

June 14, 2012

To: OWRB/S.B. 288 Hearing

From: Kelly Hurt, Arbuckle Simpson Landowners Group

Subject: Response to City of Ada's response the Kelly Hurt Exhibit 1

Mr. Craig Shew's response to Kelly Hurt Exhibit 1 makes for lively and interesting reading.

However, I feel compelled to respond to his comments to ensure that the record reflects reality.

Mr. Shew makes the statement that the most dramatic turn has been that I have switched sides.

That is untrue as my stance has been a simple and consistent one. I believe that the Arbuckle

Simpson Aquifer should be managed in a fair and equitable manner for all involved. Therefore, I

feel compelled to counter the City of Ada's opposition of the 5 year implementation period. If

everyone else must comply within 5 years, so should the City of Ada. That's a simple,

consistent, and fair approach that should be good for all involved.

Mr. Shew continues to make unsubstantiated accusations that I have an ongoing conflict of

interest. I resigned an unpaid board position with the Ada Water Resources Board when alerting

the Ada City Council to the fact that landowners over the recharge area wanted to work with the

City of Ada. I don't live in Ada. I don't work for Ada. I don't own property in Ada. I really

don't see how I am beholden to the City of Ada in any way. Regardless, I have a first

amendment right to freedom of speech. If I happen to be critical of the lack of foresight shown

by the City of Ada, that still doesn't mean I have a conflict of interest, it just means that I

disagree with how they conduct business. Mr. Shew makes comments about my chance for

financial gain. However, I assume that Mr. Shew is paid by the hour and, if so, it would seem

that he stands to gain more financially if the nothing is ever resolved and the fight continues

indefinitely. I would say that Mr. Shew has more of a financial conflict of interest with the citizens of Ada than I do.

Mr. Shew makes a very weak argument that the City of Ada is not hesitant to abide by S.B. 288 and then in the same breath states that Ada opposes the 5 year implementation period. If trying to put off implementation of the law by more than 5 years isn't hesitation, then I don't know what is.

Mr. Shew stated that I castigated Ada for obtaining free water. However, if you read Kelly Hurt Exhibit 1 closely, I simply point out that the City of Ada, by admission of its immediate past mayor, sells water that costs almost nothing to produce. He also tries to confuse the issue by making a differentiation between selling "free flowing water" from the spring versus selling pumped water from the aquifer. The City of Ada sells both free flowing spring water and pumped water. So neither of his arguments hold water, pardon the pun. The rate data that I used was taken from a recent water bill. If Mr. Shew has other figures that he would like to present, I challenge him to lay out the City of Ada's actual profit. If his argument is compelling, then he should reveal the financials behind the City of Ada's water business. The fact that he didn't speaks volumes.

Mr. Shew does not agree that S.B. 288 was written by the City of Ada. I stand by the newspaper article citing Sid Bearden. It seems logical that if Bearden and Dick Scalf were advocating a study at the state capitol and then a study is subsequently approved, then S.B. 288 was Ada's idea.

Mr. Shew states that the City of Ada has started buying water rights and fixing leaks. That is wonderful news and also another reason why they don't need more than 5 years to comply with

S.B. 288. They have a good start, they just need to stop talking about what they intend to do and actually take the necessary steps.

Lastly, Mr. Shew states that I offered no evidence that the pumping of Ada's water wells has ever impacted the flow of springs and streams. Perhaps Mr. Shew should familiarize himself with the Franco American Charolais vs. the City of Ada case. Short of that, the very fact that the City of Ada takes millions of gallons from Byrd's Mill Spring and nearby groundwater wells is physical evidence that the City of Ada impacts the flow of springs and streams. If water is taken and diverted north out of the basin to Ada, then logically the natural flows of springs and streams are diminished. That is a simple truth. Mr. Shew might also want to read the following article from the Ada Evening News and consider the statements of former city attorney Alvin Files and Ada attorney George Braly.

theadanews.com - Ada, Oklahoma

June 28, 2010

Water issues continue to surface

Justin Lofton Staff Writer
Ada Evening News

Ada — Ada officials are trying to determine the best options to ensure Ada's water supply into the future. Uncertainty about this area's water is not new. Alvin Files, city attorney, and George Braly of Braly, Braly, Speed and Morris law firm said Ada has had several water crises in the past.

“If you look at the history of what Ada has done for water, a crisis comes along about every 40 or 50 years. Every time in the past, they've gone back to the Arbuckle-Simpson Aquifer,” Files said. “Some time passes and you find out that it's not going to meet their needs. We're sort of at

one of those decision points again.”

Files said in 1910, Ada was in a water crisis. He said the city needed water for the cement plant and the entire population of approximately 5,000 got its water from a single well. Files said the solution the city chose was to purchase Byrd's Mill Spring.

“They bought Byrd's Mill in 1910 and laid a pipeline in 1911,” he said. “If you read the newspaper articles back then, they said, ‘All our water problems are solved,’ and, ‘We don’t have to worry about water ever again.’”

Files said city officials soon discovered they were wrong.

“A number of years later, the law changed. The person that owned the spring didn’t own the water anymore. Now the water was owned by the state and you could only get it by appropriating it with the permission of the state,” he said.

After a near crisis in 1937 almost resulted in rationing of water, the city actually did have to ration water in the 1950s.

“When the city went through the water crisis in the 1950s, it was a real crisis. They were having meetings at the town chamber once or twice a week and a lot of local businessmen were going to those meetings,” Braly said.

He said proposed solutions were the building of two lakes and drilling wells in the Arbuckle-Simpson Aquifer. Factions in favor of the two lakes—one set on the site of the currently proposed Scissortail Lake—split, Braly said, and proponents of the aquifer got the upper hand.

Files said several reports were done by geologists and the city ended up going forward with plans put forward by Carl Steele of the United States Geological Survey. Braly said city officials completely ignored a report by George Tohlor, a geologist from Norman.

“There’s a line in the report burned into the back of my mind and it says, ‘Whatever you do, don’t drill any wells within three miles of Byrds Mill Spring or when you pump the wells, it will dry up Byrds Mill Spring,’” Braly said. He said the city ignored that advice and drilled three wells within two miles of the spring.

“They got an easement of one acre for each well. They drilled three wells and put them on these one-acre tracts,” Files said. “If you read the newspaper articles about that time, they all say the same things they said in 1910: ‘All of our water problems are solved,’ and, ‘There’s an inexhaustible source of water in the Arbuckle-Simpson.’”

In the 1980s, Files said city officials discovered they couldn’t pump all the water they wanted to from the aquifer. Instead, they were limited to two acre feet of water for each acre of surface they owned. Files said the city purchased approximately 9,000 acres of water rights in the Arbuckle-Simpson Aquifer.

Braly said Ada’s water supply from Byrds Mill was also cast in doubt by results of the Franco American Charolais vs. the City of Ada case. The case concerned landowners downstream from the spring. Braly said results of the case said the landowners have legal rights to the water. How much of the water the landowners have rights to, Files said, has never been completely settled, although the city decreased its water pumpage from the spring as a result of the case. With results of Senate Bill 288 and the Arbuckle-Simpson Aquifer Study, Ada’s water rights have once again been cast into doubt.