

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

NOV -7 2014

TIM RHODES  
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OKLAHOMA FARM BUREAU LEGAL )  
 FOUNDATION, et al., )  
 )  
 Petitioners, )  
 )  
 v. )  
 )  
 OKLAHOMA WATER RESOURCES BOARD, )  
 )  
 Respondent, )  
 )  
 v. )  
 )  
 TISHOMINGO NATIONAL FISH )  
 HATCHERY, et al., )  
 )  
 Other Parties of Record. )

Case No. CV-2013-2414

District Judge Barbara Swinton

MOTION TO SETTLE JOURNAL ENTRY

Respondent Oklahoma Water Resources Board (“OWRB”), pursuant to Oklahoma County Local Rule 11(D) and Rule 4(f) of the Rules for District Courts of Oklahoma, hereby submits its Motion to Settle Journal Entry regarding Petitioners’ Motion to Compel. On August 29, 2014, the above-captioned matter came on for hearing on the Motion to Compel Production of Unredacted OWRB Memorandum (“Petitioners’ Motion”) filed jointly by Petitioners Pontotoc County Farm Bureau, Oklahoma Farm Bureau Legal Foundation, Oklahoma Independent Petroleum Association, Oklahoma Aggregates Association, Environmental Federation of Oklahoma, Oklahoma Cattlemen’s Association, TXI, and Arbuckle-Simpson Aquifer Protection of Oklahoma, Inc. (collectively “Petitioners”). Petitioners appeared through their respective attorneys of record, Respondent Oklahoma Water Resources Board (“OWRB”) appeared through attorneys Jerry Barnett and Jonathan Allen, and Respondent Citizens for the Protection of the

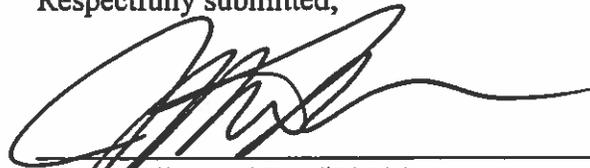
Arbuckle-Simpson Aquifer (“CPASA”) appeared through its attorney, Krystina E. Phillips. Although the Petitioners’ Motion was granted in part, Petitioners’ counsel requested that Respondent OWRB prepare a proposed order memorializing the ruling of the Court, which was circulated among the parties’ respective counsel on October 9, 2014 via email.

After reviewing correspondence and proposed revisions to the order from CPASA’s and Petitioners’ respective counsel, it appeared that the parties had substantial disagreements about certain aspects of the Court’s ruling. Specifically, Petitioners assert that (1) Petitioners made a request at the August 29, 2014 hearing that the Court review the unredacted memorandum *in camera*, and that (2) the Court denied this request. Respondent OWRB disputes both contentions, and asserts that the Journal Entry must be limited to the issues actually argued by the parties and determined by the Court. Petitioners’ Motion made no request for *in camera* review of the memorandum in question and OWRB’s counsel does not recall any such request by Petitioners at the August 29, 2014 hearing. No recording or transcription was made of the August 29, 2014 hearing which would aid in resolving this dispute.

For the convenience of the Court and the parties, Respondent OWRB has attached its revised proposed order hereto as “Exhibit 1.” A copy of Petitioners’ proposed order, received October 24, 2014, is attached as “Exhibit 2.” The primary difference between the two versions is that Petitioners propose additional language which appears on page 2 of their proposed order, at paragraph 3.

WHEREFORE, Respondent OWRB prays that the Court approve and adopt its proposed order memorializing the oral ruling of the Court delivered from the bench on August 29, 2014, attached hereto as “Exhibit 1,” and for such further relief as the Court finds necessary and proper.

Respectfully submitted,



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ATTORNEYS FOR RESPONDENT  
OKLAHOMA WATER RESOURCES BOARD

**CERTIFICATE OF SERVICE**

This is to certify that on November 7, 2014, a true and correct copy of the above and foregoing instrument was mailed by US mail, postage prepaid, to all persons listed below and on the following pages.

  
Joyce Coleman

Deanna L. Hartley, OBA No. 19272  
Krystina E. Phillips, OBA No. 30111  
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AGGREGATES ASSOCIATION

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**Case No. CV-2013-2414**

**District Judge Barbara Swinton**

**ORDER – MOTION TO COMPEL**

On August 29, 2014, the above-captioned matter came on for hearing on the Motion to Compel Production of Unredacted OWRB Memorandum filed jointly by Petitioners Pontotoc County Farm Bureau, Oklahoma Farm Bureau Legal Foundation, Oklahoma Independent Petroleum Association, Oklahoma Aggregates Association, Environmental Federation of Oklahoma, Oklahoma Cattlemen’s Association, TXI, and Arbuckle-Simpson Aquifer Protection of Oklahoma, Inc. (collectively “Petitioners”). Petitioners appeared through their respective attorneys of record, Respondent Oklahoma Water Resources Board (“OWRB”) appeared through attorneys Jerry Barnett and Jonathan Allen, and Respondent Citizens for the Protection of the Arbuckle-Simpson Aquifer (“CPASA”) appeared through its attorney, Krystina E. Phillips. After reviewing the Motion and Brief submitted by the Petitioners, the OWRB’s Response and



Brief and further hearing argument on behalf of the parties at the August 29, 2014 hearing, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

1. The OWRB is not required to produce to Petitioners an unredacted version of the September 14, 2012 Memorandum.

2. The OWRB is required to produce to Petitioners an affidavit sponsored by Emily Hammond (Meazell), the Hearing Examiner, which affirms that the redacted portions of the September 14, 2012 Memorandum contained no new evidence, data, and technical information, and that the redacted portions contained no new arguments or comments which had not already appeared in the administrative record.

IT IS SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Barbara Swinton, DISTRICT JUDGE

APPROVED AS TO FORM:

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3. Petitioners' request that the Court review an unredacted version of the September 14, 2012 Memorandum *in camera* to evaluate whether the redacted portions contained information or arguments outside the administrative record and constitute protected attorney work product is denied.

IT IS SO ORDERED, this \_\_\_\_ day of October, 2014.

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Barbara Swinton, DISTRICT JUDGE

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