

# OKLAHOMA MUNICIPAL LEAGUE MUNICIPAL WATER POLICY

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## POLICY POSITION

The water policy for Oklahoma's municipalities is to develop, ensure and protect a reliable water supply for cities and towns throughout the State for the next 50 years.

## NEED FOR A WATER PLAN

1. Available data, including the previous Comprehensive Water Plan of 1980 and its 1995 Supplement, demonstrate that Oklahoma has a reliable supply of water sustainable even beyond the current 50-year planning period.
2. Oklahoma's experience of drought in 2006 and flooding in 2007 reveals that the State has limited water management capability for periods of abnormal climatological events.
3. Oklahoma's primary water issue is the fact that water supplies are not distributed to adequately fulfill use requirements statewide for the next 50 years.
4. The State of Oklahoma needs to make an adequate commitment to comprehensive development, capture, storage, maintenance and distribution of water resources for all parts of the State.
5. The State of Oklahoma needs adequate knowledge and records of supply and permitted use within the state.

## COMPONENTS OF A WATER PLAN

1. A water plan must:
  - A. Incorporate scientifically-based forecasts of demographic and economic growth and growth patterns.
  - B. Protect past, current and future investments in water supply, quality and infrastructure.
2. A water plan should be based on verifiable data showing the following:
  - A. The extent of available water resources
  - B. Quantifiable need now and for the future (population projections)
  - C. Needed infrastructure
  - D. Financing options
3. The State water plan should require and provide for a funding mechanism for a local 50-year water plan for each public and private water system either individually or as part of a regional planning agreement.

## MUNICIPAL WATER PLAN

- I. The State of Oklahoma should develop resources in the form of financing, professional services and planning to create sufficient infrastructure to:
  - a) capture available water within the State for storage in reservoirs and/or other reserves;
  - b) preserve water quality;
  - c) deliver the water to augment resources to areas with insufficient supply;
  - d) maintain supply for beneficial uses within the areas of origin;
  - e) promote technologies and methodologies to maximize water availability, such as municipal and industrial reuse, nonevaporative storage, aquifer recharge, conservation, and reclamation of existing nonpotable water;
  - f) provide funding to offset the local costs of supply, treatment and distribution in order to make water available for public water systems at affordable rates throughout the State; and
  - g) protect, preserve, rejuvenate, and reclaim water capacity in existing reservoirs and aquifers;
  - h) address ways to identify and plan for future reservoir sites.
  
- II. The State of Oklahoma should maintain the basic elements of its current statutory system of water rights to allow beneficial use of water.
  - A. The current system of managed use is the essential engine of water policy to enhance health, safety, economic development and quality of life within the State.
    1. Managed use provides a balance between present and future water needs within the State.
    2. To offset identifiable depletion effects of use, additional water resources should be developed, as set out herein.
  
  - B. Existing rights must be protected because:
    1. Acting in accordance with past and current law, substantial public funds have been invested in the development of groundwater and stream water.
    2. In reliance on these established water rights planning and growth projects have been implemented.
    3. Major changes in water law would upset the financial framework of local water development due to on-going bond obligations, water agreements, etc.
    4. Threats to existing rights to and use of water are being proposed:
      - a) Destruction of private ownership rights in groundwater;
      - b) Limits on groundwater use to the rate of recharge;
      - c) Mandatory requirements of in-stream flows;
      - d) Moratoria on use or issuing permits imposed in a piecemeal fashion;
      - e) Priorities in various forms, i.e., among uses, users, regions.

C. Recommendations:

1. The Legislature should appropriate funds and direct the Oklahoma Water Resources Board to submit to it, prior to the completion of the current water plan process, a schedule to complete all hydrologic studies provided for in existing statutes by a date certain. Hydrologic studies should be the basis for permit allocations with consideration for the unique characteristics of the aquifer.
2. Amend 82 O.S. §§ 105.16 --105.17 to provide for a review process of the impact of the 7-year use it or lose it requirement for stream water permits for municipalities that finance their own reservoirs, other storage or that are a primary supplier of water to other water users.
3. All water well drillers shall report depth, location, and estimated yield for each well drilled to OWRB. All non-domestic wells shall be permitted and metered.
4. All permitted groundwater uses shall be required to be metered and reported to OWRB. Wells used primarily for agricultural irrigation shall be metered and reported to OWRB.
5. The Legislature should not create a new policy for instream flows as a priority over other beneficial uses. Required downstream releases should be grounded on instream flows based on historic seasonal variations and the existing ability to release.
6. If the Oklahoma Supreme Court reinstates a riparian right based on reasonable use in derogation of the statutory appropriation system, the Legislature should preserve its statutory system of stream water rights by purchasing and abolishing all riparian rights to future nondomestic use.
7. The Legislature should reject all proposals to create moratoria or priorities of any kind but should instruct the Oklahoma Water Resources Board to ensure that its water plan evaluates the water needs of all areas and types of beneficial use within the State.
8. Oklahoma water law and administration shall contain a policy of conjunctive use but the legislature shall also implement a method to deliver water to areas throughout the state to sustain reasonable uses.
  - a) Conjunctive use means, in its simplest form, a coordinated management of both stream and ground water uses in order to minimize the effect of each use on the other.
  - b) Where use of a primary water supply source would deplete the supply itself or diminish supplies for other reasonable uses, delivery of water from other sources would mitigate the impact of depletion and preserve reasonable uses.
  - c) Conjunctive use shall be implemented on a region-by-region or basin-by-basin basis only after a hydrological study is completed for the basin.
  - d) The legislature should enact a method to compensate an applicant who is denied a permit to use water from a primary water supply source or to drill a well when the denial is caused in whole or substantial part to a determination that the interaction of stream and ground water uses has a significant hydrological impact on existing or foreseeable beneficial uses.

- e) Compensation may be made as provided for just compensation for a taking or, at the option of an affected public water supply system, by granting a water right in an alternate water supply source on terms having a substantially similar economic impact on the applicant as the applicant would have had from the primary source.

III. The State of Oklahoma should establish a water administration system that promotes the optimum use of water supplies and encourages new techniques to conserve water resources.

A. Oklahoma's water issues adversely affecting current beneficial uses arise from a lack of infrastructure, funding and planning.

B. Recommendations:

1. The Legislature should create a fund to finance new reservoirs and other means of water storage and pipelines for water distribution. Monies from this fund should be earmarked for water projects and should be made available to municipalities for financing projects consistent with the purposes of the fund.
2. The Legislature should earmark a portion of the fund for creation of water reserves and a system of distribution to supplement local supplies in times of drought and capture excess or unappropriated water.
3. State law should create incentives for regional cooperation in planning, developing and financing local water systems. Such regional efforts should be structured, controlled and implemented at the local level by local agreements.
4. The Legislature should appropriate funds to be disbursed by the Oklahoma Water Resources Board to assist municipalities to develop a 50-year water plan, determine future water needs and identify available water resources.
5. The Legislature should fund incentives for public water supply systems to adopt water conservation methods and programs for themselves and their customers.
6. State law should provide incentives for municipalities that finance infrastructure for storage or distribution of water.
7. Beneficial use should remain the measure to qualify for a permit and the state should not introduce the delays and controversies experienced by other states that have adopted the "public interest" standard.
8. Surplus water is water available only after all long-term and replenishment needs have been met. Any surplus water sold out of state should fund storage and transportation of water in Oklahoma.