

February 22, 2011

Representative Don Armes  
Oklahoma House of Representatives  
Room 440  
2300 N. Lincoln Blvd.  
Oklahoma City, OK 73105

Dear Representative Armes,

With our sincere appreciation for the Oklahoma Legislature's assistance in facilitating the regional stakeholder effort now underway to resolve Arbuckle-Simpson pit water conflicts, this joint letter provides a brief update on our effort.

As you know, Senate Bill 288, passed by the Oklahoma Legislature in May 2003, established special water management rules applicable to groundwater withdrawals from "sensitive sole source groundwater basins." The statute tiers its application off of U.S. EPA designations of "sole source aquifers," which are those groundwater basins that provide more than 50% of the drinking water supplies to overlying communities and which serve as those communities' only currently feasible sources of supply. Presently, the Arbuckle-Simpson Aquifer is the only groundwater basin subject to S.B. 288. A separate provision of Oklahoma's groundwater law, 82 O.S. § 1020.2, exempts the "taking, using, or disposal of water trapped in producing mines" (pit water), which provision has raised divisive questions regarding S.B. 288's implementation and given rise to substantial litigation and administrative protest. The current stakeholder initiative is intended to resolve those questions.

Citizens for the Protection of the Arbuckle-Simpson Aquifer (CPASA) supports S.B. 288's full and meaningful implementation; CPASA believes that such implementation requires placing the use and management of pit water, like the use of aquifer water by the area's cities and communities, within the statute's scope. While CPASA recognizes the role that mining plays in the local and regional economy, it also believes that inclusion of pit water use within S.B. 288's scope is necessary to the long-term, sustainable development of the region's water resources. In this regard, CPASA emphasizes that the Arbuckle-Simpson Aquifer and area surface water flows, which are supported and augmented by groundwater surface discharges, are the current and only presently feasible drinking water sources for most of the area's residents—including the residents of Ardmore, Durant, Ada, Sulphur, Tishomingo and other surrounding communities. Likewise, these waters are integral to fundamental regional economic activity, such as the developed fishery and consumptive uses of the Blue River, Pennington Creek, and the Tishomingo National Wildlife Refuge, as well as the extensive recreational use of the Chickasaw National Recreation Area, Turner Falls, Slippery Falls Boy Scout Ranch, Falls Creek Youth Camp, and other facilities. As additional investments are made in south central Oklahoma's growth—such as the

Chickasaw Nation's Chickasaw Cultural Center and reconstruction of the historic Artesian Hotel—CPASA believes that the Arbuckle-Simpson's sustainable management will be increasingly important to the region's long-term health and stability.

The Oklahoma Aggregate Association (OKAA) has appreciated CPASA's statement of its concerns and goals and has raised matters that also must be considered. For example, many large mining companies—some of which have been operating within the area for over 100 years—have developed long-term business plans and made significant investments in the area that were structured around Oklahoma's current groundwater law, including its pit water exemption. The potential for negative, costly impacts on these substantial business models and investments understandably has caused resistance within the industry to a repeal of the current exemption. CPASA has appreciated the concerns voiced by OKAA and its member companies, and importantly, the parties' positions in current discussions are not "pro-mine" versus "anti-mine"; instead, they have endeavored to articulate their positions with the pragmatic aim of resolving long-standing Arbuckle-Simpson conflicts.

With respect to those conflicts, OKAA's member companies believe strongly that their operations have not caused depletion or waste of water within the Arbuckle-Simpson Aquifer and will ultimately increase aquifer recharge; further, all of them assert that they work diligently to enhance, rather than threaten, the aquifer's productive life through recycling and recharge activities. Regardless, OKAA is seeking to preserve, in legislation and subsequent rulemaking, a path to certainty for access to the water necessary for its member companies to continue mining, thereby protecting the hundreds of millions of dollars invested by its members to develop their operations, while doing so in a manner that accords with local concerns regarding aquifer management that complies with the relevant laws.

Recently, Senate President Pro Tempore Brian Bingman requested that the OWRB, in cooperation with the Oklahoma Department of Mines (ODOM), facilitate a discussion among key stakeholders to develop a proposed resolution of the Arbuckle-Simpson pit water dispute this legislative session. The OKAA and CPASA are pleased to have accepted Senator Bingman's invitation and to have joined the Chickasaw Nation, the Choctaw Nation of Oklahoma, and the two state agencies in this important effort.

For over a month, the parties have worked productively toward the development of proposed revisions to statutory and regulatory language on which all can agree. Thus far, the various interests have made real progress and developed a better understanding of each others' concerns and perspectives. Based on the work completed to-date and the assumption that this good faith progress will continue, the parties are optimistic that resolution can be achieved that will provide for the fair treatment of all users of Arbuckle-Simpson water while, at the same time, reducing present uncertainty and instability in the applicable regulatory system. It is the group's belief and overarching goal that such resolution will be beneficial both to the region's communities and the industries that locate their mining operations in and around those communities. All parties agree that site-specific water management plans for operations over the Arbuckle-Simpson Aquifer, provided for in new law and more clearly defined in new regulation, will contribute significantly to the resolution of this issue.

As this region of Oklahoma continues to grow, this issue will continue to be of great importance. The parties appreciate the leadership of the Oklahoma Legislature in supporting the development of a sound path forward, as well as the opportunity to participate in these discussions. The group will continue to strive for consensus over the coming weeks and looks forward to the successful resolution of this very critical issue. Please do not hesitate to contact us should you have questions or require additional information in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Rodriguez". The signature is written in a cursive style with a large, stylized "J" and "R".

Mr. Jim Rodriguez  
Executive Director  
Oklahoma Aggregates Association

A handwritten signature in blue ink that reads "Amy Ford". The signature is written in a cursive style with a large, stylized "A" and "F".

Ms. Amy Ford  
President  
Citizens for the Protection of the Arbuckle-  
Simpson Aquifer