

Panhandle Rancher Says Water Rules Impinge On His Rights

By David Bowser

No man is an island,

Entire of itself.

Each is a piece of the continent,

A part of the main.

If a clod be washed away by the sea,

Europe is the less.

As well as if a promontory were.

As well as if a manner of thine own

Or of thine friend's were.

Each man's death diminishes me,

For I am involved in mankind.

Therefore, send not to know

For whom the bell tolls,

It tolls for thee.

— John Donne, English poet, 1624

CANADIAN, Texas — George Arrington thinks the bell is tolling for him and his fellow landowners here in Hemphill County of the Texas Panhandle, but some of his friends are pulling on the ropes to those bells.

Most of Arrington's career has been in oil and natural gas, but the issue today is water and the control the local groundwater district has over it.

Having spent more than 50 years in the oil business, Arrington has made and lost fortunes in the oil fields of Oklahoma and Texas.

In the 1980s, he saw his \$250,000 monthly income drop to zero when a major oil company refused to honor a “take or pay” contract. A regional bank foreclosed on 175 properties that he held, but he was able to hold onto the ranch where his grandfather, G.W. "Cap" Arrington, settled after coming to the Panhandle as a Texas Ranger in the Frontier Battalion in the 1870s.

"Grandfather Arrington came up here as a captain in the Texas Rangers," Arrington says.

Cap Arrington went on to become the first sheriff of Wheeler County, which then covered about half of the Panhandle.

"I have a great deal of respect for what Grandfather Arrington did in that era," Arrington says. "He did what he thought under the circumstances was right. That's what I'm trying to do here. It's what I think is right under the circumstances."

After a career in law enforcement, Cap Arrington was hired to liquidate a ranch for an English family. He ended up buying part of it, along with some of the cattle and the Rocking Chair brand.

George Arrington's roots run deep here. A former mayor of Canadian, he says he still believes in honesty and fair play.

"I'm pretty open with people," Arrington says. "As long as people are telling the truth and as long as people are not taking things out of context. As long as people are saying things based on fact, I pretty much have no problem whether people like to hear it or don't like to hear it."

After college, Arrington spent 10 years with a major oil company.

"I have worked since 1957," Arrington says. "I started in Chicago with an oil company, went to Gary, Indiana in a training program, to Oklahoma City and then to Bartlesville."

It was while he was working for the oil company that he went to night school to earn a law degree.

Arrington worked two years as an earnings analyst in Bartlesville because he'd earned his bachelor's degree at the University of Oklahoma with a major in finance and a minor in business law.

"I was then asked to go to New York," Arrington says.

But he turned that down and went into exploration instead.

"I primarily worked as a landman for a major oil company," Arrington says, "and I was active, particularly in Western Oklahoma and the Texas Panhandle."

He says he enjoyed his work, but he resigned in 1967 to return to Canadian and the family ranch. Still, he remained active in the oil patch.

"I wanted the opportunity to be an independent," Arrington says, "so I've been an independent all these years."

In the 1990s, the county where his ranch is located formed a single-county groundwater district, the Hemphill County Underground Water Conservation District.

Arrington says that almost from the beginning there was a sense that they would limit the pumping of groundwater.

In the last six months, the Hemphill County groundwater district proposed keeping 80 percent of the water in the Ogallala Aquifer beneath the county in storage for the next 50 years, making only 20 percent available for pumping.

The problem, Arrington says, is that the surrounding counties are in other water districts, and those districts allow pumping of up to 50 percent of the water from the same aquifer. That leaves Arrington and any other landowners in the county at a disadvantage.

"I sold my water rights to Mesa Water," Arrington says, "but I was paid for half of the water rights because I had the possibility of getting paid more."

His agreement with Mesa is that if they sell the water, Arrington is to be paid for the water he still owns whatever Mesa gets paid for the water they bought from Arrington.

He says the offer from Mesa was that they would buy Arrington's water for \$450 an acre as long as Arrington has the ability to pump the substantial equivalent amount of water of neighboring counties.

"Two weeks before that offer expired," Arrington says, "I called each member of the board and said, 'There's obviously a difference of opinion here. I think what's going on is an infringement on property rights. I think it's unfair. I don't think it's right. I think it's wrong.'"

He says he wanted to sit down personally with each member of the board and visit with them. Arrington says he thought they could talk through the problems as friends.

"We don't need the lawyers," he says. "We don't need lawsuits. We need to sit down and work through the logic of this."

He says he felt that maybe there was something the board members knew that he didn't.

"That being the case," he says, "I wanted to know what it is."

Arrington says several of the board members wouldn't return his calls. A couple of them were short with him, he says. One of them started screaming at him.

With the offer from Mesa due to expire within 10 days, Arrington says, one of the board members said he was too busy to talk, and he'd get back to Arrington in a couple of weeks.

Arrington says he's really having difficulty not becoming adversarial over the water issue in Hemphill County.

He says there are people who don't like Mesa, but he says Mesa has been fair and honest with him.

"They have done everything that they have told me they'd do."

He says he faces a situation similar to that of Boone Pickens a decade ago when the Canadian River Municipal Water Authority began buying up water rights in Roberts County near Pickens' ranch.

If Pickens didn't do something, the water beneath his ranch would be drained.

That's when Pickens formed Mesa and began buying up water rights.

"If he didn't do something with his water," Arrington says, "people were going to start taking it from him."

The Canadian River Municipal Water Authority now has well fields in Roberts County and is using the groundwater there to supply its 11 member cities along a 300-mile pipeline.

"For the life of me," Arrington says, "I do not see what's different between taking water from the Ogallala in the well field in Roberts County to Pampa, Amarillo, Plainview, Lubbock down as far south as Tahoka."

Arrington says he doesn't see anything different from selling water to those cities than to fellow Texans in Dallas or San Antonio.

"I am totally in favor of conservation," he says. "I'm in favor of reasonable conservation as long as you don't discriminate, but this discrimination business is just totally unfair."

By selling water rights, Arrington says he was able to pay the ranch off. It is a story similar to that of a number of ranchers in Roberts County.

"I paid it off out of ranch assets," Arrington says, "because the surface owner owns the water."

He says for years he's had to rob Peter to pay Paul.

"I had to take money out of the oil operation to make the payment on the ranch."

He says his major concern is property rights. He became upset when the Hemphill County groundwater district board began passing rules that he felt threatened his property rights.

"I've tried as hard as I can to not let this get on a personal basis," he says, "but to keep it focused on the merits of the situation."

He says the people on the water board were all friends of his.

"I don't know if I should say 'were' or 'are,'" Arrington says. "I want to get along with them."

He says he attends church with several of them at the First Presbyterian Church in Canadian every Sunday morning.

"Sometimes, as hard as I try to keep this on the merit of the situation, when I know that the actions they're taking are presently costing me a million dollars, it really concerns me," Arrington says. "It's not about whether I've got money or whether I don't have money."

He says that if the Hemphill County groundwater district takes actions that affect him, those actions also affect every landowner in the county.

Ultimately, he says, their actions are causing him not to have the right to do what he wants with his property.

"It's not a money issue," he says, "as much as property rights, although a property rights issue equates to a money issue."

He says it's not a life or death matter, but it does worry him.

"I want to be treated like everyone else."

He says the actions the groundwater board is taking mean that his neighbors across the county line in Roberts County can use 50 percent of his water in 50 years, but Arrington can use only 20 percent of his water.

"That means that they're going to drain me," Arrington says. "If all of us are going to take water, they're going to drain my land."

If that rule applies to the whole county, he says, it means that the whole county is going to get drained.

"This is real similar in my opinion to oil and gas."

If there is a pool of oil in a given geographic structure and one person owns half the land over the pool and another person owns the other half, the person who drills and pumps the oil will drain the whole pool, including the part beneath his neighbor's land.

The only legal remedy the other landowner has is to drill an offsetting well and pump the oil from beneath his land.

But Arrington says he can't do that with the water because the Hemphill County Underground Water Conservation District rules are not equitable.

The rules of the Hemphill County district, he says, limit his pumping while the rules across the county line in the Panhandle Groundwater Conservation District allow more production.

"If I were on this board and if I were voting for these rules or in a district that's voting for these rules," Arrington says, "I'd be scared to death that somebody was going to hold me personally accountable."

He says the idea of suing a political entity where part of his tax money would go to pay for the defense against his lawsuit doesn't appeal to him.

Arrington says that when he was mayor of Canadian and on the city council, he sat down and worked through problems and complaints by local citizens.

"What I always wanted when I was mayor," he says, "was to do something that was best for all of the people in Hemphill County. Not special interest groups. Not church groups. But something that was best for all of us."

He says the current situation breaks his heart.

"I really thought that when they passed these rules," Arrington says, "it would not be discriminatory, that it would be similar to what's on the other side of the fence."

He owns property in Hemphill County along the Roberts County line. The ranchers across the fence from him, some of whom have sold water rights to Mesa, will be allowed to pump more water than Arrington can under the Hemphill County groundwater district rules, he says.

"I probably would never have sold water rights if other people had not been doing it."

Arrington says he's tired of trying to talk to the members of the Hemphill County Underground Water Conservation District board.

"I'm going to try to handle it through the legislature," he says, "or through the courts. I'm wasting my time going up there."