

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

December 14, 2004

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Ervin Mitchell at 9:30 a.m., on December 14, 2004, in the meeting room of the Oklahoma Water Resources Board, located in offices of the OWRB at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma. The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof.

A. Invocation

Member Harry Currie gave the invocation.

B. Roll Call

Board Members Present

Ervin Mitchell, Chairman
Lonnie Farmer, Vice Chairman
Bill Secrest, Secretary
Harry Currie
Rudy Herrmann
Jack Keeley
Richard Sevenoaks

Board Members Absent

Mark Nichols

Staff Members Present

Duane A. Smith, Executive Director
Dean Couch, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Jim Schuelein, Chief, Administrative Services Division
Mike Mathis, Chief, Planning and Management Division
Derek Smithee, Water Quality Programs Division
Mary Lane Schooley, Executive Secretary

Others Present

Tamara Brown, Stillwater, OK
Shawn Geurin, City of Ardmore, OK
Bill Hathaway, City of Ardmore, OK
Marcy Alexander, Stillwater, OK
Steven Jolly, Arbuckle Master Conservancy District, Davis, OK
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK
Steve Rhines, Samuel Roberts Noble Foundation, Ardmore, OK
Barbara Albritton, Osage County RWD #21, Tulsa, OK
Charles Swinton, BancFirst, Oklahoma City, OK
Jerry Taylor, Harrah, OK
Deena Suddath, BancFirst, Oklahoma City, OK
Allan Brooks, Fagin Firm, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Mitchell stated the draft minutes of the November 9, 2004, Regular Meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were changes.

Mr. Sevenoaks moved to approve the minutes of the November 9, 2004 Regular Meeting, and Mr. Farmer seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Nichols

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, said he had been invited to speak to several groups as they are formulating their policies for the upcoming legislative session. He had met with the Oklahoma Municipal League, and the Farmers Union, and spoke to a group at Oklahoma State University. He said he is summarizing three of the Board's priority programs: the Comprehensive Water Plan, the funding for the Financial Assistance Program, and the Arbuckle-Simpson study. He said there are other priority programs that are related to those three main priorities, but these are the three he is speaking about to groups. Encompassed within the Comprehensive Water Plan are all of the high priority items contained within the agency's strategic plan, i.e. special studies at Lugert-Altus, Lake Wister, Grand Lake, Lake Thunderbird, etc.

Mr. Smith stated the Academy for State Goals met in October and met with the Governor on December 13. Member Rudy Herrmann had attended the meeting, and said there were five priority recommendations by the Academy, and one of which regarded the State of Oklahoma maintaining a long-range sustainability plan, and water is a critical part of that plan. He said Governor Henry had specifically asked about water development, and that he had responded that the Water Plan is a subset and model for a sustainability plan for the state. The Governor was very supportive of a statewide water plan and recognized the need and importance to plan for those needs on a long-term basis. He said he encouraged the state to look at a plan for 50-100 years, and that was so noted by the group. He said there is legislative support; however,

the question is the source of funding. He said he sensed a strong support level from the Governor.

Mr. Smith addressed the funding aspect of water planning saying the Higher Education bond issue is one of the funding mechanisms for the water plan and the Financial Assistance Program funding. He was encouraged by the support expressed by the Governor, legislators and the Academy, and he is optimistic that the effort will be fruitful this coming year.

Mr. Smith spoke to the members about the Governor's request to the State Auditor to conduct an audit of state vehicles, and the results have been published in the newspaper. He reviewed the audit, and the OWRB's use of vehicle policy. He said the OWRB had already conducted a review of vehicle use several months prior, and found some conclusions very similar to the State Auditor's conclusions in that some vehicles were underutilized, etc. The agency has formed a sort of "motor pool" for the full use of the vehicles and proper maintenance; there are thirty-two vehicles with six targeted for surplus. Several years ago the agency established a policy to surplus vehicles when they reached 80,000 miles, and the State Auditor's review recommended between 60,000-120,000 miles. He noted that there are no OWRB employees who are assigned vehicles to take home, and there are special vehicles purchased by the agency primarily in the Water Quality division to pull the large utility boats used for sampling, but primarily the agency has field vehicles. He said that the State Auditor recommended that if a vehicle is not driven at least 9,000 miles it should be leased; the OWRB has three vehicles that were driven less than 9,000 miles but the average is over 20,000 miles. He also said that he strongly discouraged employees being reimbursed for mileage on use of personal vehicles; last year the state reimbursed state employees \$14.3 million, the OWRB reimbursed employees \$1,066.00. Mr. Smith stated the agency has taken the audit, and use of its vehicles, very seriously and he invited the members to visit with him if there are questions. He added, in response to a comment by Chairman Mitchell, that last year all OWRB employees took a driving safety training course, and he is unaware of any speeding tickets by OWRB employees in OWRB vehicles; there have been a couple of minor accidents which were not the result of the employee's driving.

Mr. Smith noted he would be visiting with the Chickasaw Nation in Ada on December 15 to assist in their production of a video on the Arbuckle-Simpson Aquifer. He added that he is very pleased with the work that is being conducted on the aquifer. He said Mr. Clayton Jack, a local rancher, has been added as liaison to the ranchers in the area. Mr. Dick Scalf has acted as a liaison to the cities and citizen groups, and Mr. Jack will be an important aspect to the technical working group. As a preliminary report, Mr. Smith stated the USGS's model indicates that less than two acre-feet of pumping is necessary to sustain the flow of the streams.

Mr. Smith concluded his report. Mr. Herrmann stated the Board would be invited to the summit sponsored by the State Academy on January 4 at the Governor's Mansion to present its recommendations to legislators and others.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water District #21, Osage County, Oklahoma. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the Osage County Rural Water District #21 had made a request for a \$1,075,000.00 from the Board's revenue bond program. The District is requesting the loan to refinance five outstanding loans with Rural Development in the amount of approximately \$790,000.00, and \$166,000.00 in loan proceeds for water rights. Mr. Freeman noted provisions of the loan agreement, and said that the District was created in

1979 as "OK Rural Water" and converted to RWD #21 in August of 2002. It is estimated that the District's debt-coverage ratio will be approximately 1.65, and the District will save approximately \$80,000.00 in interest by borrowing from the Board. Staff recommended approval of the loan request.

Ms. Barbara Albritton of the Indian Nations Council of State Governments; Mike Brown, engineer, and the District's bond counsel were present in support of the application.

Mr. Sevenoaks asked what source is the District's water rights; Mr. Freeman answered the District is working with the U.S. Army Corps of Engineers for water use from Kaw Reservoir.

Mr. Herrmann moved to approve the loan application by the Osage County Rural Water District #21, and Mr. Keeley seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell

NAY: None

ABSTAIN: None

ABSENT: Nichols

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Ardmore Public Works Authority. Recommended for Approval. Mr. Freeman stated to the members that the Ardmore PWA had made a request for a \$2,042,000.00 Drinking Water SRF program loan. The loan will be used to fund engineering work related to a \$22 million water improvement project. He said the proposed construction project is for upgrading Ardmore's water treatment plant, construct approximately 10.5 miles of 12-inch water distribution main, construct 2.7 miles of 16" main, build a two-million gallon elevated water storage tower, construct three miles of raw water transmission line and construct 2.5 miles of 24-inch distribution line. Mr. Freeman noted provisions of the loan agreement, and added that Ardmore's debt-service ratio stands at 1.36-times and will save approximately \$200,000.00 in interest on this loan by borrowing from the Board. He said this is the first in what he expected to be over \$40 million in financing that will be provided to Ardmore in the near future for improvements to its water and wastewater system. Staff recommended approval of the loan request.

Mr. Shawn Geurin, Utilities Director, and Mr. Bill Hathaway were present in support of the application.

Mr. Herrmann asked about the debt-service ratio once the \$40 million project has been completed, and Mr. Freeman responded the analysis included an estimate of rate increases for seven years in the long-term financial plan.

Mr. Farmer moved to approve the loan to the Ardmore PWA, and Mr. Keeley seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell

NAY: None

ABSTAIN: None

ABSENT: Nichols

C. Consideration of and Possible Action on a Proposed Order Approving Loan for Stillwater Utilities Authority, Payne County. Recommended for Approval. Mr. Freeman stated the Stillwater Utilities Authority requested a loan in the amount of \$7,630,000.00. The loan was originally approved by the Board in August 2004 to be funded from the Clean Water SRF proceeds from the FAP loan program. He said it is now more appropriate for Stillwater to fund the loan from the Board's approximately \$200 million Clean Water and Drinking Water SRF bond issue, closed in October 2004. The loan is to refinance a portion of an interim construction loan that Stillwater obtained from the Board in September 2001. The construction loan was for a major upgrade and expansion of the wastewater treatment plant. Mr. Freeman noted provisions of the loan agreement, and noted Stillwater's debt coverage ratio at 3.8-times.

Stillwater will save approximately \$1.2 million on this loan by borrowing from the Board. Staff recommended approval of the loan request.

Ms. Marcy Alexander, City Clerk; Ms. Tammie Brown, City Accountant; and representatives of the financial advisors were present in support of the loan request.

Mr. Herrmann moved to approve the loan to the Stillwater Utilities Authority, and Mr. Secrest seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Nichols

D. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Funds for Harrah Public Works Authority, Oklahoma County. Recommended for Approval. Mr. Freeman stated the request for an increase in funds is the result of construction bids being higher than originally expected. The loan proceeds are upgrading Harrah's wastewater treatment plant to a one million gallon per day capacity. Mr. Freeman noted provisions of the loan agreement; he said it is estimated that Harrah will save approximately \$475,000.00 in interest by borrowing from the Board. Staff recommended approval.

Mr. Jerry Taylor, City Manager, and Mr. Paul Hodge, financial advisor, were present in support of the loan increase request.

Mr. Currie noted that the increase in funds was more than 10% and he asked if there were additions to the project. Mr. Taylor responded additions were made to the project in order to comply with requirements for the sludge management aspect of the project. Mr. Herrmann asked about the debt-coverage ratio; Mr. Freeman responded it is 2.5-times. Mr. Currie also asked the population growth in the area and Mr. Taylor responded there had been an increase of growth at a rate of 144% over the past twenty years.

Mr. Secrest moved to approve the request for increase in obligation of funds to the Harrah Public Works Authority, and Mr. Currie seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Nichols

Mr. Freeman reminded the Audit Committee members that a meeting would be held following the Board meeting today. He said the results of the Committee's review of the audit would be brought to the full Board at a later time.

3. SUMMARY DISPOSITION AGENDA

Chairman Mitchell stated that any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board's staff, or any other person attending this meeting, be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items.

There were no requests to transfer items to the Special Consideration Agenda; however, Mr. Mike Mathis, Chief of the Planning and Management Division, asked that item 3.E.3., permit #2004-581 for Dolese Brothers Company, be withdrawn from the Board's consideration due to a publication error.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items and Approval of Items 3.C. through 3.N.

There were no other questions pertaining to items on the Summary Disposition Agenda. Mr. Sevenoaks moved to approve the Summary Disposition Agenda as amended, and Mr. Keeley seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell
 NAY: None
 ABSTAIN: None
 ABSENT: Nichols

The following items were approved:

C. Consideration of Approval of the Following Applications for REAP Grants in Accordance with the Proposed Orders Approving the Grants:

<u>REAP Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
COEDD				
1.	FAP-04-0005-R	Rural Water District #1	Okfuskee	\$88,000.00
NODA				
2.	FAP-04-0058-R	Rural Water, Sewer & Solid Waste Management District #4	Noble	39,999.00
SODA				
3.	FAP-04-0068-R	Town of Stonewall	Pontotoc	99,863.20
4.	FAP-04-0045-R	Wapanucka Public Works Authority	Johnston	59,000.00

D. Contract and Agreements Recommended for Approval

1. Consideration of Extension and Amendment Agreement with the Indian Nations Council of Governments for Water Quality Study of Polecat Creek.
2. Consideration of Joint Funding Agreement with the U. S. Geological Survey for Streamflow Monitoring in the Little Washita River Basin.
3. Consideration of Joint Funding Agreement with the U. S. Geological Survey for Continuation of Work on the Arbuckle-Simpson Aquifer Project.
4. Consideration of Interagency Agreement with the Office of the Secretary of Environment for Revision of Oklahoma's Water Quality Standards and Associated Implementation Documents.
5. Consideration of Contract with the University of Oklahoma College of Continuing Education to Host a Workshop for Floodplain Managers.

6. Consideration of Renewal Agreement with AES Shady Point, Inc. for Poultry Burn Pilot Project.
- E. Applications for Temporary Permits to Use Groundwater:
1. Krehbiel Properties, L.L.C., Caddo County, #1998-544
 2. David J. & Sandi G. Horinek, Kay County, #2001-521
 3. *Dolese Bros. Co., Canadian County, #2004-581* *item withdrawn*
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. Deep Fork Farm, L.L.C., Oklahoma County, #2003-574
- G. Applications for Regular Permits to Use Groundwater:
1. John D. Groendyke, Garfield County, #2004-565
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Charles V. & Amelia Keahey, Beckham County, #2001-535
- I. Applications for Regular Permits to Use Stream Water:
1. Edgar Leon Wilson, Nowata County, #2004-021
 2. Shady Grove RWD #5, McIntosh County, #2004-027
 3. Meridian Aggregates Company, L.P., Johnston County, #2004-033
- J. Applications for Term Permits to Use Stream Water:
1. Irene Yates, Jackson County, #2004-022
- K. Proposed Order for Informal Disposition by Default for Administrative Reductions and Cancellations of Rights to Use Stream Water:
1. Elmer Harrison, Roger Mills County, #1939-003
 2. Elise I. Stephens, Roger Mills County, #1952-586
 3. Glenna Belle Crane, Roger Mills County, #1953-490
 4. Burl Timms, Roger Mills County, #1955-1149
 5. Russell Calvert, Roger Mills County, #1958-089
 6. Burl Timms, Roger Mills County, #1958-127
 7. Luther C. Smith, Roger Mills County, #1960-091
 8. Jeff Prestridge, Roger Mills County, #1962-017
 9. James W. Chalfant, Roger Mills County, #1962-036
 10. Allie Smith, Roger Mills County, #1963-113
 11. Eddie Barnard, Roger Mills County, #1991-061
- L. Well Driller and Pump Installer Licensing:
- New Operators and/or Activities for Existing Licenses:
- | | | |
|----|-----------------------------------------------------------------|----------|
| 1. | Licensee: Nelson Pump Company | DPC-0146 |
| | Operator: Kelli M. Nelson | OP-1419 |
| | Activities: Groundwater wells, test holes and observation wells | |
| 2. | Licensee: Burton Drilling, L.L.C. | DPC-0029 |
| | Operator: Dash A. Burton | OP-1421 |
| | Activities: Groundwater wells, test holes and observation wells | |
| | Monitoring wells and geotechnical borings | |
| | Pump installation | |
| | Heat exchange wells | |

M. Dam and Reservoir Plans and Specifications:
None

N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

1. Oklahoma Department of Transportation, McCurtain County, FP-04-11
2. Oklahoma Department of Transportation, Choctaw County, FP-04-12
3. Oklahoma Department of Transportation, Kay County, FP-04-13
4. Oklahoma Department of Transportation, Lincoln County, FP-04-14

4. QUESTIONS AND DISCUSSION ABOUT AGENCY WORK AND OTHER ITEMS OF INTEREST.

There were no items presented to the Board.

5. SPECIAL CONSIDERATION

For INDIVIDUAL PROCEEDINGS, a majority of a quorum of Board members, in a recorded vote, may call for closed deliberations for the purpose of engaging in formal deliberations leading to an intermediate or final decision in an individual proceeding under the legal authority of the Oklahoma Open Meeting Act, 25 O.S. 2001, Section 307 (B)(8) and the Administrative Procedures Act, 75 O.S. 2001, Section 309 and following.

A majority vote of a quorum of Board members present, in a recorded vote, may authorize an executive session for the purposes of CONFIDENTIAL COMMUNICATIONS between the public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct the pending investigation, litigation, or proceeding in the public interest, under the legal authority of the Oklahoma Open Meetings Act, 25 O.S. 2001, Section 307(B)(4).

A. Application for Regular Permit to Use Groundwater No. 2004-550, Samuel Roberts Noble Foundation, Inc., Carter County.

1. Summary – Mr. Mike Mathis, Division Chief, stated to the members that the Samuel Noble Roberts Foundation made application to withdraw 145 acre-feet of groundwater per year for irrigation of 145 acres. The water is proposed to be withdrawn from two wells located on 145 acres of dedicated land in Carter County. He said the land overlies the Washita River Reach 4 Groundwater Basin for which the maximum annual yield and equal proportionate share has been determined by Board order, and each landowner is entitled to one acre-foot of water per acre of land. Mr. Mathis stated the wells would be constructed by a Board-licensed well driller in compliance with the Board's regulations.

Mr. Mathis said the protestants were concerned with drawdown in this area; however, the protestant's wells were located more than 1/4 mile away, and therefore well spacing does not apply. Likewise, another protestant was concerned about drawdown on any proposed well

he may want to drill in the future, but OWRB rules allow for exception location provisions which may apply. He said that the application was determined to be in compliance with Oklahoma Groundwater law, and staff recommended approval.

2. Discussion and presentation by parties. Mr. Steve Rhines, representing the applicant, stated to the members his appreciation of staff's assistance and the Board's consideration of the application.

There were no representatives of the protestants in attendance.

3. Possible executive session. The Board did not vote to enter executive session.

4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Mr. Farmer moved to approve regular groundwater permit #2004-550, and Mr. Herrmann seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell

NAY: None

ABSTAIN: None

ABSENT: Nichols

B. In the Matter of Stream Water Rights Nos. 1962-058, Gordon Thomas, 1964-372, O.F. Bailey; and 1989-061, Amos Dovell, Roger Mills County:

1. Summary – Mr. Mathis stated to the members that consideration of the proposed orders before the Board for this item is for the cancellations and reduction of stream water rights in Roger Mills County. He said the plaintiffs were notified of the proposed reduction or cancellation of their stream water right due to nonuse, but plaintiffs did not appear at the hearing. Written responses were received and considered by the hearing examiner; however, none of the reasons provided in the letters were sufficient causes to deny the action. Staff recommended approval of the proposed orders to reduce or cancel the stream water right.

2. Discussion and presentation by parties. There were no representatives of the protestants in attendance.

3. Possible executive session. The Board did not vote to enter executive session.

4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Chairman Mitchell explained the Board's rules for considering reductions and cancellations. Mr. Mathis stated the permit holders are afforded every opportunity to submit information to maintain their water right. In this case, that kind of information was not received. Mr. Currie asked if there was an automatic system to alert staff when it is time to review a right; Mr. Mathis answered that the annual water use reporting system is a staff-intensive activity which reviews the rights, and 300-500 of these matters are handled each year. Mr. Herrmann noted these cases were all located in Roger Mills County and he asked if the permits were being reviewed on a county-by-county basis. Mr. Mathis responded the permits are reviewed by stream system, as a basin approach and are prioritized by areas that are fully appropriated and where there could be demand for other users.

Mr. Currie moved to approve the proposed orders to cancel or reduce the stream water rights, and Mr. Herrmann seconded.

AYE: Currie, Farmer, Herrmann, Keeley, Secrest, Sevenoaks, Mitchell

NAY: None

ABSTAIN: None

ABSENT: Nichols

C. Consideration of items transferred from the Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Jim Schuelein, Chief, Administrative Services Division, began his report saying he had provided the monthly-to-budget actual report for expenditures and the agency is operating well within the limits set by the Legislature and the Governor. He noted the professional services category appeared rather large; however, the new PeopleSoft software did not recognize the object code that is used to support the Office of Secretary of Environment, so all those funds are reflected under "professional services." He said the agency is operating in the black. Mr. Herrmann asked about the software's performance. There were no other questions from the Board members.

Mr. Smith commented the House of Representatives would begin budget meetings with the agencies in January, prior to convening the regular session in February.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

There were no Supplemental Agenda items for the Board's consideration.

8. NEW BUSINESS

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda.

There were no New Business items for the Board's consideration. However, the members and Mr. Smith briefly discussed the membership of the House of Representatives and Senate Appropriations Committee Chairs, the effectiveness of Board members meeting with legislators, the possibility of a legislative reception or some contact with the members, the status of the vacancy on the Board, funding for the comprehensive water plan, non-point source project funding, and an update on the loan to the Tourism and Recreation Department project at Western Hills and Lake Texoma.

9. ADJOURNMENT

There being no further business, Chairman Mitchell adjourned the regular meeting of the Oklahoma Water Resources Board at 10:37 a.m. on Tuesday, December 14, 2004.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Ervin Mitchell, Chairman

_____/s/_____
Lonnie Farmer, Vice Chairman

_____/s/_____
Harry Currie

_____/Absent_____
Rudolf J. Herrmann

_____/s/_____
Jack W. Keeley

_____/s/_____
Jess Mark Nichols

_____/s/_____
Richard Sevenoaks

(Vacant)

ATTEST:

_____/s/_____
Bill Secret, Secretary

(SEAL)