

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
February 16, 2016

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Linda Lambert at 1:40 p.m., on February 16, 2016, in the second floor meeting room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, OK.

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 February 11, 2016, at 3:30 p.m. at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, and provided on the agency's website.

Chairman Lambert welcomed everyone to the meeting, and asked for the roll call of members.

A. Roll Call

Board Members Present

Linda Lambert, Chairman
Stephen Allen
Tom Buchanan
Bob Drake
Ed Fite

Board Members Absent

Ford Drummond, Vice Chairman
Jason Hitch, Secretary
Marilyn Feaver
Richard Sevenoaks

Staff Members Present

J.D. Strong, Executive Director
Rob Singletary, General Counsel
Amanda Storck, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Julie Cunningham, Chief, Planning and Management Division
Derek Smithee, Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

Others Present

Crysta Watson, Pittsburg County Rural Water District #14, McAlester, OK
Dale Burke, Pittsburg County Rural Water District #14, McAlester, OK
William Janacek, Midwest City, OK
Robert Goodman, Okmulgee County Rural Water District #5, Dustin, OK
James Mankin, Okmulgee County Rural Water District #5, Weleetka, OK

Randy Worden, Central Oklahoma Master Conservancy District, Norman, OK
Andy Bower, Waynoka, OK
Krystina Phillips, Ada, OK
Kim L. Peterson, City of Guymon, OK
Mike Mathis, Continental Resources, Inc., Oklahoma City, OK
Kelly Schwarz, Arledge and Associates, Edmond, OK
Sue Ann Nicely, Oklahoma Municipal League, Oklahoma City, OK
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK
Russ Doughty, Oklahomans for Responsible Water Policy, Clayton, OK
Chuck Hutchinson, Oklahomans for Responsible Water Policy, Clayton, OK
Carl Parrott, Oklahoma Department of Environmental Quality, Oklahoma City, OK

B. Discussion, Amendments, and Vote to Approve Official Minutes of the January 19, 2016, Regular Meeting.

Chairman Lambert asked if there were any corrections to the minutes of the January 19, 2016, meeting. There were none, and Mr. Buchanan moved to approve the minutes. Mr. Allen seconded.

Chairman Lambert called for the vote.

AYE: Drake, Buchanan, Allen, Fite, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drummond, Feaver, Hitch, Sevenoaks

C. Executive Director's Report

Mr. J.D. Strong, OWRB Executive Director, asked Ms. Amanda Storck, Chief of Administrative Services Division, to present the legislative report. Ms. Storck explained the new format and change of tracking service, and that the report is divided into three reports -- 17 bills are being tracked regarding water issues, 22 general government measures, and 22 budget bills being tracked. She reviewed the report and said there are no areas of significant importance at this time, some measure have been through committee, and she offered to respond to any requests for information or tracking additional bills for the members. Mr. Strong continued the state report noting the Governor's budget began with the agency taking a 6% cut and was based upon a smaller budget hole than what we may have now, plus being built upon several tax incentives and said the agency is preparing for the possibility of a 10% cut on top of the 5.5% cut current fiscal year and the 4.5% cut the previous fiscal year, in addition to the intra-year rescission at the current time due to budget failure. The State is feeling the impact of the importance of the oil and gas industry in the overall state economy and operation of state government. He said there is a stream of money which is 16-17% of the agency budget that comes from the Gross Production Tax that is subject to a sunset this year and staff is working on legislation that would extend the sunset date on the GPT funding which has been important for water plan implementation enabling staff to work through the backlog of basin studies and surface water models we need to more accurately allocate water, as well as several other activities to implement the water plan. He said at a 10% cut positions are not being filled and layoffs are anticipated; there are cuts in travel and overhead, other expenses where possible, focusing on critical activities (which has been focus the past years).

Mr. Strong reviewed the legislative report and pointed to two measures by Senator Fields: first, (SB1219) authorizing the OWRB and DEQ to implement aquifer storage and recovery (ASR) and authorizes the OWRB to promulgate rules to accept those type of project proposals, set water quality standards in groundwater. The DEQ would be largely responsible for the regulation of water quality protection in regard to these projects and would involve water quantity challenges for the OWRB, but

sets up a process for handling this type of project. Mr. Buchanan asked if other states that utilize ASR had addressed ownership, and Mr. Strong replied Texas is the best example as it also has private property ownership of groundwater, and credit is given to the amount of water that is recharged to the aquifer and loss is also figured as every drop injected cannot be recovered. Ms. Cunningham responded to Mr. Buchanan's question about Texas and other states that bank water from year to year. Mr. Strong said staff is researching other state programs but the first step is legislative authorization. Senator Fields also has a resolution from the Water for 2060 report directed at Congress that reforms the crop insurance program as it relates to the waste of water by watering crops that are not going to survive in order to prove out crop insurance purposes. The resolution asks Congress to look into the matter and see what reforms are necessary to stop the practice. He said there are bills about how SQ 777 related to the right to farm and could impact the regulation of water, and there are efforts to compromise and balance the issue. Staff will be watching the House bills and two Senate bills to ensure it does not run eschew of how the Board promulgates beneficial uses and waters of the State, at least in regard to informing the Legislature of possible results of the legislation. Chairman Lambert asked about the likelihood the sunset provisions regarding Gross Production Tax bill will pass, and Mr. Strong stated it is early in the process and he remained optimistic, although this is not a good year to be on the radar as that is a fund that could be used to balance the budget in some other direction, but staff will explain the fund's importance to water plan implementation to Legislators.

Regarding the Congressional report, there are many issues, and Mr. Strong highlighted the President's budget and a result of the Flint, Michigan fiasco there are debates regarding drinking water and reform and currently the President's budget proposes an increased in DWSRF, but at the expense of the Clean Water SRF. Waters of the US continues to be a topic, Sen. Inhofe continues work on a WRDA bill for this year as it is an election year and there are limited days in session. The White House is working on a "White House Water Summit" March 22—also World Water Day—with limited invitation and he was expecting initiatives about water efficiency and conservation—the State's Water for 2060 plan and Oasis program in financial assistance has been provided for consideration.

Mr. Strong noted meetings and events since the January Board meeting, and going forward after the February meeting, including the Illinois River Pilot Study regarding instream flow needs to protect fish and wildlife in the Upper Illinois River watershed. The study is scheduled to conclude this summer and should provide information to the OWRB for the regulatory appropriation of water. Mr. Buchanan asked if the study targets a specific fish or species, and Mr. Strong said it did not target a specific fish or species but will look at that; however, recreation is a bigger driver, and there is an economic need to protect flows for the recreational industry, and there are a number of cities that use the water for drinking water supply. Beaver-Cache continues water planning, and Mr. Strong was in Washington, D.C. regarding WRDA and budget, etc. Upcoming meetings include a Potable Water Reuse Summit/Water Reuse Workshop, Oklahoma Municipal League Water Summit Feb. 19; Mr. Strong is speaking to a Natural Resources Conference Feb 25, and the OK Water Law CLE Feb. 29; the Canadian River Compact meets March 1 in Austin; first meeting of the Water for 2060 Produced Water Working Group will meet March 3, and he'll speak to the Leadership Oklahoma March 5 in Jenks, and Tour Water4 with Governor Fallin March 8, and the next Board meeting will be March 15, at 9:30 a.m. in the OWRB offices. Mr. Strong will be attending the Western States Water Council/Interstate Council on Water Policy Washington, D.C. Roundtable March 21-24.

There were no questions, and Mr. Strong concluded his report.

D. Monthly Budget Report.

Ms. Amanda Storck presented the budget report for January 2016 stating the agency has 57% of funding available, and 42% of the fiscal year remaining. She said Mr. Strong spoke about what the agency is facing in the coming months. She said the Equalization Board will meet today and within

the week the agency will know the budget cut expected, which will be in addition to the cut already taken of 6% for the last 6 months (or 3% for the year), and she expected another cut beginning with the March allocation. The apportionment money received from the Gross Production Tax is coming in at less than one-half than previously, which at this time would already be at the full allocation. The decrease greatly affects the Planning and Management Division, and the cash reserves for studies will be used; there is also less fee money coming in as people are not asking for temporary permits for exploration; thereby, the agency is taking hits in the revolving funds, apportionment fund, and general revenue fund. Staff is working diligently to respond to the rescission cuts month by month. Ms. Storck concluded her report.

There were no questions by members, and Chairman Lambert complimented staff for working day and night to maintain the quality of work at the level of revenue, recognizing the delicate balance needed.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Rural Water District No. 14, Pittsburg County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the item is a \$55,000.00 Emergency Grant request by Pittsburg County Rural Water District No. 14. One of the District's distribution lines was washed out due to flooding last year and led to a loss of water supply to the community for nine days. The proposed project consists of boring under the creek and installing HDPE casing and carrier pipe. The estimated cost of the project is \$66,900.00 and will be funded through the OWRB Emergency Grant, and \$11,900.00 of local funds. Staff recommended approval of the emergency grant request.

Representing Pittsburg County RWD #14 was Project Engineers Dale Burke, and Krista Watts.

There were no questions by members. Mr. Fite moved to approve the Emergency Grant to Pittsburg County RWD #14, and Mr. Buchanan seconded. Chairman Lambert called for the vote.

AYE: Drake, Buchanan, Allen, Fite, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drummond, Feaver, Hitch, Sevenoaks

B. Report of the Board Audit Committee Regarding Oklahoma Water Resources Board State Loan Program Revenue Bonds and Clean Water State Revolving Fund Program (CWSRF) Financial Statements as of June 30, 2015 and 2014, Audits of the CWSRF Administrative Fund and the Drinking Water Treatment Loan Administrative Fund as of June 30, 2015 and 2014. Mr. Freeman stated this item is the report of the Audit Committee which met following the January Board meeting. Members are Committee Chairman Jason Hitch, Mr. Sevenoaks, Mr. Fite and Mr. Drummond. At its meeting, the Committee reviewed the following items: the Auditor's Management letter and discussion of the status of the Environmental Protection Agency's annual evaluation of the Board's State Revolving Fund programs, the portion of the annual State Bond Advisor's report on the Board's bonded indebtedness, reviewed the borrower's annual audited debt coverage ratio report, and discussed reports that must be filed with the National Repository, the three bond rating agencies, and with State Street Bank of Boston, the liquidity provider for the FAP loan program. Mr. Freeman said the Committee reviewed the agency's loan document exceptions report, the policies regarding and balances of debt service reserve funds, the Board's investment portfolio and standby bond purchase agreements. As the fiscal year ended June 30, 2015,

the combined loan program has total assets of approximately \$1,401,000,000.00, approximately \$2 million dollar increase over fiscal year 2014. The outstanding loan balance is approximately \$1,163,700,000.00 which is 3.1% increase over the prior fiscal year. Mr. Freeman introduced Mr. Kelly Schwarz of Arledge and Associates who reviewed the audit results with the Board.

Mr. Schwartz distributed and reviewed with the members the prepared Audit Results Summary dated June 30, 2015. He explained the scope of the engagement which included the Financial Assistance bond series program, the Clean Water (CWSRF) and Drinking Water State Revolving (DWSRF) Loan Fund, and two administrative funds associated with the CWSRF and DWSRF. There were no changes in the financial reporting requirements for FY-2015, meaning the presentation, format and accounting basis is the same as seen in prior years. Regarding the specific results of the individual audits, Mr. Schwarz stated that the bond series program received an unmodified auditor's report; the "Yellow Book" compliance report noted no laws or regulations violations and no internal control findings. The financial review highlights for the end of FY 2015 are as follows: \$325 million in assets, liabilities of \$291.5 million, net position of \$29 million. The overall income statement activity remained fairly consistent with \$11 million of interest earned, interest expense of \$10 million and operating costs consistent with the prior year of \$737,000; Gross Production Tax (GPT) money totaled \$1.3 million, \$46,000 (GPT interest) to the REAP program, leaving a net increase and overall position of \$1,334,519.

Mr. Schwarz continued his report and reviewed the Clean Water and Drinking Water Revolving Fund audits. The CWSRF received an unmodified auditor's report, the Yellow Book noted no law violations or no control findings, and the audit during 2015 also consisted of single audit addressing federal funds—Capitalization Grant for CWSRF-- for which there were no findings noted on the use of those federal dollars. Overall total assets for the program remained consistent between the two years of \$569 million, liabilities of \$225 million, and net equity of \$344 million. Overall income statement activity also remained consistent with the prior year of \$10 million in interest, \$11 million of federal grants, principal forgiveness of the grant money of \$616,000, interest expense on indebtedness at \$6.7 million, and overall net increase/decrease of \$15 million.

Mr. Schwarz noted the results of the audits on the administrative funds (interest earned on the CWSRF and DWSRF) which received an unmodified auditor's report on both entities, and Yellow Book compliance report noted no laws or regulations violations, and no internal control findings. Total assets include \$3 million, total liabilities \$282,505, for a net total position of \$2.8 million for the CWSRF; he also noted the administrative fee income of \$2.2, operating expenses of \$2 million, and overall net increase of \$181,527. For the DWSRF, total assets of \$8.6 million, total liabilities of \$121,096, and total net position of \$8.5 million; the administrative fee income of \$2.1 million, operating expenses of \$244,085, and overall net increase of \$1.9 million.

Mr. Schwarz concluded his report. There were no questions by members regarding the audit results.

Mr. Buchanan asked why the expense is higher on the Clean Water SRF than the Drinking Water SRF, and Mr. Freeman responded under the CWSRF the financial portion and engineering and environmental portion is administered by the OWRB, whereas under the DWSRF the only portion administered by the Board is the financial portion; environmental and engineering portion is administered by DEQ.

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board's staff, or any other person attending this meeting, may 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.

Chairman Lambert stated there are no requests for items to be deferred or withdrawn from the Summary Disposition Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items and Approval of Items listed.

Chairman Lambert stated if there were no questions, she would entertain a motion to approve the Summary Disposition Agenda.

Mr. Drake moved to approve the Summary Disposition Agenda, and Mr. Allen seconded. There were no questions or comments, and Chairman Lambert called for the vote.

AYE: Drake, Buchanan, Allen Fite, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drummond, Feaver, Hitch, Sevenoaks

The following items were approved:

C. Consideration of and Possible Action on Financial Assistance Division Items:

1. Rural Economic Action Plan (REAP) Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
EODD				
a.	FAP-12-0015-R	Rural Water District #5	Okmulgee	\$99,900.00
OEDA				
b.	FAP-16-0014-R	Waynoka Utilities Authority	Woods	99,900.00
SODA				
c.	FAP-14-0027-R	Lehigh Development Authority	Coal	99,999.00

D. Consideration of and Possible Action on Contracts and Agreements:

1. Professional Services Agreement with Tarigma Corporation for support service for the computer loan and grant tracking software used by the Financial Assistance Division.

2. Contract with the City of Norman for the implementation of the Lake Thunderbird TMDL Monitoring Plan through stormwater sampling, analysis and monitoring.

3. Agreement with Oklahoma Ground Water Association for the oversight of continued education of Well Drillers and Pump Installers.

E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:

1. Bryan Kroeker Revocable Trust, Major County, #2015-579

2. Jeff and Lori Cart Family Trust, Caddo County, #2015-592

3. Rustin & Sheryl Sturgeon, Alfalfa County, #2015-597

4. White Oak, L.L.C., Kingfisher County, #2015-608

F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:

1. Town of Helena, Alfalfa County, #1984-582

2. Lloyd Lynn & Gayle Elaine Bates, Caddo County, #2008-582

G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:

1. Burns Family Limited Partnership, Carter County, #2015-600
2. Hutton, Inc., Beckham County, #2015-606

H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:

1. Robinson Bros. Pork, Inc., Johnston County, #1993-552
2. Woodward County Rural Water District No. 2, Woodward County, #2000-504

I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
None

J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:

1. Louis Williams, Jr., Kingfisher County, #2015-030

K. Consideration of and Possible Action on Applications to Amend Permits to Use Stream Water:
None

L. Consideration of and Possible Action on Dam and Reservoir Construction:
None

M. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:

1. New Licenses and Operators:

None

2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:

- | | |
|---|----------|
| a. Licensee: Just Geoloops, Inc. | DPC-0963 |
| 1. Operator: Deon Sherman | OP-2131 |
| b. Licensee: Pratt Well Service, Inc. | DPC-0621 |
| 1. Operator: Mike Schmidt | OP-2142 |
| 2. Operator: Dennis Mohler | OP-2143 |
| c. Licensee: Etter Water Well Inc. | DPC-0782 |
| 1. Operator: Dale Ball | OP-1750 |
| 2. Operator: Clifford Wieck | OP-2144 |
| d. Licensee: Mclean's CP Installation, Inc. | DPC-0526 |
| 1. Operator: Timothy Riddlespurger | OP-2145 |
| e. Licensee: H & H Water Well Service | DPC-0090 |
| 1. Operator: Jason Holton | OP-2146 |
| f. Licensee: Summers' Well Drilling | DPC-0568 |
| 1. Operator: Jacob Summers | OP-1618 |
| g. Licensee: William's Drilling Co. | DPC-0229 |
| 1. Operator: Joshua Johnson | OP-2075 |
| h. Licensee: Canadian Water Well, Inc. | DPC-0705 |
| 1. Operator: Ezequiel Cervantes | OP-2147 |
| i. Licensee: B2D Enterprises | DPC-0890 |
| 1. Operator: Bobby Criswell, Jr. | OP-1817 |

N. Consideration of and Possible Action on Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

1. City of Norman Utilities Authority, Cleveland County, #FP-16-13

O. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:

1. Daniel R. Wind, Kickapoo Tribe, #FPA-662
2. Melissa D. Dennis, Pottawatomie County, #FPA-663
3. Laura L. Hendrix, City of Tulsa, #FPA-664

4. PROPOSED AMENDMENTS TO PERMANENT RULES

Chairman Lambert

A. Consideration of and Possible Action on Adoption of Rules Amendments in Chapter 45 – Oklahoma’s Water Quality Standards. Staff recommends for approval the proposed changes to OAC 785:45 listed below.

Chairman Lambert asked Mr. Smithee to present the proposals regarding Chapter 45.

1. Summary- Mr. Derek Smithee

Subchapter 1. General Provisions

785:45-1-2. Definitions [AMENDED]

Subchapter 3. Antidegradation Requirements

785:45-3-2. Applications of antidegradation policy [AMENDED]

Subchapter 5. Surface Water Quality Standards

Part 3. Beneficial Uses and Criteria to Protect Uses

785.45-5-10. Public and private water supplies [AMENDED]

785.45-5-12. Fish and wildlife propagation [AMENDED]

Part 5. Special Provisions

785:45-5-25. Implementation Policies for the Antidegradation Policy Statement [AMENDED]

Appendix A. Designated Beneficial Uses of Surface Waters [REVOKED]

Appendix A. Designated Beneficial Uses for Surface Waters [NEW]

Appendix B. Areas with Waters of Recreational and/or Ecological Significance [REVOKED]

Appendix B. Areas with Waters of Recreational and/or Ecological Significance [NEW]

Appendix E. Requirements For Development of Site-Specific Criteria For Certain Parameters [REVOKED]

Appendix E. Requirements For Development of Site-Specific Criteria For Certain Parameters [NEW]

Appendix G. Numerical Criteria To Protect Beneficial Uses. [REVOKED]

Appendix G. Numerical Criteria To Protect Beneficial Uses. [NEW]

Mr. Smithee, Chief, Water Quality Programs Division, addressed the members and stated there would be a separate vote on Chapter 45 and Chapter 46. He reminded the members the Board conducted a hearing on the proposed changes at the January meeting. Staff proposed all of the topics for review, and provided copies of all written comments; oral comments were heard at the hearing. He said regarding the proposal for sensitive water supply with reuse (SWSR) staff received several comment letters with the majority in support of the concept; however, there were concerns about individual reservoirs being taken to the category. He said the proposal does not assign sensitive water with reuse to a specific reservoir, but allows that opportunity to occur in the future on a reservoir-specific basis once it is included in Appendix A of the Water Quality Standards. Regarding aquatic life criteria, he said acute and chronic criteria has not been updated for 20-30 years and science has evolved and changed significantly since that time. Staff looked at criteria proposed by the EPA and selected that which affected Oklahoma which was recalculated and staff has made recommendations for Oklahoma-specific species. No comments were received. Regarding Appendix A, high quality water designation is proposed for Saline and Little Saline Creeks, for which the Board heard oral comments.

Appendix B amendments update the State parks, refuges and wildlife management areas as well as areas that contain federally threatened or endangered species. Mr. Smithee stated following the close of the hearing, no other comments were received in writing and staff provided a comments responsive summary to the members. Mr. Smithee stated staff recommended approval of Chapter 45 and the Water Quality Standards as submitted.

Mr. Fite moved to approve adoption of the amendments to Chapter 45, and Mr. Drake seconded.

2. Questions and Discussion by Board Members. Mr. Buchanan asked if Chapter 45 included aquatic life and Mr. Smithee answered that it did. Mr. Buchanan stated he believed in water quality, but had concern about the recommendations by the EPA and the possible financial burden to cities and towns across the state if implemented, we don't know what that number might be. He expressed concern voting positively to a rule we don't know the true cost of and could be considered an unfunded mandate—could be 1% or 20%, but we don't know. Mr. Strong responded it could be 0%; staff did not get a quantified cost estimate but reached out to DEQ on whether for entities it regulates and permits, would these particular changes cause any cost increase changes, but given the 2,500-plus permits they issue, it is difficult to quantify. Mr. Smithee said staff reviewed information from DEQ and EPA on their permitting information and looked at what municipalities and industries that had the substances in their permit and projected that if there were one of the 14 as a permit limit they would be impacted, but it is difficult to quantify to the dollar. He explained how a permit limit could be affected, and could go down, but that DEQ would need run a permit for all 2,500 point source discharges, which is a large order. Mr. Strong said the Rule Impact Statement said there are only 10% of permitted facilities that have one of these substances in their permit limit, so 90% do no. He estimated that statewide, perhaps another 20% would need to be reviewed so at most 30% might have one of these substances. Mr. Smithee added that even if it is known which discharges would be impacted, we don't know the technology they would employ to address that, and some are more expensive than others.

Mr. Fite stated that he has watched the OWRB before he was a member and when it comes to the Water Quality Standards, the agency has always gone out of its way to advertise informal hearing, and the formal process, and if someone was to come forward to argue the financial component, they would have already done so, and it needed to be passed.

3. Vote on whether to adopt recommended amendments as presented or as may be revised after discussion. Chairman Lambert asked if there were other questions or discussion by the members regarding the proposed amendments to Chapter 45, Water Quality Standards. There were none, and she called for the vote.

AYE: Drake, Allen, Fite, Lambert
NAY: Buchanan
ABSTAIN: None
ABSENT: Drummond, Feaver, Hitch, Sevenoaks

B. Consideration of and Possible Action on Adoption of Rules Amendments to Chapter 46 – Implementation of Oklahoma's Water Quality Standards. Staff recommends for approval the proposed changes to OAC 785:46 listed below.

1. Summary – Mr. Derek Smithee
Subchapter 1. General Provisions
785:46-13-1-2. Definitions [AMENDED]
Subchapter 13. Implementation of Antidegradation Policy
785:46-13-1. Applicability and scope [AMENDED]
785:46-13-4. Tier 2 protection; maintenance and protection of High Quality Waters, ~~and~~
Sensitive Water Supplies, and Sensitive Water Supply-Reuse waterbodies [AMENDED]

Mr. Smithee said Chapter 46 is the implementation of Oklahoma's Water Quality Standards to know when, where and how they are applied for issuing permits and for decision making. This revision for Chapter 46 focuses primarily on the definition regarding sensitive water supply with reuse to be consistent with implementation of SWSR. Mr. Smithee stated staff has not received any comments to alter the original proposal, and based upon the hearing and comments received, staff recommended approval.

2. Questions and Discussions by Board Members. There were no questions or discussion by Board members.

3. Vote on whether to adopt recommended amendments as presented or as may be revised after discussion. Mr. Fite moved to approve adoption of the proposed amendments to Chapter 46, and Mr. Buchanan seconded.

Chairman Lambert asked if there were questions or discussion by the members regarding the proposed amendments to Chapter 46, Water Quality Standards Implementation. There were none, and she called for the vote.

AYE: Drake, Buchanan, Allen, Fite, Lambert
NAY: None
ABSTAIN: None
ABSENT: Drummond, Feaver, Hitch, Sevenoaks

C. Consideration of and Possible Action on Adoption of Rules Amendments to Chapter 50 – Financial Assistance. Staff recommends for approval the proposed changes to OAC 785:50 listed below.

1. Summary – Mr. Joe Freeman

Subchapter 3. Project and Entities Eligible

785:50-3-1. Project eligibility [AMENDED]

Subchapter 7. Water and Sewer Program (Bond Proceed Loans and Emergency Grants) Requirements and Procedures

785:50-7-5. Emergency grant priority point system [AMENDED]

785:50-7-7. Disbursement of funds [AMENDED]

Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures

785:50-8-2. Definitions [AMENDED]

785:50-8-3. Application review and disposition [AMENDED]

785:50-8-4. Applicable law; deadline for applications; eligible project costs [AMENDED]

785:50-8-5. REAP grant priority point system [AMENDED]

785:50-8-6. Disbursement of funds [AMENDED]

Subchapter 9. Clean Water State Revolving Fund Regulations

Part 1. General Provisions

785:50-9-9. Definitions

Part 3. General Program Requirements

785:50-9-21. Eligible project [AMENDED]

785:50-9-23. Clean Water SRF Project Priority System [AMENDED]

785:50-9-24. Intended use plan [AMENDED]

785:50-9-27. Types of assistance [AMENDED]

785:50-9-30. Planning documents [AMENDED]

785:50-9-33. Application for financial assistance [AMENDED]

785:50-9-35. Loan closing [AMENDED]

785:50-9-45. Compliance with federal authorities [AMENDED]
Part 7. SRF Environmental Review Process
785:50-9-60. Requirement of environmental review [AMENDED]

Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that since the January meeting when he reviewed Chapter 50 and summarized the suggested rule amendments, staff had not received any comments, and he recommended approval of Chapter 50.

2. Questions and Discussion by Board Members. There were no questions or discussion by Board members.

3. Vote on whether to adopt recommended amendments as presented or as may be revised after discussion. Chairman Lambert called for a motion. Mr. Drake moved to approve adoption of amendments to Chapter 50, and Mr. Buchanan seconded. There being no comments or discussion, Chairman Lambert called for the vote.

AYE: Drake, Buchanan, Allen, Fite, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drummond, Feaver, Hitch, Sevenoaks

5. SPECIAL CONSIDERATION

A. No items. There were no Special Consideration items for the Board's consideration.

B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

6. PROPOSED EXECUTIVE SESSION

Chairman Lambert

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(4) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of confidential communications between a 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 a pending investigation, litigation or proceeding in the public interest.

Pursuant to this provision, the Board proposes to hold an executive session for the purpose of discussing Chickasaw Nation and Choctaw Nation v. Fallin, et al., and Oklahoma Water Resources Board v. United States on behalf of the Choctaw Nation et al.

Statement by legal counsel advising on whether disclosure of the discussion of the litigation will seriously impair the ability of the Board and State to conduct the present and proposed litigation in the public interest.

Mr. Robert Singletary, OWRB General Counsel, stated to the members that pursuant to Section 307(b)(4) of the Open Meetings Act, it is his advice as General Counsel that the disclosure of the communications and discussions proposed under agenda item 6. related to the pending litigation

referenced on the agenda, would seriously impair the ability of the Board to conduct the pending litigation in the public interest.

A. Vote on whether to hold Executive Session upon determination that disclosure of the discussion of the litigation will seriously impair the ability of the Board and State to conduct the present and proposed litigation in the public interest. Before it can be held, the Executive Session must be authorized by a majority vote of a quorum of members present and such vote must be recorded.

Chairman Lambert stated she would entertain a motion the Board move into Executive Session. Mr. Strong and General Counsel Singletary recommended the Board may move to enter Executive Session, recess until the representative of the Oklahoma Attorney General's office arrives, and then take the vote.

Mr. Buchanan moved to enter Executive Session, and Mr. Fite seconded.

Chairman Lambert said there is a motion and a second the Board enter Executive Session, and for Ms. Schooley to keep written minutes. The vote will be taken when the Attorney General Representative arrives. The Board recessed at 2:30 p.m.

Mr. Patrick Wyrick, Oklahoma Attorney General's Office, arrived and the Board voted to enter Executive Session.

AYE: Drake, Buchanan, Allen, Fite, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drummond, Feaver, Hitch, Sevenoaks

B. Designation of person to keep written minutes of Executive Session, if authorized.

Executive Secretary Mary Schooley kept written minutes of the session.

C. Executive Session, if authorized.

The Board entered Executive Session at 2:43 p.m.

Return to open meeting and possible vote or action on any matter discussed in the Executive Session.

At 3:11 p.m., Chairman Lambert stated she would entertain a motion to return to Regular Session.

Mr. Fite moved to return to Regular Session, and Mr. Drake seconded.

AYE: Drake, Buchanan, Allen, Fite, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drummond, Feaver, Hitch, Sevenoaks

The Board did not vote or take action on any matter discussed in the Executive Session.

7. **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.

8. ADJOURNMENT

There being no further business, Chairman Lambert adjourned the meeting of the Oklahoma Water Resources Board at 3:12 p.m. on February 16, 2016.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Linda P. Lambert, Chairman

_____/s/_____
F. Ford Drummond, Vice Chairman

_____/s/_____
Edward H. Fite

_____/s/_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Absent
Bob Drake

_____/s/_____
Tom Buchanan

_____/s/_____
Stephen B. Allen

ATTEST:

_____/s/_____
Jason W. Hitch, Secretary (SEAL)