 of the Oklahoma Statutes, that overlies a sensitive sole
18 source groundwater basin or subbasin, exclusive of any mine that
19 meets at least one of the following conditions:

20 1. As of November 1, 2019, was engaged in the permitted
21 extraction of minerals from natural deposits; or

22 2. Satisfies the criteria of paragraph 1 or 2 of subsection C
23 of Section 1020.2 of Title 82 of the Oklahoma Statutes; or

1 3. Is not to be permitted to operate for a period of more than
2 five (5) years, with no extensions or renewals; or

3 4. The operation of which will not result in more than five (5)
4 acre-feet per year of groundwater emanating from a sensitive sole
5 source groundwater basin or subbasin to infiltrate its pit, as that
6 term is defined in paragraph 12 of Section 723 of Title 45 of the
7 Oklahoma Statutes.

8 B. Due to the inadequacy of existing technical resources,
9 analytic tools and regulatory systems for purposes of the effective
10 implementation of statutes relating to the operation of mines that
11 may affect sensitive sole source groundwater basins or subbasins,
12 the Legislature hereby declares and establishes a moratorium on the
13 following actions:

14 1. The Oklahoma Water Resources Board shall not issue any
15 permit or other administrative authorization for the appropriation,
16 diversion, withdrawal or removal of water from or for the
17 dewatering, in part or in full, of a pit, as defined in paragraph 12
18 of Section 723 of Title 45 of the Oklahoma Statutes, of a subject
19 mine; and

20 2. The Board shall not issue, allocate or recognize, pursuant
21 to subsection D of Section 1020.2 of Title 82 of the Oklahoma
22 Statutes, Section 785:30-15-5 of the Oklahoma Administrative Code or
23 any other provision of law, any offset to the consumptive use of
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1 water of a subject mine where such offset is based on a claimed
2 augmentation of stream flow or groundwater.

3 C. The moratorium shall be in effect until such time as the
4 Board, working in coordination with the Department of Environmental
5 Quality, the Department of Mines, and East Central University and in
6 cooperation with federal and tribal governmental agencies with
7 interests in a subject mine that overlies a sensitive sole source
8 groundwater basin or subbasin:

9 1. Completes the Enhanced Monitoring and Evaluation of
10 Hydrologic Trends for the Eastern Arbuckle-Simpson Aquifer, South-
11 Central Oklahoma and, based thereon, develops modeling and other
12 technical tools capable of accurately measuring and projecting, as a
13 matter both of incremental and cumulative effect, whether a proposed
14 withdrawal of groundwater from a sensitive sole source groundwater
15 basin or subbasin would degrade or interfere with springs and
16 streams emanating therefrom;

17 2. Promulgates final rules to integrate the use of such studies
18 and tools to administrative implementation of:

19 a. waste, degradation and interference analyses required
20 by subparagraphs c and d of paragraph 1 and
21 subparagraphs c and d of paragraph 2 of subsection A
22 of Section 1020.9 of Title 82 of the Oklahoma
23 Statutes,

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1 b. uniform minimum standards and requirements for the
2 development of, and annual reporting regarding
3 compliance with, site-specific water management and
4 conservation plans pursuant to Section 1020.2 of Title
5 82 of the Oklahoma Statutes, with particular regard to
6 methodologies for calculating amounts claimed in
7 consumptive use of water and any claimed augmentation
8 of stream flow or groundwater, and

9 c. consultation, review and approval of such site-
10 specific water management and conservation plans, with
11 specific provisions for making such consultations,
12 reviews and approvals subject to Article 2 of the
13 Administrative Procedures Act; and

14 3. Promulgates final rules to provide for effective interagency
15 consultation and coordination of activities among the Board, the
16 Department of Mines and the Department of Environmental Quality on
17 all administrative matters relating to the operation of mines at
18 locations that overlie a sensitive sole source groundwater basin or
19 subbasin.

20 D. The Board is hereby authorized and instructed to promulgate
21 rules to implement the provisions of this section.

22 E. The Board is hereby authorized to cooperate with federal,
23 tribal and any other agency in this state in performing its
24 responsibilities under this section.

