

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

January 14, 2003

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Grandstaff, at 9:30 a.m., on January 14, 2003, in the Board Room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma. The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof.

A. Invocation.

Member Ervin Mitchell gave the invocation.

B. Roll Call

Board Members Present

Grady Grandstaff, Chairman
Richard Sevenoaks, Vice Chairman
Ervin Mitchell, Secretary
Harry Currie
Lonnie Farmer
Richard McDonald
Glenn Sharp
Wendell Thomasson

Board Members Absent

Bill Secrest

Staff Members Present

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

Others Present

Jim Hilton, Bar-B Ranch, Beaver, OK
Debbie Hilton, Bar-B Ranch, Beaver, OK
Stanley Barby, Bar-B Ranch, Beaver, OK
Junetta Barby, Bar-B Ranch, Beaver, OK
Cathie Arnold, Norman, OK
Bill Shepherd, Shepherd Farms, Knowles, OK
Betty Shepherd, Shepherd Farms, Knowles, OK
Bobby & Donna McSpadden, Sardis Lake Water Authority, Clayton, OK
Matha Ober, BancFirst, Oklahoma City, OK
Thomas Heve, Oklahoma Department of Wildlife Conservation, Oklahoma City, OK
Chris Gander, Oppenheim, Oklahoma city, OK
Angie Burkhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK
Chessie Blanchard, City of Blanchard, OK
Dan Maisch, Department of Environmental Quality, Oklahoma City, OK
Larry Swanson, Sierra Club, Oklahoma City, OK
Chris Cochran, Capitol West, Oklahoma City, OK
Bob Jones, Capitol West, Oklahoma City, OK
Cecil Wildman, Hendrix-Kemp, Stillwater, OK
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
Jeff Packham, Capitol Network News, Oklahoma City, OK
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK
Charles Newton, BOK/Oppenheim, Oklahoma City, OK
Tricia Billingsley, Oklahoma Corporation Commission, Oklahoma City, OK
Kelly Hunter, Office of the Attorney General, Oklahoma City, OK
Russell Nelson, U.S. Environmental Protection Agency, Dallas, TX
Julia Alderate, U.S. Environmental Protection Agency, Dallas, TX
Larry Edmison, Oklahoma Conservation Commission, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Grandstaff stated the draft minutes of the December 10, 2002 Regular meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were deletions or additions. Mr. Mitchell noted the minutes stated he was appointed to the Oklahoma Farm Bureau Board, but he had been elected by popular vote.

Mr. Sharp moved to approve the minutes of the December 10, 2002, Regular Meeting, with the correction, and Mr. Currie seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson, Grandstaff
NAY: None
ABSTAIN: None
ABSENT: Secrest

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, began his report by stating the Mr. Miles Tolbert had been appointed by Governor Brad Henry to serve as Secretary of Environment. Secretary Griffin's term ended at noon on Monday when Governor Henry was sworn-in; he thanked

Secretary Griffin for his support of the Water Resources Board's program, particularly the Beneficial Use Monitoring program. He said the dealings with Arkansas will be at the front of what Mr. Tolbert will be working on, and that the OWRB and the staff looked forward to working with him in that capacity.

Mr. Smith noted he had spoken to the Walters Rotary Club at Mr. McDonald's invitation. He said the group was especially interested in knowing about water rights in the area. He said this will be an area of interest during the upcoming legislative session. Mr. Smith said he will be traveling to Guymon for a meeting with the Panhandle Irrigation Association members and other interested persons about similar issues. A meeting is scheduled in Tahlequah to take public comment on the proposed in-stream flow designation for protection of scenic river status for the recreation, fish and wildlife, and how to balance use and protection of the environment. Derek Smithee will be presenting today the proposed in-stream rule changes as part of the changes to the Water Quality Standards for action at the February meeting. He added this is also an issue for the Western States.

Mr. Smith stated there have been a couple of water-related legislative measures introduced: HB 1012 will change the name of the North Canadian/Beaver River to the "Oklahoma" River. House Bill 1083 by Hilliard and Crutchfield deals directly with the OWRB and the conducting of hydrologic surveys. Currently, temporary permits are issued if a hydrologic survey has not been conducted on a groundwater basin, and after the survey has been conducted, regular permits are issued. The current statute says the survey is conducted for a minimum basin life of 20 years; this legislation will change the maximum annual yield to be determined on a basin life of 100 years.

Mr. Smith concluded his report. Mr. Currie asked about an update on the status of negotiations between Arkansas and Oklahoma on the phosphorous rule. Mr. Smith responded that Arkansas has said the negotiations have ceased because the number was sent to EPA. Oklahoma has met with officials in the EPA Dallas office and Oklahoma's position is that it is willing to negotiate. Now, through newspaper reports Arkansas is stating it wants to meet again. He said he believed EPA would approve the rule, but because there is a new Secretary of Environment we are in a transition period, but he assumed the same direction will be pursued.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Sulphur Municipal Authority, Murray County, Oklahoma. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this request for a \$75,000 emergency grant is from the Sulphur Municipal Authority. A segment of the MA's sewer lines near the High School Complex has experienced various severe sanitary sewage overflows and bypasses, many times submerging large portions of the football field. In order to correct the problem, Sulphur proposes to install 2,400 feet of 15" PVC pipe and about ten manholes. The estimated total project cost is \$126,963.55 to be funded with local funds of \$51,963.55 and the requested OWRB grant. Staff recommended approval of the grant request.

Ms. Chessie Blanchard, City Manager, was present in support of the grant request.

Mr. Mitchell moved to approve the emergency grant to the Sulphur Municipal Authority, and Mr. Currie seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson,
Grandstaff
NAY: None
ABSTAIN: None
ABSENT: Secrest

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water District #6, Wagoner County. Recommended for Approval. Mr. Freeman said Wagoner County Rural Water District #6 has made an application for a loan in the amount of \$450,000.00. He said the loan will be funded through the Board's 2001 Bond issue, and he noted provisions of the loan agreement. The loan funds will be used to construct additional water lines and to replace and loop existing water lines, establish a debt service reserve and pay related costs. Staff recommended approval of the loan request.

Mr. Charles White, Chairman and Mr. Rick Smith, Financial Advisor, were present in support of the loan application.

Mr. Mitchell moved to approve the loan request by the Wagoner County RWD #6, and Mr. Sharp seconded.

AYE:	Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson Grandstaff
NAY:	None
ABSTAIN:	None
ABSENT:	Secrest

C. Update on Haileyville Public Works Authority Clean Water SRF Loan Agreement Compliance. Mr. Freeman said that he is reporting to the members on the progress Haileyville has made since problems had occurred in the town in the summer of 2002. He said the staff had become worried about the town's ability to make loan payments since four council members had resigned and there was virtually no working city government. He said, however, the loan payment was made, and since that time the town now has a full council. One of the problems still occurring is that no financial reports have been submitted, no liability insurance policy, and June 30, 2003 audit has not been provided, and the town is also without a licensed operator. However, Mr. Freeman said a new operator has been hired and is undergoing training; the town is in violation of two orders by the Department of Environmental Quality. Mr. Freeman said he made a trip to Haileyville recently and visited with the new acting Mayor James and discussed the situation and looked at the treatment plant. He said the meeting went very well, and he is very agreeable to get things back in order, and Mr. Freeman stated he believed Mr. James would do what he said he would. Upon visiting the treatment plant, however, Mr. Freeman said there are some additional concerns about sludge management, but after visiting with the Mayor, he believed that would improve as well. Mr. Freeman recommended allowing Mr. James to do what he said he would do. Mr. Freeman said he would keep the members apprised of the situation.

D. Report by Board Audit Committee and Report of and Possible Action on Audits of Oklahoma Water Resources Board State Loan Program Revenue Bonds and Clean Water State Revolving Fund Program (CWSRF) Financial Statements as of June 30, 2002 and 2001, Audits of the CWSRF Administrative Fund and the Drinking Water Treatment Loan Administrative Fund as of June 30, 2002 and 2001. Mr. Freeman said the Board's Audit Compliance Committee had met following the December Board meeting. The members of the committee are Chairman Richard McDonald, Lonnie Farmer, Wendell Thomasson, and Glenn Sharp. Mr. Freeman detailed the items reviewed by the committee as well as the Board's General Counsel Dean Couch and the Board's auditors, John M. Arledge. He said the auditors reported to the committee that unqualified audit reports were issued on all of the Board's bond issues, there were no law or regulation violations, nor were there internal control findings. The auditors reviewed the combined reports of the revenue bond issue financial statements showing total assets increased by 27% last year to \$356,491,000.00, and a FY 2002 fiscal year revenue bond

issue net income of over \$664,000.00. He also noted the total assets of the Clean Water SRF increased by 23% to \$240,379,000.00 and total liability stood at \$31,170,000.00 as of June 30, 2002. There were no additional comments by the Committee members. Staff recommended approval of the audit report.

Mr. Sevenoaks moved to approve the audit report, and Mr. Mitchell seconded.
AYE: Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson
Grandstaff
NAY: None
ABSTAIN: None
ABSENT: Secrest

E. Consideration of and Possible Action on a Proposed Resolution Authorizing Staff to Request Proposals for Services in Connection with Issuing a New Series of State Loan Program Revenue Bonds. Recommended for Approval. Mr. Freeman said this resolution will authorize staff to request proposals for underwriters and bond counsels, and tax counsel if necessary, printer, bond insurance if necessary and liquidity facility in conjunction with a new debt issuance for the revenue bond issue loan program. He said that currently there is approximately \$36 million in un-obligated funds from the \$110 million series 2001 bond issue. He said he anticipated the remaining funds will be fully obligated within the next few months, and there are approximately \$23 million in loan applications under review, and approximately \$50 million in projected loan projects identified. Staff will work with the Board's Finance Committee, Mr. Farmer, Mr. Mitchell, Mr. Thomasson, and Mr. Secrest. Staff recommended approval of authorization to begin the debt issuance process.

Mr. McDonald moved to approve the resolution, and Mr. Thomasson seconded.
AYE: Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson
Grandstaff
NAY: None
ABSTAIN: None
ABSENT: Secrest

Mr. Mitchell asked the size of the bond issue; Mr. Freeman responded it had not been decided yet, but would probably be in the \$100 million-range.

3. SUMMARY DISPOSITION AGENDA

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

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items. There were no requests to transfer items, however, Mr. Schuelein noted that at the time of the mailout of meeting materials, sections of the contract for the loan tracking software, item 3.D.2. were not available. He provided copies of the agreement. He said the contract amount is still up for negotiation; however, staff is working with the Office of State Finance and Department of Central Services

and it is anticipated to be around \$240,000.00. Mr. Freeman explained that the program is a customized program designed by the 3X Corporation of Ohio. He said the staff has been looking for software for about eight years and right now are operating the financial assistance programs on several software programs. This software will allow everything to be incorporated into one program and will address comments by Standard & Poor's and the board's auditors about possible human errors entering data into multiple locations now that the Board's assets are in excess of \$600 million. He explained the process of searching for software, and found this software originally written for the State of Ohio, which other states are now looking at it. Six other software programs have been reviewed. He said there would be some annual expenses such as maintenance fees of approximately \$30,000 per year.

Mr. Mathis stated he needed to withdraw three items from the Board's consideration: 3.G.1., regular groundwater permit #2002-541, item 3.J.5., regular streamwater permit #2002-046, and 3.I.1. (which had been withdrawn under the posting of the revised agenda).

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

Mr. Thomasson moved to approve the Summary Disposition Agenda items, as amended, and Mr. McDonald seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson
Grandstaff
NAY: None
ABSTAIN: None
ABSENT: Secrest

The following items were approved:

C. Consideration of Approval of the Following Application for a REAP Grant in Accordance with the Proposed Order Approving the Grant:

<u>REAP Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
EODD				
1.	FAP-01-0086-R	Rural Water District #4	Craig	\$118,500.00
SODA				
2.	FAP-02-0002-R	Hendrix-Kemp Rural Water District #9	Bryan	99,999.00

D. Contracts and Agreements Recommended for Approval

1. Consideration of Agreement to Provide Services as Independent Auditor and Audit Engagement Letters for Revenue Bond Issues and State Revolving Fund Audits and Clean Water and Drinking Water State Revolving Fund Administrative Funds.
2. Consideration of Software Licensing Agreement for Loan Tracking Software; Authorizing Chairman to Sign Agreement after Review and Approval by the State Purchasing Director.
3. Consideration of Granting Authority to Chairman to Execute Final Contract with the Oklahoma City Renaissance Hotel to Host the Governor's Water Conference in 2003.

- E. Applications for Temporary Permits to Use Groundwater:
 1. Robert & Aquilla McLemore, Washita County, #2002-548
 2. Wooderson Farms, Kay County, #2002-582
- F. Applications to Amend Temporary Permits to Use Groundwater:
 None
- G. Applications for Regular Permits to Use Groundwater:
 1. **Todd & Deborah K. Mason, Texas County, #2002-541 withdrawn**
 2. Donald J. Brown, Beaver County, #2002-585
- H. Applications to Amend Regular Permits to Use Groundwater:
 None
- I. Applications to Amend Prior Rights to Use Groundwater:
 1. **Henry & Angela Heinrich, Canadian County, #1964-160D withdrawn**
- J. Applications for Regular Permits to Use Stream Water:
 1. Stream Natural Resources L.C., Atoka County, 1999-035
 2. City of Norman, Cleveland County, #2002-035
 3. Steven D. Peck, Caddo County, #2002-042
 4. Wooderson Farms, Kay County, #2002-043
 5. **Mark Ichord, Pittsburg County, #2002-046 withdrawn**
 6. Casa Grande Homes, Inc., Grady County, #2002-047
- K. Applications to Amend Regular Permits to Use Stream Water:
 1. Larry Mike & Suzanne Selman d/b/a Buena Vista Turf Farm, Marshall County, #2001-035
- L. Proposed Orders for Informal Disposition of Administrative Reductions and Cancellations of Rights to Use Stream Water:
 1. Lynn Ranch, Nowata County, #P1985-44
- M. Well Driller and Pump Installer Licensing:
 1. New Licenses, Accompanying Operator Certificates and Activities:
 a. Licensee: Vaughan & Wise Drilling, Inc. DPC-0557
 (1) Operator: Darren L. Belcher OP-1335
 Activities: Groundwater wells, test holes and observation wells
 Pump installation
 2. New Operators and/or Activities for Existing Licenses:
 a. Licensee: Cherokee America Drilling DPC-0060
 (1) Operator: Steven Waldrep OP-1180
 Activities: Heat exchange wells
 (2) Operator: Vernon C. Ashworth OP-1296
 Activities: Groundwater wells, test holes and observation wells
 Monitoring wells and geotechnical borings
 Pump installation
 b. Licensee: Choctaw Nation Environmental Health and Engineering DPC-0509
 (1) Operator: Jason Merida OP-1319

	Activities:	Pump installation	
(2)	Operator:	Jerry Thomas	OP-1320
	Activities:		Pump installation
(3)	Operator:	Sherman Ward	OP-1321
	Activities:	Pump installation	
(4)	Operator:	Clint Langley	OP-1322
	Activities:		Pump installation
(5)	Operator:	Sherman D. Ward	OP-1323
	Activities:	Pump installation	
(6)	Operator:	Kenneth King	OP-1324
	Activities:	Pump installation	
(7)	Operator:	David Bundy	OP-1325
	Activities:	Pump installation	
(8)	Operator:	Terry Ludlow	OP-1326
	Activities:	Pump installation	
(9)	Operator:	Robert Channel	OP-1327
	Activities:	Pump installation	
(10)	Operator:	Stan Dunlap	OP-1328
	Activities:		Pump installation
(11)	Operator:	Jarvis Finch	OP-1329
	Activities:		Pump installation
(12)	Operator:	Jaime C. Blankenship	OP-1330
	Activities:		Pump installation
(13)	Operator:	Steve Wayman	OP-1331
	Activities:	Pump installation	
(14)	Operator:	Billy Hunter	OP-1332
	Activities:	Pump installation	
(15)	Operator:	Harlan Ludlow	OP-1334
	Activities:		Pump installation
c.	Licensee:	Enercon Services, Inc.	DPC-0549
(1)	Operator:	Jefferson E. Laughlin	OP-1310
	Activities:	Monitoring wells and geotechnical borings	

N. Dam and Reservoir Plans and Specifications:
None

O. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:
None

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

A. Distribution and preview of Staff Proposals for 2003 Water Quality Standards Revisions and possible discussion by Public and Board Members (not presented for action). Mr. Derek Smith, Chief, Water Quality Programs Division, stated to the members that during the last year OWRB staff have worked diligently to update and evolve the state's Water Quality Standards. He reviewed the process utilized by staff: identifying topics, conducting public meetings, issuing rulemaking intent, accepting public comments, and accepting official oral or written comment

and comment response, then presentation to the Board for a vote in February. Following Board approval, there will be review by the Legislature and the Governor's office, and if approved, will become effective July 1, then sent to the Environmental Protection Agency to be adopted by federal law.

Mr. Smithee stated there are always general language changes and updates each year as a result of the review process, and this year there are some clarification of existing terms in the USAP, corrections in misprinted formulas, site-specific criteria studies on copper, permanent rule changes for scenic rivers in terms of the phosphorous language, wetlands language, response to EPA disapprovals, Chapter 46 was "split" into two parts: general implementation followed by the agencies, and water quality standards implementation unique to the OWRB and its water quality management activities. He explained the 690 rule by the DEQ, and the OWRB has proposed to remove the duplicative section in the WQS.

Mr. Smithee said the two high-profile issues this year regarded the phosphorous criteria for scenic rivers and wetlands water quality standards. An emergency rule passed last year for the phosphorous limit requires permanent rulemaking, and language for implementation was included. He said there has been a lot of discussion and interchange by interested parties and the regulated community, interest groups and sister state agencies. After much discussion the agreed-upon language is, "Such criterion shall be fully implemented by June 30, 2012, as authorized by state law through water quality standards implementation plans, or other.....measures designed to achieve full compliance with the criterion." He said other state agencies will promulgate into rule how they will assure the 0.037 criteria will be met and then other mechanisms, i.e., an agreement between Oklahoma and Arkansas would be a implemented to achieve compliance.

Mr. Sevenoaks was concerned that the language would allow someone to wait up until 2012 to implement a rule schedule; however, Mr. Smithee explained that the wording "fully implemented" would be the criteria that applies today. The Conservation Commission for example would have the responsibility to assure that voluntary compliance measures are in place, and the Department of Environmental Quality would assure that permits would be compliant by 2012. Mr. Smithee stated a second sentence had been originally proposed, but became so controversial that it was deleted, believing it was redundant and unnecessary. All interested parties have agreed to the language as it is proposed today. Mr. Sevenoaks stated he had thought there would be a "staged-in" schedule so that there wouldn't be any waiting until the end to come into compliance, and that he was concerned about Arkansas's response to implementation. Mr. Couch stated that is addressed for Oklahoma entities under Oklahoma law, and how this applies in each state, would be part of any agreement between the Attorney General and Arkansas officials. The rule will not apply until EPA's approval.

Mr. Smithee said that wetlands water quality standards was another high profile issue. He said there was a two-fold dilemma dealing with water quality standards for wetlands: (1) the OWRB believes wetlands are a "waters of the state" under the definition and by virtue of that, there is a default assignment of beneficial use and there was a more stringent beneficial use than was necessary; and (2) the DEQ, in its certification of dredge and fill permits was faced with having to say that once a dredge and fill was accomplished, that Oklahoma's Water Quality Standards were being met; however, the problem was there were erroneous standards that should be applied. After much discussion to address both issues, it was agreed not to go forward to address the waters of the states in wetlands issue because it is so controversial with so many ideas and there is also controversy in the federal government about definitions of wetlands, so it has been decided to continue work on the issue. The dilemma still existed for DEQ on water quality certifications, so several representatives of interest groups and state agencies met and as a result, agreed to language at the beginning of the standards allowing for "dredge and fill activities undertaken pursuant by the DEQ for certification, shall not be a

violation of Oklahoma's anti-degradation policy for measures taken to avoid, minimize, rectify, or compensate for those impacts and are done in compliance with the DEQ's WQS implementation plan," thereby allowing the implementation plan compliant with WQS, to recognize there is no violation of the standard. This is new language was compiled as a result of comments received, and all state agencies concurred that the language addressed the DEQ's concerns. Mr. Smithee said the language ad in that area will continue.

Mr. Smithee stated there were representatives of agencies and groups in attendance that would like to make comments to the Board about the proposed changes.

Mr. Jon Craig, director of the DEQ Water Quality Division, addressed the members and explained the water quality certification and the problem confronted regarding highway construction. He said that currently, the standards in the antidegradation portion does not allow mitigation. He explained that this [language change] is not new, but has been allowed by the Corps of Engineers which does the permitting for many years. He said the OWRB had attempted to address other issues as well with wetlands, but is so controversial, that there was no chance for agreement at least until EPA and the Corps of Engineers settle on new rules and federal policy. The agencies worked to narrow the language to only address the DEQ problem, and he believed it will allow what is already being done in Oklahoma and other states. Mr. Craig complimented Mr. Smith and the OWRB staff in their effort and work to get it done. Mr. Sevenoaks asked Mr. Craig about the implementation language on the phosphorous rule. Mr. Craig responded that at first he was concerned about the 10 year timeframe, but once he understood that the language meant achievement would be in the stream by 2012, then he actually agreed that was the best approach because it was not concerning an individual action, but it would take many years to get the current phosphorous levels out of the soil and sediment. Mr. Craig complimented the Board and the staff for establishing an in-stream phosphorous number for scenic rivers and most state environmental agencies have agreed that this one step by the OWRB is perhaps the most important thing that has happened in the past year to protect water quality in this state. He said the time will come when the Illinois River will be restored, and the other scenic rivers will be protected, and that would not have happened without the action by the Board. Mr. Sevenoaks stated his concern about the limit being met as waters crossed the stateline. Mr. Craig responded that as Mr. Smith has already said, it appeared EPA will approve the rule, and he had high hopes that an agreement with Arkansas would be negotiated and will have schedules, identification of BMPs to be implemented, etc., which will be no different for Arkansas than what is expected in Oklahoma.

Mr. Larry Edmison, Water Quality Director for the Oklahoma Conservation Commission, said his agency has the authority for wetlands strategy in Oklahoma. He said as a result he had been very active in the discussion about the OWRB staff's work in the area and in what direction it was headed. He complimented the staff spending a lot of time and working very hard with all of the agencies and all of the interest groups. He said he believed that the issues raised about the controversy over the Swank decision, isolated wetlands versus associated wetlands, etc., make it appropriate for the Board to withhold action for all wetlands standards and look at them for another year so the Congress can give the courts a chance to provide federal guidance. He said he is comfortable in giving the DEQ relief from the default standard. He also commented regarding the phosphorous issue stating he agreed with the interpretation of the Board's ten year implementation and that under the federal law once approved the TMDL will be done and that will drive much of the implementation schedule. He said he was comfortable with the stance the OWRB has taken.

Ms. Angie Burkhalter, Oklahoma Independent Petroleum Association, addressed the wetlands issue. She said they felt it is appropriate and reasonable for the OWRB staff to withdraw the proposed language without public comment. She said the OIPA had significant concerns with that language and provided comments during the comment period. She said she

had not had a thorough opportunity to review the new proposal released Friday, and would like additional time to work with the OWRB and DEQ to make sure she fully understood the proposal.

Ms. Marla Peek, Oklahoma Farm Bureau, said she would like to echo the OIPA comments, that it appeared to be near what is needed, but that she also needed additional time for further review. Regarding the phosphorous issue, she stated Mr. Smithee had mentioned a second sentence that had been deleted. She said she had worked with the OWRB to get that language just so and she really like it, which read, "the criterion shall apply to all activities for facilities that may contribute to total phosphorous to waters of the state and are required to be permitted, licensed or registered by an agency with appropriate environmental jurisdiction." She said the language does reflect the status quo, but the OFB concern was that it be emphasized that those that aren't already regulated would be regulated, i.e., golf courses. She said the Secretary of Environment has a role in how the agencies implement and if at some point it appeared these activities needed to be regulated, that it would go to the appropriate agency to promulgate rules. Mr. Sevenoaks asked the OFB stance on the language; Ms. Peek replied this is important and she did not yet know.

Mr. Jim Barnett, Environmental Federation of Oklahoma, stated to the Board the EFO water quality committee had not had a chance to review the new wetlands language and he could not make formal comment. He said he would make a commitment to do that within the next week or ten days. He said on a preliminary review of the language that has been proposed does need additional work, but that he supported the goal. He said he did appreciate the staff "rolling back" their efforts in the wetlands matter particularly in light of the controversy at the national level.

Mr. Ron Suttles, Oklahoma Department of Wildlife Conservation, said the ODWC commented in two areas in its letter of comment regarding water quality standards. He said they believed the phosphorous matter was an important step and they are supportive of the rules as WQS are designed to protect the quality and sometimes tough decisions have to be made. He said that regarding wetlands, the OWRB had an extensive process in attempting to develop wetlands language, and regardless of what someone might prefer, wetlands are waters of the state. He said the ODWC is disappointed the language has been set aside for now as they had believed the OWRB was headed in the right direction and a lot of time and effort had been put forth. He encouraged the Board to continue to work and he committed to be a part of the process. He said ODWC did recognize the necessity to withdraw the language, and it had accepted that.

Mr. Russell Nelson, EPA Region 6 Water Quality Standards Coordinator, congratulated the OWRB staff on the work done on the wetlands issue. He said that his comments in the record reflect what they would like to see done and their willingness to work with the OWRB to make it happen. Mr. Nelson said the federal regulation 131.10 require designation of beneficial uses for all waters of the state and there are some concerns because only marshes are referred to (in Oklahoma WQS) and that happens in only a few areas of the state. He recommended that the 1987 manual established by the Corps of Engineers has the definition of wetlands which the Corps and EPA have agreed upon. Mr. Nelson commented, and there was further discussion about the Board's/state's responsibility for a definition of water of the state.

There were no other comments from members of the public. There was no action taken by the Board.

5. SPECIAL CONSIDERATION AGENDA ITEMS

For INDIVIDUAL PROCEEDINGS, a majority of a quorum of Board members, in a recorded vote, may call for closed deliberations for the purpose of engaging in formal deliberations leading to an intermediate or final decision in an individual proceeding under the legal authority of the Oklahoma Open Meeting Act, 25 O.S. Supp. 2000, Section 307 (B)(8) and the Administrative Procedures Act, 75 O.S. Supp. 2000, Section 309 and following.

A. Consideration of Proposed Order to Administratively Reduce Stream Water Right No. 25-7, Petrolite Specialty, Osage County:

1. Summary – Mr. Mathis explained that this action is part of the Board’s cancellation and reduction process of streamwater permits. This water right, #1925-07 of Petrolite Specialty in Osage County, is currently 354 acre-feet per year of industrial use. Based on the review of water rights in this area, and Petrolite’s in particular, the records indicated the permit was subject to a reduction as indicated by operation of law to 18 acre-feet of water per year. Notice was given to the permit holder, a hearing was conducted, evidence was collected and the water use records were reviewed. Representatives from Petrolite did not dispute the evidence and did not offer to make changes to the water use records. The hearing examiner recommended a reduction; and Petrolite indicated there would be a need for an increase above the 18-acre foot recommendation. It was determined that water is available, and the reduction would not prevent them from making a new application. Staff recommended approval of the administrative reduction of the water right.
2. Discussion and presentation by parties. There were no representatives of Petrolite in attendance.
3. Possible executive session. The Board did not vote to enter executive session.
4. Vote on whether to approve the proposed order or vote on any other action or decision relating to the order.

Mr. Farmer moved to approve the administrative reduction of water right permit #1925-007, and Mr. McDonald seconded.

AYE:	Currie, Farmer, McDonald, Mitchell, Sevenoaks, Sharp, Thomasson Grandstaff
NAY:	None
ABSTAIN:	None
ABSENT:	Secrest

B. Consideration of Proposed Order Approving Application for Regular Permit to Use Groundwater No. 2002-544, Bar-B Ranch, Beaver County:

1. Summary – Mr. Mathis stated this item is for an application by Bar-B Ranch in Beaver County for a regular permit to use groundwater, number 2002-544. The application is to take and use 14,258.8 acre-feet of groundwater per year for irrigation use. The water is proposed to be withdrawn from four wells located on 7,129.4 acres of land dedicated, overlying the Ogallala Panhandle Region Groundwater Basin, for which the equal proportionate share has been determined to be two acre-feet of groundwater per acre of land dedicated. The irrigation water will be used for crops including wheat, corn and milo, and the applicant will use a center pivot system and a computer program to operate the pivots. If pressure is lost, the system will automatically shut down, and tailwater pits have been installed to capture any runoff water for re-use.

Mr. Mathis stated the protestants presented evidence that there has been some instances of runoff from the applicant's existing irrigation operation, the hearing examiner recognized an indication of a problem, but not as a practice of wasteful use of water in a substantial nature. Based on that, the hearing examiner felt that the evidence provided assurance that there would be an efficient use of groundwater in the proposed application. There were also some concerns expressed by the protestants the applicant's usage would be detrimental; however, there was no evidence presented to support the contention. Two of the existing wells have been drilled and completed by a licensed well driller to a level that actually exceeds the Board's requirements; a third well was drilled in 1967 but there are no indications of problems with the well; and a fourth well may be drilled which will be drilled in compliance with the Board's rules by a licensed water well driller. In summary, Mr. Mathis stated the hearing examiner determined the application to be in compliance with the Oklahoma Groundwater Law, and staff recommended approval of the application.

2. Discussion and presentation by parties. Mr. Jim Hilton, representing the applicant, stated to the Board that he felt all of the Board's requirements for the permit have been met. He expressed his appreciation for staff's effort on the permit, and he said he intended to abide by the regulations in accordance with the issuance of the permit.

Mr. Bill Shepherd, protestant, stated to the Board members that he lives in Section 26, and also has Section 23; his son lives in the town of Knowles. He said that he has already had to re-drill a well in Section 23 deeper in another area because when the wells in Section 25 of the applicant are being pumped, he did not have water for his cattle, and he did not think that was right.

Mr. Currie asked Mr. Mathis to respond to Mr. Shepherd's remarks. Mr. Mathis stated that the geology in this area is such that there are better areas and thicker areas of the Ogallala, and particularly west of Cimarron County there are areas that are thinner. He said well spacing has been set at 1320 feet so that wells do not impact one another. But, this is an area where some problems may be encountered. He suggested the parties could work together on pumping rates to alleviate the problem.

3. Possible executive session – the Board did not vote to enter executive session.

4. Vote on whether to approve the proposed order or vote on any other action or decision relating to the order.

Mr. McDonald moved to approve the regular application to use groundwater, no. 2002-544, and Mr. Thomasson seconded.

AYE:	Currie, Farmer, McDonald, Sevenoaks, Sharp, Thomasson, Grandstaff
NAY:	None
ABSTAIN:	Mitchell
ABSENT:	Secrest

C. Considerations of Items Transferred form Summary Disposition Agenda, If any.

There were no items transferred from the Summary Disposition Agenda.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Jim Schuelein, Chief, Administrative Services Division, stated that the budget report distributed in each members' packet reflects the budget through the period ending December 31, 2002. He said that each month the agency has operated well within its budgetary limits established by the Legislature and the Governor. The budget is under close scrutiny and the support of the full management team has been enlisted and will be reviewing each division's

budget. He said he is cautiously optimistic the agency will be able to handle the budget cuts, and the staff will continue to “tighten the belt.”

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

There were no supplemental agenda items for the Board’ consideration.

8. NEW BUSINESS

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

There were no New Business items for the Board’s consideration.

9. ADJOURNMENT

There being no further business, Chairman Grandstaff adjourned the regular meeting of the Oklahoma Water Resources Board at 11:20 a.m., January 14, 2003.

OKLAHOMA WATER RESOURCES BOARD

Grady Grandstaff, Chairman

Richard Sevenoaks, Vice Chair

Harry Currie

Lonnie Farmer

Richard McDonald

Bill Secrest

Wendell E. Thomasson

Glenn A. Sharp

ATTEST:

Ervin Mitchell, Secretary

(SEAL)