

Oklahoma WATER ISSUES



Rep. Brian Renegar and Sen. Jerry Ellis look for excess and surplus water in the Kiamichi River.
Photo by Pennie Embry/ORWP

Powerful public input and the state water plan?

Ask Harvey and Alene Arnold,
Oklahomans for Responsible Water Policy

By Pennie Embry

“Robust public involvement” is an interesting term, especially when used in connection with the 50-year state water plan. ORWP members Harvey and Alene Arnold want their own “input” on that particular phrase.

Harvey, ORWP secretary-treasurer, and his wife Alene know more than a little about public input and the Oklahoma Comprehensive Water Plan. Now in their 70s, the Arnolds worked for decades in the legal, medical and educational professions before turning to water issues. Harvey graduated from OSU in 1957 with a Doctor of Veterinary Medicine degree. He

worked in the regulatory field for the USDA for 25 years, then retired to practice veterinary medicine and law for the next 20 years. He received his Juris Doctorate from Oklahoma City University in 1972. A retired educator, Alene graduated from OSU in 1957 with a BS in Home Economic Education, with continuing education and certification in Elementary Education and Early Childhood Education.

The Arnolds attended many meetings in 2007 that kicked off the public input portion of the water plan. At the time, they believed every voice would be heard when it came to a long-

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State comprehensive water plan draws criticisms

By Pennie Embry

If you ask Oklahomans for Responsible Water Policy President Charlette Hearne what is wrong with the state’s 50-year water plan, she’s liable to give you a 5-page list. Just for starters.

From the lack of protection for the non-consumptive uses of water, to the need for state-wide water conservation programs and local control of water planning, Hearne, along with many other ORWP members, will be happy to energetically — and often passionately — explain what is needed to fix the draft of the Oklahoma Comprehensive Water Plan.

The draft plan is the end result of five years of study with an estimated

cost of \$12-\$15 million. While the Water Resources Board has spoken often of the “robust public involvement” on which the plan is built, many from around the state, and in particular from Southeast Oklahoma, question the value of that involvement.

Recently, through statements both written and presented to the Water Resources Board, ORWP formally laid out its objections to and concerns about the plan. Chief among those concerns was that the OCWP reads more like an accounting report than a plan, and that report has a heavy emphasis on what its staff feels is “excess and surplus water” in some parts of the state.

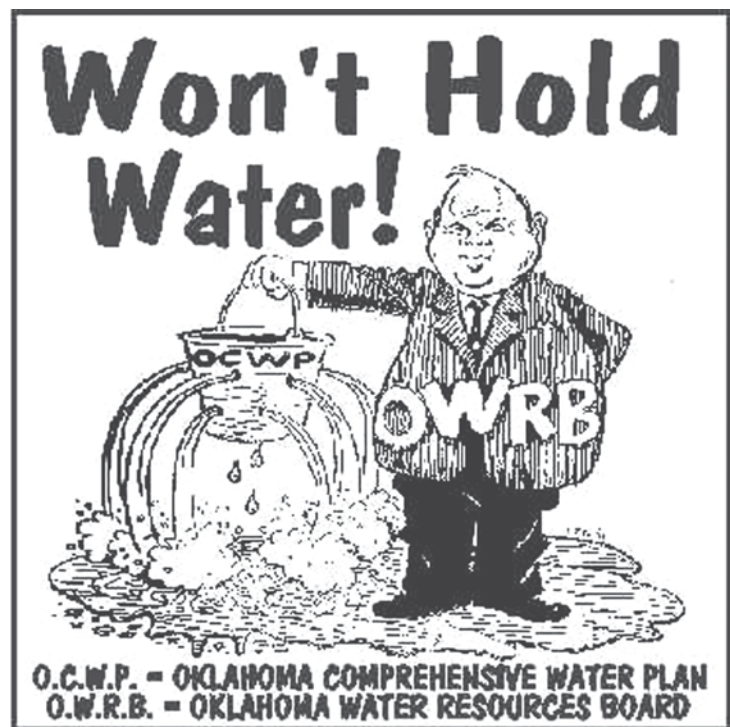
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E-mail us your drought photos and stories

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Monitoring, measuring non-consumptive water

WATER 101

By Debbie Leo and Associates

ORWP members often talk about non-consumptive waters and the necessity of protecting them, and we are often asked to define that term. Very simply, it is all water that is not permitted.

How is non-consumptive water measured? Weirs, flumes, orifices, Venturi meters or run-up measurements on flat stick weirs are used for water that is moving. Open channel flow monitoring is used for the Kiamichi River. To measure the flow of water on the Kiamichi River, a full-range real-time gauge is used to collect data. This data, collected every 15 minutes and stored onsite, is then transmitted to the USGS every 1 to 4 hours. There are two gauges used on the Kiamichi River located below Sardis Lake that measure the flow of water. For scientific accuracy, more gauges (a minimum of five) should be used to determine the "real-time"

flow of water on the Kiamichi River. For non-consumptive water that is not moving (lakes, ponds, reservoirs, etc.), acre feet multiplied by measured depth determines the amount of water available.

Why monitor and accurately record the flow of water down the Kiamichi River? Accurate data to determine the amount of yearly flow of water through the Kiamichi River basin is essential to determining, managing and allocating the water in that basin. Accurate data and scientific facts gathered in "real-time" are pivotal for the protection of the diverse eco-system (the life that surrounds water) that thrives in the Kiamichi River basin.

This year's drought has raised new questions for all Oklahomans. How will our waters be maintained? Will there be enough water for all of us in Oklahoma for our future use? The challenges that lie ahead are innumerable. Using, storing and finding more water will require the use of better science, better education and new, unique ways to conserve and reuse our water. Conservation techniques alone could

conserve much water and many water dollars. Building new reservoirs or spending millions on pipelines to send water out of the basins of origin may not be the answer.

As our water resources come under more and more intense demand, initiating new and better ways to save, conserve and maintain the water we do have is a must. Updating our water policies, ensuring accuracy in our water sciences, accurately monitoring our water sources to ensure longevity and using updated measurement tools are all essential strategies to protect and preserve our water.

The Kiamichi and all basin waters throughout Oklahoma will be helped by the use of real-time measurement. Initiating accurate monitoring should be a key tool in the Oklahoma Comprehensive Water Plan. We must ensure that accurate measurement methodology is used to record accurate data collection for all of Oklahoma's water.

Becoming better stewards of our most precious natural resource will continue to be a top priority because, "we can't drink the money!"

UPDATE FROM THE CAPITOL

By Rep. Brian Renegar, DVM

There were no real surprises in the Sept. 21 meeting of the Joint Legislative Water Committee. There was a strong indication of Farm Bureau opposition to instream flow protection when committee members received fliers stating such protection would affect agricultural needs. The Farm Bureau is also opposing regional planning groups. Also at the time, the presenters said the wording of some recommendations may be subject to change.

I think the demand side of this study of consumptive water use is good, but we are still missing any official designation of non-consumptive uses as a demand. I wish that the supply side was as strong, but in my opinion it is not.

There was mention that com-

mittee leadership invited the Tribes to the table, and that the Creeks and Cherokees were the only ones to respond. In earlier meetings, there was an obvious absence of any representatives of the 39 Indian tribes in the state. Letters were sent to the Tribes AFTER this first meeting (which covered Oklahoma water law, federal water law, and tribal water) requesting their involvement in the water plan discussions. By then, the barn door was shut after the horse was gone. The end result was the lawsuit filed by the Choctaw and Chick-



RENEGAR

asaw Tribes. The Governor and the Legislative committee leadership did not show concern for the Tribes being at the table until the lawsuit was filed. And it seems to me that leadership still doesn't get it. The Tribes are not interested in meeting with house and senate

leadership. They want and should have meetings with the Governor because any negotiations will take place with the Governor whenever she decides to do so.

On Aug. 31, the OWRB presented the technical aspect of the water plan. The legislative committee of which I am a member has been given a cascading amount of literature to read. I sincerely feel that they did not think we would be able to get past this large volume of information and really get to the meat of the matter.

The OWRB plan divides the state into 13 watershed regions. Most of my district is in the Southeast Region, and, of course, we were one of the water abundant areas. However, the report did point out that in 2060, alternate water supplies will be needed for those people in that region not having access to reservoirs.

The most interesting region was the Central Watershed Re-

gion; it starts in NW Oklahoma in Woods County, and extends SE to Hughes and NE to Creek County. Parts of 14 counties are in this region, with Oklahoma City at the center. This report has interesting information on the demand side. It states in black and white that by 2060, future water demand for the ENTIRE REGION will amount to 107,250 more acre feet of water per year than is currently being used by the region.

The real significance of this figure is that the OKC Water Utilities Trust has a water permit application on file with the OWRB for 137,000 acre feet per year from Sardis Lake (about 87 percent of the available water in Sardis). There is also no ecological report on the effects of taking that large amount of water out of the Kiamichi River and the Red River.

It appears OKC wants to be the Water Czar of Oklahoma. Remember OKC and 14 counties

will only need 107,250 additional acre feet of water by 2060, but OKC wants 137,000 acre feet every year starting now! And just so people won't think that I am a SE Oklahoma water hoarder, I have even graver concerns for our Oklahomans who live in the Panhandle. The last study of the Ogallala aquifer that serves the Panhandle was done in the late '90s. A Kerr Foundation study shows the Ogallala is rapidly being depleted in the panhandles of both Texas and Oklahoma.

On the supply side of the Comprehensive Water Plan, the major flaw in determining supply or surplus of water in Oklahoma is the declining number of USGS stream gauges. With detailed study on the consumptive use demand side, no real, measurable study of non-consumptive uses, and lack of proper study on the supply side, I feel strong concerns about this plan.

ARNOLDS

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term plan to manage Oklahoma's water resources.

"We thought they really wanted to do hard science, that they were going to come up with some good facts about water and listen to the people in each area," Alene said. "They said they wanted to understand what everyone's water needs were. Not everyone's water needs are the same."

The Arnolds believed that those in charge of the plan would listen to all Oklahomans, even those who wanted to protect the non-consumptive uses of water, such as water needed for tourism and recreation. And they had reason to believe that. The cover of the OCWP 2007 Status Report stated, in two separate places, "With public opinion and legal obligations in mind, policy makers must achieve a balance between economic development on the one hand and recreational and environmental needs on the other."

From hope to discouragement

"We went first to McAlester, then Durant, then to Atoka, Idabel and Hugo," Harvey said. "Most places we just listened, we wanted to hear what the people from other areas had to say about their needs. Atoka County was our area, so we both spoke out there. I remember I encouraged the people in charge to do a factual scientific study, and to look at all uses of water, and that's what we thought they were going to do."

Everywhere they went, the Arnolds said, local people talked about the importance of tourism and recreation in Southeast Oklahoma. County by county, city by city, Southeast Oklahomans stressed that recreation is economic development, that those waters are being used. They pointed out that recreational waters needed to be protected by the plan and not treated as excess water to be shipped off to other areas of the state.

"I guess you could say we were cautiously optimistic in the beginning," Harvey said. "And maybe a little bit naïve. I thought they really wanted the input

of the people, and they did go through the motions. They listened to what we thought, but in the end, most of us who attended those public meetings realized the people developing the plan were going to pick and choose. They were going to take what they wanted and leave the rest of it unused." "They would write it down, but they didn't really act on it," Alene said. "They recorded it, but that is as far as it went."

Harvey said there was no exact moment in time that he could put his finger on, no pin on the map that he could point to and say, "That's where we knew they weren't really listening, but by the time we got through with those first meetings, I think a lot of us were pessimistic. We felt like we would never be taken seriously, especially when it came to the recreational uses of water. In the end, what the water plan people took from those meetings didn't really reflect the concerns of Southeast Oklahomans."

Hanging on, hoping for the best

Many of the Arnolds' neighbors and friends who participated in the input process shared the couple's experience when it came to protecting non-consumptive uses of water: their voices, their input was ignored. "A lot of them dropped out; they stopped coming to the meetings," Harvey said. "They were thinking, 'Why bother? No one is listening to us.'"

Harvey and a handful of others from the area continued on with regional meetings, seminars and workshops held between 2008 and 2010. Both Arnolds believed Harvey could still make a difference. "He stuck with it from the very beginning to the very end," Alene said.

"We were divided into several groups, each dealing with a specific water issue," Harvey said. "I was in the Intergovernmental Water Resources Management Group. In my group, the term 'non-consumptive water' was never used or discussed in the three years we worked on this. In all those local meetings, we had talked about protecting recreational uses of water, but that was gone by the time we wound up in those groups. There was

no tourism group, no group to talk about protecting the non-consumptive uses of water, not allowing those waters to be deemed as excess. That was ignored from beginning to end."

"It's like there is no such thing as recreational water use," Alene said. "It's like we're just a bunch of people down here that want to play and we're being selfish."

The Arnolds, along with many Oklahomans, object to the fact that OCWP does not classify recreational uses as an official demand for water, despite the fact that Oklahoma's water-based tourism generates billions of dollars in income and millions of dollars in taxes every year.

"Now we have a recommendation in front of us that says the legislature should look into protecting recreational waters, but in the meantime, we have no protection for those waters in the plan," Harvey said.

A "forbidden topic" in most groups was the sale or transfer of water, Harvey explained. "There was one group about water transfers. The rest of us were told not to discuss it. Those of us against the sale of water minded the rules, but it sure seemed like those for the sale of water always wound up talking about it."

The Arnolds' niece participated in the group covering Water Sales and Transfers. "But she was not allowed to object to the sale or transfer of water," Harvey said. "They were only asked if water was sold or transferred, how that should be handled."

There are many people in Oklahoma against the sale of water out of state, many Oklahomans against Interbasin transfers without proper scientific studies, but, Harvey said, those voices were not heard.

"That wasn't the only way we were ignored," Harvey said. "Our group urged the moderators to have the state work with the Tribes and come to some sort of consensus with the Tribes about water ownership in this water plan. It sure doesn't seem like they took that advice either."

Drawing on past successes

Water issues are not new to the Arnolds. Long before 2007 and their involvement with the OCWP, the two Oklahoma

water warriors were very active in the Southern Oklahoma Water Alliance. A decade ago, SOWA stopped the sale of Oklahoma's water to Texas, helped put in place a moratorium on the out-of-state sale of water, and was a driving force behind water legislation setting severe limitations on any sale of Oklahoma's water out of state.

"Back then we drove to Oklahoma City every week," Alene said. "It seems like we were at the capitol close to two years." "We'd go from office to office and visit every senator and every representative," Harvey said. "We educated them on the evils of selling water to Texas. One by one, we showed them what it could and would do to the state, and they bought it. When we started, most people said 'this is a done deal, you're too late.' Well, they found out it was not such a done deal. We undid it."

It is that kind of dedication and persistence the Arnolds feel will bring protection to the non-consumptive uses of Oklahoma's waters. "They didn't really listen to us in those input meetings," Alene said. "But maybe the legislators will listen and do the right thing. If we keep talking."

To preserve and protect the waters

Why do the Arnolds work so hard protecting water when they could be enjoying their retirement? "Because somebody needs to," Harvey said. "There's this big vacuum out there when it comes to water. Most people think our senators and representatives will take care of us, but our elected officials need our help. To me there is nothing more important than water. It's essential for our lives, for the livestock, for the land. If somebody doesn't step up to protect our water, someone else will take it and destroy the way of life and the economy down here."

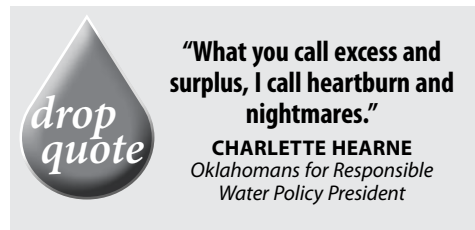
"All we've done is spend money doing this," Alene said. "We don't expect any reward anywhere. We don't expect anything. Even though we've traveled and lived in a lot of states, Oklahoma is our home. We love the land. We have no grandchildren to pass this land to, and our daughter will never come back here, but there will always be Oklahomans living in Oklahoma, and we're doing it for them."

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CRITICISMS

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Excess and surplus water is the amount of water considered available for export from one watershed to meet the needs

in another. It is determined by subtracting current and expected future demand over the next 50 years from the estimated current supply. A small 10 percent buffer is built in to address uncertainty, but non-consumptive needs, such as water for recreation, fishing and environmental

health, are only considered if they have been quantified.

"What you call excess and surplus, I call heartburn and nightmares," Hearne told the directors of the state water board.

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On these pages are six key criticisms of the 2012 Oklahoma Comprehensive Water Plan submitted by Oklahomans for Responsible Water Policy. The topics of our criticisms coincide with the topics of some water plan recommendations proposed to the OWRB over the planning cycle.

1 Top-down water resources planning does not work.

When the state develops a water plan with little input from the regions that manage and supply their water, the end result is problematic. Water suppliers and water users **MUST** be involved in the development of strategies to meet their own current and future water needs. Public input or town hall meetings are simply not enough. Forming regional water planning groups would allow local control of important local water management decisions and strategies.

ORWP supports creating regional planning groups that give some local control of water to the people. Currently, the plan recommends regional groups that are advisory only.



2 Conservation, conservation, conservation.

Municipalities should aggressively promote conservation. The city of El Paso has not increased its water usage since 1990, and some cities are going for the 50-year horizon with conservation planning. New technology makes this goal is attainable. Sustainability should be everyone's goal. Live within your means, and do not move water out of basins until these goals are attained.

Use modern technology to increase water availability within one's own basin. This could include aquifer storage and recovery, as is done in California and Florida. In London, water is captured downstream and reused as many as 14 times. Because of new technology, desalination and removal of heavy metals and dissolved solids, water we once deemed unusable can be used in our lives and should be viewed as an alternative to transfers. There is a water plan recommendation for water efficiency and reuse.

ORWP would like to see these measures implemented immediately.

3 Potential Tribal rights and claims were excluded from the plan's definition of water demands.

While the plan does have a recommendation to address Tribal Water rights, it does not describe how and when that will be done. Failure of the Comprehensive Water Plan to make real progress as to how the state will try to work with tribal governments on these issues leaves a lot of uncertainty for those involved in water resources management and undermines long-term planning at the regional and local scale.

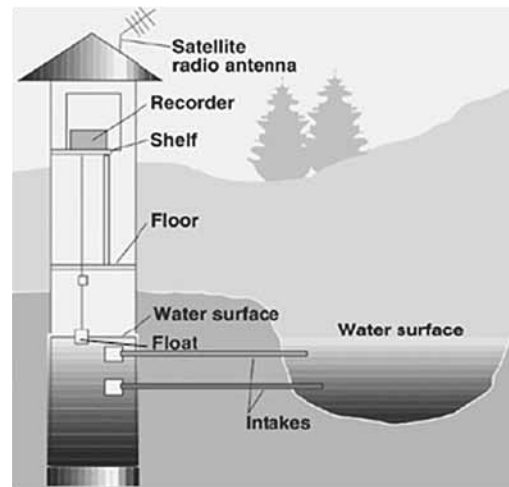
ORWP wants Tribal water rights addressed so that a true picture of water demands and availability can be incorporated into the state water plan. Those in charge of the plan should move forward with their own recommendation.



4 Not all uses of water were counted when figuring water demands for the next 50 years.

According to the OWRB, non-consumptive water uses were not accounted for when determining excess and surplus water. Non-consumptive water uses include the water needed for boating, swimming, fishing and all the life that surrounds water. Only water that is or will be allocated by a permit process was counted towards current and future water demands. Water that stays in rivers and lakes to support tourism (the third largest industry in the state, generating more than \$6 billion in income each year) was not included as demand, so it is deemed available for export. Recreational waters, and the life that surrounds those waters, creates thousands of Oklahoma jobs and pours millions of tax dollars into federal and state coffers. To not protect the non-consumptive uses of water puts the jobs of thousands of Oklahomans at risk and threatens one of the state's largest economic drivers.

ORWP wants the non-consumptive uses of water recognized as a demand and protected. Currently the plan only recommends "investigating" non-consumptive uses of water.



5 Not enough streamgages in our rivers and streams.

We are not adequately measuring our water supplies and may be seriously over estimating those supplies. The OWRB admits that the number of gages (measuring tools) in our rivers and streams has declined. More of these gages are needed to adequately measure and record the amount of water flowing in our surface water bodies. For example, in the entire Kiamichi River Basin, there are currently only three gages to measure the amount of water. To adequately quantify the flows throughout the entire Kiamichi River Basin, there should be a minimum of six.

State funding for water quality and quantity is about half of what it was in 1985. Derek Smithee, chief of the OWRB Water Quality Division, said having good data is vital to making any decisions about the state's water in years to come. But if we do not have good data, how do we even know how much water we really have? How can we subtract from a number that is not only inaccurate, but probably over-estimated? IN THE ABSENCE OF DATA, INFORMED DECISIONS CANNOT BE MADE.

ORWP is calling for more gages in our rivers and streams to accurately monitor Oklahoma's water sources. The water plan also calls for more data, and we are encouraging the state to implement this recommendation immediately.

6 The water plan does not consider month-to-month, or even seasonal variations in river flows when determining water available for diversions.

The OCWP estimates the amount of water available in rivers based on yearly averages. But averages don't tell the whole story. A river may have plenty of flowing water in the winter and spring, but could be completely dry mid-summer (check out our pictures of the dry Kiamichi River taken on July 27). The whole purpose of the excess and surplus formula is to determine where there is excess water to perhaps send to other areas during water shortages (typically in the summer). The OCWP shows an average of 90,000 acre ft. a month in the Poteau River. That number is accurate in June, but in the dog days of August, when other areas are eying the Poteau River for all that "excess and surplus" water, there is typically only 10,000 acre ft per month of water flowing in that river. That means the state estimated there to be nine times as much water as is actually available out of the Poteau River in August.

ORWP is calling for seasonal stream water allocation to reduce over-appropriation of water, particularly in times of drought. Recommendations in the OCWP also suggest using seasonal stream water allocation.



Cranes vs. Chemicals

As North Texas launches another battle over Oklahoma's waters, a new water war is emerging in South Texas. It's an environmental battle to protect the habitat of a wild flock of Whooping cranes, a habitat threatened by drought and chemical plants.

The whooping crane is one of the most famous symbols of America's commitment to saving its wild national heritage, says the U.S. Fish & Wildlife Service. Each winter, the last wild flock of whooping cranes migrates from Canada to coastal marshes southwest of Houston to feed on berries and crabs. According to the USFWS, it is the world's last migrating flock able to sustain itself in the wild.

But now salinity levels in those marshes have risen dramatically.

A mixture of the drought along with heavy water use by refineries, cities and chemical plants in the Guadalupe basin, has resulted in less fresh water flowing into estuaries that feed the marshes. This fall, wildlife refuge marshes in the area were three times saltier than normal.

As a result, environmentalists who want to protect the cranes sued state regulators to restrict water use on the Guadalupe River. The case will be heard in federal court in December.

Like Oklahoma, Texas has a "first in time, first in right" permitting system, so the defense of many industries is "we were here first." Balancing the water needs while ensuring enough fresh water flows into the bay is a challenge some cities and industries claim cannot be met.

Dow Chemical Company has a plant upstream from the cranes' winter habitat, and the company says it has permits from the 1940s allowing it to use vast amounts of river water. But this spring Dow, which is not formally part of the lawsuit, began voluntarily minimizing its water use at the plant above the coastal marshes. A Dow spokeswoman cited the company's commitment to sound water management, both locally and globally.

Will a court decision help balance the tension between Texas industrial water needs and coastal communities and businesses that depend on healthy estuaries and bays? At a time when a historic drought has reduced the flow of the Guadalupe by more than 60 percent upstream from the cranes' habitat, when drought has also damaged Oklahoma and cast light on a similar need to balance the consumptive and non-consumptive uses of water in the Sooner state, many Oklahoma eyes will be watching South Texas.

Tarrant County, Hugo: cases dismissed

But will Oklahoma soon be back in court?

By Pennie Embry

On Sept. 7, the U.S. 10th Circuit Court of Appeals ruled in favor of Oklahoma in two lawsuits filed in attempt to grab water out of the Sooner State for Texas. Now, plaintiffs in both suits have filed for re-hearings.

The lawsuits at the heart of the four-year legal battle are Tarrant Regional Water District (TRWD) v. Herrmann et al. and City of Hugo v. Nichols et al. Both lawsuits sought to invalidate certain Oklahoma statutes governing water. In 2009, and again in 2010, Oklahoma won favorable decisions at the District Court level. Hugo and TRWD appealed the lower court decisions, but on Sept. 7, the appeals court dismissed both cases. Now TRWD and the cities of Hugo and Irving are asking the Appeals Court for an en banc hearing, where all judges of the court will hear a case rather than the case being heard by a panel of three judges.

"I think it is important for people to know where we go from here," said Charles DuMars, a well known New Mexico water attorney who argued both appellate cases in front of 10th Circuit Court. "The appeals court has affirmed the district court in both cases. If we're successful and the decisions are final the way they are now, that means Oklahoma can choose or not choose to allow the export of water. But what's really significant is that this decision defines the parameters of the demand for water. If you are doing a water plan, you need to know the four corners of the planning area. And if these decisions are upheld, then we know the borders."

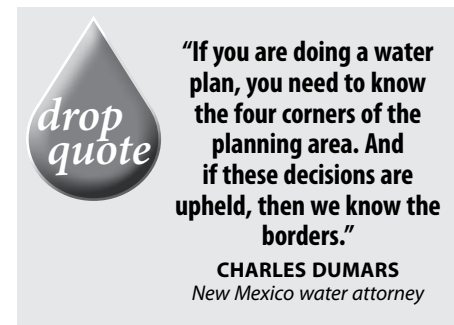
In other words, Texas cannot, as part of its plan to meet its growing water needs, come into Oklahoma and take water for Texas.

In 2007, TRWD filed permits with the OWRB to divert billions of gallons of water from tributaries of the Red River within the borders of Oklahoma. Although they acknowledge those waters flow into the Red River where Texas can then legal take it, TRWD states the water in the Red River is too salty to be economically useful. Knowing that Oklahoma has several laws on the books that prohibit the outright export

of water, TRWD simultaneously filed a lawsuit.

Many Oklahomans wonder how Texas can claim rights to water within Oklahoma's borders. One argument Texas used to support that claim is that Oklahoma is in violation of the Dormant Commerce Clause.

"Through the Commerce Clause, the U.S. Constitution *affirmatively* grants Congress the authority to regulate commerce among states," explained Stephen Curtice, a New Mexico water attorney also working on the Oklahoma cases. "The idea behind the Dormant Clause (also known as the "Negative" Commerce Clause) is that commerce law implies that the states have limited control over interstate commerce. Congress didn't want states imposing tariffs on other states; they wanted goods flowing freely between states."



But in some instances, such as the regulation of liquor and insurance by states, Congress *affirmatively* gives states the power to regulate goods.

So while Texas argued that Oklahoma laws prohibiting or severely restricting the transfer of water out of state violate the dormant commerce clause, attorneys for Oklahoma argue that Congress *affirmatively* gave Oklahoma the power to regulate its share of those particular waters under the Red River Compact Waters.

Most interstate compacts, including the Red River Compact, require congressional consent. The RRC apportions Red River waters to four states—Oklahoma, Texas, Arkansas and Louisiana. In addition to being a contract between these four states, it is also an identical form of state law in all four states, Curtice said. "And then in identical form,

it was also passed by Congress, so it is also a federal law. So our theory in the case was that Congress passed a federal law under its commerce clause authority which apportioned waters to the four states. Therefore, that displaces the dormant commerce clause because Congress has *affirmatively* acted with these waters as it did with respect to insurance and liquor. It says, 'Oklahoma, you get to keep this amount of water.' The compact is not meant to replace state law; the states get to decide how they will use their apportioned water."

Another argument used by Tarrant County is that, in the Red River Compact, the specific sub-basin that includes the tributaries of the Kiamichi River below the Hugo Dam are defined by geographical points, not state boundaries. So, TRWD argues, it can take its share of Red River waters of that sub-basin from anywhere in that sub-basin, even if that means taking water from inside Oklahoma.

"The 10th circuit concluded that was an incorrect reading of the compact," said Curtice. "And I agree. But it is over this argument that Tarrant is asking for a rehearing."

Oklahoma attorneys are currently working on a response to the Tarrant case. That response is due Oct. 11.

The Hugo lawsuit is different, Curtice said. The city of Hugo has water permits from the Hugo Reservoir. They requested that the OWRB expand their place of use of water rights to North Texas so they could sell water to the City of Irving. "They later brought a lawsuit targeting the same laws that Tarrant did in its lawsuit. The Hugo case was dismissed because, generally speaking, a political subdivision of a state is not entitled to sue its own state. In fact, the court of appeals said the district court should have never entertained Hugo's lawsuit because Hugo lacked standing to sue."

The attorneys defending Oklahoma in these suits are now preparing for the next step. "A rehearing is discretionary," Curtice said. "The court may or may not decide to take it; if they do decide to review it en banc, that doesn't necessarily mean it is to revert the decision, it may be to affirm it."

New ORWP members win at the state fair



Anette Ketchum, shown above with daughters Beth and Jackie, was the lucky winner of a fishing float given away by Oklahomans for Responsible Water Policy at the group's Oklahoma State Fair membership drive. Anette, her husband John and their daughters live in Agra. John and Anette joined ORWP because they feel Oklahoma's waters need to be protected.

In Agra people depend on wells for their water. They are concerned because they have to drill deeper to get water. The Ketchums want to make sure the Water Resources Board will study the aquifers so they know they will have adequate water in the future.

Thank you, John and Anette, for caring about Oklahoma's waters.

ORWP SIGNED UP 1,900 NEW MEMBERS AT THE OKLAHOMA STATE FAIR!

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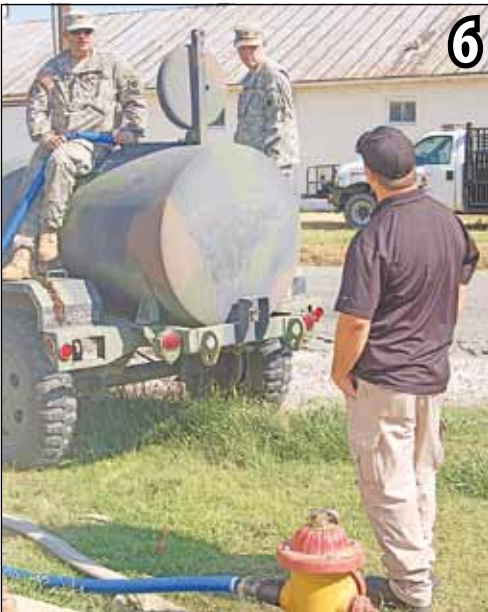
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Oklahoma drought 2011



COALGATE RECORD-REGISTER



1. Water trickles from the Hugo Dam in August.
2. A farm pond in Atoka County in August.
3. Bottom of a farm pond north of Coalgate in July.
4. The National Guard water buffalo arrives at the Clarita Community Center.
5. Rep. Brian Renegar and Sen. Jerry Ellis on the Kiamichi River north of Clayton July 27.
6. Coal County Emergency Management Director Aaron Blue stands by as Army National Guard soldiers fill a 400-gallon water buffalo (water tank) in Coalgate to take to Clarita.
7. A dry creek bed in southeast Oklahoma in July.