

OKLAHOMA WATER RESOURCES BOARD MEETING INFORMATION

The Oklahoma Water Resources Board meets monthly in accordance with the date, time, and location shown on the final posted agenda. A draft Board meeting agenda and packet materials are scheduled to be prepared approximately 10 calendar days prior to the Board's meeting. A final agenda is scheduled to be posted at least 24 hours prior to the meeting. The standard sections of the agenda are numbered in a series; additional or special items will appear on the agenda subsequently. Standard sections include the following:

- 01000 = Call to Order
- 02000 = Financial Assistance Division
- 03000 = Summary Disposition Agenda
- 04000 = Items of Interest
- 05000 = Special Consideration Items

This meeting packet contains expanded information (summary documents, proposed orders, etc.) associated with individual agenda items. Each section of the packet contains a cover sheet noting the appropriate corresponding agenda item/number. (For example, to locate agenda item 2.D., concerning a grant or loan, review the packet for the section labeled, "2. Financial Assistance Division," which will begin on page 02000. Item D. is placed in alphabetical order in the section and is labeled accordingly.) The documents and information provided within the meeting packet are draft until approved by the Board. Please contact OWRB staff for the final, official documents as approved by the Board.

If you require assistance in locating an item or accompanying documents, please contact OWRB staff at (405) 530-8800.

1.B.

August 18, 2020, Regular Meeting Draft Official Minutes

**For consideration at the
September 15, 2020, Regular Board meeting**

DRAFT

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

Regular Meeting

August 18, 2020

1. CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Chairman Robert L. Stallings, Jr., at 9:32 a.m. on August 18, 2020, in the second floor Board Room of the Oklahoma Water Resources Board located at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, 73118. 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 August 14, 2020, at 4:10 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.

A. Roll Call. Chairman Stallings called the meeting to order and stated this meeting is being conducted with social distancing and via Zoom Webinar. He asked for the roll call of members who participated in the meeting via video or telephone conferencing.

Board Members Present

Robert L. Stallings, Jr., Chairman
Stephen Allen, Vice Chairman
Jennifer Castillo
Charles Darby
Thomas A. Gorman
Suzanne Landess
Robert L. Melton
Matt Muller

Board Members Absent

Bob Drake, Secretary

Staff Members Present and Participating via Zoom Webinar

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Cleve Pierce, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Kent Wilkins, Chief, Planning and Management Division
Bill Cauthron, Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

The following person participated via Zoom Webinar

There were no members of the public participated in the meeting.

B. Discussion, Amendments, and Vote to Approve Official Minutes of the June 16, 2020, Special Meeting. Chairman Stallings asked if there were any comments, proposed amendments, or a motion to approval of the June 16, 2020, special meeting minutes. There were no comments.

Mr. Darby moved to approve the minutes of the June 16, 2020, Special Meeting, and Mr. Allen seconded. There was no discussion. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Melton, Muller, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Drake, Landess (audio difficulty)

Initial technical connection difficulty prevented Ms. Castillo and Ms. Landess from joining the meeting until approximately 9:40 a.m.; Ms. Landess experienced additional audio problems during the roll call vote on item 1.B.

C. Executive Director's Report

Ms. Julie Cunningham, Executive Director, welcomed everyone to the meeting. She began her report with an update on the State's climate conditions, noting the recently published Water Resources Bulletin. She said the state had experienced good amounts of rain, and the reservoir storage across the state is at 100% or over in most cases, although there is persistent drought in western parts of the State. She also updated the members on the agency's operations in response to the COVID emergency, with the Governor having signed the Executive Order extending the state of emergency for all 77 counties until the end of August. She added the legislation approved extends the authorization to conduct remote public meetings until November; after that time additional legislation would be required, therefore, the Board may anticipate meeting in person in November. Employees continue to telework with virtual platforms; several changes may become permanent changes to the agency's operations, i.e., online education and testing for water well operators, as well as administrative transactions. Field operations are returning to normal, and a blood drive was conducted in the parking lot via the Blood Mobile on August 11.

Regarding calendar items, Governor Stitt conducted an All Agency Director's Summit on July 16 via Zoom and Secretaries Budd and Mazzei discussed re-configuring agency strategic plans for consistent reporting and agency information in a useable, comparative format. The agency reviews mission, vision, and the plan annually, but this effort will look at personnel vacancies, layers of management, number of classified positions, and number of contracts with engineering firms and outside entities to perform work; with the current budget situation, the agency is holding open vacancies. The Governor's Scorecard tracks statistics comparing Oklahoma to other states using readily available published data. Regarding the budget shortfall, Secretary Mazzei anticipated at \$1.2 billion deficit for FY2022 and the agency is keeping a close eye on budget matters, and the collections for the Gross Production Tax.

Regarding other matters, the Western States Water Council held its virtual annual meeting--OWRB is the Oklahoma member of the primary organization of western states that develop position statements on several water issues including, work with the federal agencies during rulemaking through formal consultation rather than just engaging as stakeholders, and support funding for the US Geological Survey's activities involving NIDIS, water monitoring, and stream gaging. On August 4, the Kansas-Oklahoma Arkansas River Commission met virtually and as an Oklahoma Commissioner, Ms. Cunningham reported on the flooding of 2019, and the success of Senate Bill 1269, one of the limited measures passed this year, and the agency is working with the Department of Emergency Management to put together funding, which was not provided by the Legislature, and she anticipated this action will be a large part of the update of the Oklahoma Comprehensive Water Plan. She also updated the Commissioners there were 34 water and sewer projects constructed in the basin for a total of \$313 million dollars. On August 5, Ms. Cunningham

participated in a multi-state floodplain/stormwater management panel discussion sponsored by Freese and Nichols, and on August 13 staff met with Dr. Wagner of OSU and Trey Lam with OCC about the state's Master Irrigator's Program. The Oklahoma House Agriculture and Rural Development Committee held an Interim Study on poultry waste management where the OWRB participated and Kent Wilkins presented on the Roubidoux and Boone Aquifer Maximum Annual Yield Study with the US Geological Survey determining the yield of the aquifer for proper appropriation of water rights (anticipated completion in December 2021).

Ms. Cunningham concluded her report updating the members on Congressional activities. Senator Inhofe's office contacted her regarding legislation providing enhanced technological support to communities, similar to the State Revolving Fund programs for small water and sewer systems, with an emphasis on the lack of personnel and training new people in the industry.

Mr. Melton asked about the difference in percentage in the Gross Productions Tax collections from what the agency is accustomed to receiving. Mr. Wilkins stated there has been a slight decline, and Ms. Cunningham added the agency is anticipating a decline in General Revenue next year as well, and is keeping a close watch. There were no other questions.

D. Financial Update

1. Budget Report. Mr. Cleve Pierce, Administrative Services Division Chief, addressed the members and stated the budget report is for the time period ending July 31, 2020. He said for the time period, the agency has spent 7% of the appropriated budget, leaving 93%; has spent 3% of the revolving fund leaving 96%; and has spent 4% of federal dollars with 96% remaining. The overall budget remaining stands at 96% with 92% of the fiscal year remaining; last year at this time the agency was at 95%, staying within the 1-2% goal.

He said the agency budget was cut 4% which was allowed, and revenues are being watched closely. He said staff submitted the budget on the 30th (June) and it was posted on July 20; the new budget year has started. Mr. Pierce concluded his report.

Chairman Stallings followed up on the question by Mr. Melton regarding the Gross Production Tax. Mr. Pierce answered there is a cap on the agency's appropriation and the money is received throughout the year until that cap amount is reached, which can be within three month, six months, or the full amount may not be received within the year. He said that agency has received the cap each year, and he would report on that funding at the next meeting. Chairman Stallings commented with oil and gas production down, GPT collections will be down and the Board would feel an impact.

2. **FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Bartlesville Municipal Authority, Washington County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated this first item is an \$8,220,000 loan request from the Bartlesville Municipal Authority. The Authority is requesting the loan to go along with a \$750,000.00 Bureau of Reclamation grant to construct a new effluent pump station, a cascade, and a three-mile, 18-inch treated effluent pipeline from the wastewater treatment plant to a secondary discharge location on the Caney River. From the discharge point, the effluent will flow seven miles downstream toward the water treatment plant. Mr. Freeman said the loan will be funded through the Clean Water State Revolving Fund Loan Program, and he noted provisions of the loan agreement. Bartlesville has been a long-time, excellent customer of the Board's and currently has four loans with the Board with a combined principal balance of \$2,346,000.00; the debt coverage ratio stands at 1.91-times. Staff recommended approval of the loan application. Bartlesville officials asked that Mr. Freeman relay the following statement: Mr. Mike Bailey, Bartlesville City Manager expressed appreciation for consideration by the Board for the loan application. The City recognizes the significant economic advantages of the Board's financing program, and more

importantly, the assistance of Board staff in project planning and loan application process. The OWRB is an asset to the State and to the City of Bartlesville. The City and OWRB have a long and successful history and he is personally grateful for the OWRB assistance provided to the City through the years. He looked forward to continuing the partnership as the City looks further to improve the quality and viability of Bartlesville's water and wastewater infrastructure.

Mr. Freeman noted this is a unique project and to his knowledge, the first of its type approved by DEQ and the state, and a great move on the part of Bartlesville.

Chairman Stallings asked if there were questions by the members; there were none, and he said he would entertain a motion. Mr. Melton moved to approve the CWSRF loan to the Bartlesville Municipal Authority, and Ms. Castillo seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

B. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated item 2.B. a \$9,680,000 loan request from the Broken Arrow Municipal Authority for several water and wastewater system improvements. Broken Arrow is requesting the loan for an additional fiberglass reinforced plastic brine tank at the Battle Creek Water Treatment Plant, installing new valve vaults on the Battle Creek Water Tank, a new upsized water line from the tank to the Battle Creek Golf Course irrigation pump station, looping water lines throughout the system, restoration of the 5 million gallon Omaha ground storage tank, construction of the county line trunk sewer Phase 1, and design along the right of way acquisition costs for Phase 2 of the county line trunk sewer. Mr. Freeman stated the loan will be funded through the State Revenue Bond Loan Program, known as the FAP Loan Program, and he noted provisions of the loan agreement. He said that Broken Arrow has been a long-time, good loan customer of the Board's, the water connections have increase 12% and the wastewater connections have increased 17% over the past ten years. Broken Arrow has 15 loans outstanding with the Board with a combined balance of \$106.6 million; the debt coverage ratio stands at 1.85-times. Staff recommended approval of the loan application.

Mr. Freeman relayed the following statement on behalf of Broken Arrow: Mr. Ken Schwaab, Assistant City Manager, stated on behalf of the City of Broken Arrow, the Broken Arrow Municipal Authority, and City Manager Spurgeon, he thanked the Water Board for its consideration of the loan request. The Oklahoma revolving fund and the financial assistance program as well as the OWRB's administration and oversight of these programs are essential for Broken Arrow's ability to continue to address and meet the needs of their customers. Without the Board's consideration, and involvement in the programs, the City of Broken Arrow would have a very difficult challenge meeting the needs of the customers. Being able to refinance existing loans and receive new loans, the extremely competitive rates allows the City to spend more money on the various infrastructure that provides safe drinking water to the public and allows the discharge of clean water back into the environment.

Chairman Stallings asked if there were questions on the Broken Arrow \$9.6 million loan. Mr. Steven Allen asked if the debt coverage ratio that is calculated is based on the assumption the Board will approve all three loans. Mr. Freeman stated that is correct, the debt service on all three loans before the Board today. Looking ahead, Mr. Allen stated that two of the loans are FAP loans, and one is a Clean Water SRF loan, and he asked the capacity on the two FAP loans if approved. Mr. Freeman answered regarding the CWSRF there is an item later in the agenda to approve a \$100 million dollar bond issue to generate additional cash and with that, the Board is still fine on capacity. Regarding the FAP program, Mr. Freeman stated the Board is very good on capacity because of the Water Infrastructure Credit Enhancement Reserve Fund of \$300 million to fall back on which gives the Board the ability to loan over \$2.5 billion in more bonds if needed for projects across the state.

Chairman Stallings asked for a motion. Mr. Allen moved to approve the \$9.6 million dollar FAP loan to the Broken Arrow Municipal Authority, and Mr. Melton seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

C. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated this item is a \$19,695,000.00 loan request from the Broken Arrow Municipal Authority. The BAMA is requesting the loan for various improvements for the Haikey Creek Wastewater Treatment Plant and Basin, the Lynn Lane Wastewater Treatment Plant and Basin, as well as for Phase 3 of its automated water meter reading system. Mr. Freeman stated the loan will be funded through the Board's Clean Water SRF Loan Program, and he noted provisions of the loan agreement. The debt coverage ratio stands at 1.85-times. Staff recommended approval of the loan application.

Chairman Stallings stated this second loan to Broken Arrow is for \$19.6 million; he asked if there were questions. There were no questions, and Mr. Darby moved to approve the loan application. Mr. Gorman seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

D. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman said this item is a \$27,575,000.00 loan request from the Broken Arrow Municipal Authority. The Authority is requesting the loan to refinance the FAP loan it obtained from the Board in 2012 that was for various water system improvements. Mr. Freeman said the loan will be funded through the FAP Loan Program, and he noted provisions of the loan agreement; the estimated savings is \$2.9 million dollars by refinancing. The debt coverage ratio stands at 1.85-times. Staff recommended approval.

Chairman Stallings asked if the Authority's \$106 million loan balance included the three loans today, and Mr. Freeman stated it did not, that total is the loans that have already closed. Chairman Stallings confirmed the debt coverage ratio does include the three loans, and Mr. Freeman answered, yes, it includes all the previous loans and these three loans.

Chairman Stallings said this is Broken Arrow's \$27.5 million refinancing, and he asked if there were questions. There were no questions, and Mr. Allen moved to approve the loan request. Ms. Landess seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

E. Consideration of and Possible Action on Proposed Resolution Authorizing Certain Individuals To Sign and Act on Behalf of the Board Regarding the Board's Financial Assistance Program, State Revolving Fund Programs, and Issues of Indebtedness and Authorizing Members to Act as Assistant Secretary. Recommended for Approval. Mr. Freeman stated this item is brought to the Board each year after the election of officers and appointment of new members to the Board. The resolution authorizes certain individuals to sign and act on behalf of the Board regarding the Board's Financial Assistance Program and the State Revolving Fund Loan Programs. He said the resolution names each Board Member, except the

Chairman, as assistant secretaries in the absence of the secretary. The resolution allows BancFirst, the Board's Trustee, to know the Board's composition and to have signatures on file for verification. The resolution also adds Mr. Gorman as Board Member in place of Mr. Drummond. Staff recommended approval of the resolution.

Mr. Freeman added that as a result of the Board Meetings being held virtually, staff will mail each Board Member a signature page to be returned which will then be provided to BancFirst.

Chairman Stallings stated he would entertain a motion. Mr. Darby moved to approve the resolution, and Ms. Castillo seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

F. Consideration of and Possible Action on a Proposed Resolution Selecting a Disclosure Counsel to the Board in Connection with the Board's Financing Programs. Recommended for Approval. Mr. Freeman explained this item is for consideration of selection of disclosure counsel for the FAP, Clean Water SRF, and Drinking Water SRF Loan Programs. He said that in April 2019, the Board began retaining disclosure legal counsel as a result of increased focus on the municipal bond market by the Securities and Exchange Commission, and counsel provides advice directly to the Board regarding securities law issues. Having a disclosure counsel with an attorney-client fiduciary relationship with the Board, allows disclosure advice solely from the vantage of making sure to protect the Board. Additionally, counsel will help the Board by facilitating consistency in its disclosure information from bond issue to bond issue, prepare the preliminary official statements and official statements for the bond issues.

Mr. Freeman stated requests for proposals were distributed to 28 firms, and staff received proposals from six firms. Staff reviewed the proposals based on the firm's experience, experience of the assigned lawyers, transaction experience, and fees. The proposals were reviewed by Ms. Kate Burum, OWRB Assistant General Counsel, Ms. Anne Burger Entrekin, OWRB SRF Financial Advisor with Hilltop Securities, and Mr. Freeman. Following review, Mr. Freeman consulted with Mr. Andrew Messer, Deputy State Treasurer for Debt Management, and additional review by the Board's Finance Committee composed of Mr. Stallings, Mr. Melton, and Mr. Allen. Mr. Freeman stated the six proposals were from Kutak Rock of Denver, Thompson Coburn of St. Louis, Chapman Cutler of Chicago, Gilmore and Bell of Kansas City, Orrick of Houston, and Lock Lord of Dallas. Staff recommended the firm of Gilmore and Bell of Kansas City as Disclosure Counsel to the Board.

Chairman Stallings stated the resolution is to select Gilmore and Bell as the Board's Disclosure Counsel, which he and other members had reviewed; he would entertain a motion. Mr. Melton moved to approve the resolution selecting Gilmore and Bell, and Mr. Allen seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

G. Consideration of and Possible Action on a Proposed Resolution Selecting a Bond Counsel in Connection with the Issuance of One or More Obligations to Provide Funding for the State Loan Program. Recommended for Approval. Mr. Freeman stated this item is for the selection of the bond counsel for the FAP Loan Program. He said staff distributed requests for proposals to 28 law firms, and received proposals from Locke Lord of Dallas, The Centennial Law Group of Duncan, and the Floyd Law Firm of Norman. Staff reviewed the proposals based on the new money revenue bond experience, Oklahoma and local bond counsel experience, experience of the assigned attorneys, and fees. Mr. Freeman consulted with the Deputy

State Treasurer, and the Board's Finance Committee. Staff recommended the selection of The Centennial Law Group as the Board's Bond Counsel for the FAP Loan Program.

Chairman Stallings said there is a proposal for bond counsel to select Centennial Law Group, and he would entertain a motion for approval. Mr. Darby moved to approve the resolution selecting The Centennial Law Group as the Board's bond counsel, and Ms. Castillo seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

H. Consideration of and Possible Action on a Proposed Resolution Selecting Investment Banker(s) in Connection with the Issuance of One or More Obligations to Provide Funding for the State Loan Program. Recommended for Approval. Mr. Freeman stated this item is a resolution for the selection of investment bankers for the FAP Loan Program. Staff distributed 38 requests for proposals and received Senior Manager proposals from Stephens Firm of Little Rock, UBS of Dallas, BOK Financial Securities of Oklahoma City, and Stifel of Denver. Staff also received a proposal from D.A. Davidson of Tulsa for co-manager only. Mr. Freeman stated that staff reviewed the proposals based on each firm's relevant bond experience, the assigned personnel's relevant bond experience, marketing and distribution capabilities, the quality of the proposal, and fees. As with the other service provider selections, Mr. Freeman consulted with the Deputy State Treasurer and the Board's Finance Committee. Staff recommended selection of BOK Financial Securities as Senior Manager for the FAP Loan Program, and for the FAP Bond Issues greater than \$10 million, the addition of Stifel as Co-Manager.

Chairman Stallings stated this is for the selection of investment bankers BOK and Stifel, and he would entertain a motion for approval. Ms. Castillo moved to approve the resolution selecting BOK and Stifel as investment bankers, and Mr. Allen seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

I. Resolution Authorizing the Issuance of the Oklahoma Water Resources Board Revolving Fund Revenue Bonds –Clean Water Program (2019 Master Trust) in the Aggregate Principal Amount Not to Exceed \$100,000,000; Approving and Authorizing Execution of a Bond Indenture Providing for the Issuance of the Bonds; Providing for the Sale and Delivery of the Bonds and Authorizing a Certificate of Determination; Waiving Competitive Bidding on the Bonds and Authorizing the Sale Thereof by Negotiation Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement with Respect to the Bonds; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as May Be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval. Mr. Freeman stated this item is a resolution authorizing a new series of Clean Water State Revolving Fund bonds. He said it has been about two-and-a-half years since the staff has brought a new money SRF bond issue to the Board, and because there are new Board members since that time, and he reviewed the Board's process for funding SRF loans.

Mr. Freeman said when the Clean Water SRF Program began, the Board did "direct lending," taking the SRF Capitalization Grants received along with 20% state matching funds to make short-term construction loans at 3.5% and .5 administrative fee. Within a year of completion, the Board would refinance the construction loan with 60% of the funds from the FAP Loan Program at market interest rate, and 40% back out of the CWSRF at zero percent interest plus .5 administrative fee. This system worked from the early 1990's until demand began stressing the Board's supply of funds, and the Board started leveraging the SRF funds in the early 2000's. Beginning with the first SRF leveraged issue in 2003, the Board utilized what is known as the Reserve Fund Model of bond issuance, and that methodology worked until two events occurred: passage of the Federal

Tax Increase Prevention and Reconciliation Act of 2005 -- which greatly shrank the spend down period for bonds--and the market turmoil of 2008 and 2009 that resulted in traditional reserve investment alternatives no longer being available to sustain the Reserve Fund Model theory. Therefore, the Board evolved the program into a cash flow and hybrid model of leveraging the SRF's, tying the debt issuance to the cash flow and fund capacity. The current Clean Water SRF fund balances show an anticipated need for an influx of bond proceeds by the end of this calendar year. Staff will be working with Hilltop Securities, Financial Advisor, McCall Parkhurst & Horton as Bond Counsel, BofA Securities as Senior Investment Banker along with Co-Managers from BOK Financial Securities, Morgan Stanley, and Stifel; BancFirst will serve as Trustee.

Mr. Freeman stated the issue is scheduled for consideration at the State Council of Bond Oversight meeting on August 27, and he anticipated receiving a AAA rating from the rating agencies on the issuance. The proposed resolution authorizes a CWSRF Bond Issuance not to exceed \$100 million dollars, authorizes executive of a bond indenture providing for the issuance, authorizes the issuance on a negotiated basis, approves the Preliminary Official Statement, directs payment of the costs of issuance, and authorizes other documents necessary to close the bond issue. Staff recommended approval of the resolution.

Chairman Stallings said this item is for an SRF bond issue of \$100 million, and he would entertain a motion. Mr. Allen moved to approve the resolution authorizing issuance of CWSRF bonds, and Mr. Darby seconded.

There was no discussion, and Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Drake

J. Resolution Authorizing the Issuance of Oklahoma Water Resources Board State Loan Program Revenue Bonds in an Aggregate Principal Amount not to Exceed \$150,000,000; at a Net Interest Cost not to Exceed Six Percent (6.0%); Providing for the Issuance of Said Bonds in One or More Series; Approving and Authorizing Execution of a Series 2020B Supplemental Bond Resolution and, if Deemed Advisable, an Additional Supplemental Bond Resolution for Each Additional Series; Waiving Competitive Bidding on the Bonds and Authorizing the sale Thereof by Negotiation and at a Discount Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement with Respect to Said Bonds; Authorizing the Chairman or Vice Chairman to Deem Preliminary Official Statements for Additional Series of Bonds Final; Directing Deposit of Proceeds Derived from the Issuance of the Bonds in the State Treasury and Requesting the State Treasurer to Remit Such Proceeds to the Bond Trustee; Ratifying and Approving the Form of Promissory Note, Loan Agreement, and Note Purchase Agreement to be Executed by Borrowers in the State Loan Program; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as may be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval. Mr. Freeman stated this last item for the Board's consideration is a resolution authorizing the issuance of an additional \$150 million dollars of State Loan Program Revenue Bonds, also known as the FAP Loan Program. He said that last Fall, staff received approval from the Board and the Council of Bond Oversight for the issuance of up to \$100 million of tax exempt bonds. This authorization will expire in October 2020, and nearly half of the dollar amount authorized has been issued. Mr. Freeman said the need for the new authorization is the expiration of the current authorization in October, and there is a request for some taxable issuance and anticipated demand exceeding current capacity--an example would be the \$37 million FAP loans approved for Broken Arrow, along with an anticipated \$53 million dollar loan to the Oklahoma City Water Utilities Trust. The first loans to be funded under this new authorization will be the two Broken Arrow FAP loans. Staff will request Oversight Council approval on August 27th, and anticipated closing the issue around the end of September. A rating request has been submitted to S&P, and an AAA rating on the issue is anticipated.

Mr. Freeman stated the resolution before the Board authorizes the issuance may be in one or more series, provides for approval of a Preliminary Official Statement, authorizes the Chairman or Vice Chairman to deem

the Preliminary Official Statement for additional series of bonds final, authorizes the sale to be on a negotiated basis, directs the bond proceeds to be deposited in the State Treasury and remitted to BancFirst the Board's Trustee, ratifies the form of Promissory Note, Loan Agreement, and Note Purchase Agreement, and in addition, the resolution authorizes execution of other documents required for the issuance of the bonds and directs payment of the cost of issuance. Staff recommended approval of the resolution.

Chairman Stallings said this is for the authorization of \$150 million dollars in FAP bonds. Ms. Castillo moved to approve the resolution authorizing issuance of FAP bonds, and Ms. Landess seconded. Chairman Stallings called for the vote.

Mr. Muller asked about the map included in the meeting packet materials illustrating the total amount and location of loans and grants by the Board. He noted of the \$4.66 billion financed, the largest concentration of loans and grants are in Tulsa County is the only county that has exceeded \$1 billion in financing, although there may be other counties close to that level. He asked if the largest concentration in Tulsa County is because they are more proactive at updating systems, are they further behind and catching up, or do they have more population and industry growth. Mr. Freeman responded that Tulsa was the first borrower from the SRF program, with the first loan in September 1990 to build a bank interceptor project on the Arkansas River. Tulsa was a very large borrower from the Board, also other suburb communities such as Broken Arrow, Owasso and others. Right now, Tulsa is not borrowing much, and Oklahoma City coming into play will likely increase in the coming years. Many years earlier, Tulsa took advantage of the program prior to the SRF known as the Construction Grants Program in the early 1980s, and the Water and Sewer Commissioner at that time was Patty Eaton who worked to get the water and sewer system updated, and the system is in good condition now. In this year's Intended Use Plan, Mr. Freeman said much of the demand is in the rural parts of the state and while dollar amounts will be less, staff is proud to have provided assistance in all 77 counties. Mr. Muller thanked him for his response.

Mr. Gorman asked if the Board's Financial Team conducts a risk analysis if there were to be a financial issue in an area of concentration, would that put the funds at risk, recognizing the bond ratings are critical as well as the stability of the revenue stream. Mr. Freeman answered that with each bond issue in the preliminary official statement and the official statement is an explanation of concentration of borrowers. The concentration of larger borrowers such as Oklahoma City and Tulsa will be natural as that is where 40% of the population exists. The rating agencies not only look at how the Board assesses the risk of the borrowers, but the individual borrowers--Oklahoma City and Tulsa--have their own ratings of AAA and AA. He said staff monitors the debt coverage ratios and receive monthly income statements, as well as annual audit statements. He said concentration is monitored, and has actually been diluted over the last 30 years as Tulsa was an extremely high concentration borrower in the early days. Chairman Stallings commented about the orientation program with staff to become familiar with the Financial Assistance Programs, and he thanked Mr. Gorman for the question.

There was no further discussion, and Chairman Stallings called for the vote on the resolution authorizing the issuance of FAP bonds.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

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. There were no requests to move items to the Special Consideration Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items Listed. Chairman Stallings stated that item 3.G.3. has been withdrawn (Whitetail Farms, LLC #2020-503) from consideration. He asked for questions regarding the remaining items.

There were no questions, and Chairman Stallings stated he would entertain a motion. Mr. Darby moved to approve the Summary Disposition Agenda, and Mr. Allen seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
 NAY: None
 ABSTAIN: None
 ABSENT: Drake

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>
ACOG				
a.	FAP-20-0001-R	Orlando Public Works Authority	Logan	\$91,000.00
EODD				
b.	FAP-18-0027-R	Westville Utility Authority	Adair	44,000.00
KEDDO				
c.	FAP-20-0009-R	McCurtain Municipal Authority	Haskell	Change of Scope
NODA				
d.	FAP-20-0010-R	Jet Utilities Authority	Alfalfa	88,922.85
SWODA				
e.	FAP-19-0036-R	Quartz Mountain Regional Water Authority	Kiowa	64,415.00

2. CWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	ORF-21-0005-CW	Westville Utility Authority	Adair	\$109,395.26
b.	ORF-18-0004-CW	Elk City Public Works Authority	Beckham	Change of Scope
c.	ORF-21-0014-CW	Eufaula Public Works Authority	McIntosh	240,000.00

3. DWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	ORF-19-0018-DW	Stroud Utilities Authority	Lincoln	\$161,000.00

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

1. Intergovernmental Agreement with Central Oklahoma Master Conservancy District to provide services including a core-flux method quantifying internal loading in Lake Thunderbird and related technical assessment.
2. Cooperative Agreement with Oklahoma Conservation Commission to provide funding to contribute to the completion of four soil health system economic case studies for future soil health progress by the Oklahoma Soil Health Partnership.
3. Multipurpose Grant Agreement with Office of Oklahoma Secretary of Energy and Environment to conduct three water quality projects including: The Development of Internal Loading Methodology on Sensitive Water Supply Reservoirs, Using Soil Health to Optimize the Benefits of Poultry Litter in Eastern Oklahoma and Improving the Current Inspection Process used by the Oklahoma Dept. of Environmental Quality
4. Sponsored Research Agreement (SRA Phase I) between OWRB and Board of Regents of the University of Oklahoma to migrate web maps and layers from OWRB's ArcGIS Enterprise to new infrastructure at Center for Spatial Analysis.
5. Sponsored Research Agreement (SRA Hosting Maintenance Agreement) between OWRB and Board of Regents of the University of Oklahoma for Center for Spatial Analysis to host and maintain ArcGIS Enterprise on its infrastructure.
6. Disaster Relief Grant with Office of Oklahoma Secretary of Energy and Environment providing funding to maintain, protect and improve water quality of Oklahoma streams, groundwater and other waterbodies.
7. Contract between the State of Oklahoma through the Office of Management and Enterprise Services on behalf of the OWRB and Baylor University for the Provision of Conducting Sediment Phosphorus and Nitrogen Flux Estimation Study in Oklahoma Lakes.
8. Agreement between the Office of Secretary of Energy and Environment to fund the State of Oklahoma's Water Quality Management Planning Program.
9. Joint Funding Agreement between OWRB and the United State Geological Survey for the collection of seven stream-flow sites and three lakes within the Little Washita River Basin and the Washita River near Carnegie Station with the Oklahoma-Texas Water Science Center.

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

1. Scott & Michelle Reimer, Major County, #2020-512

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

1. Goldsby Water Authority, McClain County, #2011-607A
2. Estack, LLC, Kingfisher County, #2019-532

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

1. Ryan B. Koehn and Donavon W. Koehn, Texas County, #2019-518
2. Matthew & Ashley Coe, Logan County, #2019-550
3. *Whitetail Farms, LLC, Ellis County, #2020-503* *Item withdrawn*
4. Jimmy Williams and Tim Williams, Texas County, #2020-522

- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
 1. Gruhlkey's, a General Partnership and Need it More, LP, Beaver County, #1997-697
- I. Consideration of and Possible Action on Applications to Amend Prior Right to Use Groundwater:
 None
- J. Consideration of and Possible Action on Applications to for Term Permits to Use Stream Water:
 1. Connie & Coy Briggs, Bryan County, #2019-033
 2. Judy Ann Fox, Trustee of the Judy Ann Fox Revocable Trust, dated 11/29/2012, McClain County, #2020-002
- K. Consideration of and Possible Action on Applications to Amend Term Permits to Use Stream Water:
 1. Ovintiv Mid-Continent, Inc., Garvin County, #2018-046
- L. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
 1. Robert & Joan Hoile, Blaine County, #2017-016
 2. Cliff & Joleen Leach, Pottawatomie County, #2019-031
 3. Katrina Lee & Will Grote, Johnston County, #2019-056
 4. Ovintiv Mid-Continent, Inc., Stephens County, #2020-006
 5. Ten Point Farms, LLC, Muskogee County, #2020-008
- M. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:
 1. Wooderson Farms, Kay County, #2014-059
- N. Consideration of and Possible Action on Dam and Reservoir Construction:
 None
- O. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:
 1. New Licenses, Accompanying Operator Certificates and Activities:
 a. Licensee: McCarthy Brothers Drilling DPC-0988
 Operator: Jeremy McCarthy OP-2318
 b. Licensee: Alliance Irrigation DPC-0990
 Operator: Larry Hersh OP-2319
 c. Licensee: Warrior Well Service DPC-0992
 Operator: Kenneth McMahon OP-2320
 d. Licensee: Beyond Engineering and Testing DPC-0994
 Operator: Eddie Duran OP-2321
 2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses
 a. Licensee: All Out Pump Service and Drilling DPC-1025
 Operator: William Bischoff, Jr. OP-2322
 b. Licensee: Envirotech Drilling Services DPC-0836
 Operator: Joshua Crow OP-2323
 Operator: Jamie Vasquez OP-2324
 Operator: Mario Moya OP-2325
 c. Licensee: C & W Construction DPC-0528
 Operator: Christopher Almond OP-2326
 d. Licensee: Aqua Well Drilling DPC-0708
 Operator: Randy McKay OP-2327
 Operator: Steven Madison OP-2328
 e. Licensee: Total Water Solutions DPC-0930
 Operator: Darin Ingram OP-2151
 f. Licensee: Authentic Drilling DPC-0976
 Operator: Quicksilver Simon OP-2329

P. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:
1. Sean K. Fairbairn, City of Tuttle, FPA-834

Q. Consideration of and Possible Action on a *De Minimis* Exemption Determination for Jennings Stone Company, Inc. – Fittstone Inc. South Quarry – ODM LE-1954, Johnston County, Oklahoma.

4. **QUESTIONS AND DISCUSSION ABOUT AGENCY MATTERS AND OTHER ITEMS OF INTEREST.**

A. No items. There were no questions or discussion regarding agency matters by the Board Members.

5. **SPECIAL CONSIDERATION**

A. Consideration of and Possible Action on Amendment to Extend Time for the “State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation, City of Oklahoma City Water Settlement” (“Settlement Agreement”):

1. Summary – Ms. Sara Gibson, OWRB General Counsel, stated to the Board Members that as most of the Board is familiar, several years ago the Board entered into a water settlement with the Choctaw Nation of Oklahoma and the Chickasaw Nation, and the City of Oklahoma City to allocate water to Oklahoma City from southeast Oklahoma and to administer water rights within the Chickasaw Nation and the Choctaw Nation. She said that settlement contained several actions that needed to occur before the settlement becomes enforceable located in Section 4 of the agreement. The settlement also contained a timeline for those items to be completed which is September 30, 2020. She said the team which includes the attorneys from the Nations, Department of Interior, and State of Oklahoma, have been making good progress; however have encountered an issue with the litigation regarding the permit the OWRB issued to Oklahoma City to use water out of the Kiamichi River and Sardis Lake. That litigation is at the Supreme Court to review the District Court's decision which could take up to one year and the deadline will not be met, as well as other work needed to complete all the actions. Therefore, Ms. Gibson stated that the Settlement Agreement provides the parties may extend the date by agreement, which is the matter before the Board today. The only action is extending the deadline from September 2020 to March 31, 2022.

2. Discussion and questions by Board. Chairman Stallings summarized that the agreement is not being enforced yet, and will not be enforced for at least another 1.5 years, and Ms. Gibson answered that is correct. She added the initial version of the Settlement Agreement has been signed, and also approved by Congress and the President and she anticipated the conformed version (matching the initial agreement with the federal legislation) being provided prior to the litigation being finished; the approvals have been obtained but the other items must be in place before it is enforceable.

Mr. Muller asked if it is possible the agreement could unravel based on the court decision. Ms. Gibson answered the litigation needed to be completed, but she did not anticipate an unraveling....the Court could remand to the District Court for further consideration, or to the Board for further action at which point another extension would be sought. She added the District Court ruled in favor of the Board and was appealed. Ms. Castillo asked how long the litigation had been at the Supreme Court, and Ms. Gibson answered the District Court issued its order at the beginning of June and staff is still waiting on the record to be compiled; 6 months is allowed to complete it.

3. Vote on whether to approve the Amendment as presented or as may be amended, or vote on any other action or decision relating to the Amendment to the Settlement Agreement.

Chairman Stallings asked if there were any other questions. There were not, and he stated he would entertain a motion to approve the amendment. Mr. Muller moved to approve the amendment, and Mr. Allen seconded. Chairman Stallings called for the vote.

AYE: Darby, Allen, Gorman, Landess, Melton, Muller, Castillo, Stallings
NAY: None
ABSTAIN: None
ABSENT: Drake

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. 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.

There were no New Business items for the Board's consideration. However, Chairman Stallings noted that Mr. Drake, Board Secretary, was absent and he appointed Ms. Castillo as Assistant Secretary. He thanked everyone for their attendance.

7. ADJOURNMENT

There being no further business, Chairman Stallings adjourned the regular meeting of the Oklahoma Water Resources Board at 10:35 a.m., on August 18, 2020.

OKLAHOMA WATER RESOURCES BOARD

Robert L. Stallings, Jr., Chairman

Stephen B. Allen, Vice Chairman

Charles Darby

Robert L. Melton, Sr.

Jennifer Castillo

Suzanne V. Landess

Matt Muller

Thomas A. Gorman

ATTEST:

Bob Drake, Secretary

(SEAL)

1. D. MONTHLY BUDGET REPORT

Oklahoma Water Resources Board

FY 21 Revenues and Expenses through August 31, 2020

		Budgeted	Expended	Balance	Percentage Remaining	
Revenues	General Revenue					
	1	FY 20 Appropriation	3,994,610	626,580	3,368,030	84%
		Total General Revenue	3,994,610	626,580	3,368,030	84%
	Revolving Funds					
	2	Drillers Indemnity Fund	50,000	0	50,000	100%
	3	OWRB Revolving Fund	3,403,033	349,964	3,053,069	90%
	5	Revolving Fund	706,319	98,813	607,506	86%
	6	Drillers Regulation Fund	20,000	0	20,000	100%
	7	Water Infrastructure Dev. Fund (OCWP)	3,083,889	207,027	2,876,862	93%
	8	USGS Cooperative Agreement	301,300	0	301,300	100%
	9	DW Loan Administration Fund	1,171,348	43,485	1,127,863	96%
	10	CW Loan Administration Fund	2,099,983	231,598	1,868,385	89%
11	CW Loan Fund	400,000	0	400,000	100%	
	Total Revolving Funds	11,235,872	930,887	10,304,985	92%	
	Federal Funds					
12	Federal Fund	2,614,011	126,660	2,487,351	95%	
	Total Federal Funds	2,614,011	126,660	2,487,351	95%	
	Total Funding	17,844,493	1,684,127	16,160,366	91%	
Expenses		Budgeted	Expended	Balance	Percentage Remaining	
	13	Salary Expense	6,468,465	1,038,226	5,430,239	84%
	14	Insurance	1,232,946	178,284	1,054,662	86%
	15	FICA and Retirement	1,576,136	246,431	1,329,705	84%
	16	Professional Services	5,667,187	98,523	5,568,664	98%
	17	Flexible Benefits	15,993	0	15,993	100%
		Total Personal Services	14,960,727	1,561,464	13,399,263	90%
	18	Travel Expense	399,982	8,903	391,079	98%
	19	Administrative Expense	1,236,691	112,720	1,123,971	91%
	20	Furniture and Equipment Expense	291,441	1,040	290,401	100%
21	Intra Inter Agency Payments	955,652	0	955,652	100%	
	Total Operating Expenses	2,883,766	122,663	2,761,103	96%	
	Total Expenditures	17,844,493	1,684,127	16,160,366	91%	

Percent of FY Remaining 83%

2. FINANCIAL ASSISTANCE DIVISION

September 15, 2020

OKLAHOMA WATER RESOURCES BOARD
 Emergency Grant Program
 Priority List

8/31/2020

Priority Ranking	Priority Points	Date Requested	Grant Number	Applicant	County	Project Type	Amount Recommended	
1	62	08/17/2020	FAP-21-0001-G	East Central Oklahoma Water Authority	Muskogee	wastewater	\$100,000.00	+
							Total Requests:	\$100,000.00

+ Recommended for approval when funds available

**WATER RESOURCES FUND
EMERGENCY GRANT ACCOUNT
August 31, 2020**

Beginning Balance, 8/1/2020		\$ 1,076,964.54
<u>Income:</u>		
Interest Earnings	1,988.83	
Reserve Earnings		
Grant Refunds:		
Returned Grant Funds		
Total Income	1,988.83	1,988.83
 <u>Grants Funded:</u>		
Total Grants Funded		-
Ending Balance, 8/31/2020		1,078,953.37
Funds obligated for approved grants		(139,197.86)
Total of grants recommended for approval		(100,000.00)
Total unobligated funds available for grants		\$ 839,755.51

EMERGENCY GRANT APPLICATION
RECOMMENDED FOR APPROVAL

APPLICANT: East Central Oklahoma Water Authority
COUNTY: Muskogee

DATE RECEIVED: 08/17/2020
APPLICATION NUMBER: FAP-21-0001-G

Amount Requested: \$100,000.00

Amount Recommended: \$100,000.00

PROJECT DESCRIPTION: The East Central Oklahoma Water Authority has a sewer line failure caused by the 2019 flooding in the area. The proposed project is to abandon the failed sewer main, install a lift station upstream, and pump around the problem area. The estimated cost of the project is \$117,648 which will be funded with the requested Emergency Grant funds of \$100,000 and the 15% matching funds of \$17,648.

Priority Ranking			Priority Points
Emergency Ranking <u>1</u> (Maximum: 50 points)			<u>50</u>
WATER AND SEWER RATE STRUCTURE (Maximum: 13 points)			
Water rate per 5,000 gal/month: \$ 42.50	() Flat rate	-3	10
Sewer rate per 5,000 gal/month: 24.00	() Decreasing Block	-2	
Total \$ 66.50	(x) Uniform	0	
	() Increasing Block	+2	
<u>10</u> points	() Sales tax (W/S)	+1	
INDEBTEDNESS PER CUSTOMER (Maximum: 10 points)			
Total Indebtedness: \$ 586,906.89			3
Monthly Debt Payment: \$ 4,781.61			
Number of Customers: 520			
Monthly Payment Per Customer: \$ 9.20			
LOCAL PARTICIPATION (Maximum: 10 points)			
From Reserves: \$ 17,648.00			1
Contribution from Loan: \$ 0.00			
% of Project Local Funded: 15%			
MEDIAN HOUSEHOLD INCOME \$ 30,417.00 (Maximum: 10 points)			<u>6</u>
ABILITY TO FINANCE PROJECT (Maximum: 12 points)			
FP = $\frac{(\$100,000.00)}{(520)} \cdot \frac{(0.0710)}{(12)}$	=	\$ 1.14	<u>2</u>
AMOUNT OF GRANT REQUESTED (Maximum: 10 points)			
AR = \$100,000.00			<u>-5</u>
REQUEST NUMBER <u>2</u>			<u>-5</u>
BENEFIT OF PROJECT TO OTHER SYSTEMS No			<u>0</u>
TOTAL PRIORITY POINTS			<u>62</u>

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF GRANT APPLICATION)
NO. FAP-21-0001-G IN THE NAME OF THE)
EAST CENTRAL OKLAHOMA WATER AUTHORITY,)
MUSKOGEE COUNTY, OKLAHOMA.)

**PROPOSED
ORDER APPROVING GRANT APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board on the 15th day of September 2020. The Board finds that since the application for this grant has received a priority ranking of 62 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the Emergency Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$100,000.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Purpose: The project shall be to abandon the failed sewer main, install a lift station upstream, and pump around the problem area as well as other related construction and necessary appurtenances, as more fully described in the engineering report included in applicant's grant application.

Conditions:

1. The amount of the grant will be based on 85% of the actual total eligible cost of the project. The amount of the grant shall not exceed \$100,000.00.
2. Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of grant funds as required by the Board. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board. Disbursement of grant funds without supporting documentation shall be considered unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Atoka Municipal Authority, Atoka County

Loan Application No.: ORF-17-0002-DWA
Drinking Water SRF Loan (“DWSRF Loan”)

Funding Requested: \$1,261,000.00

Loan Interest Rate: The DWSRF Loan shall bear a fixed interest rate to be determined prior to loan closing plus an administrative fee of 0.5% per annum, all on the outstanding principal balance of the loan.

Loan Payment Term: Interest, administrative fee, and principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

Loan Security Position: The DWSRF loan shall be secured with a lien on the revenues of the Applicant's water system, a .75% sales tax, and may include a mortgage on the Applicant's water system and other real property.

Purpose: The applicant will utilize the loan proceeds in conjunction with proceeds from loan No. ORF-17-0002-DW to: (i) modify and upgrade the water treatment plant, rehabilitate the elevated storage tank, construct a new clearwell, rehabilitate two booster pump stations, install automatic meter readers (AMR), improve the SCADA operations, all related appurtenances (the “Project”), and (ii) pay related costs of issuance, all as more specifically set forth in the Application.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$1,261,000.00	Project	\$1,220,500.00
		Bond Counsel	17,500.00
		Financial Advisor	17,500.00
		Local Counsel	5,000.00
		Trustee Bank	500.00
Total	<u>\$1,261,000.00</u>	Total	<u>\$1,261,000.00</u>

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-17-0002-DWA IN THE NAME OF)
ATOKA MUNICIPAL AUTHORITY)
ATOKA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 15th day of September, 2020.

WHEREAS, Atoka Municipal Authority (the "Applicant") has made its Application for Funding No. ORF-17-0002-DWA (the "Loan Application") to the Board and to the Oklahoma Department of Environmental Quality (the "DEQ") for a loan from the Drinking Water Treatment Revolving Loan Account (the "DWSRF"), pursuant to Title 82 Oklahoma Statutes 2011, Sections 1085.71 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan for drinking water system improvements, to further compliance with State and Federal standards and/or to refinance existing indebtedness originally incurred for such purposes; and

WHEREAS, the DEQ has certified the Loan Application with regards to compliance with applicable technical program requirements and forwarded it to the Board with a recommendation that the Loan Application be considered and approved for a DWSRF Loan; and

WHEREAS, the Board has completed its review of the Loan Application and related information, and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. ORF-17-0002-DWA in the name of Atoka Municipal Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, in conjunction with proceeds from loan No. ORF-17-0002-DW and other funds of the Applicant, if any, will be used to: (i) modify and upgrade the water treatment plant, rehabilitate the elevated storage tank, construct a new clearwell, rehabilitate two booster pump stations, install automatic meter readers (AMR), improve the SCADA operations, all related appurtenances (the "Project"), and (ii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$1,261,000.00. The Applicant shall pay interest on the loan at a fixed rate to be determined prior to closing plus an

**ORDER APPROVING LOAN APPLICATION
ATOKA MUNICIPAL AUTHORITY
ORF-17-0002-DWA**

administrative fee at the rate of 0.5% per annum, all on the outstanding balance of disbursed loan proceeds. Interest, administrative fee, and any principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

2. The loan shall be secured with a lien on the revenues of the Applicant's water system, a .75% sales tax, and may include a mortgage on the Applicant's water system and other real property.

3. Upon the Applicant's acceptance of the DEQ's Letter of Binding Commitment, the funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other DWSRF loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from the DWSRF in accordance with the DWSRF program regulations as approved by the United States Environmental Protection Agency.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, DWSRF, and Bond Resolution requirements. In accordance with applicable authority and the United States Environmental Protection Agency ("EPA") guidelines for the implementation of the DWSRF Capitalization Grant, the loan conditions may include principal forgiveness to be used to pay a portion of the costs of the Project as described in the Application or for other purposes authorized by applicable authority and EPA guidelines. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 15th day of September, 2020 in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Robert L. Stallings, Jr., Chairman

ATTEST:

Bob Drake, Secretary
(SEAL)

Reviewed By:

/s/

Joe Freeman, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Grove Municipal Services Authority, Delaware County

Loan Application No.: ORF-21-0027-CW
Clean Water SRF Loan (“CWSRF Loan”)

Amount Requested: \$5,350,000.00

Interest Rate: The CWSRF Loan shall bear a fixed interest rate to be determined prior to loan closing plus an administrative fee of 0.5% per annum, all on the outstanding principal balance of the loan.

Payment Term: Interest, administrative fee, and principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

Security Position: The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, and gas systems, a 2.4 cents sales tax, and may include a mortgage on the Applicant's water, sewer, and gas systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) install sewer lines and replace manholes throughout the system, all related appurtenances (the “Project”), and (ii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$5,350,000.00	Project	\$5,215,800.00
		Bond Counsel	56,000.00
		Financial Advisor	56,000.00
		Local Counsel	21,700.00
		Trustee Bank	500.00
Total	<u><u>\$5,350,000.00</u></u>	Total	<u><u>\$5,350,000.00</u></u>

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-21-0027-CW IN THE NAME OF)
GROVE MUNICIPAL SERVICES AUTHORITY)
DELAWARE COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 15th day of September, 2020.

WHEREAS, Grove Municipal Services Authority (the "Applicant") has made its Application for Funding No. ORF-21-0027-CW (the "Application") to the Board for a loan from the Clean Water State Revolving Fund (the "CWSRF") program, pursuant to Title 82 Oklahoma Statutes 2011, Sections 1085.51 *et seq.*, as amended; and

WHEREAS, the Applicant intends to use the loan for wastewater system improvements and/or water quality protection efforts to further compliance with State and Federal standards, and/or to refinance existing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Application and related information, and finds that the Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. ORF-21-0027-CW in the name of the Grove Municipal Services Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) install sewer lines and replace manholes throughout the system, all related appurtenances (the "Project"), and (ii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$5,350,000.00. The Applicant shall pay interest on the loan at a fixed rate to be determined prior to closing plus an administrative fee at the rate of 0.5% per annum, all on the outstanding balance of disbursed loan proceeds. Interest, administrative fee, and any principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

ORDER APPROVING LOAN APPLICATION
Grove Municipal Services Authority
ORF-21-0027-CW

2. The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, and gas systems, a 2.4 cents sales tax, and may include a mortgage on the Applicant's water, sewer, and gas systems and other real property.

3. Upon the Applicant's acceptance of the Board's Letter of Binding Commitment, the funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other CWSRF loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from the CWSRF in accordance with the CWSRF program regulations as approved by the United States Environmental Protection Agency.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, CWSRF, and Bond Resolution requirements. In accordance with applicable authority and the United States Environmental Protection Agency ("EPA") guidelines for the implementation of the CWSRF Capitalization Grant, the loan conditions may include principal forgiveness to be used to pay a portion of the costs of the Project as described in the Application or for other purposes authorized by applicable authority and EPA guidelines. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 15th day of September, 2020, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Robert L. Stallings, Jr., Chairman

ATTEST:

Bob Drake, Secretary

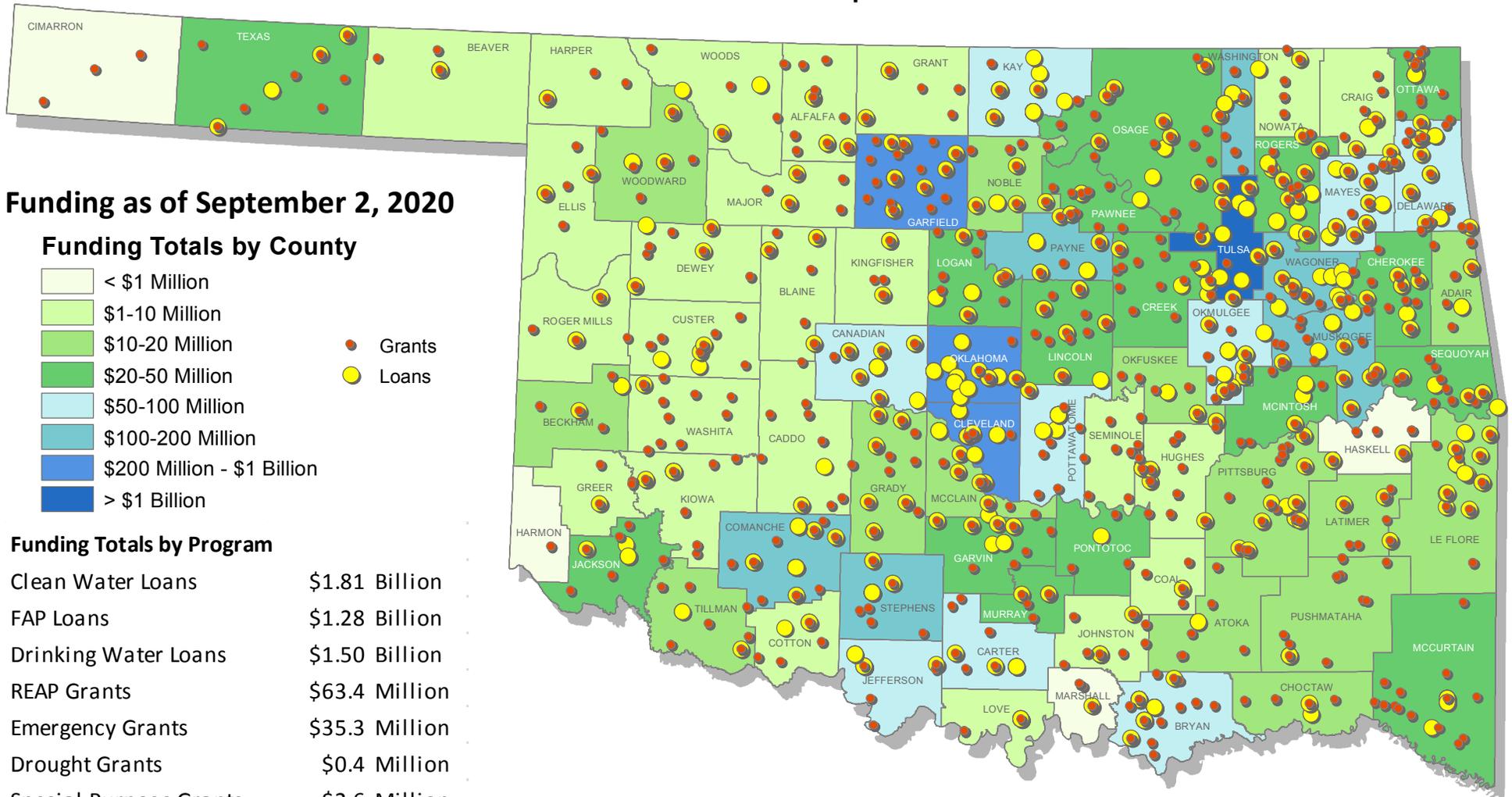
(SEAL)

Reviewed By:

/s/
Joe Freeman, Chief
Financial Assistance Division

Financial Assistance Division

Loan and Grant Recipient Status



Funding as of September 2, 2020

Funding Totals by County



Funding Totals by Program

Clean Water Loans	\$1.81 Billion
FAP Loans	\$1.28 Billion
Drinking Water Loans	\$1.50 Billion
REAP Grants	\$63.4 Million
Emergency Grants	\$35.3 Million
Drought Grants	\$0.4 Million
Special Purpose Grants	\$2.6 Million
TOTAL	\$4.69 Billion
TOTAL SAVINGS	\$1.6 Billion

3.C. SUMMARY DISPOSITION AGENDA ITEMS

FINANCIAL ASSISTANCE DIVISION

September 15, 2020

No Items

3. SUMMARY DISPOSITION AGENDA ITEMS

D. Contracts and Agreements Recommended for Approval

September 15, 2020

AGENDA ITEM 3D(1)

AMENDMENT TO JOINT FUNDING AGREEMENT

WITH: United States Geological Survey

PURPOSE: To extend term with the USGS for the Hydrogeologic Investigation and Groundwater-Flow Model of the Salt Fork Red River Alluvial Aquifer in Southwestern Oklahoma

AMOUNT: \$0

TERM: September 30, 2020 to December 31, 2020

UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
AMENDMENT OF JOINT FUNDING AGREEMENT
FOR
WATER RESOURCES INVESTIGATIONS

JFA No. 14C4SH02900002-04
Amendment No. 04 SO 42569
Cust No. 6000000284
TIN:
Cost Center: GGESSH0000

This amendment is for the agreement dated September 1, 2014.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Date extension for the report related to the work on the Hydrogeologic Investigation and Groundwater-flow Model of the Salt Fork Red River Alluvial Aquifer in Southwestern Oklahoma.

2. Paragraph 2a of the agreement is hereby n/a increased/ n/a decreased by \$ No change to read as follows:

(a) \$ 173,170 by the party of the first part during the period September 1, 2014 to December 31, 2020.

Paragraph 2b of the agreement is hereby n/a increased/ n/a decreased by \$ No Change to read as follows:

(b) \$ 284,240 by the party of the second part during the period September 1, 2014 to December 31, 2020.

Billing for this agreement will be rendered Quarterly. Payments of bills are due within 60 days after billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30-day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.)

UNITED STATES
DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

by TIMOTHY RAINES
Digitally signed by TIMOTHY RAINES
Date: 2020.08.20 09:26:12 -05'00'
(Signature)
Timothy H. Raines
(Name)
Director, OTWSC
(Title)

Date 8/19/2020

Oklahoma Water Resources Board
Attn: Chris Neel
3800 N. Classen Blvd., Oklahoma City, OK 73118

by _____
(Signature)

(Name)

(Title)

Date _____

AGENDA ITEM 3D(2)

AMENDMENT TO JOINT FUNDING AGREEMENT

WITH: United States Geological Survey

PURPOSE: To extend term with the USGS for the Updated Hydrogeology, Numerical Simulation of Groundwater Flow and Effects of Water Use and Drought on the Groundwater Resources in reach 1 of the Washita River Alluvial and Terrace Aquifer

AMOUNT: \$0

TERM: September 30, 2020 to December 31, 2020

**UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
AMENDMENT OF JOINT FUNDING AGREEMENT
FOR
WATER RESOURCES INVESTIGATIONS**

JFA No. 15C4SH00008002-05
Amendment No. 05 SO 46417
Cust No. 6000000284
TIN:
Cost Center: GGESSH0000

This amendment is for the agreement dated February 1, 2015.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation for a date extension for the report to Updated Hydrogeology, Numerical Simulation of Groundwater Flow and Effects of Water Use and Drought on the Groundwater Resource in Reach 1 of the Washita River Alluvial and Terrace Aquifer.

2. Paragraph 2a of the agreement is hereby n/a increased/ n/a decreased by \$ No change to read as follows:

(a) \$ 0 by the party of the first part during the period February 1, 2015 to December 31, 2020.

Paragraph 2b of the agreement is hereby n/a increased/ n/a decreased by \$ No Change to read as follows:

(b) \$ 508,000 by the party of the second part during the period February 1, 2015 to December 31, 2020.

Billing for this agreement will be rendered Quarterly. Payments of bills are due within 60 days after billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30-day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.)

**UNITED STATES
DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY**

**Oklahoma Water Resources Board
Attn: Chris Neel
3800 N. Classen Blvd., Oklahoma City, OK 73118**

by _____
(Signature)
Timothy H. Raines
(Name)
Director, OTWSC
(Title)

by _____
(Signature)

(Name)

(Title)

Date 08/20/2020

Date _____

AGENDA ITEM 3D(3)

INTERAGENCY AGREEMENT

WITH: Oklahoma Department of Agriculture, Food and Forestry

PURPOSE: For collecting groundwater samples at monitoring wells of swine licensed managed feeding operations (LMFOs)

AMOUNT: Not to exceed \$170,000.00

TERM: July 2, 2020 through June 30, 2021

INTERAGENCY AGREEMENT BY AND BETWEEN
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY AND OKLAHOMA
WATER RESOURCES BOARD

This Interagency Agreement ("Agreement") by and between the Oklahoma Department of Agriculture, Food, and Forestry ("ODAFF") and the Oklahoma Water Resources Board ("OWRB") is accepted by both ODAFF and OWRB for the following purpose(s): collecting groundwater samples at monitoring wells of swine licensed managed feeding operations ("LMFOs").

Authorization

Title 2, Section 20-12(F)(2) of the Oklahoma Statutes and the Oklahoma Administrative Code Section 35:17-3-11(e)(6)(A) authorize ODAFF to enter into this Agreement for the purpose of collecting and analyzing samples from swine LMFO monitoring wells. Title 82, Section 1085.2(2) of the Oklahoma Statutes authorizes OWRB to make such contracts as are necessary or convenient to the exercise of any of the powers conferred upon it by the law. OWRB has the personnel, services and equipment necessary to collect samples from LMFO monitoring wells.

General Terms and Conditions

1. Payment: ODAFF is applying for a grant from the U.S. Environmental Protection Agency ("EPA") disbursed via the Oklahoma Office of the Secretary of Energy and Environment ("OSEE") in the amount of \$170,000.00. Under the Clean Water Act, Section 106, the monies will be used, subject to OSEE's approval, to conduct the sampling of monitoring wells at swine LMFO facilities. The total amount to be paid under this Agreement shall not exceed \$170,000.00. The OWRB will invoice ODAFF on a quarterly basis for services and other associated costs incurred between July 1, 2020 and June 30, 2021. If final program costs amount to less than the amount of the grant approved by EPA, the balance of the funds will remain with the OSEE. All final invoices shall be submitted to the ODAFF no later than August 31, 2021. This Agreement is subject to the ODAFF receiving funding under the Clean Water Act, Section 106. During the effective term of this Agreement, should funding be reduced the ODAFF may limit, reduce, or cease its monies available pursuant to the Agreement via issuance of a change order. No payments to OWRB will be made until the OWRB/ODAFF Quality Assurance Project Plan ("QAPP") has been approved by EPA; except up to 10% of the grant funds received by ODAFF shall be paid to OWRB to reimburse initial planning costs regardless of the QAPP approval.
2. Duration and Termination: This Agreement, dated for convenience of reference as of July 1, 2020, shall become effective upon the approval and execution by both parties hereto. The term of this Agreement shall conclude on June 30, 2021. Either party may terminate this Agreement with thirty (30) days written notice.
3. Amendment: The terms of this Agreement may be amended only by the written agreement of both parties.
4. Employment Status: Nothing in this Agreement shall be construed to change or alter the status of the employees of either the ODAFF or OWRB. At no time shall any employee, volunteer, contractor, or designated person of the OWRB be considered an employee of ODAFF.

5. Costs of Monitoring Well Sample Analysis: Pursuant to 2 O.S. Section 20-12(F)(2)(a), the swine LMFO owner shall be responsible for the costs of sample gathering and laboratory analysis, unless the Oklahoma Legislature specifically appropriates funding for swine LMFO sampling costs to OWRB as part of the Beneficial Use Monitoring Program.
6. Additional Terms:
 - a. ODAFF and OWRB shall comply with all applicable and pertinent laws and rules of the State of Oklahoma and the United States.
 - b. All invoices regarding this Agreement shall include the EPA grant application number.

Responsibilities of Parties

OWRB agrees to the following:

1. To sample and monitor swine LMFO monitoring wells, which includes the following requirements:
 - a. The OWRB will develop a QAPP subject to ODAFF and EPA approval. The QAPP will specify the quality assurance and quality control (QA/QC) protocols and measures to be used during the sample procurement processes.
 - b. At least annually, OWRB, utilizing appropriate QA/QC protocols shall collect groundwater samples from swine LMFO monitoring wells identified by ODAFF. The samples shall be submitted to ODAFF's Laboratory Services Division, Water and Inorganic Section or to any other laboratory as agreed upon by ODAFF's Agricultural Environmental Management Services Division Director and OWRB's Water Quality Programs Division Chief. All monitoring wells shall be sampled at least once by May 31, 2021. OWRB will coordinate with ODAFF the parameters to be sampled based upon the Oklahoma Swine Feeding Operations Statutes and rules and the schedule of sample collection with ODAFF.
 - c. Field work will be documented by completion of monitoring well data purge and sample forms which will include the current name of the swine LMFO company, facility name and license number, facility type, the ODAFF assigned well numbers, the existing and new security seal or well lock numbers, the OWRB sampling team members, the date and time of sample collection, a log of the field purge parameter data and final purge stability criteria as well as the method of purge water and sample water extraction. These data forms will be submitted to ODAFF on a weekly basis during weeks when sampling activity occurs.
 - d. The OWRB will submit samples for each "wet" monitoring well to the ODAFF laboratory for analysis of fecal coliform bacteria, nitrate-nitrogen, ammonium-nitrogen, total phosphorous, pH, and electrical conductivity observing 24-hour holding time protocols for fecal coliform bacteria. Chain of custody documentation will accompany all samples submitted to the lab identifying the swine LMFO licensee, facility name, and license number, the name of the OWRB employee responsible for sample collection, well numbers, and analytical parameters to be tested and method of preservation.

- e. On or before September 30, 2020; December 31, 2020; March 31, 2021 and June 30, 2021, OWRB shall provide ODAFF a written quarterly report summarizing the laboratory analyses from that time period. The quarterly report will include the number of wells sampled and dry wells inspected.
 - f. In addition, by January 10, 2021 and July 10, 2021 the OWRB will supplement ODAFF semi-annual progress reports by reporting the level (percent) of work completed and the amount of funds expended.
 - g. The OWRB shall provide ODAFF with any updated global positioning data related to the locations (Latitude/Longitude) of monitoring wells at swine LMFOs.
 - h. The OWRB shall retain all necessary records, books, and any other reasonably necessary documentation relating to the nature, time and scope of the Agreement, regardless of form, for a period of seven (7) years following completion or termination of the Agreement. If an audit, litigation, or other action involving the records is commenced before the end of the seven (7) year retention period, the records shall be maintained for two (2) years from the date that all issues arising out of the action are resolved.
2. The OWRB will allow ODAFF to audit any payments made to OWRB under this Agreement, whether by a State Auditor or any other auditor specified by ODAFF. All records shall be made available upon request by an authorized representative of ODAFF. The term "records" include books, documents, accounting procedures and practices, claims and other data regardless of type whether in written form, computer data or any other form filed, produced or relating to OWRB performance under this Agreement. All records will be kept for the duration of the Agreement term and for a period of three years following completion or termination of the Agreement. If an audit, litigation, or other action involving the records is commenced before the end of the three-year retention period, the records shall be maintained for three years from the date that all issues arising out of the action are resolved.
 3. To give ODAFF's laboratory as much advance notice as possible before submitting samples for analyses.

ODAFF agrees to the following:

1. To cause OSEE to pay the OWRB for services performed in accordance with this Agreement after receipt of each quarterly invoice, according to paragraph No. 1, "Payment", under the heading "General Terms and Conditions" above.
2. To provide OWRB with all available requested information regarding monitoring wells at swine LMFOs, including but not limited to, location, historical data, and any other relevant information and to coordinate with OWRB regarding sampling events and required sampling parameters.
3. To provide laboratory analytical data in an electronic format as mutually agreed by the ODAFF Laboratory Services Director and OWRB Water Quality Programs Division Chief.
4. ODAFF shall collect any money due from LMFO owners pursuant to this Agreement.

Compliance

This Agreement is made expressly subject to applicable law and is to be construed in a manner consistent with applicable laws and regulations. The Parties expressly agree to comply with all of the laws of the United States, the State of Oklahoma and any political subdivision where any portion of the Agreement is to be performed, including all statutes, rules, or regulations now existing or that may be promulgated in the future. This Agreement neither expands nor degrades the jurisdiction or authority vested in the Parties by applicable law. This Agreement is not intended to modify or supersede any other applicable interagency agreements existing as of the date of this Agreement.

Severability

If any provision of this Agreement is found to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement or any renewal or extension of this Agreement, then it is the intention of the undersigned parties that the remainder of this Agreement that is not found to be illegal, invalid, or unenforceable shall remain in full force and effect.

APPROVED:

Oklahoma Department of Agriculture, Food, and Forestry

President Date
State Board of Agriculture

Oklahoma Water Resources Board

Chairman Date

ATTEST:

Secretary

(SEAL)

AGENDA ITEM 3D(4)

AMENDMENT AGREEMENT

WITH: United States Department of Agriculture-
Agricultural Research Service (ARS)

PURPOSE: For monitoring and evaluating water resources in
the Upper Washita River Basin

AMOUNT: Not to exceed \$49,900.00

TERM: August 31, 2020 through August 31, 2021

Agency AGRICULTURAL RESEARCH SERVICE	Type of Instrument Non-Assistance Cooperative Agreement		Authority 7 USC 3318(b)
Title of Project Monitoring and Evaluating Water Resources in Upper Washita River Basin	Agreement Number/FAIN 58-3070-9-006	Type of Action Amendment 01	Correction N
	CFDA No. 10.001		
Agency Administrative Point of Contact/ADO PATRICIA L TOTH USDA, ARS, AFM, PA Administrative Office FINANCIAL MANAGEMENT, TRAVEL AND AGREEMENTS 2775 F and B Road COLLEGE STATION TX 77845-4966 Phone: 979-260-9445 Fax: E-mail: pattl.toth@usda.gov	Period of Performance Start 09/01/2019 End 08/31/2021		
	Total Federal Amount \$99,800.00	Federal Amount Obligated by This Action \$49,900.00	Indirect Cost Rate 0.00%
Agency Principal Investigator PATRICK J STARKS USDA, ARS, PA, GRAZINGLANDS RESEARCH LABORATORY 7207 WEST CHEYENNE STREET EL RENO OK 73036-2144 Phone: 405-262-5291 Fax: E-mail: Patrick.Starks@ars.usda.gov	Non-Federal Entity/Federal Agency (Legal Name and Address) OKLAHOMA WATER RESOURCES BOARD 3800 North Classen Boulevard OKLAHOMA CITY OK 73118-2862 USA POC: CHRYSTAL KRITTENBRINK LEGAL SECRETARY Phone: 405-530-8800 Fax: 405-530-8900 E-mail: CRIS.KRITTENBRINK@OWRB.OK.GOV DUNS ID: 005621370		
	Non-Federal Entity/Federal Agency Principal Investigator LANCE PHILLIPS ENVIRONMENTAL PROGRAM MANAGER 3800 NORTH CLASSEN BOULEVARD OKLAHOMA CITY OK 73118-2862 USA Phone: 405-530-8800 Fax: E-mail: LANCE.PHILLIPS@OWRB.OK.GOV		
Agency Finance Office TINA K WILLIAMSON USDA, ARS, PA AO FINANCIAL MANAGEMENT, TRAVEL AND AGREEMENTS 2775 F and B Road COLLEGE STATION TX 77845-4966 Phone: 979-260-9492 Fax: E-mail: TINA.WILLIAMSON@USDA.GOV	Method of Payment <input checked="" type="checkbox"/> HHS/Payment Management System <input type="checkbox"/> Advance Payment Authorized <input type="checkbox"/> EFT/Treasury Check <input type="checkbox"/> Pre-Award Costs Authorized <input type="checkbox"/> Agency Receives Funds <input type="checkbox"/> UES (for FAS awards only) <input type="checkbox"/> ASAP <input type="checkbox"/> IPAC		

PROVISIONS

This Agreement incorporates the following:

- Statement/Scope of Work
 - Proposal
 - Non-Federal Entity Proposal/Award/Agreement
 - Research & Related Budget (Total Fed + Non-Fed) or REE-454
 - Research & Related Budget or REE-455
 - Prime Award attached (for subrecipients)
 - Comments (REE-451, page 2)
- These are available at <https://www.afm.ars.usda.gov/agreements/partnership/>
- Conflict of Interest Policy
 - USDA Civil Rights Policy Statement USDA Civil Rights Poster (AD-475-C)
 - REE-157 - Research Support Agreement Management Report Template

Reporting Requirements:

- Submit to: Agency PI ADO Non-Federal Entity/Federal Agency
- | | | |
|--|--|--------------------------------------|
| Performance Reports | Financial Reports | Management Reports |
| <input type="checkbox"/> Quarterly | <input type="checkbox"/> Quarterly | <input type="checkbox"/> Monthly |
| <input type="checkbox"/> Semi-Annual | <input type="checkbox"/> Semi-Annual | <input type="checkbox"/> Quarterly |
| <input checked="" type="checkbox"/> Annual | <input checked="" type="checkbox"/> Annual | <input type="checkbox"/> Semi-Annual |
| <input checked="" type="checkbox"/> Final | <input checked="" type="checkbox"/> Final | <input type="checkbox"/> Final |
- Intellectual Property Reports (www.iEdison.gov)
 - Form SF-428-B Tangible Personal Property Report - Final Report

Applicable Regulations, Terms and Conditions, and Required Certifications (available at <https://www.afm.ars.usda.gov/agreements/partnership/>)

- 2 CFR Part 200 and 2 CFR Part 400
- 7 CFR Part 550 - General Administrative Policy for Non-Assistance Cooperative Agreements, published 10/11/2016
- General Provisions, Research Support Agreement (REE-452R)
- General Provisions, Trust Fund and Reimbursable Cooperative Agreements (REE-22)
- AD-1047 - Certification Regarding Debarment, Suspension and other Responsibility Matters - Primary Covered Transactions
- AD-1048 - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions
- AD-1049 - Certification Regarding Drug-Free Workplace Requirements (Grants) - Alt I - For Grantees Other Than Individuals
- AD-1050 - Certification Regarding Drug-Free Workplace Requirements (Grants) - Alt II - For Grantees Who Are Individuals
- AD-1052 - Certification Regarding Drug-Free Workplace State and State Agencies
- AD-3031 - Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants
- Certification Regarding Lobbying
- REE-26 - Organization Information, Representations, Assurances & Certifications

This agreement, subject to the provisions above, is executed by the United States Department of Agriculture:

Signature	ADO Name PATRICIA L TOTH	Federal Award Date
-----------	-----------------------------	--------------------

By signing this agreement, the signor certifies that they are vested with the authority to enter into this agreement.

Non-Federal Entity/Federal Agency Signature	Name and Title	Date
Non-Federal Entity/Federal Agency Signature	Name and Title	Date

Agreement Number/FAIN: 58-3070-9-006
Type of Action: Amendment 01
Project Number: 3070-13000-012-60S
Accession No.: 437000

Agency Control No.: 51303
BOC: 4500
PO No.: 4500087129
FMMI Vendor Code : 1500000692

Agency Funds Chargeable - Agency Use Only

Account Code	FY	Amount	FMMI Fund Code	Cost Center	WBS Element
001-3070-510	2020	\$49,900.00	AR0001BASE	AR30700510	AR.MU.3070.01.0510

Comments:

Amendment 1 issued as follows:
Add FY 20 funds in the amount of \$49,900
Extend termination date from 8/31/2020 to 8/31/2021.
Expanded statement of work included in the Cooperator Agrees To section

Statement of Work

Agreement No.:58-3070-9-006

Type of Action: Amendment 01

Cooperator: OKLAHOMA WATER RESOURCES BOARD

Control No.:51303

Objective:

The objective of this cooperative research project is to conduct a field investigation to support hydrologic research and provide a database on stream flow and water quality in the Little Washita River and Fort Cobb Reservoir Lake Experimental Watersheds.

Approach:

Streams in the Little Washita River and Fort Cobb Reservoir watersheds in central Oklahoma will be monitored for gauge height and flow. Measurements are made on a continuous basis. Data are quality processed, analyzed, and archived. Data are used in hydrologic analyses and with environmental and water resource models. Water quality samplers will be installed in the Fort Cobb watershed.

STATEMENT OF MUTUAL INTEREST:

Both parties are actively engaged in independent research projects relating to climatic variability and hydrologic resource management. The parties agree that meeting the objectives of this cooperative project will strengthen and enhance ongoing research within the scope of this agreement. The Oklahoma Water Resources Board cooperator (OWRB) has the responsibility to manage and protect the waters of the State and plan for Oklahoma's long-range water needs in a responsive, innovative, and professional manner to ensure that all Oklahomans have adequate quantities of good quality water. Critical components of their mission include collection and dissemination of water resource data, special water resource studies, and a monitoring program to ensure that beneficial uses are maintained and protected. OWRB staff utilize water resource models to evaluate alternatives and project outcomes of alternative management scenarios. The mission of the Great Plains Agroclimate and Natural Resources Research Unit (ARS) is to develop assessment and planning tools for forage and livestock producers, conservation agencies, and downstream water users, which promote stewardship and reduce environmental and economic risks associated with variable climate. These products are based on remote sensing, modeling, and climate forecasting technologies and better understanding of interactions among land use, agricultural management, climate, and the water cycle. The research quantifies impacts of weather variability and extreme events like drought on agricultural productivity and water quality and quantity.

THE COOPERATOR AGREES TO:

EXPANDED STATEMENT OF WORK FOR AMENDMENT 01 -

Continue to monitor watersheds

The method of reimbursement for your USDA-ARS award is the Department of Health and Human Services-Payment Management System (PMS). As a recipient of this ARS award, you are required to submit the following reports within the PMS: a) Quarterly FFR-Federal Cash Transaction Reports (FFR-FCTR) throughout the life of the agreement, and b) A final FFR-FCTR to HHS (within 90-days of the term date). Instructions for completing the reports can be found at: <https://pms.psc.gov/pms-user-guide/federal-cash-transaction-report.html>.

ORIGINAL

1. Work closely with ARS and U.S. Geological Survey (USGS) in planning and conducting a project to be undertaken which will be the work plan set forth in the Joint Funding Agreement herein referred to as Cooperative Agreement between the U.S. Geological Survey (USGS) and the Oklahoma Water Resources Board (OWRB).
2. The Oklahoma Water Resources Board (OWRB) will collaborate through an additional Cooperative Agreement with USGS to conduct necessary field and analytical work directly related to stream flow monitoring of seven stream sites and reservoir height in three lakes in the Little Washita River Basin.
3. Provide necessary personnel for planning and execution of this agreement.
4. To be responsible and accountable for the performance and conduct of all Cooperator employees assigned to the project. ARS does not have authority to supervise Cooperator employees nor engage in the employer/employee relationship of the Cooperator
5. Provide USDA-ARS an annual performance report per the applicable provisions. The annual reports are due by June 1 of each year the Agreement is active. The final report is due no later than 90 days after the termination date of this Agreement.
6. Provide USDA-ARS an annual financial report per the applicable provisions. The annual reports are due by June 1 of each year the Agreement is active. The final report is due no later than 90 days after the termination date of this agreement.

Statement of Work

Agreement No.:58-3070-9-006

Type of Action: Amendment 01

Cooperator: OKLAHOMA WATER RESOURCES BOARD

Control No.:51303

7. Submit copies of all publications resulting from the research conducted under this cooperative agreement to the ARS Principal Investigator (ARS PI). The publications will be entered into the USDA-ARS publication database for cooperative agreement research accountability purposes and to facilitate data distribution and sharing via the world-wide web. The publication information entered into the USDA-ARS publication database will be accessible to the public through the USDA-ARS web site(s), including the name of the Cooperator's Principal Investigator and affiliation

AGENCY AGREES TO:

EXPANDED STATEMENT OF WORK AMENDMENT 01

SEE ORIGINAL SOW

MUTUAL AGREEMENTS:

1. The agreement budget is hereby incorporated into the agreement. The awarding agency will reimburse the Cooperator for the costs as budgeted, in the amount of \$49,900.00. As evidence of the Cooperator's contribution to this project, the Cooperator will contribute resources in the amount of \$9,980.00. Cooperators are required to report budget deviations which they automatically invoke, and when applicable request prior approval for budget revisions, per 7 CFR Part 550.116(c).
2. Payments to the Cooperator will be made through: HHS/Payment Management System
3. Correspondence and documentation submitted by the Cooperator to the Agency PI in reference to this agreement should cite Agreement No. 58-3070-9-006
4. ARS employees may not intervene in the employer-employee relationship between the Cooperator and its employees. In addition, ARS may not act so as to hire or otherwise engage in the personnel management of the Cooperator's employees.
5. The Cooperator's personnel are NOT authorized to operate government owned vehicles.
6. ARS and the Cooperator will work closely to assure the publications resulting from the research conducted under the cooperative agreement are submitted to the ARS PI.

U.S. DEPARTMENT OF AGRICULTURE
RESEARCH, EDUCATION, AND ECONOMICS

AGREEMENT BUDGET

COOPERATOR: OKLAHOMA WATER RESOURCES BOARD	AGENCY TO REIMBURSE	COOPERATOR CONTRIBUTION(S)
AGREEMENT NO.: 58-3070-9-006		
TYPE OF ACTION: Amendment 01		
A. Salaries and Wages		
1. Senior/Key Person(s)	\$0.00	\$2,500.00
2. Other Personnel (Post-Doctoral Associates, Graduate Students, Undergraduate Students)	\$0.00	\$2,490.00
3. Support Personnel/Secretarial/Clerical	\$0.00	\$0.00
Total Salaries and Wages →	\$0.00	\$4,990.00
B. Fringe Benefits (If charged as Direct Costs)	\$0.00	\$0.00
C. Total Salaries, Wages, and Fringe Benefits (A plus B) →	\$0.00	\$4,990.00
D. Equipment (Provide supporting data; list items and dollar amounts for each item exceeding \$5,000)	\$0.00	\$0.00
E. Materials and Supplies	\$0.00	\$0.00
F. Travel (List destination and amount for each trip)		
1. Domestic (Include Canada, Mexico, and U.S. Possessions)	\$0.00	\$0.00
2. Foreign	\$0.00	\$0.00
G. Publication Costs	\$0.00	\$0.00
H. ADP/Computer Services	\$0.00	\$0.00
I. Subawards	\$49,900.00	\$0.00
J. All Other Direct Costs (Provide supporting data. List items and dollar amounts for each item.)	\$0.00	\$0.00
K. Total Direct Costs (C through J) →	\$49,900.00	\$4,990.00
L. Indirect Costs (Specify rate and base)		
Rate : 0.00 %		
Base : \$0.00	\$0.00	\$4,990.00
M. Total Costs (K plus L) →	\$49,900.00	\$9,980.00

NOTES:

1. A separate budget is required for each year.
2. Federal Statute (7 U.S.C. 3318 (b)(1)(B)) requires a contribution of resources by all parties toward meeting the objectives of the Cooperative Agreement.
3. The Cooperator's contribution must be no less than 20 percent of the total of the resource contributions under the cooperative agreement. Resource contributions of the Cooperator must consist of a sufficient amount of itemized direct costs to substantiate a true stake in the project as determined by the ADO. The Cooperator's contribution must be maintained at 20 percent of Federal funding throughout the period of performance.
4. Under 7 USC 3319, USDA is prohibited from reimbursing State Cooperative Institutions for indirect costs or tuition remission in connection with non-assistance cooperative agreements awarded under the authority of 7 USC 3318(b).
5. Indirect costs will be reimbursed only upon receipt of a current approved Negotiated Indirect Cost Rate Agreement for all non-State Cooperative Institutions.
6. Unrecovered indirect costs may be used to meet a portion of the resource contribution requirement toward the cooperative effort. Indirect costs only for the resource contribution requirement is not allowed.
7. Unallowable costs as defined in 2 CFR Part 200, Subpart E - Cost Principles, cannot be considered a resource contribution.

U.S. DEPARTMENT OF AGRICULTURE
RESEARCH, EDUCATION, AND ECONOMICS

AGREEMENT BUDGET JUSTIFICATION
FOR 58-3070-9-006
Amendment No. 1

Budget Category	Cost
Subawards	
USGS Service to monitor watersheds	\$49,900.00

AGENDA ITEM 3D(5)

JOINT FUNDING AGREEMENT

WITH: Meshek & Associates, LLC

PURPOSE: Amendment Agreement extending time and adding to the scope of work to provide professional engineering services in connection with Cooperating Technical Partnership Program Assistance for the creation and maintenance of Flood Hazard Data.

AMOUNT: \$0

TERM: Through December 31, 2021

**AMENDMENT AGREEMENT
BETWEEN
MESHEK & ASSOCIATES, LLC
AND
OKLAHOMA WATER RESOURCES BOARD**

This **AMENDMENT AGREEMENT** (hereinafter “Amendment Agreement”), dated for convenience of reference as of the 1st day of September 2020, but to be effective after approval by all necessary persons, by and between Meshek & Associates, LLC (herein “Contractor”) and the Oklahoma Water Resources Board (herein “OWRB”),

WITNESSETH

WHEREAS, Contractor and OWRB have entered into a certain “Agreement for Professional Engineering Services for Cooperating Technical Partner Program (CTP) Assistance” dated March 9, 2011 as subsequently amended and renewed May 8, 2012, October 16, 2012, and January 21, 2014, February 1, 2015, November 16, 2016, November 10, 2017, September 18, 2018, and November 1, 2019 (herein “Agreement”), whereby Contractor has agreed to perform certain professional engineering services needed and requested by the OWRB in connection with carrying out the OWRB’s responsibilities under a certain Cooperating Technical Partner Partnership Agreement (“CTP Agreement”) with the Federal Emergency Management Agency (“FEMA”) to create and maintain accurate, up-to-date flood hazard data for OWRB or communities served in Oklahoma; and,

WHEREAS, 27A O.S. § 1-3-101(C) provides that the OWRB has the jurisdictional area of environmental responsibility in the State for, among other things, flood plain management; and

WHEREAS, the OWRB is authorized pursuant to 82 O.S. § 1085.2 to aid counties, incorporated cities and towns and special purpose districts in promoting and developing flood control; and

WHEREAS, the OWRB has entered into a Cooperating Technical Partner Partnership Agreement (“CTP Agreement”) dated November 6, 2002 with the Federal Emergency Management Agency (“FEMA”) to work together with FEMA to create and maintain accurate, up-to-date flood hazard data for OWRB or communities served in the State; and

WHEREAS, funding has become available from FEMA through the Oklahoma Department of Emergency Management (“OEM”) to the OWRB to implement the CTP Agreement; and

WHEREAS, the OWRB requires professional engineering services in order to carry out the CTP Agreement; and

WHEREAS, based upon the proposal submitted by Contractor, the OWRB has duly selected the Contractor to provide such services to the OWRB upon the terms provided below.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants provided below, it is hereby agreed as follows:

1. **AGREEMENT TERM.** The term of the Agreement shall continue in effect through December 31, 2021.
2. **ADDITIONS TO SCOPE OF WORK.** Contractor shall perform the additional tasks and assignments as outlined in the Additional Scope of Work attached hereto and incorporated herein by reference as Exhibit A.
3. **OTHER TERMS AND CONDITIONS.** Except for the additional time for performance and additional scope of work provided pursuant to Paragraphs 1 through 3 herein, all other terms, conditions and provisions set forth in the Agreement in its entirety with all attachments shall remain unchanged and are incorporated by reference as though fully set forth in this Amendment Agreement.

In witness whereof, the parties have approved and executed this Amendment Agreement on the dates shown below.

OKLAHOMA WATER RESOURCES BOARD

MESHEK & ASSOCIATES, LLC

Robert L. Stallings, Jr., Chairman Date

Brandon Claborn Date
CEO, Principal Engineer

ATTEST:

ATTEST:

Bob Drake, Secretary Date

Date

Exhibit A

Scope of Work

The Oklahoma Water Resources Board (OWRB) has received funding from the Federal Emergency Management Agency (FEMA) for the development of a Risk MAP project as part of a Cooperative Technical Partner (CTP) agreement. The work under this Agreement relates to consulting services for completion of Mapping Activity Statements (MAS) No. 9, 10, 11, 12, 14, 15, 16, 17-1, 17-2, 18-1, 18-2, 18-3, 19-1, 19-3, 19-4 and the additions of MAS No. 20-1, 20-2, and 20-3. This amendment may also cover further Mapping Activity Statements that may be awarded to OWRB in the future.

Activities are further defined as follows:

A. Mapping Activity Statement No. 20-1:

A.1. Program Management: 2020-2021 State CTP Business Plan Update/State Flood Plan Pilot. Contract amount: \$35,266.00.

B. Mapping Activity Statement No. 20-2:

B.1. Phase 2 (Risk Identification and Assessment): Pecan Creek Flood Risk Study (completion of MAS 19-3) to include detailed hydrology and hydraulics used to develop data for updated Flood Insurance Rate Maps and Non-Regulatory products for a portion of the Pecan Creek drainage basin in Comanche County. Contract amount: \$68,005.00.

C. Mapping Activity Statement No. 19-4:

C.1. Phase 2 (Risk Identification and Assessment): Rock Creek, Davis; Pennington Creek, Tishomingo; Unnamed Creek, Davis Flood Risk Study to include detailed hydrology and hydraulics used to develop data for updated Flood Insurance Rate Maps and Non-Regulatory products for a portions of Rock Creek, Pennington Creek and Unnamed Creek in Murray and Johnston Counties. Contract amount: \$212,690.00.

AGENDA ITEM 3D(6)

COOPERATIVE AGREEMENT

WITH: Oklahoma State University and the Oklahoma Conservation Commission

PURPOSE: To provide funding for the purchase of soil moisture sensors and associated service agreements for participants that complete the Master Irrigator Program

AMOUNT: OWRB's portion not to exceed \$25,000.00

TERM: Twelve months from date of final signatures.

COOPERATIVE AGREEMENT
Between
OKLAHOMA STATE UNIVERSITY, DIVISION OF AGRICULTURAL SCIENCES AND
NATURAL RESOURCES
and
OKLAHOMA CONSERVATION COMMISSION
and
OKLAHOMA WATER RESOURCES BOARD

This Agreement, by and between Oklahoma State University Division of Agricultural Sciences and Natural Resources (hereinafter “OSU”), the Oklahoma Conservation Commission (hereinafter “OCC”) and the Oklahoma Water Resources Board (hereinafter “OWRB”), is of mutual interest to the parties and the purpose and terms of this Agreement are accepted by OSU, OCC, and OWRB.

Name of Project

Oklahoma Master Irrigator Program (Program)

Purpose

This Agreement will provide the funding for the purchase of soil moisture sensors and associated service agreements for the participants that complete the Master Irrigator Program (Attachment A. Program Summary). The goal of the Master Irrigator Program is to give irrigators the knowledge, tools and assistance they need to adopt advanced irrigation technologies and strategies which increase water use efficiency, support achievement of *Water for 2060* goals and sustain the state’s precious freshwater supplies, while improving farm income and sustainability.

Contract Terms

1. **Term of Agreement.** This Agreement shall be valid upon execution of this Agreement and shall conclude twelve (12) months from the Effective Date. This Agreement may be renewed for two (2) additional years at the same terms and conditions as allowed by state law.

2. **Early Termination.** Any party to this Agreement may request termination of this Agreement upon written notice to the other parties not less than thirty (30) days prior to termination. Should early termination occur, any outstanding reimbursements will be paid and the parties shall take all necessary actions to cancel any pending or future commitments.

3. **Scope of Obligation of OSU:** OSU agrees to:
 - Lead the Program;
 - Provide the training to participants;
 - Certify participant completion of the Program;
 - Work with the multiple program collaborators toward meeting the purpose and intent of this Program;
 - Provide free water and energy audits for Program participants; and
 - Share the results of the impact and effects of the Program with all collaborators.

4. **Scope of Obligation of OCC:** The OCC agrees to:
- Work with the OSU, Beaver County Conservation District, Cimarron County Conservation District, and Texas County Conservation District to distribute the incentive funding by reimbursing costs for the purchase of soil moisture sensors and associated service contracts;
 - Manage, process, and track the incentive funding for this Program;
 - Provide 50% of the incentive funding that will be utilized to purchase soil moisture sensors and associated service contracts, OCC's contribution amount not to exceed \$25,000.00;
 - Submit an invoice to the OWRB for the full amount of their contribution, not to exceed \$25,000;
 - Provide to OWRB a Quarterly Request for Payment (invoice) requesting payment for reimbursement of actual costs up to the maximum amount provided in this Agreement. The requests shall include a report itemizing expenditures to be reimbursed for the current period and cumulative for the Program-to-date. The final request for payment shall be due no later than sixty (60) days following the termination of this Agreement; and
 - Provide quarterly reports to OSU also detailing the expenditures from the incentive funding.
5. **Scope of Obligation of OWRB:** The OWRB agrees to:
- Cooperate with OSU, OCC and other Program collaborators as needed;
 - Provide 50% of the incentive funding that will be utilized to purchase soil moisture sensors and associated service contracts, OWRB's contribution amount not to exceed \$25,000.00.
 - Upon receipt of the request for payment and the corresponding reports from OCC, the OWRB shall submit the corresponding payment of funds to OCC within forty five (45) days of receipt of invoice.
6. **Audit Clause:** The Oklahoma State Auditor and Inspector or appropriate federal audit agency shall, under this Agreement, have access to and the right to examine during normal working hours any pertinent books, documents, papers, or records of OSU, OCC, or the OWRB, or any of its sub-recipients engaged in the performance of or involving any transactions related to this Agreement.
7. **Compliance:** This Agreement is made expressly subject to, and the parties expressly agree to comply with and abide by, all of the laws of the United States and of the State of Oklahoma and any political subdivision where any portion of this Agreement is to be performed, including all rules and regulations now existing or that may be promulgated in accordance with the laws, as are applicable in any way to the performance of this Agreement including but not limited to the Occupational Safety and Health Act and the Fair Labor Standards Act. The parties shall comply with all local, state, and federal laws regulating employment practices, including those prohibiting discrimination based on sex, race, religion, creed, color, ethnic background, age and disabilities. Acceptance of this Agreement constitutes awareness of and compliance with the requirements of the aforementioned laws and the Americans with Disabilities Act.
8. **Non-Collusion:** No member or employee of OSU, OCC, or the OWRB shall be allowed to financially profit from this Agreement.
9. **Amendment Clause:** This Agreement may be modified by mutually acceptable written amendments, and must be duly executed by authorized officials of OSU, OCC, and the OWRB.

10. **Severability:** If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement or any renewal or extension of this Agreement, then it is the intention of the undersigned parties that the remainder of this Agreement shall not be affected. Additionally, for each provision of this Agreement that is illegal, invalid, or unenforceable, the parties shall add as an amendment to this Agreement a valid and enforceable provision as similar as possible to the terms contained in the unenforceable provision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date written below.

OKLAHOMA STATE UNIVERSITY

By: _____
Thomas G. Coon, Vice President, Division of Agricultural Sciences and Natural Resources

Date: _____

OKLAHOMA CONSERVATION COMMISSION

By: _____
Trey Lam, Executive Director

Date: _____

OKLAHOMA WATER RESOURCES BOARD

By: _____
Robert L. Stallings, Jr., Chairman

Date: _____

ATTEST:

By: _____
Bob Drake, Secretary

(SEAL)

Oklahoma Master Irrigator Program

Program Overview

Oklahoma State University, in collaboration with producer groups and state and federal agencies (see list on page 2), has initiated a Master Irrigator Program to provide training on advanced irrigation water management, new irrigation technologies and tools, optimizing energy and water conservation, and approaches for improved economics of irrigated agriculture. The program includes classroom training, peer-to-peer exchange of information, field demonstrations, and free-of-charge services such as water and energy audits through mobile irrigation laboratories. The instructors include extension specialists, irrigation specialists, and economists from OSU and adjoining states, producers, crop consultants and NRCS personnel. The program is being launched in the Oklahoma Panhandle in Winter January/February 2021. The program will be modified to meet the diverse needs of other regions of the state in subsequent years. The overall goal of the program is to facilitate improved water use efficiency and farm income via increased farmer adoption of advanced water management strategies and technologies.

The Master Irrigator program initially focuses on the declining water levels of the Ogallala Aquifer in the Oklahoma Panhandle region. The Oklahoma Panhandle receives the least rainfall in the state, yet the area is actively farmed for grain production. Irrigation helps with increasing and stabilizing the crop yields therefore supporting the local economy. However, the groundwater table in the region is declining due to water extraction at rates exceeding recharge of the aquifer. The Ogallala Aquifer is a finite source of water with low recharge rates. The longevity of the aquifer will determine the future of agriculture and economy in the region.

Use of irrigation scheduling tools to manage irrigation water application can increase water productivity, but with less capital cost than installation of new irrigation systems. However, use of irrigation scheduling technologies and tools, such as soil moisture sensors and/or crop growth model based irrigation schedulers, require advanced knowledge to apply effectively. Prior research in the High Plains region found that using precision irrigation scheduling increased water productivity by 25% compared to conventional irrigation application. This was achieved with a 10% reduction in water use and a 13% yield increase. This suggests that adoption of precision irrigation management could reduce water demand by 76,000 acre-feet/year statewide without impacting, and potentially increasing, productivity. The Master Irrigation Program is an effort to give direction to conventional irrigated agriculture in the area towards a more efficient and conservation driven sustainable agriculture to help sustain the life of the aquifer, while improving the farm returns in the region.

Program Structure

An advisory panel for the program is formed which includes representation from Oklahoma State University, local USDA-NRCS, county extension, producers, crop consultants and representation from the master irrigator programs of Colorado and Texas. The panel has given their inputs towards the curriculum for the program and dates of conducting the program. Program structure

Attachment A. Program Summary

includes classroom training, incentives, post program services of energy audits to the graduates as well as post program surveys. The classroom training will be provided over four days, which will be distributed over four weeks with each week having one dedicated day. The classroom lectures will be recorded and uploaded on a webpage created for the program.

The training will be provided to local producers, farm managers and crop consultants. The program will host up to 25 participants, who will be provided incentives for completing the program. The Oklahoma Conservation Commission and Oklahoma Water Resource Board have partnered with the program to provide resources for incentives. The incentives will include reimbursement of up to \$2000 per participant for the purchase of soil moisture sensors and associated service agreements. Also, each program graduate will be provided with a free water and energy audit following the program by the personnel of Oklahoma State University. Feedback from graduates will be requested and compiled to update future programs. The first program will be delivered in January-February 2021 at the Oklahoma Panhandle Research and Extension Center.

Program Collaborators

- Oklahoma Cooperative Extension Services
- Oklahoma Agricultural Experiment Station
- Oklahoma Water Resources Board
- Oklahoma Conservation Commission
- Oklahoma Water Resources Center
- Oklahoma Department of Agriculture, Food, and Forestry
- Oklahoma Panhandle Agriculture and Irrigation Association
- Oklahoma Farm Bureau
- USDA-NRCS

OSU Program Leaders

- Sumit Sharma, Plant & Soil Sciences (sumi@okstate.edu)
- Saleh Taghvaeian, Biosystems & Agricultural Engineering (saleh.taghvaeian@okstate.edu)
- Jason Warren, Plant & Soil Sciences (jason.warren@okstate.edu)
- Scott Frazier, Biosystems & Agricultural Engineering (robert.frazier@okstate.edu)
- Kevin Wagner, Oklahoma Water Resources Center (kevin.wagner@okstate.edu)

3. SUMMARY DISPOSITION AGENDA ITEMS

PLANNING AND MANAGEMENT DIVISION

September 15, 2020

PLANNING AND MANAGEMENT DIVISION
Applications to Amend Regular Permits to Use Groundwater

September 15, 2020

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMOUNT RECOMMENDED
1976-776 5/19/2020	Johnston County Rural Water District No. 3	5*	Johnston County Arbuckle-Simpson	1,128 acres* Sec. 8, T2S, R5E1M; and Secs. 10, 11, 23 & 26, T2S, R6E1M	Public water supply 225.6 a.f.*

*The applicant requests to amend their regular groundwater permit by adding 95.8 acre-feet of groundwater per calendar year (for a total of 225.6 acre-feet authorized); adding 479 acres to lands dedicated (for total of 1,128 acres dedicated); and reauthorizing three well locations and deleting one well location (for a total of five wells authorized). All other aspects of the permit will remain the same.

PLANNING AND MANAGEMENT DIVISION
Applications for Regular Permits to Use Stream Water

September 15, 2020

APP. NO. & DATE FILED	NAME OF APPLICANT	POINTS OF DIVERSION	COUNTY & STREAM SYSTEM	PURPOSE & AMOUNT RECOMMENDED
2018-086 10/1/2018	Nowata County Rural Water District No. 6	One point of diversion on the Verdigris River Sec. 2, T25N, R16EIM	Nowata County SS 2-15-2	Public Water Supply 100 a.f.
2019-021 4/5/2019	Will Harrington	One point of diversion on the Red River Sec. 32, T7S, R17EIM	Choctaw County SS 1-5	Irrigation of 565 acres 2,260 a.f.

**PLANNING AND MANAGEMENT DIVISION
Well Driller and Pump Installer Licensing**

September 15, 2020

DPC NUMBER	NAME OF FIRM	CERTIFIED ACTIVITIES	OPERATORS
New Licenses, Accompanying Operator Certificates and Activities:			
DPC-0996	Currie Drilling Company, Inc.	Groundwater wells, monitoring wells and pump installation	Shane Currie OP-1526
DPC-0998	Neill Well Service	Pump installation	Brandon Neill OP-2331
DPC-0565	The Phoenix Group	Monitoring wells and geotechnical borings	David Correll OP-2040
New Operators, License Name Change, and/or Activities for Existing Licenses:			
DPC-0063	Hoffman & Ewbank, LLC	Groundwater wells and pump installation	George Emmert OP-2332
DPC-0782	Etter Water Well	Pump installation	Daniel Murge OP-2248
DPC-0979	Building and Earth Sciences, Inc.	Monitoring wells and geotechnical borings	John Tucker OP-0951
DPC-0269	Associated Environmental, Inc.	Monitoring wells and geotechnical borings	Will Van Hoozer OP-2333

3.M.

BEFORE THE OKLAHOMA WATER RESOURCES BOARD OF THE STATE OF OKLAHOMA RESOLUTION

WHEREAS, the Oklahoma Legislature enacted House Bill 2033 during the 2000 legislative session to amend provisions of Section 1020.16 of Title 82 of the Oklahoma Statutes; and

WHEREAS, House Bill 2033 provided authority to the Oklahoma Water Resources Board to establish rules relating to the creation and organization of a Water Well Drillers and Pump Installers Advisory Council; and

WHEREAS, the Board adopted an emergency rule 785:30-1-6 to create the Advisory Council, and such rule was approved by the Governor on June 21, 2001; and

WHEREAS, the Board desires to appoint qualified members of the Water Well Drillers and Pump Installers Advisory Council.

IT IS THEREFORE RESOLVED that the following persons are deemed qualified to become Water Well Drillers and Pump Installers Advisory Council members, and the same are hereby appointed pursuant to Orders of Appointment:

<u>Appointee's Name</u>	<u>Activity Represented</u>	<u>Date Term Expires</u>
Pat Smith	Pump installation	September 1, 2021
Julie Cunningham	Ex Officio	September 1, 2022
Michael R. Ritter	Pump installation	September 1, 2021
Steve Vannoy	Groundwater wells	September 1, 2021
Robert C. Keyes	Monitoring wells and geotechnical borings	September 1, 2022
Brent Lang	Groundwater wells	September 1, 2022
Terry Williams	Groundwater wells	September 1, 2021

ADOPTED in regular and open meeting of the Oklahoma Water Resources Board on the 15th day of September, 2020.

Robert L. Stallings, Chairman

ATTEST:

Bob Drake, Secretary

3N.

**PLANNING AND MANAGEMENT DIVISION
Permit Applications for Proposed Development on
State Owned or Operated Property with Floodplain Areas**

September 15, 2020

APPLICATION NO. & COUNTY	NAME OF APPLICANT	LOCATION	PROJECT NARRATIVE
FP-20-04 Comanche County	Oklahoma Department of Wildlife Conservation	Highway 49 (Structure is downstream of the 49 crossing over Medicine Creek) Lat: 34.7206, Long:-98.4931	Intake & pump station

3.0.

**PLANNING AND MANAGEMENT DIVISION
Floodplain Administrator Accreditation Applications**

September 15, 2020

NUMBER	NAME OF COMMUNITY	FLOODPLAIN ADMINISTRATOR
FPA-835	City of Glenpool	Lynn Burrow

5. SPECIAL CONSIDERATION

PLANNING AND MANAGEMENT DIVISION

September 15, 2020

PLANNING AND MANAGEMENT DIVISION
Application for Regular Permit to Use Groundwater

September 15, 2020

NUMBER & DATE	COUNTY	NAME OF APPLICANT	RECOMMENDATION
2018-540 4/27/2018	Canadian	R. Wayne & Mary S. Schroeder	Approval of Proposed Findings of Fact, Conclusions of Law and Board Order

Applicants have requested a regular permit to withdraw 79.35 acre-feet of groundwater for the purpose of irrigation use from one well located on dedicated land in Canadian County. The record shows that the Applicants have established they own the dedicated lands; the land overlies the Alluvium & Terrace Deposits of the North Canadian River (for which the maximum annual yield and equal proportionate share have been determined and therefore each land owner is entitled to a groundwater allocation of up to one acre-foot per acre per year); irrigation is a beneficial use under applicable law; and waste will not occur in the future. Therefore the application should be approved and a temporary permit should be issued.

The Protestants claim that the Applicants' groundwater use would interfere with groundwater use in the area and cause undue stress on the aquifer. Protestants also assert that the Applicants have committed waste by depletion by drilling a well without a permit. However, the evidence in the record did not support this claim. See Findings of Fact nos.15 and 16 and Conclusions of Law nos. 26 and 31-35.

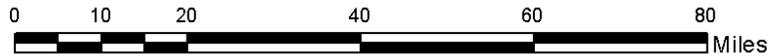
Special Consideration: Groundwater Application: Permit #20180540 - R.Wayne and Mary S. Schroeder - Canadian County



Legend

- Applicant Location
- Counties
- Interstates
- OWRB Major Aquifers**
- N. Canadian River A&T
- OWRB Minor Aquifers**
- Bedrock, El Reno

Date: 9/1/2020



**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

In the Matter of the Application of R. Wayne)
and Mary S. Schroeder for a Permit to Use) Application No. 2018-540
Groundwater in Canadian County)

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND BOARD ORDER

INTRODUCTION

This matter arises out of the application filed by R. Wayne and Mary S. Schroeder (“Applicant”) for a groundwater use permit. Applicants requested to drill one well on the property for purposes of irrigation.¹ Protests to the application were received and ultimately, Mike and Jody Pendleton and Judith Risk (“Protestants”) were made parties to the action herein.

A hearing was held at the Oklahoma Water Resources Board offices in Oklahoma City, Oklahoma. The parties were present and Applicant was represented by counsel. After the hearing was adjourned, the matter was taken under advisement. A proposed Order was prepared, served on the parties, and presented to the Board for consideration and action.

Based upon the separately stated Findings of Fact and Conclusions of Law that follow, the Board determines that the application should be granted as follows.

BACKGROUND

1. On April 27, 2018, Applicant filed Application No. 2018-0540 with the Board for a groundwater use permit. Applicant requested authorization to use 79.35 acre-feet of groundwater each year from one proposed groundwater well for irrigation and oil and gas purposes. Applicant dedicated to the application 70.87 acres of land in the NW quarter of Section 6, Township 12 North, Range 5 West, Indian Meridian; and 8.48 acres of land in the N/2 of SW quarter of Section 6, Township 12 North, Range 5 West, Indian Meridian, Canadian County, Oklahoma. The proposed groundwater well was to be located in the SE SE NW of Section 6, Township 12 North, Range 5 West, Indian Meridian, Canadian County, Oklahoma. Applicant proposed to use the groundwater in Canadian County. The application contained various other terms, including that it would be taken from the North Canadian River Alluvial Aquifer.

2. To support this application, Applicant submitted two Joint Tenancy Warranty Deeds (one at Book 1775 Page 239; and one at Book 2647 Page 281), a Quit Claim Deed (Book 1869 Page 619), and a Groundwater Lease. The lease, signed by Mary S. Schroeder as the surface owner of 70.87 acres of land located in the NW of Section 6-12N-05WIM, Canadian County, authorized R. Wayne and Mary S. Schroeder to apply for a permit, locate wells on the land and withdraw groundwater from 80.8616 acres of land located in the NW/4 of Section 6, Township 12 North, Range 5 West in Canadian County for an indefinite term.

¹ Applicant initially indicated the purpose was for irrigation and oil and gas. Prior to the hearing, Applicant withdrew his oil and gas request and proceeded with irrigation only.

3. Applicant made revisions to the application as necessary by Board rules and statute. Applicant also submitted a revised surface estate owners map for notification purposes.

NOTICE

4. On August 16, 2018, Board staff notified Applicant that the application had been reviewed and directed Applicant to give notice of the application by certified mail to each surface owner of land within 1,320 feet of the outside boundary of the ten-acre tract of land with a groundwater well location covered by the application, and publish notice of the application in a newspaper of general circulation in the county in which the well is located on the weeks beginning August 26, 2018 and September 2, 2018. The notice was published on August 29, 2018 and September 5, 2018, in the El Reno Tribune, a newspaper of general circulation in Canadian County. The notice listed a protest deadline of September 24, 2018. Applicant also sent, by certified mail, direct notice to those individuals listed on the surface estates owners map.

PROTESTS

5. Separate written protests against the application were received on or before the prescribed protest deadline from Mike and Jody Pendleton, Judith Risk, Zan Nelson, Thomas Manske and Wayne and Shirley Morse. Board staff reviewed the aforementioned protests and determined they did not provide enough information to meet the standard for protests. The Board sent letters to the above and requested they provide additional information to support their protest, providing them a certain extension of time to do so. Mike and Jody Pendleton and Judith Risk responded and were made parties herein.

HEARING

6. On July 13, 2020, Applicant withdrew his request for oil and gas use, confirming his application was for irrigation uses only.

7. The hearing commenced on July 15, 2020, at the Board's office in Oklahoma City, Oklahoma. Appearing on behalf of Applicant was attorney Kaylee P. Davis-Maddy of Doerner, Saunders, Daniel and Anderson, L.L.P., Oklahoma City, Oklahoma. Protestants appeared without counsel. The hearing was opened, appearances were entered, witnesses were sworn, the protestant's evidence and arguments were heard, and the hearing was adjourned. Thereafter, a proposed order was prepared, served on the parties, and presented to the Board for consideration at its September 15, 2020 meeting.

8. Although Protestants did argue that Applicant's discovery was not timely, Protestants agreed they were properly on notice and had their opportunity to be heard.

OWNERSHIP

9. The surface of the 79.35 acres of land dedicated to this permit, located in the NW quarter of Section 6, Township 12 North, Range 5 West, Indian Meridian; and 8.48 acres of land

in the N/2 SW quarter of Section 6, Township 12 North, Range 5 West, Indian Meridian, Canadian County, Oklahoma, is owned by Applicant, with permission for use from the co-applicant, Mary Schroeder. Ownership was not disputed at the hearing.

LAND LOCATED OVER GROUNDWATER BASIN

10. The land dedicated to this application overlies the groundwater basin known as the North Canadian River Alluvial Aquifer. The maximum annual yield determination has established by the Board for this groundwater basin at 1 acre-foot per year per acre of land.

11. Protestants allege that the drilled well is not within the North Canadian River Alluvial Aquifer, but is in the El Reno Basin, which is a minor bedrock aquifer, and that a well spacing requirement of 1,320 feet is required. No witness was presented to establish this claim. However, Protestants offered the well log filed by the well driller Applicant hired to drill the well, which showed the well was drilled into the red shale. Board staff testified that drilling in the red shale could mean the well is in the El Reno Basin, but that would depend on the geology of that exact location. Board staff testified there was no evidence to dispute that the application was made for and for use from the North Canadian River Alluvial Aquifer. Applicant testified that the well driller advised him the well was drilled into the North Canadian River Alluvial Aquifer and that had he drilled past the red shale, only then would he have been in the El Reno Basin.

12. Testimony established that no maximum annual yield determination has been established by the Board for the El Reno Basin and that Applicant filed his application prior to October 1, 2019, the date for which well spacing applies to the El Reno Basin under Okla. Admin. Code 785:30-3-6.

BENEFICIAL USE

13. The proposed use of the groundwater is to irrigate the land dedicated to the permit. During the hearing, Applicant testified he intends to irrigate the pasture grass, wheat, and cotton crops he planted and will plant in the future. Testimony by Board staff confirmed that irrigation uses are considered beneficial.

WASTE BY DEPLETION

14. Applicant intends to use the groundwater to irrigate the land dedicated to the permit. There was no evidence introduced to indicate that Applicant's water system/use is or will be inefficient. There was no evidence that in the future Applicant will take more fresh groundwater than is authorized by the permit; take or use fresh groundwater in any manner so that the water is lost for beneficial use; transport the water from the wells to the place of use in such a manner that there is an excessive loss in transit; use the water in such an inefficient manner that excessive losses occur; allow any fresh groundwater to reach a pervious stratum and be lost into cavernous or pervious materials encountered in a well; drill a well or produce groundwater therefrom contrary to the applicable well spacing of the North Canadian River Alluvial Aquifer

determined by the Board; or use the water for air conditioning or cooling purposes without providing facilities to aerate and reuse such water.

15. Applicant drilled the well without a permit, but has not, as acknowledged by all parties, pulled water from the well. Testimony by Board staff established that the mere act of a drilling a well without a permit is not considered waste by the Board so long as no water is pulled from that well. Applicant testified that he had not and will not use groundwater from the drilled well until a permit is granted.

16. Protestants expressed concern that Applicant's withdrawal would interfere with groundwater use in the area and cause undue stress on the aquifer.

WASTE BY POLLUTION

17. There was no evidence of any abandoned or unused water wells, hand dug wells or windmills on the dedicated land, or evidence that Applicant failed to properly plug any such abandoned wells.

WELL SPACING

18. Well spacing set by the Board for alluvium and terrace aquifers has been set at 660 feet. Evidence established that on March 20, 2019, Board staff took multiple measurements and submitted a memorandum that found that Applicant's proposed well location would be 660 feet from wells on adjoining land, such that spacing requirements for the North Canadian River Alluvial Aquifer would be met.

19. On June 23, 2019, Applicant drilled the well in that proposed location.

CONCLUSIONS OF LAW

Based upon applicable law, and as applied to the above Findings of Fact and evidence in the record, the Board draws the following Conclusions of Law:

USE OF GROUNDWATER

20. Under 60 O.S. § 60, the owner of the surface of a given tract of land owns the fresh groundwater beneath the surface of that land. That surface owner or his lessee may use such groundwater in accordance with the use regulations imposed by the Oklahoma Groundwater Law, 82 O.S. § 1020.1 and following.

SUBJECT MATTER JURISDICTION

21. The Board has subject matter jurisdiction to adjudicate applications for permits according to the Oklahoma Groundwater Law and the Board's rules promulgated pursuant thereto.

PERSONAL JURISDICTION; DUE PROCESS

22. Due and proper notice of the application and subsequent proceedings was given to all potentially interested persons as required by law. Applicant and Protestants are interested parties to this proceeding. All other potentially interested persons have defaulted or abandoned their interests. Oklahoma Administrative Code (“OAC”) 785:4-7-3.

ELEMENTS TO BE DETERMINED

23. When a person makes an application for a groundwater permit, 82 O.S. § 1020.9 and OAC 785:30-3-5 requires the Board to determine several specific issues. These are:

- (a) whether the applicant owns the surface of the dedicated land or holds a valid lease for the taking of groundwater from the land;
- (b) whether the dedicated land overlies a fresh groundwater basin or subbasin;
- (c) whether the use to which the applicant intends to put the water is a beneficial use; and
- (d) that waste by depletion and waste by pollution as specified in 82 O.S. § 1020.15 will not occur.

The final issue to be determined does not apply because the North Canadian River Alluvial Aquifer is not a sensitive-sole source aquifer.

If the Board finds for the applicant on all these issues, the rule provides that the Board shall approve the application and issue the appropriate permit. Section 1020.9(D) of Title 82 provides further that the Board may specify conditions in the permit, including but not limited to the rate of withdrawal and the level of perforation and sealing wells.

OWNERSHIP; LEASE

24. Based on the information submitted in the application and at the hearing, the Board concludes that Applicant has provided evidence of his right to take groundwater from the land, in the form of ownership documentation and testimony.

GROUNDWATER BASIN

25. The dedicated land overlies the North Canadian River Alluvial Aquifer. The maximum annual yield for this aquifer is 1 acre-foot per acre per year. Based on that maximum annual yield, Applicant is entitled to a groundwater allocation of one acre-foot per acre per year, as provided in 82 O.S. § 1020.11(8).

26. Protestants assert that the well drilled is within the El Reno Basin. However, there is no evidence to support that the well is within this aquifer, and not the aquifer applied for, which is the North Canadian River Alluvial Aquifer. Applicant has provided sufficient evidence to support that his well and application are to withdraw water from the North Canadian River Alluvial Aquifer.

BENEFICIAL USE

27. “Beneficial use” is defined in OAC 785:30-1-2 as:

The use of such quantity of ... groundwater when reasonable intelligence and reasonable diligence are exercised in its application for a lawful purpose and as is economically necessary for that purpose. Beneficial uses include but are not limited to municipal, industrial, agricultural, irrigation, recreation, fish and wildlife. . . .

28. “Irrigation use” is defined in OAC 785:30-1-2 as:

The use of water for the production of food, fiber, crops, timber, fruits, nuts; and water applied to pastures, fields, landscaping, horticulture services, and golf courses.

29. The facts in this case establish that Applicant’s proposed use meets the definition of irrigation use. The Board concludes that Applicant’s proposed use is a beneficial use under applicable law. *See Lowrey v. Hodges*, 1976 OK 32, 555 P.2d 1016, 1022-1023 (Okla. 1976) (“It is noted that the Legislature designated agricultural stability as a beneficial use. It requires little imagination to recognize that the Legislature intended to include irrigation for the purpose of growing food and fiber as a beneficial agricultural use.”)

WASTE BY DEPLETION

30. The Board must determine whether Applicant will allow waste as specified by 82 O.S. § 1020.15 to occur. Section 1020.15 is quoted as follows:

A. The Oklahoma Water Resources Board shall not permit any fresh groundwater user to commit waste by:

1. Drilling a well, taking or using fresh groundwater without a permit, except for domestic use;
2. Taking more fresh groundwater than is authorized by the permit;
3. Taking or using fresh groundwater in any manner so that the water is lost for beneficial use;
4. Transporting fresh groundwater from a well to the place of use in such a manner that there is an excessive loss in transit;
5. Using fresh groundwater in such an inefficient manner that excessive losses occur;

6. Allowing any fresh groundwater to reach a pervious stratum and be lost into cavernous or otherwise pervious materials encountered in a well;
7. Permitting or causing the pollution of fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin. The Board shall be precluded from determining whether waste by pollution will occur pursuant to the provisions of this paragraph if the activity for which the applicant or water user intends to or has used the water as specified under Section 1020.9 of [Title 82] is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the department of Environmental Quality or the Oklahoma Department of Agriculture, Food and Forestry;
8. Drilling wells and producing fresh groundwater therefrom except in accordance with the well spacing previously determined by the Board;
9. Using fresh groundwater for air conditioning or cooling purposes without providing facilities to aerate and reuse such water; or
10. Failure to properly plug abandoned fresh water wells in accordance with rules of the Board and file reports thereof.

According to OAC 785:30-1-1, paragraphs (1) through (6) and paragraphs (8) and (9) are forms of “waste by depletion” (as that term is used in the case of *Oklahoma Water Resources Board v. Texas County Irrigation and Water Resources Ass’n*, 1984 OK 96). Paragraphs (7) and (10) are forms of “waste by pollution”).

31. Protestants assert that Applicant has committed waste by depletion by drilling a well without a permit. Board staff testimony demonstrated that although wells are often drilled without permits, the Board does not consider same waste unless water is actually pulled from the well. Evidence did not support Protestants’ assertions that Applicant’s pre-drilling of the well prior to obtaining a permit constitutes waste. Likewise, the Oklahoma Supreme Court has found that “the definitions of waste . . . contemplate an after-the-fact finding of waste and set out the procedure for criminal prosecution, injunction, and suspension of a permit when and if it occurs. *Lowrey*, 1976 OK 32, 555 P.2d at 1023.

32. Applicant has provided sufficient evidence, and Protestants acknowledged same, that Applicant has not used the well without a permit.

33. The Board acknowledges Protestants’ concern about the groundwater supply in the area and that the use of groundwater could potentially be adversely affected by neighboring uses of groundwater from the same basin. However, there is no basis in this case to determine that Applicant’s proposed use will be impermissible or unlawful. The legislative policy expressed in the Oklahoma Groundwater Law is “to utilize the groundwater resources of the state.” 82 O.S. § 1020.2(A). To implement that policy, the Oklahoma Groundwater Law authorizes the controlled reduction of a groundwater basin as long as that reduction is done in an orderly fashion according to the statutory scheme for reasonable restrictions on such use. The surface owner or lessee of land overlying a fresh groundwater basin is entitled to use the groundwater beneath the surface once certain elements of the Oklahoma Groundwater Law have been met. Here the application is in accordance with and not contrary to the law and rules.

34. Pursuant to 785:30-3-6, the well spacing for “alluvium and terrace groundwater basins or subbasins where the maximum annual yield has been determined,” is 660 feet. Applicant’s well was drilled in accordance with the well spacing previously determined by the Board.

35. The Board concludes, based on the findings of fact that waste by depletion will not occur if this permit is approved.

WASTE BY POLLUTION

36. The provisions of 82 O.S. 1020.15(A)(7) provides the Board shall not permit any groundwater used to commit waste by “permitting or causing the pollution of a fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin.” Subsection (10) also declares waste as an owners “failure to properly plug abandoned water wells in accordance with rules of the Board and file reports thereof.” As stated above, no evidence was adduced by either party regarding pollution, so the Board must conclude, based on the above findings of fact that waste by pollution will not occur.

CONCLUSION

37. The Board hereby orders that application no. 2018-540 in the name of R. Wayne & Mary S. Schroeder shall and is hereby approved.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Application No. 2018-540 in the name of R. Wayne and Mary S. Schroeder shall be and the same is hereby granted. A permit shall be issued which authorizes one groundwater well located in the SE SE NW of Section 6, Township 12 North, Range 5, West, Indian Meridian, Canadian County, Oklahoma.

IT IS FURTHER ORDERED that all other terms and provisions set forth in the application and not inconsistent with provisions of this Order shall be incorporated into and made a part of the permit.

IT IS SO ORDERED by the Oklahoma Water Resources Board in regular and open meeting this 15th day of September, 2020.

OKLAHOMA WATER RESOURCES BOARD

Robert L. Stallings

ATTEST:

Bob Drake, Secretary

(SEAL)