



IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

OCT - 7 2015  
TIM RHODES  
COURT CLERK  
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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

JOURNAL ENTRY OF JUDGMENT

The above-captioned matter comes on for hearing this 23rd day of September, 2015 on the Petition for Judicial Review of 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 appear through counsel Mark Walker, Scott Butcher, James Barnett, and Michael Wofford. Respondent Oklahoma Water Resources Board appears through counsel Robert Singletary and Jonathan Allen. Respondent Citizens for the Protection of the Arbuckle-Simpson Aquifer ("CPASA") appears through counsel Krystina Phillips.

Petitioners submitted a joint Brief-in-Chief, to which Respondents OWRB and CPASA each submitted Response Briefs. Petitioners also submitted a joint Reply Brief. Oral argument

presentations were made by Petitioners, the OWRB, and CPASA. This Court, having considered the arguments of the parties in their briefs and oral argument presentations, and further having considered the entire Administrative Record in this matter, as provided by the OWRB and supplemented by the parties, hereby FINDS as follows:

1. The OWRB's determination of the Maximum Annual Yield (MAY) and Equal Proportionate Share (EPS) for the Arbuckle-Simpson Groundwater Basin, including the OWRB's determination of "natural flow," was the result of a proper adjudication under Article II of the Administrative Procedures Act (75 O.S. §§ 308a-323) and under Oklahoma Groundwater Law (82 O.S. § 1020.1 *et seq.*). As such, the OWRB's determination was not "rulemaking" and not subject to the requirements of Article I of the Administrative Procedures Act.

2. The OWRB's use of a Surface Water Technical Advisory Group was not an improper delegation of agency authority.

3. Any exclusion of evidence by the OWRB's hearing officer in the MAY proceedings was, at most, harmless error.

4. The OWRB's determination of the MAY and EPS for the Arbuckle-Simpson Groundwater Basin is not an unconstitutional "taking" of private property within the meaning of the Oklahoma or United States Constitutions.

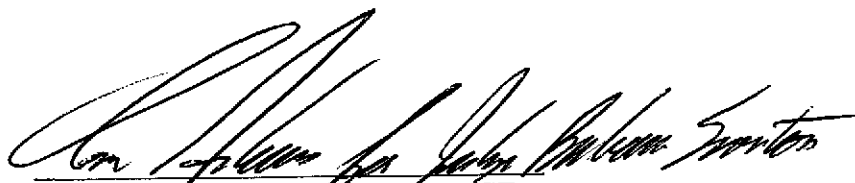
5. The "Findings of Fact, Conclusions of Law, and Board Order" issued October 23, 2013 contains all explicitly required findings of fact and conclusions of law according to 82 O.S. §§ 1020.5-1020.6.

6. The OWRB's determination of MAY and EPS for the Arbuckle-Simpson Groundwater Basin, including the OWRB's findings of fact and conclusions of law supporting

that determination, are (1) supported by substantial evidence in the evidentiary record, (2) not "clearly erroneous" in light of the entire record, and (3) not arbitrary or capricious.


Therefore, it is hereby ORDERED, ADJUDGED, AND DECREED that the "Findings of Fact, Conclusions of Law, and Board Order" issued October 23, 2013 by the Oklahoma Water Resources Board is AFFIRMED.

IT IS SO ORDERED, this 6<sup>th</sup> day of October, 2015.



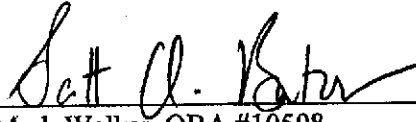
Barbara Swinton, DISTRICT JUDGE

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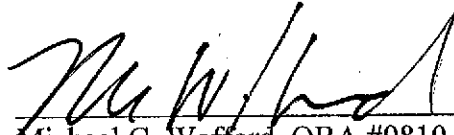
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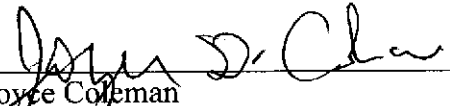
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AND TXI

**CERTIFICATE OF SERVICE**

This is to certify that on the 7<sup>th</sup> day of October, 2015, a true and correct copy of the above and foregoing instrument was mailed by regular US mail, postage prepaid, to all persons listed below and on the following pages.

  
\_\_\_\_\_  
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