

**MATTER OF DETERMINING THE MAXIMUM ANNUAL YIELD
FOR THE ARBUCKLE-SIMPSON GROUNDWATER BASIN**

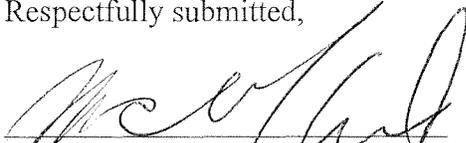
Motion in Limine

Oklahoma Aggregates Association (OKAA) having entered its appearance at the Hearing on the Oklahoma Water Resources Board's MATTER OF DETERMINING THE MAXIMUM ANNUAL YIELD FOR THE ARBUCKLE-SIMPSON GROUNDWATER BASIN, OKAA enters its motion for continuance of the hearing from May 9 to a date to be set by the hearing examiner at least 90 days after the conclusion of the pre-hearing conference, and in support thereof states:

1. The hearing examiner's notice of pre-hearing conference at paragraph 2. entitled "Prehearing conference" states: "Only recognized "parties" will be allowed to participate in the Hearing by presenting formal evidence and legal argument."
2. However, at paragraph 3. entitled "Hearing" the same notice states: "There will also be an opportunity for those not recognized as parties to submit other oral or written comments for the record." There is no basis in law for this type of proceeding. Title 82 Okla. Stat. §1020.6 states that participation in the hearing is limited to those who are a "party", and they shall present "evidence" in support or opposition to the tentative order. There is no provision for adding to the record of the hearing matters not in evidence.
3. The same statute goes on to state that the proceeding is governed by the provisions of the Administrative Procedures Act. Title 75 Okla. Stat. § 309 F. limits participation in an APA hearing to "parties", and limited the record to "evidence".
4. Title 75 Okla. Stat. § 310 states that "a party may conduct cross-examinations required for a full and true disclosure of the facts; ..." Any attempt by the OWRB or hearing examiner to make an extension of this process to include in the record anything other than evidence introduced by parties, or to allow statements or comments in the proceeding for which cross-examination would not be allowed would deny to the OKAA and the other parties the most rudimentary elements of substantive and procedural due process and equal protection in violation of the Constitution of the United States, the Constitution of Oklahoma, and the protections for parties inherent in the processes specified in the Administrative Procedures Act itself.

WHEREFORE, OKAA requests the hearing examiner to issue an order at the prehearing conference limiting the matters to be heard in the Hearing of this Matter to evidence and legal argument of parties and providing for cross-examination of any person or entity that proposes to enter any evidence into the Hearing or the record of same.

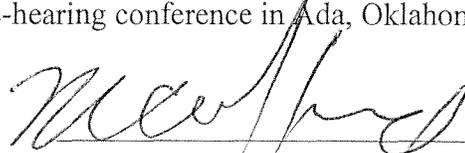
Respectfully submitted,



Michael C. Wofford, OBA # 9810
Doerner, Saunders, Daniel & Anderson, LLP
Attorneys for Oklahoma Aggregates Association
201 Robert S. Kerr, Ste 700
Oklahoma City, Oklahoma 73102
Office 405-319-3504
Fax 405-319-3534
mwofford@dnda.com

Certificate of Hand Delivery

Counsel delivered or made available copies of this Motion to those who initially identified themselves as parties to the hearing at the pre-hearing conference in Ada, Oklahoma on May 9, 2012.



Michael C. Wofford