



Oklahoma Diffuse Surface (“Runoff”) Water Law and Rules

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Diffuse surface water (or “runoff” as it is referred to in the Oklahoma Water Law Handbook) is the only kind of water that can be truly owned without regulation of its use.¹ As a result, a landowner can collect the runoff on his or her property and use it with relatively few restrictions.² Most commonly, this collection is accomplished in one of two ways.

First, the landowner may dig a pond (sometimes called a “tank”) in a location that will allow the pond to collect the runoff.



(Image courtesy NRCS)

If this collection method is used, and the construction was under the supervision and specification of a Conservation

¹ 60 OKLA. STAT. § 60.

² The reader should note, though, that there are many regulations that govern pollution of runoff. For more information on these laws, refer to the Oklahoma Pollutant Elimination System Act (27A OKLA. STAT. § 2-6-201 through 2-6-206) and the Oklahoma Administrative Code, title 252, chapter 606.

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District, no approvals or permissions are needed, as long as the dam is not regulated under the Oklahoma Dam Safety Act.³

In the second collection method, a dam is placed across an existing streambed to create a pond that is used to collect the runoff. In some cases, the streambed may be dry and in other cases, it may be an active stream.⁴

Once water enters a streambed – even a dry streambed – it is defined as a “definite stream” and is subject to a different set of rules than runoff. Oklahoma law contains a special provision for this circumstance, however. This provision allows a landowner to use an existing streambed to capture runoff in a streambed as long as they allow other forms of water to flow down the stream.

Let’s say you decide to build a dam across an active stream to create a pond that will help capture some of your property’s runoff. This means the pond now contains both runoff, and “definite stream” water. The owner of land crossed by a definite stream has the right to use some of the stream’s water, but they must also allow some water to pass through their property to downstream property owners. This means that the dam must allow the amount of water beyond what you are allowed to use to flow downstream.

Amount of water allowed to pass by dam

equals

The amount of stream flow into the pond

minus

(Landowner’s captured runoff + the amount of stream water landowner may use)

³ 82 OKLA. STAT. § 110.4, OKLA. ADMIN. CODE § 785:25-3-1.

⁴ See 60 OKLA. STAT. § 60(A), which states “...nothing contained herein shall prevent the owner of land from damming up or otherwise using the bed of a stream on his land for the collection or storage of waters in an amount not to exceed that which he owns, by virtue of the first sentence of this section so long as he provides for the continued natural flow of the stream in an amount equal to that which entered his land less the uses allowed for domestic uses and for valid appropriations made pursuant to Title 82 of the Oklahoma Statutes.”

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