

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1289

By: McCortney

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6 AS INTRODUCED

7 An Act relating to mining; amending Section 1,
8 Chapter 349, O.S.L. 2019 (27A O.S. Supp. 2019,
9 Section 2-6-111), Section 2, Chapter 349, O.S.L. 2019
10 (45 O.S. Supp. 2019, Section 950), and Section 3,
11 Chapter 349, O.S.L. 2019, as amended by Section 1,
12 Chapter 503, O.S.L. 2019 (82 O.S. Supp. 2019, Section
13 1020.9C), which relate to moratorium on permitting of
14 discharge to water from sensitive sole source
15 groundwater basins; modifying conditions of subject
16 mine to qualify for moratorium; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY Section 1, Chapter 349, O.S.L.
20 2019 (27A O.S. Supp. 2019, Section 2-6-111), is amended to read as
21 follows:

22 Section 2-6-111. A. For purposes of this section, a "subject
23 mine" shall mean a mine, as defined in paragraph 2 of Section 723 of
24 Title 45 of the Oklahoma Statutes, proposed for a location overlying
25 a sensitive sole source groundwater basin or subbasin, exclusive of
26 any mine that meets at least one of the following conditions:

1 1. As of November 1, 2019, is engaged in the permitted
2 extraction of minerals from natural deposits; or

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

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

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

12 B. Due to the inadequacy of existing technical resources,
13 analytic tools and regulatory systems for purposes of the effective
14 implementation of statutes relating to the operation of mines that
15 overlies a sensitive sole source groundwater basin or subbasin, the
16 Legislature hereby declares and establishes a moratorium on the
17 Department of Environmental Quality permitting of any discharge from
18 a subject mine to streams fed or supported by water emanating from
19 sensitive sole source groundwater basins or subbasins.

20 C. The moratorium shall remain in effect until such time as:

21 1. The conditions of subsection C of Section ~~3 of this act~~
22 1020.9C of Title 82 of the Oklahoma Statutes have been satisfied;

23 and

1 2. The Department of Environmental Quality promulgates final
2 rules to provide for effective interagency consultation and
3 coordination of activities among the Department, the Oklahoma Water
4 Resources Board and the Department of Mines on all administrative
5 matters relating to the operation of mines at locations that overlie
6 a sensitive sole source groundwater basin or subbasin.

7 D. Notwithstanding the moratorium, the Department of
8 Environmental Quality may issue any new permits, permit
9 modifications, permit amendments, permit revisions or permit
10 renewals necessary to maintain compliance or remedy identified
11 compliance issues pursuant to ~~Title 27A of the Oklahoma Statutes~~
12 this title to operators of any mines lawfully engaged in mining, as
13 defined in paragraph 3 of Section 723 of Title 45 of the Oklahoma
14 Statutes.

15 E. The Department of Environmental Quality is hereby authorized
16 and instructed to promulgate rules to implement the provisions of
17 this section.

18 F. The Department of Environmental Quality is hereby authorized
19 to cooperate with federal, tribal and any other agency in this state
20 in performing its responsibilities under this section.

21 SECTION 2. AMENDATORY Section 2, Chapter 349, O.S.L.
22 2019 (45 O.S. Supp. 2019, Section 950), is amended to read as
23 follows:
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1 Section 950. A. For purposes of this section, a "subject mine"
2 shall mean a mine, as defined in paragraph 2 of Section 723 of ~~Title~~
3 ~~45 of the Oklahoma Statutes~~ this title, proposed for a location
4 overlying a sensitive sole source groundwater basin or subbasin,
5 exclusive of any mine that meets at least one of the following
6 conditions:

7 1. As of November 1, 2019, is engaged in the permitted
8 extraction of minerals from natural deposits; or

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

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

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

18 B. Due to the inadequacy of existing technical resources,
19 analytic tools and regulatory systems for purposes of the effective
20 implementation of statutes relating to the operation of mines that
21 overlies a sensitive sole source groundwater basin or subbasin, the
22 Legislature hereby declares and establishes a moratorium on the
23 Department of Mines issuing, in relation to any location overlying a
24 sensitive sole source groundwater basin or subbasin or in which

1 groundwater emanating from any sensitive sole source groundwater
2 basin or subbasin may collect within a pit, as defined in paragraph
3 12 of Section 723 of ~~Title 45 of the Oklahoma Statutes~~ this title:-

4 1. Any permit, pursuant to Section 724 of ~~Title 45 of the~~
5 ~~Oklahoma Statutes~~ this title, to any subject mine;

6 2. Any amendment or revision to any existing mining permit,
7 that covers additional land which shall include extensions of
8 boundaries shown in the initial permit, pursuant to subsection J of
9 Section 724 of ~~Title 45 of the Oklahoma Statutes~~ this title, if such
10 amendment or revision would increase the acreage under such permit
11 for that mine location by more than one hundred percent (100%) or
12 four hundred (400) acres, whichever is less, as compared to the
13 acreage under permit for that mine location prior to ~~the effective~~
14 ~~date of this act~~ November 1, 2019; provided, however, on or after
15 November 1, 2030, there shall be no limitation on an increase in
16 acreage as specified in this paragraph.

17 C. Notwithstanding the moratorium, nothing in paragraph 2 of
18 subsection B of this section shall preclude the Department of Mines
19 from issuing an amendment or revision to cover additional land,
20 other changes to method or conduct of mining, reclamation operations
21 contemplated by the original permit or other authorization to allow
22 a change in mine ownership or to implement bonding under a permit
23 issued prior to ~~the effective date of this act~~ November 1, 2019, nor
24 shall any permit amendment or revision issued pursuant to this

1 section be deemed to render the permitted mine a subject mine for
2 purposes of this title, Title 27A,~~45~~ or 82 of the Oklahoma
3 Statutes.

4 D. Notwithstanding the moratorium or any other provision of
5 law, the Department of Mines shall not require a permit for purposes
6 of road or railroad construction in relation to mining activities by
7 any mine.

8 E. The moratorium shall remain in effect until such time as:

9 1. The conditions of subsection C of Section ~~3 of this act~~
10 1020.9C of Title 82 of the Oklahoma Statutes have been satisfied;
11 and

12 2. The Department of Mines promulgates final rules to provide
13 for effective interagency consultation and coordination of
14 activities among the Department, the Oklahoma Water Resources Board
15 and the Department of Environmental Quality on all administrative
16 matters relating to the operation of mines at locations that overlie
17 a sensitive sole source groundwater basin or subbasin.

18 F. The Department of Mines is hereby authorized and instructed
19 to promulgate rules to implement the provisions of this section.

20 G. The Department of Mines is hereby authorized to cooperate
21 with federal, tribal and any other agencies in this state in
22 performing its responsibilities under this section.
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1 SECTION 3. AMENDATORY Section 3, Chapter 349, O.S.L.
2 2019, as amended by Section 1, Chapter 503, O.S.L. 2019 (82 O.S.
3 Supp. 2019, Section 1020.9C), is amended to read as follows:

4 Section 1020.9C. A. For the purposes of this section, a
5 "subject mine" shall mean a mine, as defined in paragraph 2 of
6 Section 723 of Title 45 of the Oklahoma Statutes, that overlies a
7 sensitive sole source groundwater basin or subbasin, exclusive of
8 any mine that meets at least one of the following conditions:

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

11 2. Satisfies the criteria of paragraph 1 or 2 of subsection C
12 of Section 1020.2 of ~~Title 82 of the Oklahoma Statutes~~ this title;
13 or

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

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

21 B. Due to the inadequacy of existing technical resources,
22 analytic tools and regulatory systems for purposes of the effective
23 implementation of statutes relating to the operation of mines that
24 may affect sensitive sole source groundwater basins or subbasins,

1 the Legislature hereby declares and establishes a moratorium on the
2 following actions:

3 1. The Oklahoma Water Resources Board shall not issue any
4 permit or other administrative authorization for the appropriation,
5 diversion, withdrawal or removal of water from or for the
6 dewatering, in part or in full, of a pit, as defined in paragraph 12
7 of Section 723 of Title 45 of the Oklahoma Statutes, of a subject
8 mine; and

9 2. The Board shall not issue, allocate or recognize, pursuant
10 to subsection D of Section 1020.2 of ~~Title 82 of the Oklahoma~~
11 ~~Statutes~~ this title, Section 785:30-15-5 of the Oklahoma
12 Administrative Code or any other provision of law, any offset to the
13 consumptive use of water of a subject mine where such offset is
14 based on a claimed augmentation of stream flow or groundwater.

15 C. The moratorium shall be in effect until such time as the
16 Board, working in coordination with the Department of Environmental
17 Quality, the Department of Mines, and East Central University and in
18 cooperation with federal and tribal governmental agencies with
19 interests in a subject mine that overlies a sensitive sole source
20 groundwater basin or subbasin:

21 1. Completes the Enhanced Monitoring and Evaluation of
22 Hydrologic Trends for the Eastern Arbuckle-Simpson Aquifer, South-
23 Central Oklahoma and, based thereon, develops modeling and other
24 technical tools capable of accurately measuring and projecting, as a

1 matter both of incremental and cumulative effect, whether a proposed
2 withdrawal of groundwater from a sensitive sole source groundwater
3 basin or subbasin would degrade or interfere with springs and
4 streams emanating therefrom;

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

7 a. waste, degradation and interference analyses required
8 by subparagraphs c and d of paragraph 1 and
9 subparagraphs c and d of paragraph 2 of subsection A
10 of Section 1020.9 of ~~Title 82 of the Oklahoma Statutes~~
11 this title,

12 b. uniform minimum standards and requirements for the
13 development of, and annual reporting regarding
14 compliance with, site-specific water management and
15 conservation plans pursuant to Section 1020.2 of ~~Title~~
16 ~~82 of the Oklahoma Statutes~~ this title, with
17 particular regard to methodologies for calculating
18 amounts claimed in consumptive use of water and any
19 claimed augmentation of stream flow or groundwater,
20 and

21 c. consultation, review and approval of such site-
22 specific water management and conservation plans, with
23 specific provisions for making such consultations,
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1 reviews and approvals subject to Article 2 of the
2 Administrative Procedures Act; and

3 3. Promulgates final rules to provide for effective interagency
4 consultation and coordination of activities among the Board, the
5 Department of Mines and the Department of Environmental Quality on
6 all administrative matters relating to the operation of mines at
7 locations that overlie a sensitive sole source groundwater basin or
8 subbasin.

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

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

14 SECTION 4. This act shall become effective November 1, 2020.

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