



Protecting our water, preserving our future

ORWP releases position statement

by ORWP Board of Directors

Oklahomans for Responsible Water Policy (ORWP) is a grassroots citizens’ organization created to protect Oklahoma’s water resources, environment and way of life. We consider it our obligation to defend the water resources within Oklahoma boundaries — resources that are truly the lifeblood of Oklahoma.

We are defined by what is currently happening regarding Sardis Lake, as well as by what has happened with Atoka Lake and McGee Creek Reservoir. In addition, there was an attempted “raid” on the Arbuckle Simpson Aquifer. A “raid” on the Boggys by the proposed construction of the Boswell and Parker Reservoirs is still in the planning stages.

At present, Sardis Lake, as well as the water rights in the Kiamichi, the Clear Boggy and the Muddy Boggy basins (located in Southeast Oklahoma) is under attack. In

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Water legislation hits and misses

By Pennie Embry

For Oklahomans concerned about the state of our state’s water, the 2012 Legislative session seemed to kick off to a promising start.

We were awash in dozens of water bills, including proposed

legislation that would create Regional Water Groups (bringing some local control to water planning), change existing stream adjudication law, advance water conservation, reuse and recycling, and give Oklahoma voters the final say on any out-of-state water sales.

The updated state water plan, the devastating 2011 drought, Sardis Lake, the lack of protection for Oklahoma’s recreational waters, the growing need for water conservation in Oklahoma, ongoing efforts to

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New generation joins Sardis fight

By Pennie Embry

Environmental and social struggles often span decades, and the long and many battles over Sardis Lake are no different.

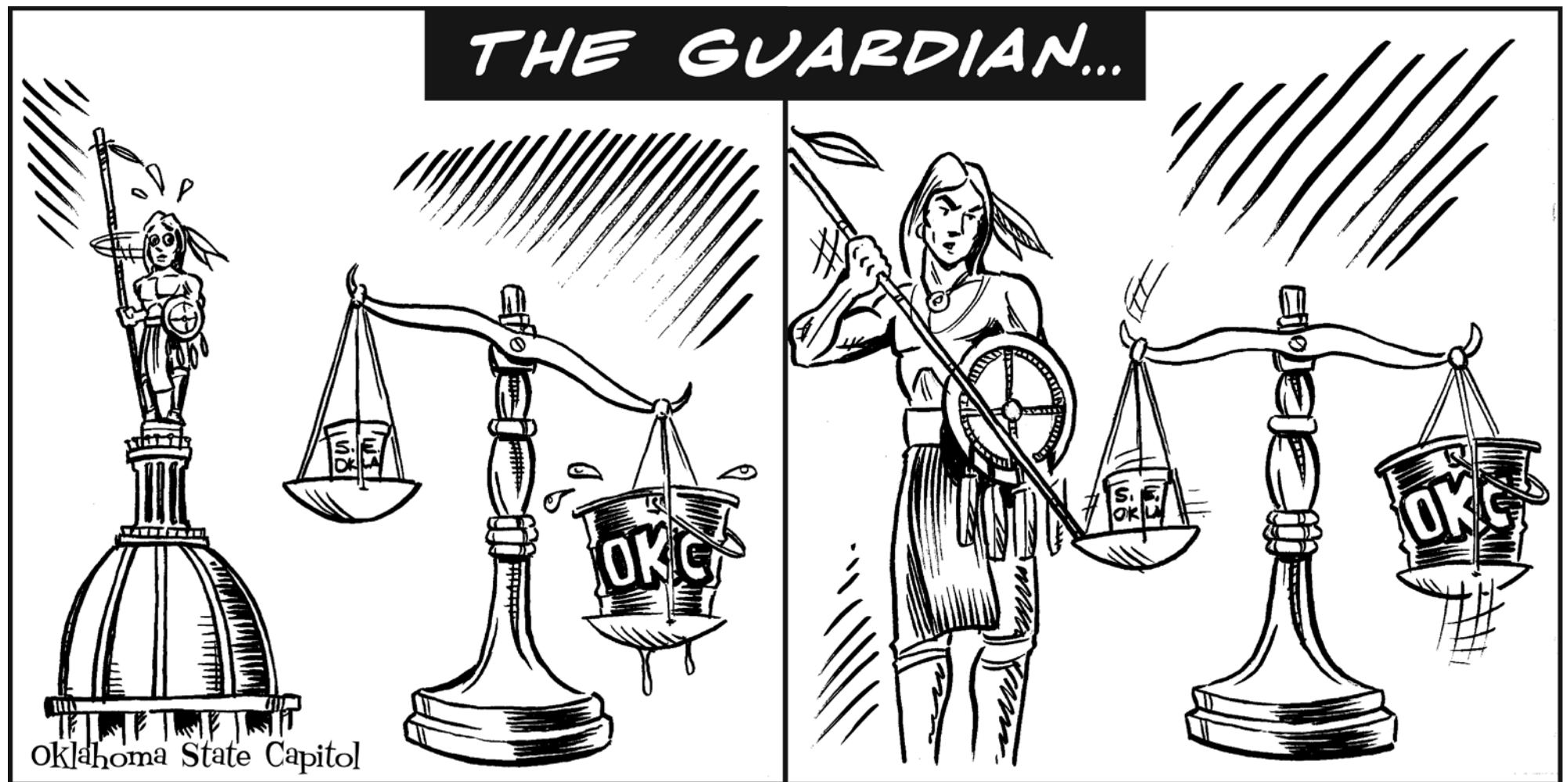
Some Oklahomans for Responsible Water Policy were there 40 years ago, fighting to get fair

prices for lands being taken by imminent domain, and later to bring potable water from Sardis to those who had lost their homes to that reservoir. Time moved on, and still others fought multiple times to keep Sardis from being sold out of state. Many have grown old as those struggles continued in some

form or another. Sardis seems always to be “up for grabs.”

Now a new generation has joined the fight. This year, two Southeast Oklahoma high school students stood up for Sardis Lake as part of the annual FFA Speech

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Thunder... but no water

Isn't it time to dispel the "myth" that OKC must continue to grow? Shouldn't their goal be directed toward quality as opposed to quantity?



Kevin Durant held the trophy and the camera panned over the crowd; people were openly weeping. You can't go anywhere in the metro without seeing Oklahoma City Thunder flags or decals. It's great. Good for the city and good for the state.

Or is it? I'm as hopeless a sports fan as anyone and definitely have Thunder fever, but I have to question the seemingly unspoken but widely-held philosophy of what's good for Oklahoma City is good for the state. Why?

Maybe I just think too much, maybe I'm a rebel. Maybe I just oversimplify things. You decide.

One thing's for sure — I've learned lots of my lessons in places other than institutions of higher learning. One of

those less than ideal think-tanks was the Oklahoma Department of Corrections, where I spent 17 years of my life. In addition to coming to accept the fact that I needed to be there, I also learned a lot, saw a lot and heard a lot.

One of my lessons has to do with a fella who lived by the principle of what's good for OKC is good for all of Oklahoma: in this case, Southeastern Oklahoma, the water there and OKC lawyers.

One of the original OKC lawyers was a guy named Carroll Gregg. Back in the '50s, Oklahoma City began an imminent domain lawsuit against landowners in Southeastern Oklahoma in order to condemn land for building Atoka Lake to supply water for Oklahoma City. Gregg

was one of the lawyers who helped OKC obtain the land for as little money as possible.

Forty years later, this same Carroll Gregg showed up in prison. He'd been all over the news; a hot-shot Oklahoma City attorney convicted of a whole laundry list of sex crimes with a minor. Call me naïve but there's no way that happened in a void and no one knew there were improprieties.

One day Gregg was sitting around the prison compound laughing about how easy it had been to fleece the old "dirt farmers" out of their land. He bragged, "A bunch of us got together in OKC and met (closed doors, anyone?) before we went down there. By the time we left, we had the land and they were still

scratching their heads and blinking."

Thing was, he didn't know he was bragging to a grandson of one of those old "dirt farmers."

Yes, me. I was shaking when I got up and walked over to him; leaning down so no one could hear, I told him, "Mister, one of those men you're laughing about screwing over was my Grandpa."

It's easy to get caught up in OKC fever and forget that Oklahoma does not begin and end at the crossroads of I-40 and I-35. Isn't it time to dispel the "myth" that Oklahoma City must continue to grow? Shouldn't their goal be directed toward quality as opposed to quantity? Wouldn't the state be better off as a whole if Oklahoma

City focused on better managing the plentiful resources that they have and allowing Southeastern Oklahoma to develop its resources? Or do we continue to let that unsustainable mindset dictate our future and the demise of Southeast Oklahoma while OKC continues to go to any length to "take" what is deemed necessary for OKC and its continued, unabated growth?

Knowing our true history and how we got there — people like Carroll Gregg being the architects of today's OKC water supply — will better enable the whole state to move forward without leaving such damning evidence in the wake.

*Bo Cox
Norman, Okla.*

Riparian rights in Oklahoma: common law water rights

By Jason B. Aamodt

Landowners and others often ask about “riparian rights.” Some may wonder what they are, while others are concerned in deciding how they gain access to water or water bodies under such rights. Yet others are concerned with ensuring that their rights in a water body are not disturbed by others.

Riparian rights are a “common law” doctrine — that is they are laws that have evolved over many years by addressing disputes in various different legal cases. This evolution is one of riparian law’s most unique features — it is growing and developing with each case.

Indeed, the law of riparian rights is believed to have originated in England. But, the old English rules have been substantially modified, requiring in general a rule of “reasonable use” as the law evolved in the United States. Even though riparian law evolves (as do most other laws), it does so slowly. Therefore, there are today well understood principles of

riparian law. The following is a bullet point list of some of the contours of riparian rights:

- ◆ Riparian rights are an interest in real property. They are a right both to access a waterway and to use water from the water way.

- ◆ Riparian rights only attach to a property that abuts a watercourse. There are exceptions, however. For instance, riparian rights do not usually attach to water once it is inside federally constructed lakes.

- ◆ In most jurisdictions that apply riparian laws, a riparian right holder can only use the water on property within the watershed of the watercourse from which he obtained the water. A use of water outside the watershed is usually not part of a riparian right.

- ◆ In Oklahoma each use of the water from a watercourse must be reasonable. Some courts in other jurisdictions have adopted elements that can be considered, including the appropriateness of the use in light of the size and other characteristics of the stream, local custom, impacts of

drought, the existence of other uses, and the extent of injury that might be caused to both existing and future potential uses.

- ◆ Some courts have held that a proposed use that is expected to completely destroy another use is unreasonable in its face.

• • •

While these rules are fairly well defined, defining a “use” is often where disagreements arise. This happens because under a riparian system there is usually no need to register the use, nor is there need to gain permission to make use of the water. As a result, controversies arise between competing uses after they are established. At that stage, one of the significant questions that can be presented is whether one of the “uses” is in fact a use the law respects.

As a result, in the various states that apply riparian law, riparian uses have been held to be as varied as the right to have a view of a lake (California), or the right to a certain level of water in a lake to permit the operation of a tourist resort (Arkan-

sas). As a result, some persons who work in the area of water law categorize uses as “consumptive” and “non-consumptive.”

It would appear that the non-consumptive rights of a view, or the operation of a tourist resort, would not preclude a consumptive use (for instance, using water for cooling when generating electricity, or for water to bottle beer) to the extent the consumptive use does not unreasonably interfere with the non-consumptive one. Accordingly, one should be aware that the law will permit some interference — just not unreasonable interference.

As you are doubtless aware, Oklahoma is one of the few states that both a riparian water rights law and an appropriation water rights law. These two legal systems can conflict, and where they do the Oklahoma Supreme Court has stated that a rule of “relative reasonableness” applies. However, the courts have not yet had the opportunity to define what “relative reasonableness” means in Oklahoma.

Jason B. Aamodt is Adjunct Professor of Law, University of Tulsa College of Law (Water Law and International Environmental Law), and founder of the Aamodt Law Firm, which specializes in natural resource, water and Indian law litigation regionally, with a focus on helping to protect landowner and Indian rights.



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GENERATION

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Contest. Taylor Pratt of Broken Bow and Bryce Livingston of Wilburton both chose to speak about Sardis Lake.

Taylor Pratt, who will be a high school junior, said her interest in Sardis was sparked by the Choctaw Nation's television commercials that focus on preserving Sardis Lake and other Southeast Oklahoma waters.

"When my Ag teacher asked me to write a speech, this topic popped up," she said. "It spoke to me more than the others did. Where I live in Broken Bow, there is not an immediate threat to our lake. But I thought about all the

families, all the towns and homes that surround Sardis. What will happen to them? People need to stop and think about that."

Pratt's interest in recreational water is not new. "My grandfather was a camp manager at Hugo, and I learned all about the importance of lake levels and protecting water from him," she said. "Fishing is a big part of Hugo; like Sardis, people come from everywhere to fish there. I remember people calling him day and night — even people he didn't know — to ask about the fishing, how it was." Pratt said her grandfather's passion for water taught her at an early age that water is key to the economies of Southeast Oklahoma.

While Pratt examined various sides of the Sardis battle, she

comes squarely down on only one. "I personally feel we need to safeguard Sardis, not only for the fishing and recreation economy we have now, but also for the future. We need to plan for future generations, for the economic development that needs to happen for them."

Pratt thinks water could figure in her career. "I knew I wanted to work in agriculture, but maybe something in addition to farming. Like law, which is a way to work behind the scenes to protect agriculture. I think water is something that I definitely will stay interested in."

Bryce Livingston recently graduated from Wilburton High School. He too was looking for a natural resources topic, and Sar-

dis spoke to him. "Sardis Lake has been a part of my life for a long time," he said. "I've spent a lot of time down there, it is part of my heart."

Livingston and his FFA advisor, Brent Smith, thought they could help battle Oklahoma City together. "With me writing this speech and my Ag teacher helping me, we believed we could fight for Sardis, but right here on our own level. I think that counts."

"The more he researched, the more interested and enthusiastic he became, and I did as well," said Brent Smith. "All the time, he'd be coming up to me in class, telling me what new information he found. And the more he found, the harder he looked. His heart was really there for doing

what he could to fight for Sardis Lake."

This fall, Livingston will attend Eastern Oklahoma State College on scholarship. He plans to study agricultural economics, and then go on to Oklahoma State University for pre-law. After that, he said, it will be University of Oklahoma Law School.

Livingston's desire to fight for Southeast Oklahoma is a permanent part of his life. He plans to return to Wilburton and "...practice the sort of every-day law that will help people in my area of the state. I think I'll study Ag law too," he added. "That way I can look after the property rights of landowners. Who knows, maybe then I might go into politics and look after the people of Southeast Oklahoma."

Water wars

By Taylor Pratt

It's a hot July summer day and my friends and I are camped out at Broken Bow Lake. We've come to enjoy quality time together and spend our day tubing, skiing, and relaxing on the water, but what would my friends and I do if Oklahoma decided to sell our water rights to north Texas or other metropolitan areas like Oklahoma City or Tulsa? How would my friends and I spend our summers with no lake?

This is a possibility that may be in our future and I know I want my children to be able to experience this summer fun, but if we sell our water now they may never have the chance. This is one of many reasons why selling southeast Oklahoma's water may be a bad idea.

The Texas Tarrant Regional Water District sued Oklahoma in January of 2007 to force the state to sell its water surplus. Their lawsuit stated that Oklahoma was violating the interstate and supremacy clause of the U.S. Constitution. In July 2007, a federal judge dismissed their lawsuit and it was sent to the 10th U.S. Circuit Court of Appeals. In the fall of 2011 the court ruled against Texas' challenge of the Oklahoma law.

A \$42 million dollar deal was made in June 2010 that gave Oklahoma City storage rights to up

to 90% of Sardis Lake in Southeast Oklahoma. Since then, \$27 million dollars has been paid off the debt. They have also started paying for lake maintenance and hired an experienced engineer to design a pipeline to bring water to the central part of Oklahoma, which is where water demand is expected to increase in the upcoming years.

Now, you may be wondering what storage rights are? Many people believe water rights and storage rights are the same thing, but actually it's the exact opposite. Water rights are the right to take water from a stream or an underground aquifer. Storage rights are very different; they are created by the construction of a dam that will collect water flowing through an area and store it for later use. Building these reservoirs provide us with drinking water when rivers are dry, gives us a place for boating and fishing, and provides a habitat for many species of wildlife.

One problem with selling our water is we're not even exactly sure who owns the water, much less how much is available or how much it's worth. Oklahoma's Indian tribes will play a key role in the decision. Chickasaw Nation Governor Bill Anoatubby said that they will continue to take every necessary step to be certain that any water



management plan serves the best interest of all Oklahomans, tribal or not.

The most recent lawsuit involves Oklahoma City and two federally recognized Indian tribes. The Choctaw and Chickasaw Nations sued Oklahoma City and the state in August 2011. Oklahoma City acknowledges that Oklahoma's Indian Tribes do have certain water rights in Southeast Oklahoma, but the tribe's lawsuit makes unprecedented claims to 100 percent of the water in 22 of Oklahoma's counties.

The Oklahoma Water Resources Board approved a comprehensive water plan in 2011. It has been referred to as the most ambitious water plan to be made by the state yet. This plan addresses Oklahoma's water problems and issues. It will look at an assessment of water supply and projections of demand and use for the future.

The tribes state that the water resource agency has no jurisdiction over the land that was granted to the tribes by a treaty made in 1830. Michael Burrage, an attorney for

Oklahoma's Indian tribes, made the statement, "This is about looking into the future. It's about looking at the sustainability of a clean water supply for the treaty territory." He claimed the dispute is not over money.

In February 2012, Gov. Mary Fallin urged the leaders of the two Indian tribes to drop the lawsuit. The tribes say that they will continue to protect the rights of all Oklahomans, including all citizens of Southeast Oklahoma, Native American or not. They want

to continue working with the state and the governor to resolve their differences.

Oklahoma has just a little more than three million people living in it, but enough water to supply the state for years to come. In the year 2060, Oklahoma's population is expected to increase to 4.7 million residents. This proves that Oklahoma has enough water for our residents now, but is selling it really the right decision for Oklahoma's economy?

Nevertheless, there are many reasons why we should consider selling our water. One major reason is that it's an economy booster. Selling water from places like Hugo, Oklahoma, one of the poorest areas in the state, could bring in money to fix roads, fund schools, and pay for more city officials or even law enforcement. Another reason to sell our water is because of the jobs it could create. Selling Southeast Oklahoma's water could provide millions of dollars annually in capital to invest and create jobs in Oklahoma each year.

There are also just as many reasons why we should not sell our water. One major reason is salinity levels. Selling the water before it reaches the Red River could create a major upset to a delicate environmental balance, affecting the aquatic and fish life. Another reason is not knowing if we may need it in the future. Droughts are unavoidable and can cause major trouble. What will we do in case of a drought in Southeast Oklahoma? Then we'll all be wishing we hadn't have sold it!

As fellow Oklahomans and agriculturalists, I believe that we need to join together and safeguard our precious natural resource. A major part of Southeast Oklahoma's agriculture, including my community of Broken Bow, is tourism. Our economy revolves around Broken Bow Lake, boating, fishing, and other recreational activities. This is why I believe that we need to keep our water, and not sell!

Now that summer is almost near I know that I can't wait to be out on the lake with my friends and family. It just wouldn't feel like summer if we didn't have the lake to enjoy. So when it's 100 degrees this summer, you will find me beating the heat in the cool, refreshing water of Broken Bow Lake. So let's join together and save Oklahoma's water!

Sardis Lake: More than just a weekend getaway

By Bryce Livingston

It is commonly said, "You don't know what you have until you lose it." Well for some, that is not the case, especially in the small southeastern Oklahoma town of Yanush.

This small town is unknown by most unless you're an active outdoor enthusiast or fisherman. People from all across the state come to this area to enjoy the beauty, fun and family traditions that can be enjoyed at Sardis Lake. This small lake is the lifeline to its surrounding area, and this is why the people of Yanush and the surrounding areas know exactly what they have.

Unfortunately, the people's lifeline is being threatened. The problem is Oklahoma City has requested the water rights of Sardis Lake. If OKC wins this battle of Sardis' water rights, the lake will dry up and the towns of Yanush and Clayton will likely blow away. OKC currently holds the rights to Atoka Lake and draws from it on a regular basis. It will only be a matter of time until they do the same thing to Sardis.

The difference between the Sardis and Atoka Lakes is the economic pull that Sardis has. The area businesses thrive from what the lake brings them. Hotels, restaurants, bait shops and "Mom and Pop" grocery stores all rely on Sardis Lake for their livelihood. The selling of Sardis Lake's water rights would result in an economic downfall for Southeastern Oklahoma.

Before I get into detail about the battle, let me tell you a little bit about the lake. Back in the 1970s the Army Corps of Engineers built Sardis Lake for recreation, fish and wildlife, flood control and to supply water to the surrounding areas in hopes of growth to Southeastern Oklahoma. Sardis is located a few miles north of Clayton and stretches north to the town of Yanush. The lake covers 14,360 acres with 117 miles of shore line. Sardis is known as a prime bass fishing location but is also home to large amounts of crappie and catfish. The lake is also surrounded by cabins and campgrounds and has become a thriving vacation getaway for Oklahomans



as well as tourists from other states.

The problem with this little fishing hole in Southeast Oklahoma is that the state never paid the federal government back for its part of the construction of the lake. This, combined with the urban sprawl of Oklahoma City, has developed this controversial issue. In order to pay off this debt of \$27 million, the state has decided to sell the water storage rights of Sardis Lake to the Oklahoma Water Utilities Trust in Oklahoma City. They believe they need this water to help meet the demand in the metro area. There may be a rising demand for water; however, taking from the people of Southeastern Oklahoma just isn't the answer.

The plan is to build a water pipeline across the state into other bodies of water which OKC currently owns. The estimated cost for this pipeline will be a multimillion dollar venture. There are other lakes closer to the metro area that with a little conservational work could become larger water producers than the Sardis Reservoir and be closer; therefore, having lower translocation costs.

If OKC will take the advice of

local conservationists, the need for Sardis' water will lessen. Reducing lawn watering, mowing at longer lengths, and aerating lawns are just a few practices Oklahoma City residents could use to better conserve their water.

I believe in Oklahoma agriculture and for this belief of agriculture to withstand in Southeastern

Oklahoma, the water must stay put. Not only do the people of the Sardis region rely on this lake but the area's agritourism and livestock depend upon this lake. The Latimer County Conservation District is a strong supporter of a plan where "water rights of long-term water users are protected from having their water depleted or polluted." Draining up to 90% of the lake at a time would do just that, deplete and pollute one of the state's most beautiful bodies of water.

This will economically take away from one of the most poverty stricken areas of the state. Local business owners depend upon this lake for their livelihood. It's taking a resource from rural Oklahoma and transferring it to metro Oklahoma. OKC is treating the Sardis region just like King Richard treated the people of Nottingham in the classic Robin Hood

tales. It is just not fair. The people of the Sardis area need someone to come in and save them much like Robin Hood did in the ancient fairy tales.

The Choctaw and Chickasaw Nations have expressed their concerns on this issue. This past August they filed a federal lawsuit asking to stop the sale of Sardis' water rights. They do not want to see the water of their homelands taken away to another part of the state. They believe the negative economic and ecological effects would be the downfall for the local communities. The Tribes have voiced their concerns and simply want a resolution met to keep the water in Southeastern Oklahoma.

The nations have developed a plan where all Oklahomans can use and benefit from Oklahoma's water. They based their plan on core principles known as "The Essentials." This plan ensures that every Oklahoman's water needs will be met while respecting the rights and responsibilities of the Nations with regards to the removal of water from their historic territories.

The tribes in conjunction with the U.S. Army Corps of Engineers (on some studies) is working to develop a regional water plan that meets the goals outlined in The Essentials.

The tribes believe that having a science-based plan is critical to sustainable management of water resources to support economic development, recreation, household use and to provide for the environmental health of Oklahoma's water supply.

Now let me take you back to that small Southeastern Oklahoma town of Yanush. As you can see this area cannot withstand the economic stress and pull this will cause if the battle of Sardis Lake water rights is won by Oklahoma City. Could you imagine what would happen if in your hometown where all your memories and family traditions were made lost 90% of its main economic supporter. I would like to leave you with this today: put yourself in their shoes. What would you do, and how would you deal with it?

If OKC wins this battle of Sardis' water rights, the lake will dry up and the towns of Yanush and Clayton will likely blow away.



LEGISLATION

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move Oklahoma’s water into Texas, and a stream adjudication filed by the state that threaten the personal property rights of thousands of Oklahomans: these all triggered one or more of the many water bills filed this past session.

Several were showcased in February’s *Oklahoma Water Issues* because ORWP felt those particular bills gave hope to our members. But some hopes soon dried up as only a handful of those bills were even heard in committee, and even fewer gained any legislative traction at all. Some of these bills — such as the Regional Water Groups and conservation, reuse and recycling bills — evolved from

state water plan priorities along with recommendations by Oklahoma citizens. Still others, like moves to amend stream adjudication statutes as well as those governing out of state water sales, were reactions to threats against private property rights and the very future of Oklahoma’s water. While much of the water legislation that did pass applies to priority recommendations from the 2012 state water

plan, there is still no legislative protection of Oklahoma’s recreational waters, there are still questions about the lack of adequate stream monitoring in Southeast Oklahoma, and there is still no representation for Southeast Oklahoma on the state water board. Below is a recap of what survived, what disappeared, what evolved and what may be seen again in 2013.

HB 2202 Amending stream adjudication



This bill by Rep. Ed Cannaday (D-Porum) was crafted to amend current stream adjudication statutes, setting certain conditions to be met before an incursion into property owners’ rights results when the OWRB files suit under the existing language. The bill was never heard in committee.

Current stream adjudication law (82 Okla. Stat. § 105.6) allows the OWRB to file a suit on behalf of the state to determine *all* rights to the use of water in a stream system. By law, the cost of such a suit, including costs of the state, falls on the parties to the action. So, by filing such stream adjudication, the state water board would be reaching into the pockets and spending the money of those persons who have or claim to have water rights in the affected stream system. Those with water permits or riparian rights would have to pay to prove they have what they have had for years, often for a lifetime. Those with water rights also have no say in whether or not they wish to be sued. HB 2201 would have set the following conditions to be met before the state could file such a suit:

- ◆ The OWRB must provide notice to all persons in every county where a stream may exist and explain to all such persons the reasons for this suit;
- ◆ Consider impacts to the natural resources of the area and groundwater flows;
- ◆ Hold a public hearing and allow a reasonable period of public comment, and fully and adequately respond to all comments received;
- ◆ If a majority of persons claiming a right to use water in a stream system under consideration for stream adjudication object to this action by the Board, the Board shall be prohibited from initiating the suit. In addition, the Board’s authority would be restricted to only one defined stream system at one time.

“I’m not sure why the House leadership chose not to hear HB 2202,” said Rep. Cannaday. “I was told by Chairman Rep. Phil Richardson that he would rather wait for such legislation until the litigation between the state and the Chickasaw and Choctaw Nations was resolved.

“The weakness of this argument is that the duration of this litigation may exceed any of our possible terms in the legislature. “In addition, my disagreement with his ruling rests on the fact that the language of Title 82 Section 105.6 concerning stream adjudication is too vague and does not protect property owners with existing or potential riparian or appropriated water rights from ill advised lawsuits to which they will not only become litigants, but will also have to share all subsequent costs. “If HB 2202 had been heard and passed into statute, it would have provided needed structure for the current or future litigation. For this reason, I will pursue the language of HB 2202 during the 54th Legislative Session.” The Attorney General’s office has publicly stated it will try to get legislation passed to change the part of the stream adjudication statute that requires landowners being sued by the state to bear the state’s costs in the lawsuit. Perhaps the AG’s office will sponsor Rep. Cannaday’s legislation?

Regional water groups



HB 2914 by Reps. Brian Renegar (D-McAlester) and Phil Richardson (R-Minco) set up guidelines and procedures for establishing regional water planning groups in Oklahoma. This evolved into SB1327, which passed through the House, made it to Senate Conference Committee, but was never heard there. Many states surrounding Oklahoma have established Regional Water Planning Groups that provided bottom up water planning. The citizens and leaders in these states have long recognized that water regions are vastly different,

both in water demands and water supply. Those states’ officials and citizens learned water planning that places some control of local water issues in the hands of locals works well. Creating Regional Water Planning Groups was supported by the OWRB and was a priority recommendation of the 2012 update to the state water plan. “I would say that is the people’s recommendation in the water plan, more than anything,” said OWRB Executive Director J.D. Strong. “Because that wasn’t necessarily the brain child

of the water board. That was the recommendation that more participants in the water plan wanted more than anything else.” And yet the bill did not pass. “SB1327 was stymied during the last two weeks because of a series of unfortunate events,” explained Rep. Brian Renegar. “First, the Speaker’s Conservation bill, HB3055, was killed in the Senate due to a bad oil and gas amendment added by Sen. Fields. Speaker Steele asked me to convince Sen. Ellis and other Senate Democrats to reconsider the bill. I agreed to

get the Democrats on board, but only if Speaker Steele would tell Pro-Tempore Bingham that the Regional Water Bill was one of *his* signature bills; Speaker Steele agreed to do this if we saved his conservation bill."

The conservation bill was saved, Renegar said, but then

came the tax cut bill that the Governor, Speaker and Senate Pro Tempore had agreed on. "But the Speaker didn't get his membership to go along with the tax bill. At the last minute, House Leadership came up with another bill, and the Senate got infuriated that the House Repub-

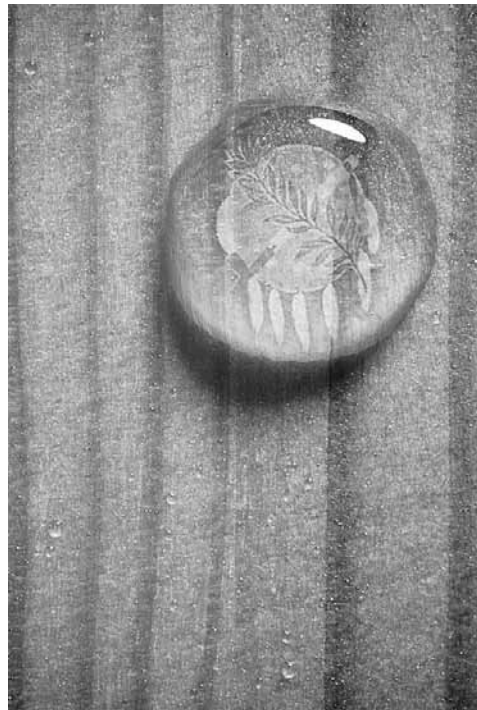
licans reneged on their agreed upon tax bill. Needless to say, the Speaker and the Pro Tempore were not on speaking terms the last eight days of session, which killed any chance of the Senate passing the Regional Water Group Bill."

"Looking back, as much as I

would have loved to see Regional Water Group legislation passed, an income tax-cut bill would have been devastating to the State of Oklahoma," said Renegar. "I've been asked about the plan for next session and the chances of a Regional Water Group Bill; that totally depends

on the new Speaker, T.W. Shannon. I may need some help from Oklahomans for Responsible Water Policy as well as the Oklahoma Water Resources Board. Wow! I said that all in one sentence, but that just shows you politics sometimes make strange bedfellows!"

HB 3055 Water conservation, efficiency, recycling and reuse



HB 3055 by Speaker Kris Steele (R-Shawnee) and Sen. Eddie Fields (R-Wynona) passed and was signed into law by Gov. Fallin.

Known as the Water for 2060 Act, it establishes a goal for Oklahoma to use no more fresh water in 2060 than is used today. It also creates a 15-member Advisory Council appointed by the Governor, House Speaker and Senate President Pro Tempore to make recommendations to the Governor and legislature on water conservation practices and incentives to assist in achieving this goal.

Various advisory council appointees will be well-versed in specific areas — municipal, rural residential, and agriculture water uses, as well as water-efficiency

practices and technologies; recreation, industrial, oil and gas, and irrigation water uses, as well as water and wastewater reuse practices and technologies; and soil conservation, small business, and environmental water interests, as well as marginal quality and brackish water use practices and technologies. Each of the five congressional districts will be represented by appointees of both the Speaker and the Senate President Pro Tempore.

The Advisory Council will:

- ◆ Recommend incentives to encourage improved irrigation and farming techniques, more efficient infrastructure, use of water recycling/reuse

systems, promotion of "smart" irrigation techniques, control of invasive species, artificial recharge of aquifers, and increased use of marginal quality and brackish waters;

- ◆ Make recommendations regarding the expansion of education programs that modify and improve consumer water-use habits; and

- ◆ Enhance existing, or develop new, financial assistance programs that encourage Oklahoma water systems to implement leak detection and repair programs that result in reduced loss and waste of water, as well as encourage consolidation and regionalization of smaller systems in order to utilize limited resources most efficiently.

Other water legislation that did pass

HJR1085, Rep. Richardson/Sen. Brian Crain (R-Tulsa)

This is a water infrastructure financing resolution. The state water plan identified \$82 Billion in Oklahoma's water and wastewater infrastructure financing needs over the next 50 years. Currently, the OWRB finances most of the water infrastructure in Oklahoma; projections show without this measure, the OWRB would only be able to finance 5-10% of infrastructure projected for the next 50 years. This resolution, scheduled for the November general election, will ask Oklahomans to vote on a measure creating the Credit Enhancement Reserve Fund to allow OWRB to increase the leveraging capacity for the Financial Assistance Program.

HB2835, Rep. Scott Martin (R-Norman)/Sen. Bryce Marlatt (R-Woodward)

This gray water bill allows for the use of up to 250 gallons per day of private, residential gray water for household gardening, composting or landscape irrigation without a permit from the Oklahoma Department of Environmental Quality.

SB1043, Sen. Marlatt/Rep. Martin

This water reuse bill requires the DEQ to convene a working group to explore opportunities for water reuse. The group is to include members representing municipalities, consulting engineers, technical experts, and the general public. No later than July 1, 2013, the DEQ will announce rules for water reuse.

HB 2552 The People's Water Act

This bill by Rep. Eric Proctor (D-Tulsa) and Sen. Jerry Ellis (D-Valliant) would have placed the decision to sell water out-of-state in the hands of Oklahoma voters. The bill was never heard in committee.

"Our bill would take the power from politicians, lobbyists and special interest groups and give

the choice to the people of Oklahoma," said Rep. Proctor. "If the state legislators make a decision on water, the people would have to give their okay as well. Oklahoma's water policy should be made by Oklahomans, not by federal courts or lobbyists and definitely not by the State of Texas."

"It's a shame the bill was never heard," said Sen. Ellis. "I think it is a slap in the face to democracy to not allow the people to have a voice in an issue that is so important as keeping our water in Oklahoma. With a super majority in the government, with one party running things, they could have made it happen."



POSITION

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2010, Oklahoma City and the Oklahoma Water Resources Board contracted for the transfer of almost 90% of the water from Sardis Lake to Oklahoma City — a transfer which could effectively destroy the local environment and economy. Federal litigation is already on the table regarding water rights in Southeastern Oklahoma.

Water is the critical ingredient to sustainable development. ORWP recognizes the necessity of prudent and reasonable water policy; as such, it is ORWP's mission to preserve and protect economic, agricultural, environmental and other local beneficial uses of all of Oklahoma's pristine

water resources. By joining together, ORWP seeks to protect Oklahoma's invaluable water resources.

The attempt to move water from Sardis has been both reckless and rushed. The parties to this plan willfully ignored pleas for completion of comprehensive, scientifically based studies to determine what impact moving such vast quantities of water from the basin of origin would have on the area.

In two years, ORWP has grown to more than 12,000 members, indicating just how important water is to fellow Oklahomans. ORWP embraces the task at hand and urges all citizens concerned with protecting Oklahoma's pristine water resources to join our organization.

It is our position that:

Basin of origin protection must be put into Oklahoma law. Interbasin transfers are all too often the first considered solution to water shortages, whether those shortages are perceived or real. Interbasin transfers are damaging, not only to the donor basin, but to the receiving basin as well. They come with significant social, economic and environmental costs, and promote unwise and unsustainable urban and irrigation development.

The receiving basin is lulled into a false sense of security. It continues to grow based on the resources of other areas, rather than turning to water conservation, reuse and recycling to properly manage demand. The donor basin is robbed of much needed assets, and there are a host of adverse impacts that cannot be foreseen. A Texas Tech Law Review of that state's famous water legislation, SB 1, pointed out that when water is transferred from a basin, so goes economic development, growth, tourism and recreation, and the donor basin is left with environmental degradation. HB 1483 safeguards Oklahoma's

waters by placing strong restrictions on moving it *out of state*. Our legislators can use the powerful language of HB 1483 to create similar restrictions on moving water *around* the state.

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ORWP is calling for recognition and legislative protection of non-consumptive water use. 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.

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But law must be upheld by science. Oklahomans for Responsible Water Policy is calling for peer-reviewed scientific water studies. We believe the Oklahoma Comprehensive Water Plan is *invalid* and that its studies cannot be used to determine any availability of excess or surplus water, nor can these studies be used to justify any current or future transfer of water from one basin in Oklahoma to another.

♦ **Reliable economic studies:** projections of population growth and future economic development in Southeast Oklahoma are not accurately portrayed by the state water plan. If Oklahoma is to become strong, viable, and sustainable, then Southeast Oklahoma (and other areas of the state) must be allowed to develop to its fullest capacity with the resources that have been entrusted to them. Southeast Oklahoma has the assets and resources needed for viable economic development.

- ✓ It has the water needed to drive businesses and grow communities and land available at a reasonable price
- ✓ It is in close proximity to the Arkansas Waterways and to major highways for import and export
- ✓ It is centrally located and has a mild climate
- ✓ It has an available workforce
- ✓ It has a thriving tourism industry

♦ **We call for the current and future use of Southeast Oklahoma water to first unfold in Southeast Oklahoma.**

♦ **Instream flow studies must finally happen:** Work groups and study panels must evolve into actual scientific studies of the waters of Southeast Oklahoma, waters that for decades have been repeatedly targeted for moving, or even selling. In-stream or environmental flow studies determine minimum flows needed not only to protect non-consumptive water uses and private property rights, but also to protect rural, municipal, industrial, agricultural and energy uses.

♦ **Study what OKC actually has and really needs:** Oklahoma City currently uses approximately 120,000 acre feet of water per year. And yet it holds permits for more than 200,000 acre feet of water per year. In addition, it has applied for 136,000 acre feet of water per year from Sardis Lake. We are calling for *proper* studies to accurately assess current and future water needs of Oklahoma City. After stringent conservation policies are developed and implemented to manage its demand, proper studies are needed to accurately assess current and future water needs as they relate to sup-

ply, especially in the larger cities.

♦ **Regional Water Planning Groups must be established.** Involving local water suppliers and water users in the development of strategies to meet their own current and future water needs was the No. 1 request Oklahomans presented to state water planners. 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. Approximately 65% of other states — including the adjoining states of Colorado, Texas and Kansas — incorporate regional planning groups into their own water planning process.

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Finally, we believe the dispute over Sardis Lake is between the Choctaw and Chickasaw Nations and the State. Oklahoma City should not be part of this decision. What should be decided are the Nations' rights, the State's rights, and the rights of the citizens of Oklahoma. No one city should have a say in how this dispute is resolved.

