Restricting Groundwater Rights?
By Mike Langston

Groundwater, in Oklahoma, is a property right. If you own the land, you own the water under it. But the state has the right to limit how much you can take out of the ground. Why would the state restrict access to your property? Because, unlike some other land-based resources, water is mobile. It can move from under my land to under your land. If I pump a lot of water from under my land, water under your adjacent land may flow toward my well.

In an effort to protect the water rights of some, the Oklahoma Water Resources Board, recently passed a rule that would reduce water allocations from one aquifer in the state by 90%. This has many landowners in the area upset and others celebrating.

The aquifer in question is the Arbuckle-Simpson in south-central Oklahoma. It has been designated a sole-source aquifer, meaning it supplies more than 50% of the drinking water for the municipalities overlying it, and so, is given greater protections.

The Water Board allocates water through permits. If you want to use water for something other than domestic uses, you must obtain a permit. For groundwater, the Water Board issues temporary permits to all applicants until the aquifer being tapped has been studied. For these unstudied aquifers, the default allowable withdrawal is two acre feet of water for every surface acre owned per year.

Once the aquifer has been studied, the Water Board can determine what the maximum annual yield should be. In the case of the Arbuckle-Simpson, the legislature’s mandate to the Water Board was to determine “the amount that would not significantly alter the natural flow of the area’s springs and streams.”

After a five year study, the Board determined that the maximum annual yield should be set at 0.2 acre feet. This significant reduction has some landowners upset enough that they have filed a lawsuit asking the court to change it. But several of the area cities including Ada and Tishomingo say they are in favor of the restrictions even though it means they will have to acquire additional land in order to access the water they need. For them it is a matter of ensuring that the aquifer and the springs and streams it supplies, last forever.

Unfortunately, considering the history of similar law suits, it may be the court case that seemingly lasts forever.