

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 5. FEES**

FEE JUSTIFICATION

Oklahoma Administrative Code ("OAC") section 785:5-1-9(a) is proposed to be amended by updating the fees to reflect the increased cost of labor to review dam construction permit applications.

The Oklahoma Dam Safety Program requires about \$700,000 to fund the program with four (4) full-time employees. Approximately 75% of the Dam Safety Program is funded through the FEMA State Assistance Grant. The remaining 25% of funding comes from programmatic fees and state appropriations.

The primary driver of cost to review dam construction application is the variety and complexity of different elements a proposed dam has, such as spillways, drain and filter structures, anchoring, energy dissipation, etc. The major assumption is that the estimated construction cost is directly correlated to the number and complexity of these elements, and that fees to fund Board staff review time should be scaled accordingly.

Current and Proposed Fee Schedules

Filing and review fees for dam construction and modification are based on the estimated cost of construction. The current fee schedule is built of three tiers of construction cost as follows:

- (1) \$99,999 or less estimated cost - \$500.00
- (2) \$100,000 through \$19,999,999 estimated cost – One-half of one percent (0.5%) of estimated cost; not to exceed \$5,000
- (3) \$20,000,000 \$12,000,000 or greater estimated cost - \$10,000.00

The proposed fee structure is to modify the rate tiers by estimated construction cost and adjust the maximum fees to be applied as follows:

- (1) \$199,999 or less estimated cost - \$1,000
- (2) \$200,000 through \$11,999,999 estimated cost – One half of one percent (0.5%) of estimated cost; not to exceed \$6,000
- (3) \$12,000,000 or greater estimated cost - Five hundredths of one percent (0.05%) of estimated cost

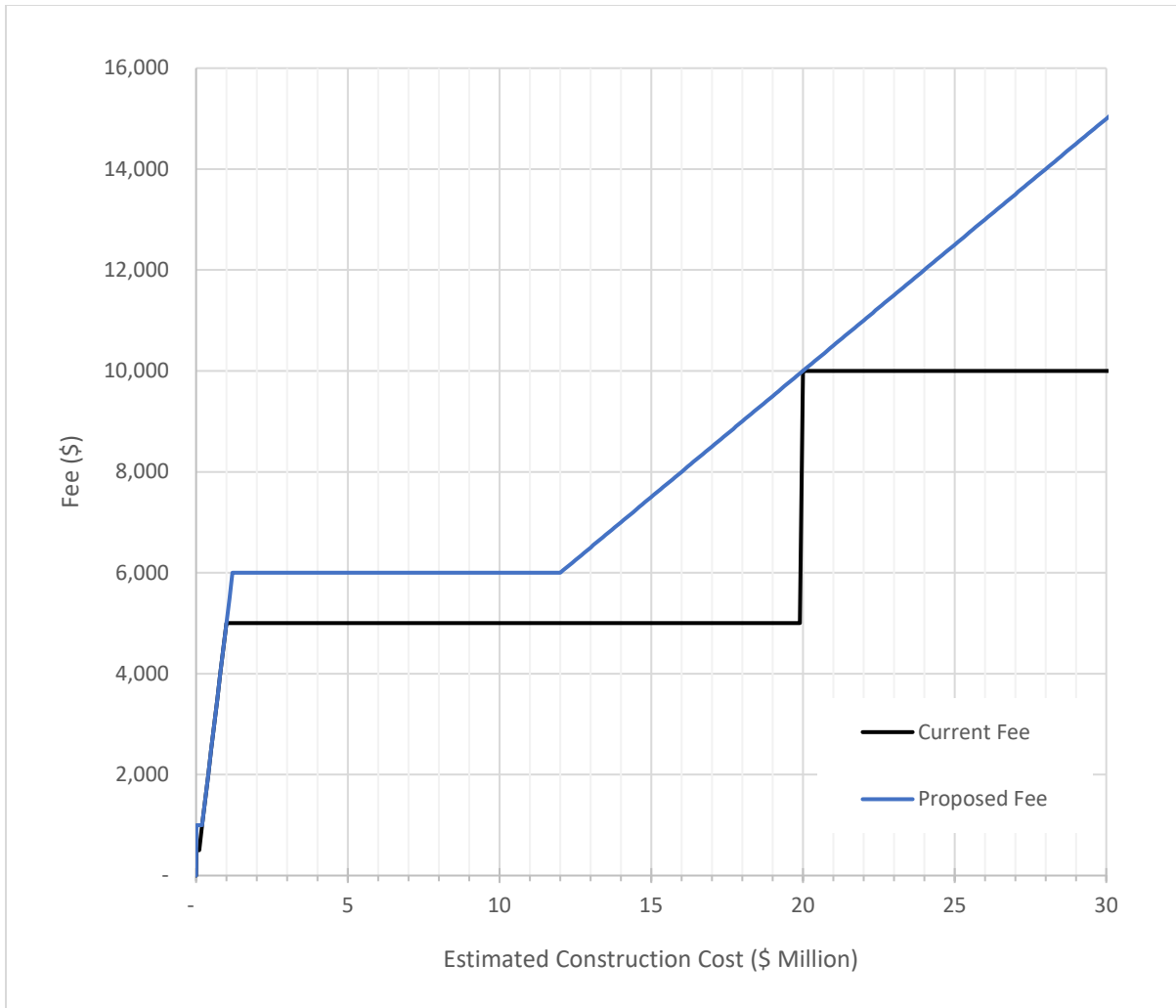


Figure 1: Dam Safety Application Fee Schedule

Discussion

Tier 1

The existing application fee for dam construction costing less than \$100,000 is a flat \$500 fee. The proposed fee structure would increase this minimum application fee to \$1,000 and apply to all dams with a cost less than \$200,000.

Typically, these lower cost dam applications are for simple modifications or repairs and are not for building an entirely new structure. Due to the low complexity and limited appurtenances requiring examination, staff review time for these applications is at a minimum with one staff engineer and one engineering manager spending about 12 hours total on reviewing the application and costing slightly more than \$1,000. The table below shows the approximate minimum time for these tasks. Actual staff review tasks vary depending on the nature of work being proposed (i.e., the review tasks will be different for a spillway repair versus embankment repair, but the staff time would be comparable).

Table 1: Minimum Dam Safety Staff Application Review Cost

Activity	Staff Engineer		Engineering Manager	
	Hours	Salary + Fringe & Indirect	Hours	Salary + Fringe & Indirect
Hazard Classification Verification	0	\$ -	0	\$ -
Hydrologic & Hydraulic Evaluation	2	\$ 347.48	0	\$ -
Geotechnical Evaluation	2	\$ -	0	\$ -
Design	4	\$ 347.48	0	\$ -
Means & Methods	1	\$ 86.87	0	\$ -
Project Meetings	1	\$ 86.87	0	\$ -
Documentation	1	\$ 86.87	0	\$ -
Final Manager Review	0	\$ -	1	\$ 103.76
Subtotal	11	\$ 955.58	1	\$ 103.76
Total				\$ 1,059.34

Tier 2

The existing application fee for dam construction between \$100,000 and \$19,999,999 is 0.5% of estimated construction cost with a maximum allowable fee of \$5,000. Under this structure, the maximum fee is quickly met with a project cost of \$1 million. The proposed fee structure would apply to dams with a cost of \$200,000 to \$11,999,999, have a fee rate of 0.5% of estimated construction cost, with an increased maximum allowable fee of \$6,000, which is met with a project cost of \$1.2 million.

Review time cost varies significantly for dam construction applications and depends on the complexity of the proposed work to be completed and number of separate design elements or appurtenances a dam is proposed to have. Typical review for new dam construction consists of

several different activities requiring time from at least one engineering staff (PE 1) and an engineering manager (EM 1). The following table is a list of review activities and minimum time expended for a typical new construction dam permit application review. Dam of this type are typically in the range of cost of \$2-12 million.

Table 2: Typical Dam Safety Staff Application Review Cost

Activity	Staff Engineer		Engineering Manager	
	Hours	Salary + Fringe & Indirect	Hours	Salary + Fringe & Indirect
Hazard Classification Verification	8	\$ 694.97	2	\$ 207.52
Hydrologic & Hydraulic Evaluation	8	\$ 694.97	2	\$ 207.52
Geotechnical Evaluation	8	\$ 694.97	2	\$ 207.52
Design	8	\$ 694.97	2	\$ 207.52
Means & Methods	8	\$ 694.97	2	\$ 207.52
Project Meetings	4	\$ 347.48	2	\$ 207.52
Documentation	4	\$ 347.48	2	\$ 207.52
Final Manager Review	0	\$ -	4	\$ 415.05
Subtotal	48	\$ 4,169.80	18	\$ 1,867.72
Total				\$ 6,037.52

Tier 3

The current applications for all dams costing \$20 million or more have a review fee of \$10,000. The proposed fee structure is to have a fee rate of five hundredths of one percent (0.05%) of construction cost, with no maximum fee, to all dams with an estimated cost over \$12 million. For high-cost structures, review costs most often scale directly with construction cost. For larger projects such as these, directly scaling the administrative fees could also allow for the program to acquire additional engineering resources as needed.

An example of a high-cost dam would be a recent application that was received for a large concrete dam that is planned to have many rock anchors installed to increase its structural stability. For this dam, the primary the cost of construction is driven by the number and length of rock anchors being installed. Each anchor needs to be analyzed separately, so time spent reviewing this dam is directly related to cost to construct.

Fee Comparison

The Oklahoma Dam Safety Program recently participated in a state dam safety program evaluation for the state of Kansas, which compared the dam safety programs of many neighboring states. In the Kansas program evaluation, it was reported:

Many states use a percentage of construction costs, with several states using as high as 3% of construction costs, as the permit application fees. In these cases, application fees can be in the tens or even hundreds of thousands of dollars. We

had discussions with one state where a dam modification application fee had exceeded \$1 million in the prior year.

The proposed fee increases are to ensure that the fees collected for review are sufficient to cover the increasing cost of labor. Presently, the minimum time required for review shown in Table 1 outpaces the fee currently collected for dams with a cost of under \$100,000. With the current fee structure under Tier 1 covering less than half of the minimum review time cost, these applications have the largest disparity between State staff cost and fees collected.

The effects of the proposed fee changes were examined for the latest 26 dam applications which were received between January 2022 to September 2023. Of those, 11 applications would have been affected by the changes in the Tier 1 fees, 4 applications would have increased fees under the Tier 2 changes, 1 application affected by Tier 3, and 10 applications would not have been affected. Out of all applications, only 3 dams would have had a fee greater than 1% of reported estimated cost.

Table 3: Existing and Proposed Fee Comparison for 2022 and 2023 Dam Applications

NIDID	Dam Name	Application Date	Est. Const. Cost	Current Fees	Proposed Fee Schedule	Fee Change	Percentage of Cost Proposed Fee
OK02418	Regal Lake HOA	1/20/2022	\$ 100,000	\$ 500	\$ 1,000	\$ 500	1.0%
OK00490	Security Nat Bank & Trust	1/27/2022	\$ 50,000	\$ 500	\$ 1,000	\$ 500	2.0%
OK10731	Waxhoma	2/8/2022	\$ 100,000	\$ 500	\$ 1,000	\$ 500	1.0%
OK01344	Hominy	3/9/2022	\$ 100,000	\$ 500	\$ 1,000	\$ 500	1.0%
OK02425	Aluma	3/15/2022	\$ 750,000	\$ 3,500	\$ 3,500	\$ -	0.5%
OK30586	Lakey Pond No. 2	3/17/2022	\$ 37,500	\$ 500	\$ 1,000	\$ 500	2.7%
OK30596	Liberty	4/4/2022	\$ 350,000	\$ 1,500	\$ 1,500	\$ -	0.4%
OK30597	Lowry	4/5/2022	\$ 2,093,650	\$ 5,000	\$ 6,000	\$ 1,000	0.3%
OK30601	Freeman Blue Bend	4/11/2022	\$ 425,000	\$ 2,000	\$ 2,000	\$ -	0.5%
OK30538	Carel #1	5/4/2022	\$ 100,000	\$ 500	\$ 1,000	\$ 500	1.0%
OK02123	Guthrie	5/20/2022	\$ 2,250,000	\$ 5,000	\$ 6,000	\$ 1,000	0.3%
OK11027	Hunter	8/1/2022	\$ 760,000	\$ 3,500	\$ 3,500	\$ -	0.5%
OK02201	Jap Beaver	9/1/2022	\$ 759,000	\$ 3,500	\$ 3,500	\$ -	0.5%
OK30602	Estates at Lynn Lane	9/14/2022	\$ 150,000	\$ 500	\$ 1,000	\$ 500	0.7%
OK30603	Bayou	10/17/2022	\$ 160,000	\$ 500	\$ 1,000	\$ 500	0.6%
OK11026	Eucha	1/4/2023	\$ 13,000,000	\$ 5,000	\$ 6,500	\$ 1,500	0.1%
OK30605	Yockey	2/24/2023	\$ 100,000	\$ 500	\$ 1,000	\$ 500	1.0%
OK20976	OKNONAME 101001	3/2/2023	\$ 100,000	\$ 500	\$ 1,000	\$ 500	1.0%
OK11005	Twin Lakes HOA	4/11/2023	\$ 50,000	\$ 500	\$ 1,000	\$ 500	2.0%
OK00452	Ellsworth	4/18/2023	\$ 16,400,000	\$ 5,000	\$ 8,200	\$ 3,200	0.1%
OK10642	Cushing	5/3/2023	\$ 350,000	\$ 1,500	\$ 1,500	\$ -	0.4%
OK11078	New Beggs	5/15/2023	\$ 1,000,000	\$ 5,000	\$ 5,000	\$ -	0.5%
OK13279	Comanche	8/4/2023	\$ 621,905	\$ 3,000	\$ 3,000	\$ -	0.5%
OK10248	Whittington	8/5/2023	\$ 1,000,000	\$ 5,000	\$ 5,000	\$ -	0.5%
OK10736	Clear Creek	8/31/2023	\$ 3,000,000	\$ 5,000	\$ 6,000	\$ 1,000	0.2%
OK12578	Summit Lake	9/20/2023	\$ 600,000	\$ 3,000	\$ 3,000	\$ -	0.5%
Total			\$ 44,407,055	\$ 62,000	\$ 75,200	\$ 13,200	N/A
Average			\$ 1,707,964	\$ 2,385	\$ 2,892	\$ 508	0.8%