

# Stream Adjudication

General stream adjudication is a widely recognized process whereby the State works with the State court and individual water users to confirm and validate rights to their use of water under State law (and to the extent applicable, federal law). All 18 western states have laws allowing for general stream adjudications, and adjudications are currently occurring in 13 of these states.

Through general stream adjudication, the court confirms the existing water rights in a particular stream system. Every Oklahoman holding a water use permit from the OWRB in the Kiamichi, Muddy Boggy, and/or Clear Boggy Basin stream systems will receive a notice from the OWRB and will be provided with an opportunity to confirm the validity of their permitted water right(s). Those claiming a right to the use of the water in any of the three Basins will also be provided an opportunity to be heard regarding their respective claims. Ultimately, the court will enter a final judgment determining and confirming water rights, including the amount, priority, place and purpose of each use. The process should be relatively uncomplicated for those holding permits as those permits set forth the amount, priority, place, and purpose of those holders' uses. Similarly, all riparian uses recognized by state law will be confirmed. However, the process could be considerably more complicated and time-consuming for those claiming water rights but lacking a permit (e.g., the Chickasaw and Choctaw Nations).

When Oklahoma was admitted as the 46th state in 1907, it was provided "equal footing" with the original states. Being so admitted recognizes Oklahoma's sovereign authority to regulate use of the natural resources located within its boundaries. In the 100 plus years since, the State of Oklahoma has responsibly managed and protected its water resources for all citizens. Not only has the State expertly performed this charge, it has enacted specific laws to protect local water users throughout Oklahoma and continues to aggressively defend in court its ability to enforce those laws. This defense includes provisions against the transportation of stream water out of its area of origin (stream basin) unless the basin's long-term needs are first satisfied.

In August 2011, the Choctaw and Chickasaw Nations initiated a lawsuit against State of Oklahoma officials seeking total control over the water in 22 southeastern Oklahoma counties. The Tribes claim that their water rights are "superior and paramount" to those claimed under State law and that their water rights and regulatory

authority are "the supreme law of the land." If successful, the Tribes' claims could render all State permits and related water uses invalid. Tribal law would effectively displace State law.

More specifically, the Tribes claim in their lawsuit that the Oklahoma Water Resources Board, the State's water management agency since 1957, cannot take action on water use permits from the Kiamichi, Muddy Boggy, and Clear Boggy Basin stream systems unless and until a comprehensive adjudication—a formal legal determination—of all water rights within those basins is completed. Consequently, on February 10, 2012, after the Tribes refused to drop their lawsuit and negotiate without litigation, the State formally petitioned the Oklahoma Supreme Court to settle the Tribes' claims through such a comprehensive stream adjudication. Thus, the State has chosen to counter the Tribes' direct threat to State sovereignty and southeastern Oklahoma water rights through a commonly accepted, congressionally recognized process that will confirm the water rights of all claimants to water within the three identified stream systems.