

**Robert Charles Roos IV
Roos Ranch, Inc.
7955 CR 1670
Roff, Oklahoma 74865
Ph. (580) 421-6917**

May 28, 2012

Honorable Members of the Oklahoma Water Resources Board
Mr. J.D. Strong, Executive Director
3800 North Classen Blvd.
Oklahoma City, Oklahoma 73118

RE: Over Allocation of the Arbuckle-Simpson Aquifer:

Dear Members of the Board and Mr. Strong,

The Oklahoma Water Resource Board (OWRB) staff recently proposed that S.B. 288 be implemented with a maximum annual yield of 78,404 acre-ft with an equal proportionate share of 0.20 acre-feet/surface acre/year. However, other parts of the implementation are flawed in three ways:

- The OWRB is blatantly attempting to mitigate adverse effects for certain landowners by creating a *de facto* implementation period,
- The OWRB is not treating everyone equally with the implementation of the new regulations,
- The OWRB is proposing an implementation that runs counter to its own study by potentially over-allocating the Arbuckle Simpson Aquifer during the next five years.

Although the OWRB staff explicitly recognized in their proposed order that they do not have the authority to offer a phase-in period for these changes,

they attempt a *de facto* phase-in period by allowing current temporary permits to remain unchanged for 5 years. This tactic moves the OWRB well outside of their mandate from the state legislature and places the board's otherwise sound policy implementation at risk.

In addition, the board must consider that a moratorium placed on new permits in 2003 has prevented potential users from becoming actual users. These individuals have made appropriate applications for the use of this water and have been denied its use for 9 years due to the moratorium. Now, they are once again being punished by being permitted at a lower rate for the next five years in contrast to those who were fortunate enough to be issued temporary permits prior to the moratorium. In effect, the board is punishing these potential users because their use of the water was not allowed by the OWRB. Thus, the board would be giving preferential treatment to 41 owners of ground water rights owning 44,000 acres of the 392,019 acres overlying the basin. This amounts to allocating more acre-feet of ground water to 12% of the total overlying land area than the remaining 88% with 80,056 acre-feet permitted to "temporary" permit owners (12%) and 78,404 acre-feet (proposed MAY) to the remaining 88% of the groundwater owners. This is an unfair treatment of landowner rights and puts the OWRB in the position of creating winners and losers with an implementation that takes away a potential local market for ground water for 5 years from various landowners. Thus allowing a chosen group to use the groundwater for free for 5 years.

Lastly, the OWRB staff holds a belief that there will not be a large number of permits issued once the implementation is finalized. However, there are no factual grounds to support this belief, whereas, an equally strong case can be made that there may be a pent up demand for water permits that will be released with the implementation of the order. Thus, if the OWRB allows the proposed implementation to proceed based on this unsupported belief, then there is a good chance that the aquifer could become over-allocated as the current temporary permits are recognized for the next five years and new ones are approved. Rough calculations show that if every surface acre is permitted, the aquifer will be over allocated by tens of

thousands of acre-feet. If this occurs, will the OWRB violate the conclusions of its own study for the next five years by allowing more than the maximum annual yield to be permitted or will permits again be denied once the maximum annual yield is reached? If permits are denied once the maximum annual yield is reached, how will you pick who gets permitted and who doesn't? It just seems unfair and strategically inept for the OWRB to paint themselves into that corner.

At this point, the OWRB has a simple mandate, implement the proposed order immediately and across the board without trying to mitigate the impacts to those landowners and water users who proposed and supported this legislation a decade ago. The board should not be in the business of picking winners and losers and should follow the laws of the State of Oklahoma.

Respectfully Submitted,

Robert Charles Roos IV