



AAMODT LAW FIRM

October 12, 2012

Sent Via Electronic Mail and U.S. Mail, First Class

Phillip Moershel
Water Quality Standards Section Head
Oklahoma Water Resources Board
3800 N. Classen Boulevard
Oklahoma City, Oklahoma 73118

*Re: CPASA's Requested Class 1 Special Source Groundwater Designation for
the Arbuckle-Simpson Aquifer*

Dear Mr. Moershel,

As discussed yesterday at the Oklahoma Water Resources Board's second Public Standards Input Meeting, Citizens for the Protection of the Arbuckle-Simpson Aquifer (herein "CPASA") respectfully requests the Oklahoma Water Resources Board (herein "OWRB") designate the Arbuckle-Simpson Aquifer as a Class 1 Special Source Groundwater. In support of said request, a proposed justification statement and rule impact statement are enclosed.

CPASA, in cooperation with many local stakeholders in South-Central Oklahoma, requests this designation to provide consistent protection for the nutrient-vulnerable Aquifer, to protect an irreplaceable water source, to maintain the Aquifer's exceptional water quality, and to preserve the Aquifer's ecological importance. The Arbuckle-Simpson is the cornerstone of the region's economy—not only does the Aquifer provide water for agricultural and industrial purposes, it also attracts millions of tourists to the area. In addition, the Aquifer supplies potable water to tens of thousands of Oklahoma citizens. Indeed, for municipalities such as Ada, Ardmore, Davis, Durant, Sulphur, and Tishomingo, the Aquifer provides nearly *all* of their public water supply.

Moreover, there is significant local support for promulgation of the Class 1 designation as evidenced by the various municipal resolutions that have been passed supporting the designation of the Arbuckle-Simpson Aquifer as a Class 1 Special Source Groundwater. Specifically, the cities of Ada, Davis, Sulphur, and Tishomingo passed resolutions supporting the Aquifer's Class 1 designation. Moreover, other municipalities

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have placed similar resolutions on their upcoming city council agendas. Said resolutions will be transmitted to the OWRB during the public comment period.

CPASA truly appreciates the OWRB's consideration of its request to designate the Arbuckle-Simpson Aquifer as a Class 1 Special Source Groundwater. Please do not hesitate to contact me should you have any questions at (918) 347-6169.

Very truly yours,



Krystina E. Phillips

**JUSTIFICATION FOR CLASS I SPECIAL SOURCE GROUNDWATER
DESIGNATION FOR THE ARBUCKLE-SIMPSON AQUIFER**

INTRODUCTION

The Oklahoma Water Resources Board (herein "OWRB") received a request from local stakeholders in the Arbuckle-Simpson Aquifer (herein sometimes "Arbuckle-Simpson" or "Aquifer") area to add a Class I Special Source Groundwater designation to the Aquifer. According to the OWRB's recent hydrologic study of the Aquifer, the surface outcrop of the Arbuckle-Simpson Aquifer is approximately 612.5 square miles. The area overlying the Arbuckle-Simpson Aquifer is largely agricultural and is characterized by rough, stony land, suitable for grazing livestock.

The Arbuckle-Simpson Aquifer provides public water supplies for most municipalities in the region, including Ada, Ardmore, Davis, Durant, Sulphur, and Tishomingo, among others. Additionally, local and regional economies depend heavily on tourism and recreational activities created by springs and streams emanating from the Arbuckle-Simpson Aquifer. For example, the Chickasaw National Recreation Area alone draws approximately 1 million visitors each year. *See Impacts of Visitor Spending on the Local Economy: Chickasaw National Recreation Area, 2005.*

On September 25, 1989, the Environmental Protection Agency designated the Hunton Anticline of the Arbuckle-Simpson Aquifer as a Sole Source Aquifer, *see* 54 FR 39230, meaning the Aquifer is the sole or primary source of drinking water for the overlying area and, if contaminated, would create a significant hazard to the public. *See* 42 U.S.C. § 1424(e), Safe Drinking Water Act of 1974. Moreover, by designating the Arbuckle-Simpson Aquifer as a Sole Source Aquifer, the Environmental Protection Agency declared that the Aquifer was a valuable resource deserving special consideration under water management plans. *See Region 6 Sole Source Aquifer (SSA) Program: Frequently Asked Questions.* Currently, the Arbuckle-Simpson Aquifer is the only Sole Source Aquifer in the state.

The Oklahoma Legislature in 2003 recognized the importance of sustainably managing the Arbuckle-Simpson Aquifer by passing Senate Bill 288 (herein "SB 288"), which imposed a moratorium on the issuance of any temporary groundwater permit for municipal or public water supply outside of a county that overlies a "Sensitive Sole Source Groundwater Basin." *See* SB 288, codified at 82 O.S. §§ 1020.9A and 1020.9B. A Sensitive Sole Source Groundwater Basin is defined as

a major groundwater basin or subbasin all or a portion of which has been designated as a "Sole Source Aquifer" by the

United States Environmental Protection Agency pursuant to the Safe Drinking Water Act as of the effective date of this act, including any portion of any contiguous aquifer located within five (5) miles of the known areal extent of the surface out-crop of the sensitive sole source groundwater basin.

82 O.S. § 1020.9A(B)(1).

The Arbuckle-Simpson Aquifer is the only Sensitive Sole Source Groundwater Basin in the state.

In addition to being a Sole Source Aquifer and a Sensitive Sole Source Groundwater Basin, the Arbuckle-Simpson Aquifer also exhibits the criteria necessary to be designated as a "Class I Special Source Groundwater." For the reasons articulated below, local stakeholders over the Arbuckle-Simpson Aquifer respectfully request the OWRB designate the Arbuckle-Simpson Aquifer as a Class I Special Source Groundwater.

JUSTIFICATION AND DISCUSSION

Class I Special Source Groundwaters are groundwaters with exceptional quality that are particularly sensitive to pollution. Specifically, Class I Special Source Groundwaters are defined as groundwaters (1) where exceptional water quality exists; (2) where there is an irreplaceable source of water; (3) where it is necessary to maintain an outstanding resource; *or* (4) where it is ecologically important. 785:45-7-3(a)(1) (emphasis added). Additionally, Class I Special Source Groundwaters are considered "very vulnerable to contamination." 785:45-7-3(a)(1).

It is important to note that the above-cited Oklahoma water quality standards do not consider the above elements conjunctive. Rather, only one of the four factors must be satisfied in order to designate a source as a Class I Special Source Groundwater. However, the Arbuckle-Simpson Aquifer satisfies—if not exceeds—*each* of the four definitions.

I. The Arbuckle-Simpson Aquifer Satisfies All Factors Defining Class I Special Source Groundwaters

A. The Arbuckle-Simpson Aquifer Boasts Exceptional Water Quality

Water from the Arbuckle-Simpson Aquifer is of naturally high quality. The majority of the Aquifer is suitable for all regulated uses—including public drinking water. For example, dissolved solids concentrations have a low median concentration of 347 mg/L. *See* OCWP Lower Washita Region Report, p. 17. Additionally, the Tentative Determination of Maximum Annual Yield of Groundwater from the Arbuckle-Simpson Groundwater Basin states that the “quality of groundwater produced from groundwater wells in the aquifer areas contains less than 500 milligrams per liter (mg/L) total dissolved solids. *See* Tentative Determination of Maximum Annual Yield of Groundwater from the Arbuckle-Simpson Groundwater Basin, ¶ 4.

Recently, a study was conducted on the water quality of the Arbuckle-Simpson Aquifer. Samples from the Aquifer were compared with the Environmental Protection Agency's (herein EPA) water quality standards for public water systems. The EPA sets Maximum Contaminant Levels (herein “MCL”) in order to protect public health by limiting the levels of contaminants in drinking water. The EPA also sets Secondary Maximum Contaminant Levels (herein “SMCL”) for other chemical constituents, which are non-enforceable guidelines regulating contaminants that may cause cosmetic or aesthetic effects in drinking water.

The study showed that water from the Arbuckle-Simpson Aquifer is chemically suitable for all regulated uses, including public water supply. Two domestic wells did produce water with nitrate concentrations above those set in the MCL. However, the wells were shallow domestic or stock wells in close proximity to potential sources of nitrate, such as livestock and domestic septic systems. The vast majority of samples taken were well below the MCL. *See* Geochemical Investigation of the Arbuckle-Simpson Aquifer, South-Central Oklahoma, 2004-06, p. 22.

Additionally, streams emanating from the Arbuckle-Simpson Aquifer exhibit exceptional water quality. The upper Blue River—the portion of the River over the Aquifer—is considered high quality water. Oklahoma Comprehensive Water Plan Final Draft, p. 24. Indeed, the OWRB designated the Blue River as a High Quality Water under Oklahoma's Water Quality Standards. *See* I(C), *infra*. Due to the quality of the Blue River, little or no pretreatment would be necessary to use the River's water for public water supply. Oklahoma Comprehensive Water Plan Final Draft, p. 103. Moreover, a number of municipalities and rural water districts utilize stream flow

emanating from the Arbuckle-Simpson Aquifer for public consumption with little or no pretreatment. *See* I(B), *infra* (discussion of the many users of water of the Arbuckle-Simpson Aquifer). Accordingly, the Arbuckle-Simpson Aquifer meets the Class I Special Source Groundwater definition regarding water quality and should be designated as a Class I Special Source Groundwater.

B. The Arbuckle-Simpson Aquifer is an Irreplaceable Source of Water

The Safe Drinking Water Act authorizes the Administrator of the Environmental Protection Agency to designate an aquifer as a Sole Source Aquifer if “an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. . . .” 42 U.S.C. § 300h-3(e). More specifically, a sole source aquifer supplies at least fifty percent (50%) of the drinking water for an area for which there are no physically, legally, or economically feasible alternative sources of water should the aquifer become contaminated.

The Environmental Protection Agency designated the Arbuckle-Simpson Aquifer as a Sole Source Aquifer in 1989, *see* 54 FR 39230, recognizing that local citizens in the Arbuckle-Simpson Aquifer area are without a reasonable alternative water source if the Aquifer becomes contaminated or polluted. Municipalities such as Ada, Ardmore, Davis, Durant, Sulphur and Tishomingo rely almost entirely upon the Aquifer and streams emanating from the Aquifer for public water supply. Figure 1, below, illustrates the various communities that depend upon the Arbuckle-Simpson Aquifer for public water supplies.

Municipalities that Depend on the Arbuckle Simpson Aquifer as their Source of Public Water Supply (PWS)

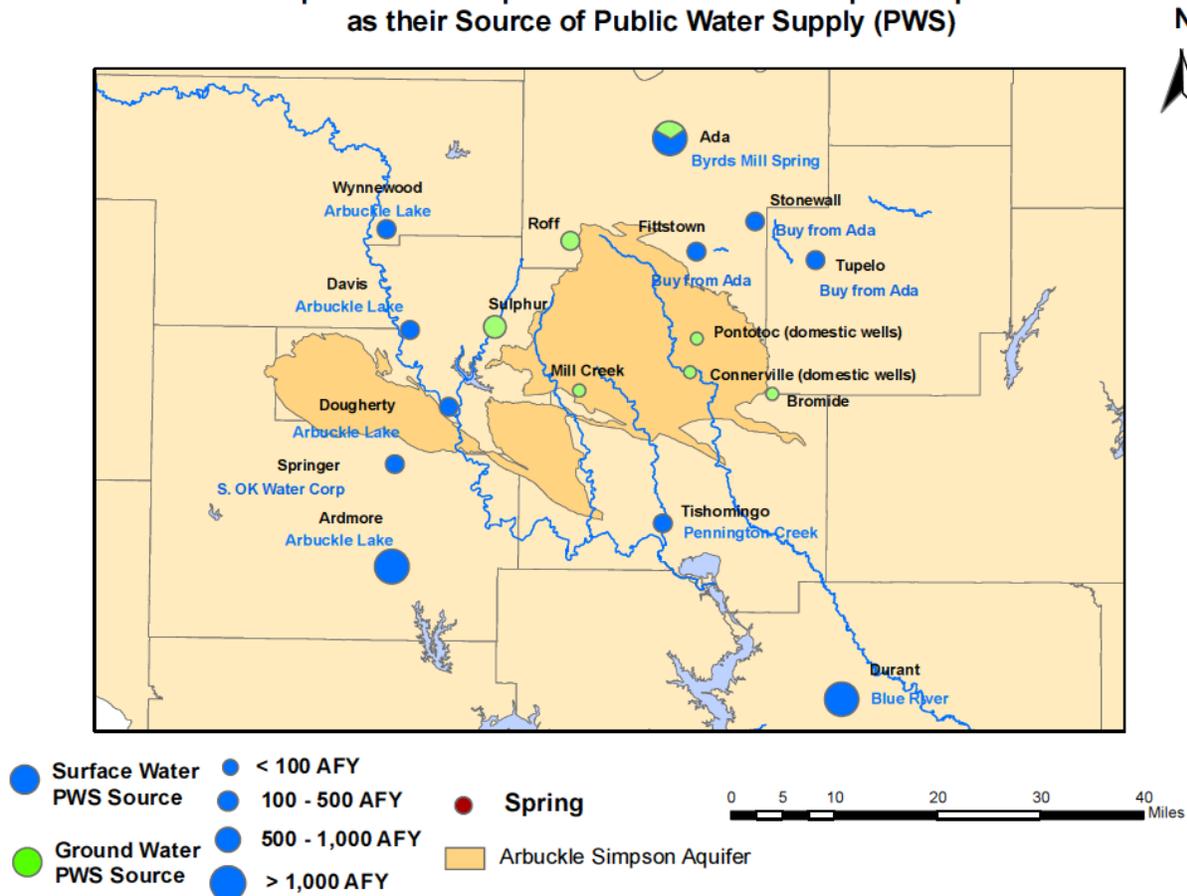


Figure 1. Municipalities that Rely on the Arbuckle-Simpson Aquifer for their Public Water Supply

In addition to local municipalities, rural water districts also utilize the Arbuckle-Simpson Aquifer for water supplies. Figure 2 depicts rural water districts that depend upon the Aquifer for water. Loss of the Aquifer, through either pollution or overuse, would be catastrophic for the local communities, rural water districts, county governments, businesses, ranchers, and individuals who rely upon the Aquifer's water. Accordingly, the Arbuckle-Simpson Aquifer is undoubtedly an irreplaceable source of water and qualifies as a Class I Special Source Groundwater.

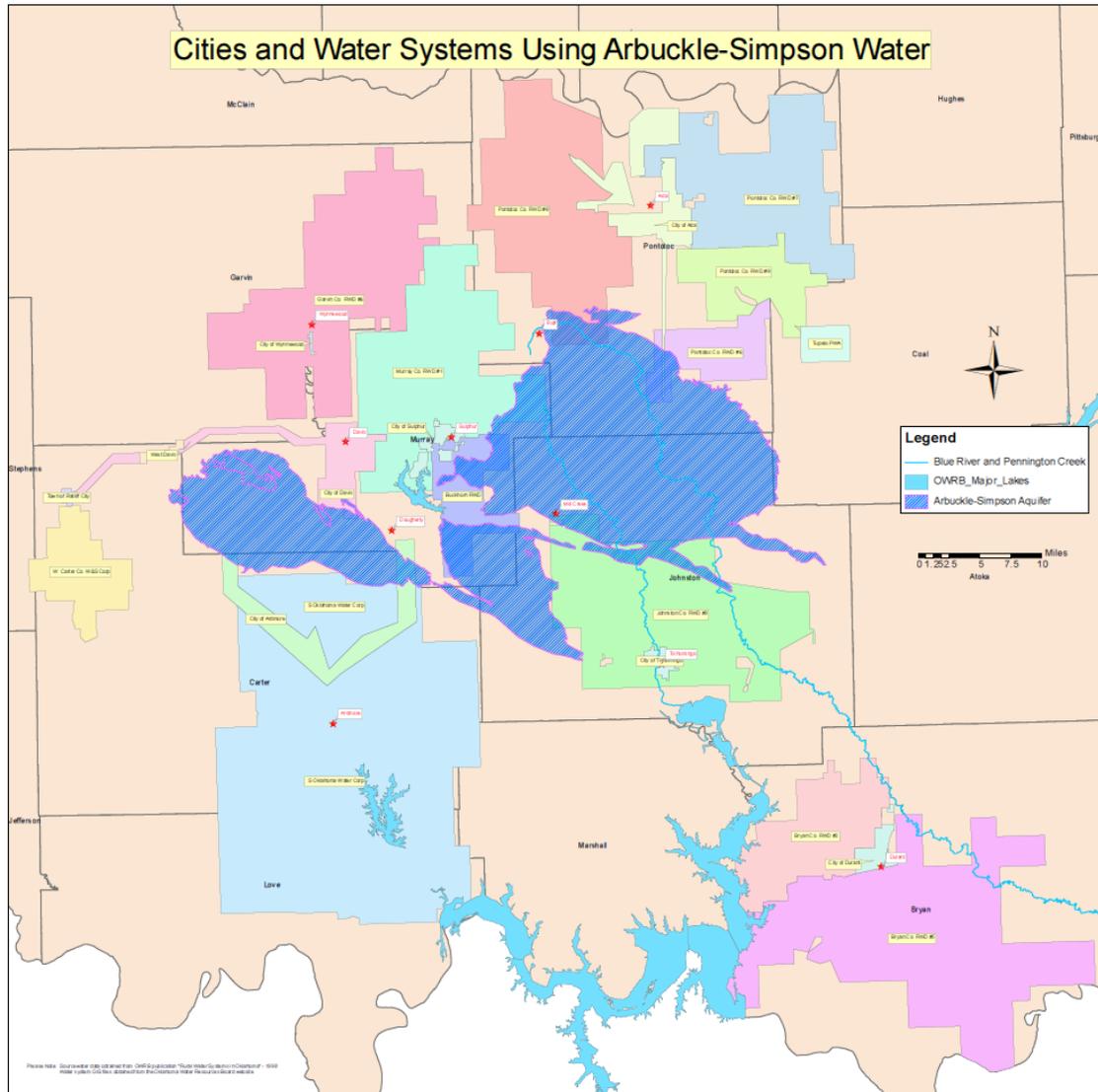


Figure 2. Rural Water Districts that Depend on the Arbuckle-Simpson Aquifer

C. Protection of the Arbuckle-Simpson Aquifer is Necessary to Maintain an Outstanding Resource

The Arbuckle-Simpson Aquifer supports many of Oklahoma's outstanding resources. Oklahoma's Water Quality Standards (herein "WQs") have long contained provisions for additional protection of those waters deemed special for recreational or ecological reasons. High Quality Waters (herein "HQWs") are those found to "possess existing water quality which exceeds those levels necessary to support propagation of fishes, shellfishes, wildlife, and recreation in and on the water". See OAC 785:45-3-2(b). HQWs are further defined as:

those waters of the state whose historic water quality and physical habitat provide conditions suitable for the support of sensitive and intolerant climax communities of aquatic organisms whether or not that waterbody currently contains such a community, support high levels of recreational opportunity, and are designated "HQP" waters in Appendix A of this Chapter. These waters will generally have higher quality habitat, a more diverse and more intolerant biotic community and, as a result, may provide more ecological refuges and recreational opportunities than other waters in the same ecoregion with similar chemistry and physical conditions[.]

Okla. Admin. Code § 785:45-3-2(b). Pursuant to Oklahoma and Federal law, "These high quality waters shall be maintained and protected." *See id.* The Arbuckle-Simpson Aquifer supports two High Quality Waters: the Blue River and Pennington Creek. *See* Okla. Admin. Code § 785:45, Appendix A, ps. 50 and 64.

The Arbuckle-Simpson is the cornerstone of the region's economy—not only does the Aquifer provide water for agricultural and industrial purposes, it also attracts millions of tourists to the area. Indeed, the Chickasaw National Recreation Area alone boasts over 1.2 million visitors each year. *See Impacts of Visitor Spending on the Local Economy: Chickasaw National Recreation Area, 2005.* In addition, the very existence of the Tishomingo National Wildlife Refuge and the Tishomingo National Fish Hatchery hinge on the continuous and unpolluted flow of springs and streams fed by the Aquifer.

Other local and state entities similarly rely on the Aquifer. For example, Turner Falls Park is a tourist destination that features a spectacular 77-foot waterfall, which is fed by Honey Creek and other Aquifer streams. Numerous charitable organizations, such as the Slippery Falls Scout Ranch, Camp Simpson Boy Scout Camp, Camp Bond Church Camp and Falls Creek Baptist Church Camp, also utilize the Aquifer in furtherance of their altruistic missions.

Most importantly, the Aquifer is the primary water resource for the region, supporting approximately 150,000 Oklahoma citizens with potable water.¹ Regardless of whether said drinking water comes from surface flow or from groundwater, it is ultimately supplied by the Aquifer. The Oklahoma Supreme Court recognized this fact by noting the interconnection between groundwater levels in the Aquifer and the flow of springs and streams in the region. *See Jacobs Ranch et al. v. Smith et al.*, 2006 OK 34, ¶ 12 (determining it undisputable that “a decline in groundwater level of the Arbuckle-Simpson Groundwater Basin could jeopardize the flow of springs and streams, such as the spring that is the source of the water for the City of Ada”).

Accordingly, the Arbuckle-Simpson Aquifer is an outstanding resource deserving of the Class 1 Special Source Groundwater designation.

D. The Arbuckle-Simpson Aquifer is of Ecological Importance

The Arbuckle-Simpson Aquifer possesses significant ecological importance to the State. One such ecologically significant species is the *Alnus maritima* (commonly known as the Seaside Alder). Nationwide, the Seaside Alder is found in three disjunct populations in Oklahoma, Georgia, and in Maryland and Delaware on the Delmarva Peninsula. In Oklahoma, the Seaside Alder is found almost exclusively in Johnston and Pontotoc Counties along streams dependent on the Arbuckle-Simpson Aquifer, such as the Blue River and Pennington Creek. *See Stanley A. Rice & J. Phil Gibson, Is Seedling Establishment Very Rare in the Oklahoma Seaside Alder, Alnus maritima ssp. oklahomensis, Oklahoma Native Plant Record*, p. 59, Vol. 9, Dec. 2009.

The Oklahoma Natural Heritage Inventory gives species occurring in Oklahoma Rarity Rankings, which serve as an index of biological status. Rarity Rankings are comprised of two ranks: a global (G) rank that reflects a species rarity throughout the world, and a state (S) ranking that reflects its rarity within Oklahoma. The Seaside Alder's state ranking is S2, meaning it is “imperiled in Oklahoma because of extreme rarity (6 to 20 occurrences or few remaining individuals or acres) or because of other

¹ The following municipalities depend upon the ASA for drinking water: Ada, Ardmore, Bromide, Davis, Dougherty, Durant, Fittstown, Homer, Mill Creek, Roff, Springer, Stonewall, Sulphur, Tishomingo, and Wynnewood. Moreover, the following water suppliers also depend upon the ASA for drinking water supplies: Arbuckle Master Conservancy District, Bryan Co. RWD No. 2, Bryan Co. RWD No. 5, Garvin Co. RWD No. 6, Johnston Co. RWD No. 3, Murray Co. RWD No. 1, Murray Co. RWD No. 2 (Buckhorn RWC), Pontotoc Co. RWD No. 6, Pontotoc Co. RWD No. 7, Pontotoc Co. RWD No. 8, Pontotoc Co. RWD No. 9, Ratliff City Water Trust Authority, Southern Oklahoma Water Corporation, Tupelo Public Water Authority, W. Carter Co. RWS & SW No. 1.

factors making it very vulnerable to extinction throughout its range.” See Oklahoma Natural Heritage Inventory Plant Tracking List and A Guide To Endangered Species Regulatory Status And Rarity Ranking Codes. In the global rank, the Seaside Alder is a G3, which is “[e]ither very rare and local throughout its range or found locally (even abundantly at some of its locations) in a restricted range, or because other factors making it vulnerable to extinction throughout its range; in the range of 21-100 occurrences.” See Oklahoma Natural Heritage Inventory Plant Tracking List and A Guide To Endangered Species Regulatory Status And Rarity Ranking Codes.

Moreover, the 2010 Tishomingo National Wildlife Refuge Comprehensive Conservation Plan and Environmental Assessment contains a list of species the Refuge may or does host during the course of each year. The Assessment lists 284 bird species, 46 reptile species, 20 amphibian species, 54 fish species, 57 butterfly species, 40 vascular plants, 41 mammal species, and numerous invertebrate species that do or may frequent the Refuge each year. See Appendix E of the 2010 Tishomingo National Wildlife Refuge Comprehensive Conservation Plan and Environmental Assessment. The Refuge also provides habitat to bald eagles during the winter months.

The Tishomingo National Fish Hatchery relies upon water from Pennington Creek, a perennial stream fed by springs emanating from the Arbuckle-Simpson Aquifer, to rear imperiled aquatic species, including the following:

- Arkansas River shiner (*Notropis girardi*);
- Alligator gar (*Atractosteus spatula*);
- Leopard darter (*Percina pantherina*); and
- Paddlefish.

It is abundantly clear that the Arbuckle-Simpson Aquifer supports ecologically important species, both plant and animal species. Accordingly, the Arbuckle-Simpson Aquifer meets the Class 1 Special Source Groundwater criterion for ecological importance and should be designated as a Class 1 Special Source Groundwater.

E. The Arbuckle-Simpson Aquifer is Highly Vulnerable to Pollution and Contamination

The Arbuckle-Simpson Aquifer's sensitivity to pollution and contamination has been acknowledged by the OWRB. Pursuant to the OWRB's regulations, the Arbuckle-Simpson Aquifer has been designated as a Nutrient-Vulnerable Groundwater, which is a classification given to hydrogeologic basins having high or very high vulnerability to contamination from surface sources of pollution. See Table 2, Appendix D, OAC

785:45-7; *see also*, Oklahoma Comprehensive Water Plan Blue Boggy Region Report, p. 20. Additionally, the OWRB designated the Arbuckle-Simpson Aquifer as having a high vulnerability level in general. See Table 1, Appendix D, OAC 785:45-7.

Alarming, however, are the results from the OCWP Blue-Boggy Regional Report. In the report, it found that the Arbuckle-Simpson Aquifer is "very highly vulnerable" and currently "lack[s] protection to prevent degradation." Oklahoma Comprehensive Water Plan, Blue-Boggy Regional Report, pg. 20.

The OWRB previously found the Arbuckle-Simpson Aquifer to be highly vulnerable to pollution and contamination. Now, studies indicate that the Aquifer is very highly vulnerable to pollution and contamination. Moreover, many of the potential pollutants listed above are found within the Aquifer. Accordingly, the Arbuckle-Simpson Aquifer meets the required Class I Special Source Groundwater criterion regarding vulnerability to pollution and contamination and should be designated as such.

II. Portions of the Arbuckle-Simpson Aquifer are Already Designated as Class I Special Source Groundwaters by OWRB Rule

Class I Special Source Groundwaters include (1) groundwater located underneath the watersheds of designated Scenic Rivers; (2) groundwater located underneath areas with waters of recreational and/or ecological significance; and (3) groundwater located underneath approved wellhead or source water protection areas for public water supply. OAC 785:45-7-3(a)(1). Currently, the Blue River Wildlife Management Area, the Chickasaw National Recreation Area, and Chickasaw Wildlife Management Area, the Tishomingo National Wildlife Refuge, and the Tishomingo Wildlife Management Area are areas with water of recreational and/or ecological significance. Figure 3 depicts areas with water of recreational and/or ecological significance in the Arbuckle-Simpson Aquifer region.

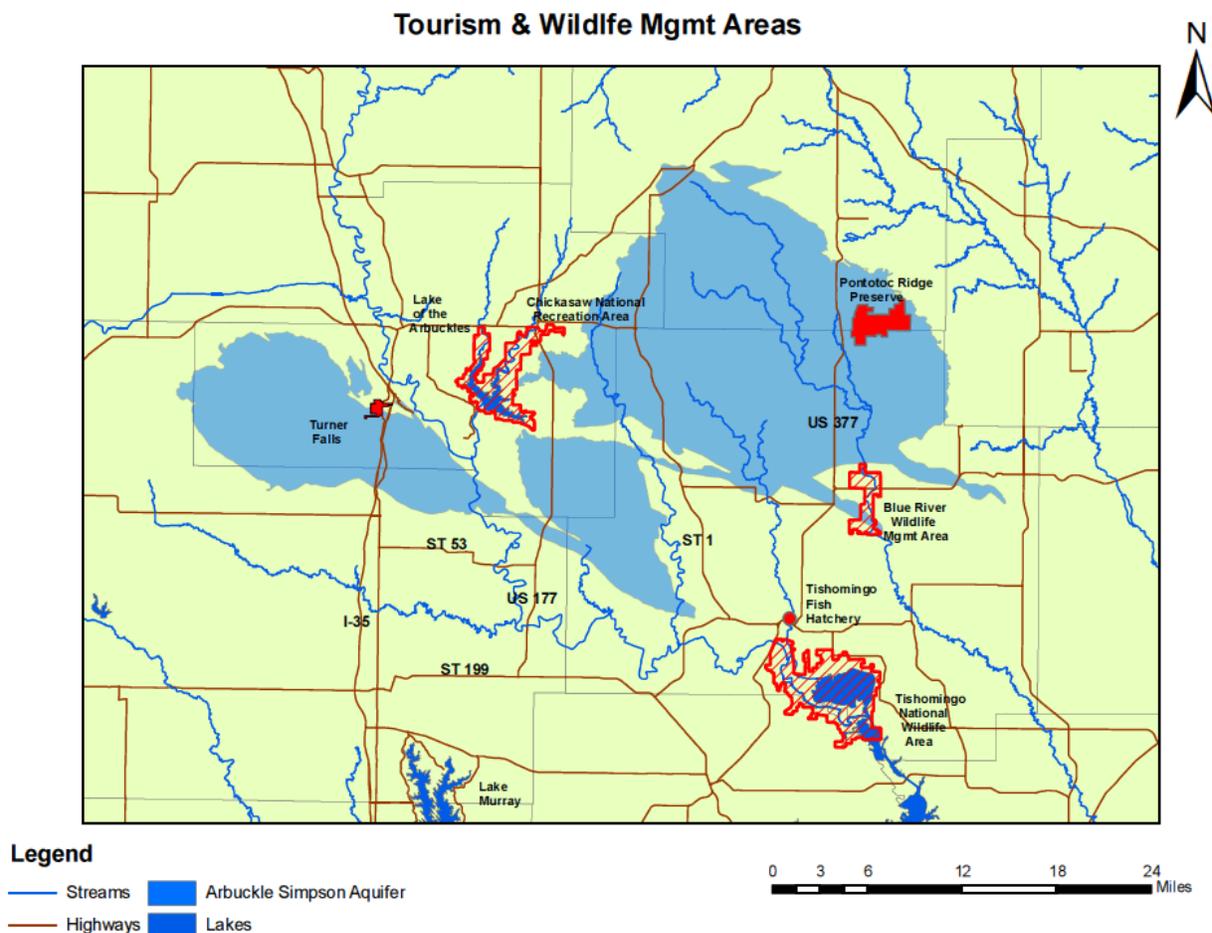


Figure 3. Tourism and Wildlife Management Areas

Wellhead protection areas seek to improve drinking water quality through the protection of groundwater. To achieve this goal, wellhead protection areas minimize the risk of pollution by limiting potential pollution-related activities on land surrounding public water supplies. Oklahoma Comprehensive Water Plan, Lower Washita Regional Report, p. 21. There are numerous wellhead protection sites over the Arbuckle-Simpson Aquifer, which are depicted in Figure 4.

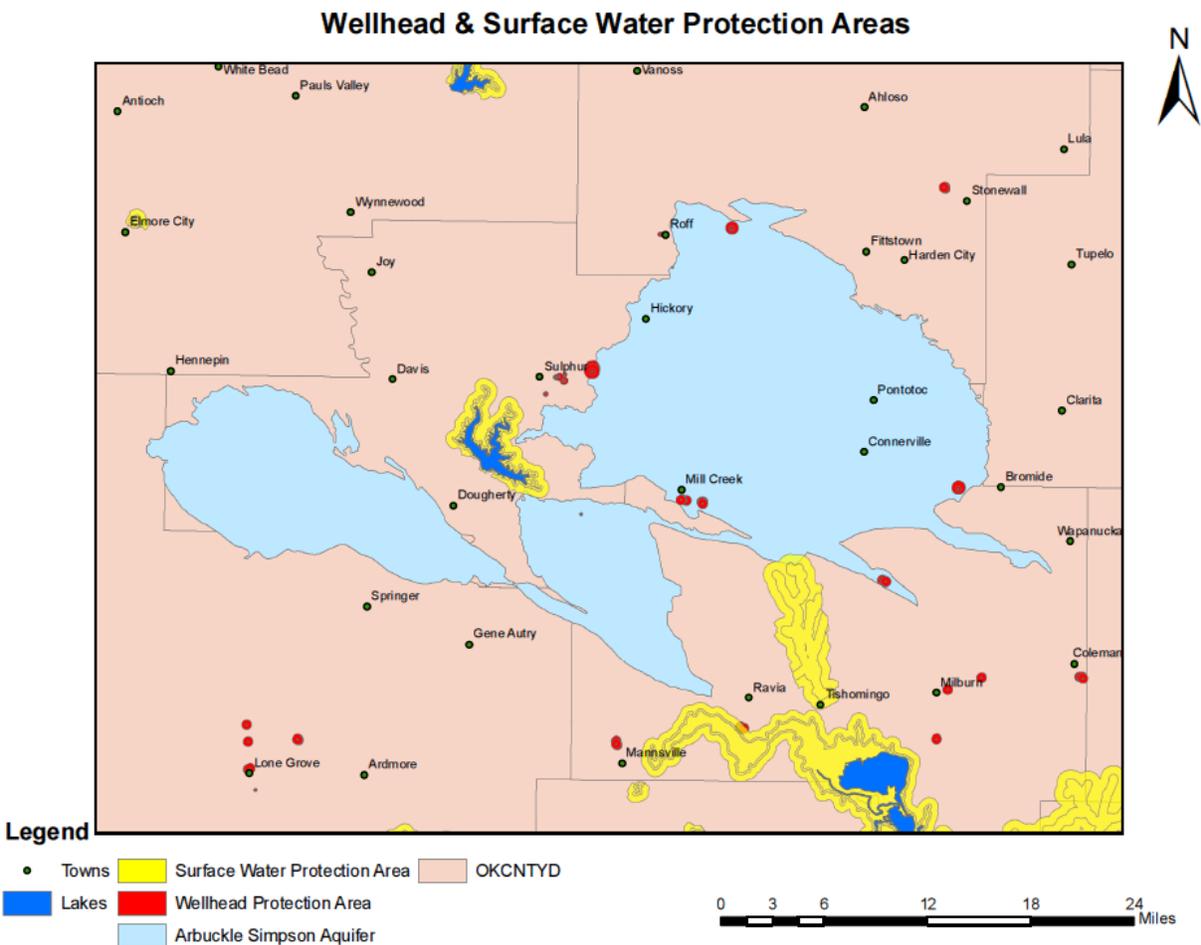


Figure 4. Wellhead and Surface Water Protection Areas

As shown above, various portions of the Aquifer are already considered Class 1 Special Source Groundwaters. Designating the entire Aquifer as a Class 1 Special Source Groundwater would ensure consistent regulatory treatment.

III. There is Significant Local Support for Classifying the Arbuckle-Simpson Aquifer as a Class I Special Source Groundwater

The grassroots citizens' organization Citizens for the Protection of the Arbuckle-Simpson Aquifer (herein "CPASA") first requested the OWRB designate the Arbuckle-Simpson Aquifer a Class I Special Source Groundwater in July of 2011. CPASA's purpose is to protect and preserve springs and streams emanating from the Arbuckle-Simpson Aquifer by sustainable management. However, CPASA is not the only entity seeking a Class I Special Source Groundwater classification for the Arbuckle-Simpson Aquifer.

CPASA is a member of the Arbuckle-Simpson Aquifer Protection Committee, which is comprised of numerous municipalities, rural water districts and county commissioners. Representatives from the City of Ada, the City of Ardmore, the Ada Water Resources Board, Bryan County Commissioners, the Chickasaw Nation, CPASA, the City of Davis, the City of Durant, Johnston County Rural Water District #3, the City of Mill Creek, Murray County Rural Water District #1, Pontotoc County Rural Water District #8, the City of Sulphur and the City of Tishomingo comprise the Arbuckle-Simpson Aquifer Protection Committee.

Historically, each community, county commissioner's board, and rural water district individually sought to implement measures protective of the Aquifer. While these individual actions have had some success, each entity soon realized that, collectively, they could accomplish far greater tasks than alone. Thus, the Arbuckle-Simpson Aquifer Protection Committee (herein sometimes referred to as the "Committee") was formed. After much thought, the Committee compiled a list of tasks, which, once accomplished, will help ensure the Aquifer's sustainable management, both in terms of water quantity and water quality. Designating the Aquifer as a Class 1 Special Source Groundwater is one of the tasks identified by the Committee. Based on CPASA's positive working relationship with the OWRB, the Committee requested CPASA spearhead the Class I designation.

This is the first time in the history of the Arbuckle-Simpson Aquifer region that communities, rural water districts, county governments, and citizens' organizations have worked as a collective group towards a discrete goal—although it will not be the last.

CONCLUSION

Although a groundwater basin must only meet one of the four definitions of a Class 1 Special Source Groundwater, the Arbuckle-Simpson Aquifer meets, if not exceeds, *each* of the four definitions. The water quality of the Aquifer is exceptional and is suitable for all beneficial uses—including public water supply. Additionally, the Aquifer supports a number of species of concern and provides base flows for the Blue River, which the OWRB designated as a High Quality Water. Moreover, and as established by the Environmental Protection Agency's designation of the Aquifer as a Sole Source Aquifer, the Arbuckle-Simpson Aquifer is an irreplaceable source of water that is highly vulnerable to pollution and contamination.

In addition to the overwhelming science supporting a Class I Special Source Groundwater designation, there is significant local support for classifying the Arbuckle-Simpson Aquifer as a Class I Groundwater. For these reasons, it is respectfully requested that the Oklahoma Water Resources Board designate the Arbuckle-Simpson Aquifer as a Class I Special Source Groundwater.

OKLAHOMA WATER RESOURCES BOARD

PROPOSED RULE IMPACT STATEMENT

**for Rule Amendment in OAC 785:45
Proposed or Under Consideration for Adoption during 2013**

A. BRIEF DESCRIPTION OF THE PURPOSE OF THE PROPOSED RULE AMENDMENT.

Staff of the Oklahoma Water Resources Board (herein "OWRB") proposes to amend various provisions of the Oklahoma Water Quality Standards (herein "OWQS") codified in Oklahoma Administrative Code (herein "OAC") 785:45 as follows:

Appendix H is proposed to be revoked and reenacted with the addition of a Class 1 Special Source Groundwater (herein "Class 1") designation for the Arbuckle-Simpson Aquifer in South-Central Oklahoma. Various municipalities and the Citizens for the Protection of the Arbuckle-Simpson Aquifer (herein "CPASA") requested this designation based upon the Aquifer's exceptional water quality, the Aquifer's vulnerability to contamination, the irreplaceable nature of the Aquifer's water, the necessity to maintain outstanding resources supported by the Aquifer, and the ecological importance of the Aquifer. Moreover, certain portions of the Arbuckle-Simpson Aquifer are already considered Class 1 Special Source Groundwaters. There is significant local support for promulgation of the Class 1 designation. The intended effect of the proposed rule amendment is to provide consistent protection for the nutrient-vulnerable Aquifer, to protect an irreplaceable water source, to maintain the Aquifer's exceptional water quality, and to preserve the Aquifer's ecological importance.

B. DESCRIPTION OF THE CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULES, INCLUDING CLASSES THAT WILL BEAR THE COSTS OF THE PROPOSED RULES, AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES.

The OWRB held two public Water Quality Standards input meetings in which to elicit comments and suggestions from the general public regarding potential revisions to the OWQS. At the October 11, 2012 public input meeting, representatives from the City of Ada, the City of Durant, the City of Sulphur, the City of Tishomingo, and CPASA requested the OWRB designate the Arbuckle-Simpson Aquifer as a Class 1 Special Source Groundwater. The OWRB expects the proposed rule amendment to have little or no new effect on any regulated entity or state agency.

C. DESCRIPTION OF THE CLASSES OF PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE AMENDMENT.

OWRB staff anticipate the proposed rule amendment, if passed, will benefit the local municipalities utilizing the Arbuckle-Simpson Aquifer for municipal drinking water, will benefit local businesses dependent upon tourism and recreation, and will generally benefit persons in the overlying area. The amendment is expected to increase water quality protection that will help to maintain or enhance the recreational and environmental qualities of the region. Moreover, the proposed amendment protects an invaluable drinking water source for tens of thousands of Oklahoma citizens.

D. DESCRIPTION OF THE PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULES UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS, INCLUDING A LISTING OF ALL FEE CHANGES AND, WHENEVER POSSIBLE, A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE.

The OWRB staff expects the proposals to have little to no adverse economic impact on any regulated entity, state agency, or the general public.

There are no fee changes included in the proposed amendment.

E. PROBABLE COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY OF THE IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULES, THE SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND THE ENFORCEMENT OF THE PROPOSED RULES, AND ANY ANTICIPATED EFFECT ON STATE REVENUES, INCLUDING A PROJECTED NET LOSS OR GAIN IN STATE REVENUES IF IT CAN BE PROJECTED BY THE AGENCY.

No extraordinary costs to the OWRB or other agencies are anticipated. State environmental agencies are currently required to enforce the Oklahoma Water Quality Standards within their respective areas of jurisdiction. It is not expected that any costs to these agencies from any such enforcement action would be significantly more than current enforcement costs. It is anticipated that the proposed amendment will have no effect on state revenue.

F. DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE AMENDMENT WILL HAVE AN ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISIONS OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE RULES.

There are no anticipated new adverse economic impacts to political subdivisions associated with this proposal, nor will the proposal require the cooperation of any political subdivision to implement or enforce.

G. DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULES MAY HAVE AN ADVERSE ECONOMIC EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

OWRB staff expect the proposed rule will have no adverse effect on "small business" as defined in 75 O.S. § 502.

H. EXPLANATION OF THE MEASURES THE AGENCY HAS TAKEN TO MINIMIZE COMPLIANCE COSTS AND A DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY METHODS OR LESS INTRUSIVE METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES.

OWRB staff have consulted with other state environmental agencies, held two public water quality meetings, and solicited input from the public, affected entities, and industry representatives on how these proposed rules would impact various activities in the state. There are no less costly or non-regulatory/less intrusive methods for achieving the purpose of the proposed rules.

I. DETERMINATION OF THE EFFECT OF THE PROPOSED RULE AMENDMENT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT, AND, IF THE PROPOSED RULES ARE DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT, AN EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULES WILL REDUCE THE RISK.

The proposed rule will positively affect public health, safety, and the environment by reducing significant risks to same. Specifically, the proposed rule will increase water quality protection for a nutrient-vulnerable groundwater basin, which protects public health and safety. The proposed rule also protects the environment by protecting an ecologically significant area in the state.

J. DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE PROPOSED RULES ARE NOT IMPLEMENTED.

The public health, safety, and environment would be endangered by not implementing the proposed rule. Drinking water supplies would be in danger of contamination and rare ecological treasures would be threatened.

K. THE DATE THE RULE IMPACT STATEMENT WAS PREPARED AND IF MODIFIED, THE DATE MODIFIED.