

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

March 14, 2006

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:30 a.m., on March 14, 2006, in the Board Room of the Oklahoma Water Resources Board offices, 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. The agenda was posted on March 7, 2006, at 5:00 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

Chairman Herrmann asked for a moment of silence in recognition of citizens in the west dealing with the risk and consequences of wildfires, and citizens in the east dealing with the aftermath of tornados.

B. Roll Call

Board Members Present

Rudy Herrmann, Chairman
Mark Nichols, Vice Chairman
Bill Secrest, Secretary
Lonnie Farmer
Ed Fite
Jack Keeley
Kenneth Knowles
Richard Sevenoaks

Board Members Absent

Harry Currie

Staff Members Present

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

Others Present

Ron Cooke, Save Our Water Lake Eufaula, Oklahoma City, OK
Lawrence Edmison, Sierra Club, Norman, OK
Bob Wade, City of Noble, OK
Harold Foster, Save Our Water Lake Eufaula, Eufaula, OK
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
Nate Ellis, Fagin Firm, Oklahoma City, OK
Paul Hodge, Municipal Finance Service, Noble, OK
Bud Ground, Public Service Company of Oklahoma, Oklahoma City, OK
Robert M. Jones, Capitol West, Oklahoma City, OK
Chris Cochran, Capitol West, Oklahoma City, OK
Wendy Wipperman, Standard and Poor's, Dallas , TX
Barbara Bailey, Bank of Oklahoma, Oklahoma City, OK
Greg Swartz, Piper Jaffray, Phoenix, AZ
Robert Singletary, Office of the Attorney General, Oklahoma City, OK
Paula Buchwald, RWC, Oklahoma City, OK
Cheryl Dorrance, Oklahoma Municipal Utility Power/Oklahoma Municipal League,
Oklahoma City, OK
Paula K. Jones, POLA, Edmond, OK
Debi Poe, BankFirst, Oklahoma City, OK
Deena Suddath, BankFirst, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Herrmann stated the draft minutes of the February 14, 2006, Regular Meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were changes.

There were no amendments to the minutes as proposed, and Mr. Nichols moved to approve the minutes of the February 14, 2006, Regular Meeting, and Mr. Secrest seconded.

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

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane A. Smith, Executive Director, greeted the members and said it is a busy time, and there is a live bill authored by Senator Corn and Rep. Roggow that deals with the Gross Production Tax Revenue with a proposal to split the revenues one-third to the OWRB for Comprehensive Water Plan funding and capitalization of the financial assistance statewide water development revolving fund, one-third to the Department of Tourism, and one-third to the Conservation Commission, also raising the cap. He said he is very hopeful at this time.

Mr. Mike Melton distributed the legislative summary report and reviewed the existing measures that affect the OWRB and other bills of interest to the agency.

Following the report, Mr. Smith introduced persons in the audience and approved his appreciation for their support of the financial assistance programs and the comprehensive water plan: Cheryl Dorrance with the Oklahoma Municipal League; Gene Whatley with the Oklahoma Rural Water Association; Bud Ground with the Environmental Federation of Oklahoma; Angie Burckhalter with the Oklahoma Independent Petroleum Association; Marla Peek with the Oklahoma Farm Bureau; as well as Capitol West and the Fagin Firm, and Rick Smith of Municipal Finance Services.

Mr. Smith named the many special activity days at the Capitol, and the OWRB has had a presence to promote awareness of water issues. April 19 is "Water Day" sponsored by the OWRB, and several activities are planned along with booths of state and federal agencies and other organizations, along with a proposed breakfast, meetings with legislators, press conference and the Board meeting is scheduled at 1:30 p.m. in the Governor's Large Conference Room.

The Red River Compact Commission is scheduled for April 12-13, 2006 in Hot Springs, AR. The issues center around Lugert-Altus Reservoir and the potential for Texas to build a reservoir, and rules of Lake Texoma. Development in Texas and the reallocation of water supply from Lake Texoma--150,000 acre-feet to each state—and the need for Texas to begin using that amount, there have not been rules promulgated so each state is working on getting that done. The Western States Water Council meets in Washington, D.C. March 26-29, Mr. Smith will attend and also make congressional visits. The Oklahoma Rural Water Association annual meeting and banquet is April 18-19, 2006 at the Clarion in Oklahoma City.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Noble Utilities Authority, Cleveland County. Recommended for Approval. Mr. Freeman said this first item is for the consideration of a \$2,540,000.00 loan request by the Noble Utilities Authority. He said the loan is requested to refinance a portion of the 1997 Revenue Bond Issue. The original plan was for the construction of an 840 gpm lift station, 14,000 feet of 12" force main and expansion of the Authority's Northside Wastewater Treatment Plant. Mr. Freeman said the loan will be funded through the Clean Water SRF Small Community Loan fund, and he noted the provisions of the loan agreement. Noble's water and sewer connections have increased in excess of 20% over the past ten years, and there is a population of 5,000 today. Noble's debt ratio index stands at 2.4-times, and it is estimated the Authority will save approximately \$304,000.00 by borrowing through the Board. Staff recommended approval.

Mr. Bob Waite, City Manager, and Mr. Rick Smith and Mr. Paul Hodge, Municipal Finance Services, were present in support of the loan application.

Mr. Farmer moved to approve the loan to the Noble Utilities Authority, and Mr. Knowles seconded.

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

B. Consideration of and Possible Action on a Proposed Resolution Directing Development of Various Policies and Procedures for the Financial Assistance Division of the Oklahoma Water Resources Board. Recommended for Approval. Mr. Freeman stated the proposed resolution directs staff to develop comprehensive policies and procedures for the Financial Assistance

Division, which will be developed with the assistance of the financial advisor firm of Piper Jaffray. He said the policies would be developed around the categories of project finance, debt management, fiscal management, and investment management. The resolution directs that the Board's Finance Committee review and approve the policies regarding project finance, debt management and investment management, and the Audit Committee review and approve policies regarding fiscal management. In addition to developing the policies and procedures, staff will be working with Piper Jaffray to enhance the Board's cash flow model. The development of comprehensive financial policies and procedures has been a goal for the division for the past 10-15 years and has been strongly encouraged by the Board's Audit Committee. Staff recommended approval of the resolution.

Mr. Secrest moved to approve the resolution, and Mr. Nichols seconded.

AYE: Farmer, Fite, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Currie

C. Consideration of and Possible Action on a Proposed Resolution Authorizing Staff to Request Proposals for Services as an Arbitrage Rebate Consultant in Connection with the Board's State Loan Program, Clean Water State Revolving Fund Loan Program, and Drinking Water State Revolving Fund Loan Program. Recommended for Approval. Mr. Freeman explained to the members that the services and arbitrage calculation consultant are necessary in order for the Board to comply with provisions of the Internal Revenue Code that regulate the Board's tax-exempt bonds. Unless the arbitrage calculations are done properly, the Board would be unable to comply with the IRS Code and the bonds could be declared taxable. Staff will be distributing requests for proposals very shortly and will have a recommendation for the Board's consideration at the May Board meeting.

Mr. Nichols moved to approve the resolution authorizing staff to request proposals for arbitrage calculation consultant services, and Mr. Sevenoaks seconded.

AYE: Farmer, Fite, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Currie

D. Presentation of Standard and Poor's Credit Rating Analysis of the Oklahoma Water Resources Board's Outstanding Debt Obligations. Mr. Freeman introduced Ms. Wendy Whipperman with Standard and Poor's Rating Services who visited with the Board about its outstanding debt obligations. Ms. Whipperman is Associate Director of Public Finance Rating Group in S&P's Dallas office, having joined the firm in 1998, and specializes in general government, utility, and other revenue secured bond rating.

Ms. Whipperman presented her annual report to the members and distributed the "Master Trust" report on the Drinking and Clean Water revolving fund revenue bonds now assigned a AAA rating, the highest possible rating the program can achieve. Ms. Whipperman also reported on the financial assistance program's credit analysis on the state loan program that has received an AA+ rating from S&P.

Details of the report can be found in two publications distributed by Ms. Whipperman.

3. SUMMARY DISPOSITION AGENDA

Chairman Herrmann 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.

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.O.

Mr. Mike Mathis, Planning and Management Division, requested the Board withdraw consideration of agenda item E.1., application for temporary groundwater permit by the City of Edmond. There were no other requests for changes, and Chairman Herrmann entertained a motion to approve the Summary Disposition Agenda.

Mr. Keeley moved to approve the Summary Disposition Agenda as amended, and Mr. Knowles seconded.

AYE: Farmer, Fite, Keeley, Knowles, Nichols, Secrest, Sevenoaks,
Herrmann

NAY: None

ABSTAIN: Fite on item J.2.

ABSENT: Currie

The following items were approved:

C. Consideration of and Possible Action on the Following Application for REAP Grant in Accordance with the Proposed Order Approving the Grant. Recommended for Approval.

<u>REAP Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
KEDDO 1.	FAP-04-0020-R	Rural Water & Sewer District #15	Pittsburg	\$133,000.00

D. Consideration of and Possible Action on Contracts and Agreements, Recommended for Approval:

1. Master Agreement for Products and Services with Black Box Network Services for On-Site and Remote Phone System Maintenance.
2. Amendment of Joint Funding Agreement between the Oklahoma Water Resources Board and the U.S. Geological Survey Modifying Scope of Monitoring and Decreasing Funds for Water Resources Cooperative Program.

E. Applications for Temporary Permits to Use Groundwater:

- 1. *City of Edmond, Oklahoma County, #2005-573* *Item added; then withdrawn*

- F. Applications to Amend Temporary Permits to Use Groundwater:
None
- G. Applications for Regular Permits to Use Groundwater:
None
- H. Applications to Amend Regular Permits to Use Groundwater:
None
- I. Applications to Amend Prior Rights to Use Groundwater:
None
- J. Applications for Regular Permits to Use Stream Water:
1. Two-Rivers Organic Ranch, L.P., Bryan County, #2005-023
 2. Charles Pearson, Muskogee County, #2005-027
 3. The Brock Robert Karges Revocable Trust, Cleveland and Pottawatomie Counties, #2006-001
- K. Applications to Amend Regular Permits to Use Stream Water:
None
- L. Well Driller and Pump Installer Licensing:
1. New Licenses, Accompanying Operator Certificates and Activities:
 - a. Licensee: Leonard Water Services DPC-0710
 1. Operator: Scott W. Stone OP-1481
 - Activities: Groundwater wells, groundwater test holes and observation wells
Pump installation
 - b. Licensee: Neal Combs DPC-0712
 - a. Operator: Neal Combs OP1482
 - Activities: Groundwater wells, groundwater test holes and Observation wells
Pump installation
 2. New Operators and/or Activities for Existing Licenses:
 - a. Licensee: Hedrick Water Well Drilling DPC-0096
 1. Operator: Mickey Hedrick OP-0137
 - Activities: Pump installation
 2. Operator: Chad Hedrick DPC-0096
 - Activities: Pump installation OP-1478
 - b. Licensee: Vannoy and Son Drilling DPC-0213
 1. Operator: Joseph Vannoy OP-1475
 - Activities: Groundwater wells, test holes and Observation wells
Pump installation
 2. Operator: Anthony L. Santiago DPC-0213
 - Pump installation OP-1476
 - c. Licensee: Lehl & Son Water Well Drilling DPC-0124
 1. Operator: Brian Parker OP-1474
 - Activities: Groundwater wells, test holes and observation wells
Pump installation

- | | | |
|--------------|---|----------|
| d. Licensee: | Roy's Water Well Service | DPC-0170 |
| 1. Operator: | Jason Roy Hartley | OP-1477 |
| Activities: | Groundwater wells, test holes and observation wells
Pump installation
Heat exchange wells | |
| e. Licensee: | Pump & Supply, L.L.C. | DPC-0337 |
| 1. Operator: | Jason Stephens | OP-1479 |
| Activities: | Pump installation | |
| f. Licensee: | Oklahoma Environmental, Inc. | DPC-0363 |
| 1. Operator: | Eric R. Shire | OP-1480 |
| Activities: | Monitoring wells and geotechnical borings | |
| g. Licensee: | Cherokee America Drilling | DPC-0060 |
| 1. Operator: | Dwayne Beavers | OP-1483 |
| Activities: | Monitoring wells and geotechnical borings | |

M. Dam and Reservoir Plans and Specifications:

1. USDA – NRCS and Deer Creek Conservation District, Cobb Creek Site 52, Washita County.

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

1. Oklahoma Department of Transportation, Wagoner County, FP-05-11

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the March 14, 2006 packet of Board materials

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

No items.

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 Temporary Permit to Use Groundwater No. 2005-555, Earl and Sandra L. Ingram, Hughes County.

1. Summary – Mr. Mike Mathis, Chief, Planning and Management Division, stated to the members that this application by Earl and Sandra Ingram requests a temporary permit to withdraw a total of 320 acre-feet of groundwater per year for sale to a rural water district. The water is proposed to be withdrawn from one well located on 160 acres of dedicated land overlying the Calvin Sandstone groundwater basin Hughes County. A basin study has not been conducted, therefore, each landowner is entitled to two acres of water per acre of land dedicated.

Mr. Mathis stated the applicants would be working with Rural Water District #3 in Hughes County that desires to purchase water to supplement the existing water supply provided to approximately 300-400 rural resident customers. The District will be responsible for installation of the pipeline and maintaining the water system and will have to meet the requirements of the Oklahoma Department of Environmental Quality for public water supply.

Mr. Mathis stated there were two protestants; one was an individual domestic user, and the other a school in that area, and both using groundwater from wells in the area. The protestants were concerned about potential depletion and impacts to their wells. Both wells are located over 2,000 feet from the applicant's proposed well location and from evaluation of the evidence in the record, and situation of the pumping in the location it was determined there would not be a significant impact whatsoever.

The record showed the application to be in accordance with Oklahoma Groundwater Law, and staff recommended approval of the application.

2. Discussion and presentation by parties. Neither the applicant nor the protestants were present.

3. 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. Fite moved to approve temporary groundwater permit number 2005-555, and Mr. Knowles seconded.

AYE: Farmer, Fite, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Currie

B. 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. Monte Boyce, OWRB Comptroller, addressed the members and presented the budget report reflecting agency operations ending February 29, 2006. He said the agency had completed 67% of the fiscal year, and extended and obligated 76% of the budget and collected 63% of the budget. Mr. Boyce noted the federal fund category indicates that collections are low due to transitions in personnel.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

There were no Supplemental Agenda items for the Board consideration.

8. Presentation and Consideration of Proposed OWRB Permanent Rules

Chairman Herrmann stated this item is for the final consideration of the proposed rules for the OWRB permanent rules that have previously been presented to the Board. Mr. Smith added this is a lengthy process that is directed by the Administrative Procedures Act. Informal meeting and public hearings have been conducted, comments received, all presented to the Board for review and discussion. Mr. Smith suggested that each item be considered and voted on separately.

A. Proposed Amendments to Chapter 1 – Organization and Procedures of the OWRB. Mr. Smith stated the draft proposal regarded the filing of complaints with the Board. He said if there were no comments, staff recommended approval.

There were no comments by the public on proposed amendments to Chapter 1.

Mr. Fite moved to approve the amendments to OWRB Chapter 1 Rules and Regulations, and Mr. Nichols seconded.

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

B. Proposed Amendments to Chapter 4 – Rules of Practice and Hearing. Mr. Smith stated the rules are proposed to affect clean up in the hearing process, and all comments received on the proposals were positive. Staff recommended approval.

There were no comments by the public on proposed amendments to Chapter 4.

Mr. Knowles moved to approve the proposed amendment to OWRB Chapter 4 Rules and Regulations, and Mr. Farmer seconded.

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

C. Proposed Amendment to Chapter 5 – Fees. Mr. Smith said the recommendation to the Board has not changed; the proposal is for a \$100 per permit, or vested right, fee that caps at \$500. He said that in discussions at the Capitol and with groups and Board members, there is concern about the entire burden of the water rights program being on the shoulder of the permit holder. There is thought that every Oklahoman has an interest in a good water management plan/system, and not just those who have permits to use it: domestic users that do not have permits, individual landowners that may not have a permit but benefit from recreation or other environmental benefit—all have an interest and should pay to some degree the cost to administer the water rights program. He reminded that the proposals instruct that if the Legislature appropriates funding, the fee will be withdrawn. He said there are organizations that opposed the fee but support the program and want it funded and are actively going to the Capitol and talking to legislators about funding the program. He said in fact no one supports the fee, including the staff and Board, and have taken pride about not having to raise fees since

1995. He said some comments have been the fees should have been raised incrementally over the years, rather than instituting a large increase this year.

Marla Peek, Oklahoma Farm Bureau, stated to the Board members the OFB is certainly supportive of the OWRB programs and would like to see funding from the Legislature but does not support a fee increase because it falls unfairly on the Agriculture industry.

Chairman Herrmann reminded Ms. Peek the language is included to withdraw the fee increase if there is funding from the Legislature. She said she appreciated that, and believed the funding is needed from the Legislature on an annual basis.

Howard Ground, Public Service Company of Oklahoma, addressed the Board and stated that as an industry user of water, the concern is what is a reasonable fee. At this time, he said he did not object to the fee increase and believed the Board is only asking for what is needed, and he is in support.

There were no other comments by the public; however, Mr. Smith explained the process about how the proposal was presented as \$100, amended to cap at \$500, and the members have commented that perhaps only a part of the funding burden should be on the permit holders.

Chairman Herrmann asked for a motion for discussion. Mr. Sevenoaks moved to approve the proposed fee increase as presented for OWRB Chapter 4 Rules and Regulations. Mr. Nichols seconded. Chairman Herrmann invited discussion for alternative proposals by the members.

Mr. Nichols stated in view of the \$500 cap, what effect would that have on the funding level needed. Mr. Smith answered that some permittees, as an example, Hitch Ranch in the Panhandle, holds multiple permits that have been filed under the names of different legal entities and it is staff's view each entity would have a separate cap; cities may be in a similar situation, staff has attempted to estimate what the cap would mean, and that would be about 1,000 permits that would have the cap.

Mr. Knowles stated he had concerns about the \$100 fee and playing catch up now, but would support one-half that amount. He said the citizens in his area are irrigators and support the OWRB, but not the \$100 fee.

After some discussion about procedure, Mr. Knowles moved to amend the motion to reduce the fee increase to \$50.00, with the cap remaining at \$500.00. Mr. Nichols seconded.

Mr. Knowles added he preferred funding by the Legislature, but would go half way. Mr. Sevenoaks commented that fee increases don't often pass through the Legislature, and he said if this is the best opportunity for an increase, and it is reduced, there won't be much of an opportunity to raise it again in the future, and ideally to be reviewed on a regular basis is best, but not likely. Chairman Herrmann asked Mr. Smith to talk about the revenue that could be realized by the fee increase. Mr. Smith explained that \$50.00 would realize approximately \$550,000, and \$100 would realize \$1.1 million, and he has spoken with the legislators that there are additional administrative fees for example for those people who don't pay their fees etc., which is the cost of business. Mr. Nichols asked and Mr. Smith responded the rules will go to the Legislature, and will go to the Rules Committee.

Chairman Herrmann repeated the amendment to the motion reducing the proposed fee from \$100 to \$50, and he asked for further comment. Mr. Keeley said while painful, he agreed it is time to get it done. Chairman Herrmann called for the vote on the amendment.

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

The vote is a tie, in which case, the amendment to the motion failed.

Chairman Herrmann stated the original motion is on the table to approve the proposed \$100 fee. He asked for any further discussion; seeing none, he called for the vote.

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

Mr. Sevenoaks stated he appreciated the comments by the members and their position on the fee increase. Chairman Herrmann stated that the problem is when an increase is delayed for a 5-10 years, then an increase becomes unbearable, and he advised small increases incrementally in the future.

D. Proposed Amendment to Chapter 20 – Appropriation and Use of Stream Water. Mr. Mike Mathis, Chief, Planning and Management Division, stated the proposed changes are to incorporate the changes in the water rights administration fee approved under Chapter 4. Staff recommended approval.

There were no comments by the public.

Mr. Fite moved to approve the amendments to OWRB Chapter 20 Rules and Regulations, and Mr. Keeley seconded.

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

E. Proposed Amendment to Chapter 30 –Taking and Use of Groundwater. Mr. Mathis stated the proposed changes are to incorporate the changes in the water right administration fee approved under Chapter 4. Staff recommended approval.

There were no comments by the public.

Mr. Fite moved to approve the amendments to OWRB Chapter 30 Rules and Regulations, and Mr. Keeley seconded.

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

F. Proposed Amendments to Chapter 35 – Well Driller and Pump Installers Licensing. Mr. Mathis stated the staff worked with the Well Drillers Advisory Council on needs for updates in the rules. He said that since the original proposal, there had been one small change regarding heat exchange wells, on page eight adding a provision that those wells must have grouting procedures completed, if groundwater is encountered within 24 hours, but if there is no groundwater, site work can be completed and grouting finished within 72 hours, allowing flexibility doing business on the site. Staff recommended approval.

There were no comments by the public.

Mr. Smith introduced Mr. Kent Wilkins, program director for the OWRB Well Drillers programs.

Mr. Fite moved to approve the amendments to OWRB Chapter 35 Rules and Regulations, and Mr. Knowles seconded.

AYE: Farmer, Fite, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann
NAY: None

ABSTAIN: None
ABSENT: Currie

G. Proposed Amendments to Chapter 50 – Financial Assistance. Mr. Freeman stated to the members that the proposed amendments to Chapter 50 are as presented last month, and no comments have been received. Staff recommended approval.

There were no comments by the public.

Mr. Nichols moved to approve the amendments to OWRB Chapter 50 Rules and Regulations, and Mr. Fite seconded.

AYE: Farmer, Fite, Keeley, Knowles, Nichols, Secret, Sevenoaks, Herrmann
NAY: None
ABSTAIN: None
ABSENT: Currie

Chairman Herrmann thanked the public for their involvement in the rules amendment process, and complimented staff.

10. 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.

Mr. Sevenoaks asked about the status of the Shipley complaint. Mr. Smith responded he had asked the participants of the technical committee he assembled to work on the complaint of the unplugged bore holes to provide a cost for their time and participation. He said he had received that information and intended to ask the applicant to reimburse those costs. Mr. Shipley wanted all the attorney fees and costs to the protestant to be paid as well. Mr. Smith said he spoke with Mr. Shipley and indicated it was for the technical team, and he then made a request to talk to the Board. Mr. Smith said he is collecting information for the complaint and that is outside the hearing process. Mr. Sevenoaks asked if the complaint had been brought to a conclusion, and Mr. Smith answered it had and there is a technical report from the committee describing the plugging procedures on the wells that were located, and also recommends a monitoring plan for ground and surface water as an early indicator if any contamination were to happen. The team's conclusion was the wells were at a low probability for contamination and so no further investigation is necessary, the monitoring is plan adequate, and the complaint is resolved.

Mr. Couch stated that to the extent that any of the matters resolving the complaint are separate and apart from the ongoing outstanding and pending application for a permit to use groundwater and those matters may be presented, he cautioned the Board for obtaining and reviewing those items in advance.

Mr. Keeley asked the status of the hearing and Mr. Smith said there were still several days scheduled. Mr. Couch cautioned speaking of the specifics as the hearing is ongoing and those matters will be processed by the hearing examiner.

Mr. Sevenoaks asked about the emails that are received by members. Mr. Couch responded under the Administrative Procedures Act the members are acting as a judge and specifies there should be no ex parte communication by any of the parties and the judges, and that includes the hearing examiner and the process that is ongoing now, and overall, all the parties are required to be provided a fair and impartial hearing. He said to the extent it is

reviewed and considered and discussed with other people about these matters that are presented through that process, fairness and impartiality can be questioned.

Mr. Smith reminded the members they are not to speak to anyone about matters under hearing, but rules, for instance, can be discussed with anyone.

Chairman Herrmann reminded the members the April meeting will be held in conjunction with Water Day at the Capitol on April 19.

11. ADJOURNMENT

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 10:50 a.m. on March 14, 2006.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Rudolf J. Herrmann, Chairman

_____/s/_____
Jess Mark Nichols, Vice Chairman

_____/s/_____
Lonnie Farmer

_____/s/_____
Jack W. Keeley

_____/s/_____
Harry Currie

_____/s/_____
Richard Sevenoaks

_____/s/_____
Edward H. Fite

_____/s/_____
Kenneth K. Knowles

ATTEST:

____ Absent _____
Bill Secrest, Secretary

(SEAL)