

1 **SENATE FLOOR VERSION**

2 February 4, 2021

3 **AS AMENDED**

4 SENATE BILL NO. 453

5 By: Rader

6
7 An Act relating to waters and water rights; amending
8 82 O.S. 2011, Section 105.11, as amended by Section
9 1, Chapter 411, O.S.L. 2019 (82 O.S. Supp. 2020,
10 Section 105.11), which relates to notice requirements
11 of certain applications; updating language; requiring
12 certain permit applications give additional notice to
13 certain persons; specifying certain notice
14 requirements; updating statutory language; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 82 O.S. 2011, Section 105.11, as
18 amended by Section 1, Chapter 411, O.S.L. 2019 (82 O.S. Supp. 2020,
19 Section 105.11), is amended to read as follows:

20 Section 105.11. A. Except as otherwise provided by Section
21 105.13 of this title for limited quantity stream water permits, upon
22 the acceptance of an application which complies with the provisions
23 of Chapter 1 of this title, and the rules promulgated by the
24 Oklahoma Water Resources Board pursuant thereto, the Board shall
instruct the applicant to publish a notice of the application
within the time required by the Board, ~~a notice thereof~~. The

1 notice shall be at the applicant's expense, and in a form prescribed
2 by the Board in a newspaper of general circulation in the county of
3 the point of diversion, and in a newspaper of general circulation
4 published within the adjacent downstream county and any other
5 counties designated by the Board once a week for two (2) consecutive
6 weeks. The applicant shall also provide notice of the application,
7 via certified mail, to the owner or owners of each tract of land
8 adjacent to the stream identified in the permit application for a
9 distance of one (1) mile upstream and one (1) mile downstream from
10 the proposed diversion point or points and to every stream water
11 permit holder and to any person or entity with a pending stream
12 water permit application received by the Board prior to the
13 notifying applicant's application for a distance of one (1) mile
14 upstream and one (1) mile downstream from the proposed diversion
15 point or points.

16 B. Such notice shall give all the essential facts as to the
17 proposed appropriation, among them being the places of appropriation
18 and of use, amount of water, the purpose for which it is to be used,
19 name and address of applicant, the hearing date, time and place if a
20 hearing is scheduled by the Board before instructions to publish
21 notice are given, and a thirty-day protest period, as well as the
22 manner in which a protest to the application may be made. At the
23 time the Board provides the notice of application to the applicant,
24 the Board shall publish on its website the applications and

1 instructions for public notice~~7~~, including the draft public notice
2 prepared by the Board. The website publishing is in addition to,
3 and not in lieu of, the requirement for applicants to publish notice
4 in the newspaper. The time to protest shall run from the date of
5 the first newspaper publication.

6 ~~B.~~ C. In case of failure to give such notice in accordance with
7 the rules and regulations applicable thereto within the time
8 required, or if such notice is defective, the priority of
9 application shall be lost; however, if proper notice is given within
10 thirty (30) days after the Board has notified the applicant of his
11 or her failure to give effective and proper notice, the application
12 shall thereafter carry the original date of filing, and shall
13 supersede any subsequent application to the same source of water
14 supply. Any interested party shall have the right to protest ~~said~~
15 the application and present evidence and testimony in support of
16 such protest.

17 ~~C.~~ D. If the Board does not schedule a hearing on the
18 application before instructing the applicant to publish notice, a
19 hearing shall be scheduled by the Board upon receipt of a protest
20 which meets the requirements of the Board's rules, the Board shall
21 notify the applicant and protestant of such hearing.

22 SECTION 2. This act shall become effective November 1, 2021.

23 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
24 February 4, 2021 - DO PASS AS AMENDED