

Senate Energy and Environment

Tuesday, November 10, 2009, 8:30 a.m., Room 419C, State Capitol

Members Present: Sen. Bingman, Chair; Sen Gumm.

Members Absent: Sen. Brogdon, Vice Chair; Sen. Branam; Sen. Coates; Sen. Crutchfield; Sen. Easley; Sen. Ivester; Sen. Johnson; Sen. Myers; Sen. Nichols; Sen. Rice; Sen. Sykes.

Others Present: Sen. Paddack; Rep. Roan; Dr. Clem Burdick, Vice Chair, Mining Commission; Amy Ford, Citizens for the Protections of the Arbuckle Simpson Aquifer; Doug Schooley, Deputy Director, Oklahoma Department of Mines; Stephen Greetham, General Counsel, Chickasaw Nation; Stephen Schmelling, City of Ada, Clyde Runyon, Mill Creek landowner; Laurie Williams, Ardmore landowner; Jim Rodriguez, Oklahoma Aggregates Association.

By Tyler Trammell, The Journal Record Legislative Report

The meeting was called to order by the chair at 8:34 a.m.
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Paddack began by stating that the meeting was called to facilitate an open discussion on the proper use of the Arbuckle Simpson aquifer. "The big question with land owners is what is fair," she said. The intent of the meeting is to know where all the water is and how to distribute it in a fair manner.

Duane Smith was the first to address the committee. He worried that as large amounts of water were being pumped out of the aquifer, streams and rivers would dry up. He believed that one industry was pumping more than its share from the aquifer. He told the committee that the legislature has appropriated the Oklahoma Water Resources Board (OWRB) to do a study on the aquifer. The goal of the study was to gauge the impact on the springs and streams before giving out licenses to pump water from the aquifer. The study concluded that even the use of two to three inches of water per acre per year would cause dramatic water damage to the springs and streams. Springs and streams would be the first impacted. "The aquifer is very deep, and has a lot of water by some standards, but the storage is very small," he said. "This is something that is very surprising to us."

Smith then told the committee about current statute that allows for a mining company to dig a pit and use the water in the pit without having to monitor or report the water usage. Landowners have their water usage from the aquifer monitored and regulated. The problem lies in that the pit is often refilled by means of the aquifer. "If we're going to restrict the city of Ada and Sulphur along with every landowner, but allow for mining companies to take water out of the aquifer, I think we need to examine that and find ways to minimize impacts," he said.

Amy Ford was the next to speak to the committee. She is a landowner with property on the Blue River. She told the committee that the value of her land, along with the economic and agricultural resources would be greatly depreciated with the drying up of the blue river. She said that she chose to live in that

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portion of the state partly because of the water and that Oklahoma law has left a hole in the overall management plan of the Arbuckle Simpson aquifer. "Pit water that flows into a hole in the ground does not fall under the regulation of the OWRB," she said. It's hard to come to grips with the amount of water that is unaccounted for."

Clem Burdick was the next to speak. He said that mining predated statehood and contributed over two billion dollars to the economy a year. He explained that the original interest of the commission was the health and safety of its workers, but more recently the mining industry had become subject to more comprehensive regulations. He told the committee that the mining commission must be good stewards of our water resources, but also of our mineral resources. He explained that over the years the regulations have been set so that the mining commission did not have the authority to regulate the water issues, which goes through the OWRB. Burdick said that Arbuckle Simpson aquifers are essentially dry mine. According to Burdick, the bulk of the water mining companies use come from runoff water similar to a farm pit or a pond. He said that the runoff water from rain is not regulated and not accounted for, thus is exempt. "Surface water that runs into your pond is yours, not the states," he said.

He continued by saying that Oklahoma needs the minerals and we need the water and more cooperation is needed to supply both. He said the Mining Commission has been cooperating with the Department of Environmental Quality, OWRB, and the Department of Mines to find a common ground for everybody.

Gumm asked Burdick if the pits were essentially dry, how he could account for the amount of water in them during periods of drought. He replied that he said the pits were essentially dry and that the level is different in different years.

Gumm further asked what the backgrounds of those working on the commission were. He wanted to know if they all came primarily from the mining industry. Burdick replied that there are none on the board that are mining specific. There are representatives for labor, worker safety, economic development, engineering, and geology. He said it was set up to cover all definable interest sections.

Stephen Greetham was the next to speak. He showed a power point on the issues of the Arbuckle Simpson aquifer. He explained to the committee that the exemption of mining companies from regulation of water uses within the sensitive sole source aquifers were potentially harmful to many surrounding communities. Arbuckle Simpson aquifer is a sole source aquifer which means that it supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer. He said that Durant, Ada, and Sulphur rely directly on water emanating from the aquifer. He stated that it was not fair or good managerial practices to have the mining industry essentially exempt from any obligation to that management, especially when the livelihood of cities and towns are on the line.

Greetham's proposal to the committee is the exemptions should be repealed, at least in respect to sole source aquifers, saying that if the legislature did not act the conflict would continue. "The legislature is the only one that can provide for proactive uniformity," he said.

Stephen Schmelling then spoke on behalf of the City of Ada and its interests were in regards to the aquifer. He said that the Arbuckle Simpson aquifer was beneficial to the overall health of the city and the economy. He agreed with Oklahoma ground water laws, which he says provides for a fair treatment of all interests who own land over the aquifer, but is unfair in regards to the mining companies. He explained that for landowners the amount of water allowed to use is proportioned with the amount of land that you own. He said the exemption of the mining industry is unfortunate and nullifies their fair share of the aquifer .

Schmelling went on to say that Ada relies entirely on Bird Mills Springs for its drinking water, with the spring averaging eleven million gallons a day. "There are times during the year that the water flows barely at all though," he said. It was his concern that future mining operations under current regulation could potentially have a devastating effect on the 25,000 to 30,000 people who rely on this water source in Ada and the surrounding rural water districts. He said that the mining companies should come under the regulation of the OWRB and there should be a thorough impact study to minimize the damage to the aquifer.

Laurie Williams was the next to speak to the committee. She began by presenting a You Tube video entitled "PenCreek". She then read to the committee a few paragraphs from a Texas newspaper in which it proclaimed that Oklahoma was the answer to East Texas' water needs. She told the committee about the Edwards aquifer in Texas that was similar in size and capacity of the Arbuckle Simpson but was controlled by the Edwards Aquifer Authority to insure the proper management of the aquifer.

Williams's proposed solutions to the management crisis of the Arbuckle Simpson aquifer would be that all mining regulations be moved to the Oklahoma Corporation Commission, all mining related water pleadings and applications be handled at one location, consolidate all protested mining and mining related water issues in one hearing, meter all quarry well and pit water, put a severance tax on severed rock, and put a severance tax on industrial water use.

Clyde Runyon spoke next to the committee about his personal experience with the mining industry on his land, which he had been living on for forty years. He said that right now there were seven mines within an eight mile radius. He was concerned about the water he pumps for his cattle from the aquifer being dried up by the large mining companies. At one point, all but one of his ponds and springs were dry. He told the committee that he had began the fight against the mining companies but could not continue financially. "How can we let these people just tell us what to do, and they do what they want to?" he asked. "I'm a proud man, but I'm begging you to help us," he said.

Jim Rodriguez was the final speaker to address the committee. He said that he was there to take notes on the issues brought up and would report back to the Oklahoma Aggregate Association.

Paddack concluded the meeting by saying that water issues were a delicate subject to many people and that we needed to come together to get a sense of what is good for both parties. "When we all come together and do what is right, we will find the answers to our problems," she said.

With no further business the committee adjourned at 10:47 a.m.