

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

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.)

JAN - 6 2015

TIM RHODES
COURT CLERK

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Case No. CV-2013-2414

District Judge Barbara Swinton

**OWRB's MOTION TO CORRECT THE ADMINISTRATIVE RECORD ON APPEAL
AND BRIEF IN SUPPORT**

Respondent Oklahoma Water Resources Board ("OWRB"), pursuant to 75 O.S. § 309 and 75 O.S. § 320, hereby submits its Motion to Correct the Administrative Record on Appeal. The OWRB requests leave from the Court to replace Bates Stamped Document No. 1810, which is part of the Administrative Record on Appeal submitted by the OWRB on March 24, 2014, with a corrected version of Bates Stamped Document No. 1810. The original Bates Stamped Document No. 1810 is a folder which contained 2 compact discs containing Parts 1 through 12 of the audio recording of the administrative hearing held on May 15-16, 2012. The corrected Bates Stamped Document 1810 is the same folder which contains 2 compact discs (Parts 1 through 12) and 1 DVD disc (Part 13) of the audio recording of the May 15-16, 2012 administrative hearing. The OWRB has provided copies of the corrected Bates Stamped Document 1810 and the additional DVD disc to all represented parties.

ARGUMENT AND AUTHORITY

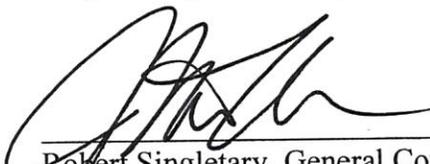
Through the inadvertent mistake of OWRB staff, the final and thirteenth portion of the audio recording of the May 15-16, 2012 administrative hearing on the Maximum Annual Yield for the Arbuckle-Simpson Aquifer (“A-S MAY Hearing”) was not submitted as part of Administrative Record on Appeal. The missing portion was intended to be submitted as part of Bates Stamped Document 1810, which is found in Volume 6 of the Administrative Record, at Tab 101. The missing portion contains the final 93 minutes of the A-S MAY hearing conducted during early evening hours of May 16, 2012, and contains the parties’ rebuttal and surrebuttal evidence. Having discovered the inadvertent omission this week, the OWRB now immediately seeks to correct Bates Stamped Document 1810 by adding the DVD disc containing the missing portion of the audio recording.

The full and complete audio recordings of the A-S MAY Hearing are an essential part of the administrative record on appeal. 75 O.S. § 320 and 75 O.S. § 309(G). As the agency which conducted the A-S MAY Hearing, the OWRB is responsible for transmitting the “entire record of the proceeding under review,” including audio recordings. *Edwards v. Oklahoma Employment Security Commission*, 1997 OK CIV APP 87, ¶ 10, 953 P.2d 64. Because judicial review is confined to the administrative record (75 O.S. § 321), it is essential that the reviewing court have access to all materials which were considered by the OWRB and/or hearing examiner in making its final agency order.

WHEREFORE, Respondent OWRB prays that this Court permit it to correct the Administrative Record on Appeal by substituting the corrected Bates Stamped Document 1810, found in Volume 6, Tab 101 of the Administrative Record, containing Parts 1 through 13 of the audio recording of the A-S MAY Hearing (2 compact discs and 1 DVD disc) for the original

Bates Stamped Document 1810, which contained Parts 1 through 12 of the audio recording of the A-S MAY Hearing (2 compact discs only).

Respectfully submitted,



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OKLAHOMA WATER RESOURCES BOARD

CERTIFICATE OF SERVICE

This is to certify that on January 6, 2015, 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.


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A-S MAY Hearing held May 15-16, 2012
(Parts 1-7)

A-S MAY Hearing held May 15-16, 2012
(Parts 8-12)

A-S MAY Hearing held May
15-16, 2012 Part 13

Arbuckle-Simpson Maximum Annual Yield
Hearing held May 15-16, 2012