

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

March 11, 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 March 11, 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
Bill Secrest
Glenn Sharp
Wendell Thomasson

Board Members Absent

None

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

Joe R. Johnson, City of Yale, OK
Steven R. Jolly, AMCO, Davis, OK
Debbie Maxity, City of Waynoka, OK
Cathie Arnold, Norman, OK
Robert M. Jones, Capitol West, Oklahoma City, OK
Ed Fite, Oklahoma Scenic Rivers Commission, Tahlequah, OK
Larry Swanson, Sierra Club, Oklahoma City, OK
Bobby McSpadden, Sardis Lake Water Authority, Clayton, OK
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
Chris Gander, Oppenheim, Oklahoma City, OK
Leslie Smith, Myers Engineering, Oklahoma City, OK
Gene Myers, Myers Engineering, Oklahoma City, OK
Martha Ober, BancFirst, Oklahoma City, OK
J. Brent Clark, Floyd Law Firm, Norman, OK
John A. Bachelor, Floyd Law Firm, Norman, OK
Barry Bolton, Oklahoma Department of Wildlife Conservation, Oklahoma City, OK
Earl Brewer, Citizens-Protection of the Arbuckle-Simpson Aquifer, Tishomingo, OK
Charles Newton, Oppenheim/Bank of Oklahoma, Oklahoma City, OK
Chris Cochran, Capitol West, Oklahoma City, OK
Danny Ewbank, Ewbank, Inc., Fairview, OK
Gene Whatley, Oklahoma Rural Water Association, Oklahoma City, OK
Sarah E. Tenn, Office of the Attorney General, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Grandstaff stated the draft minutes of the February 11, 2003 Regular meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were deletions or additions. Mr. Currie moved to approve the minutes of the February 11, 2003, Regular Meeting, and Mr. Secrest seconded.

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

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, began his report saying it's a busy time of year, and Mr. Melton is at the Capitol, so he would present the legislative report. He said House Bill 1083, by Danny Hilliard and Johnny Crutchfield has been passed by the House with a stricken title and is now in the Senate. He explained there are pending applications regarding the Arbuckle Simpson, and the authors wanted to write the bill to protect the springs and rivers of the aquifer. With that goal in mind, he anticipated the changes would reflect some type of language that will direct the OWRB when issuing permits from the aquifer to protect streams and rivers, and not to impact water law so that users outside the basin are impacted. Mr. Smith said the Board's long-standing position has been that we need to conduct a study on the Arbuckle-Simpson, and no matter how the law is changed the agency will follow it, but a study

will inform us as to how much water is there, how much can safely be pumped, and how much the springs need to flow. A study proposal has brought \$500,000 from the federal government, and the state will need to provide a cost-share. He cautioned the Board members that there are permit applications pending from the Arbuckle, and there should be no communication with parties to the applications.

Mr. Currie asked about the study conducted previously by the U.S. Geological Survey. Mr. Smith responded that study was not cooperated with monetarily by the Board, but staff asked that information about groundwater can be included, which was included and a proposed 1.8 acre-foot of water per acre of land dedicated was recommended. The study was not intended to evaluate spring flows and Mr. Smith said it was his opinion, and that of the USGS, Kerr Laboratory and others, that additional study needs to be conducted now for the determination of an equal proportionate share. Mr. Smith said the age of the study is not a factor, geology does not change, but the scope of the study is what is important. Mr. Sevenoaks asked about the policy of “pump it dry” i.e., no limit being set on how much water can be pumped over a number of years. He asked about the legislative permitted withdrawal of the stream water where there is no protection of the rivers. Mr. Smith said that he would not characterize the law that way, that the law is protective. He said, for example, regarding the Ogallala there is a minimum basin life of 20 years, meaning that 50% of the land overlying the basin won't be able to pump the equal proportionate share after 20 years. The assumptions that go into that are critical, and looking at that on its face could be said that it is a “pump it dry” law, but the assumptions are that every acre of land has a well on it and is pumping the equal proportionate share and it is modeled so that there is 15 feet of saturated thickness at the bottom and then call it dry. If you take every acre and pump it, and then after 20 years 50% of that land is dry; we know there is only 15-20% of Texas County developed—the highest developed county in the State—so when the actual usage is figured with the proposed population projections, agriculture use of the future, the life of the basin is well passed 100 years. Even after 100 years, it is still not pumped dry. He said with that type of scenario, with only 15% development, with well spacing and other controls, it is not anticipated that the Ogallala will go dry. A lot of time can be spent tweaking the law but effort needs to go toward helping farmers financially and other ways i.e., to convert from flood irrigation to drip irrigation, and implementing measures to maintain economic viability and preserve water over time. Mr. Sevenoaks said he is looking at the “big picture” and felt the agency should be looking at a model about how to handle in the future the movement of water from one part of the state to another. Mr. Smith suggested an agenda item at a future meeting to discuss legislation, particularly specific to the Arbuckle-Simpson aquifer. He noted the tracking report had been distributed, and said all budget bills are appropriation bills at this time, and the anticipated cut for next year is about 17.5%.

Mr. Smith said he had attended a workshop sponsored by The Nature Conservancy regarding its study (ESWM) on the Kiamichi River basin that will ultimately result in an instream-flow to protect the river. He said the First Annual Groundwater Association Drilling Conference & Exhibition would be held in Bricktown, Oklahoma City, March 13-14. He elaborated that the state well drillers association has coordinated the event, and has also been involved in the proposed rule changes regulating the industry. Governor Henry has declared March 2003 Flood Insurance Month and May 2003 Flood Awareness Month, and the agency has scheduled several workshops across the state to train city officials. He also announced the agenda and Board meeting materials will be available on the website in an effort to save money through eliminating copying, paper, and mailing expense.

Mr. Smith concluded his report with the introduction of Tiger Feng, OWRB Employee of the Quarter.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Waynoka. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the Waynoka Utilities Authority has made a request for an emergency grant in the amount of \$65,000.00. Waynoka is under a consent order from DEQ for high nitrates in the water, making it necessary to provide bottled water for children less than six-months of age, and pregnant women. The UA is proposing the construction of a reverse-osmosis treatment plant to solve the problem, and will blend the treated and untreated water for distribution. He describe the facilities that will need to be constructed, and said the estimated total project cost is \$1,538,999.00, with funding to be provided through a Drinking Water SRF loan of \$1,339,000.00, and OWRB REAP grant of \$99,999.00, an OEDA REAP grant of \$35,000.00, and the OWRB emergency grant of \$65,000.00. Staff recommended approval of the request.

Ms. Debbie Maxity, City Administrator; Mr. Rick Smith, Financial Advisor; Bryce Kennedy, City Attorney; and Gene Myers and Leslie Smith, engineers, were present in support of the grant request.

Mr. Currie asked about the EPA standards for nitrates. Mr. Freeman explained the nitrate standard has changed becoming stricter, from 20 mg/l to 10 mg/l. Mr. Myers explained the testing that has been conducted in the area regarding nitrates and water levels. Mr. Sevenoaks asked if reverse osmosis was the most effective treatment, and Mr. Myers responded that in this case it is the most cost effective. Mr. Currie asked if the nitrate problem was because there is a contamination problem, or just to meet the new standard. Mr. Freeman answered that in the reports he has read, there is a problem with over-fertilization. The members talked about spending money to correct nitrate problems while the cause goes unknown or unresolved.

Mr. Mitchell moved to approve the emergency grant to the Waynoka Utilities Authority, and Mr. Secrest seconded.

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

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Waynoka Utilities Authority, Woods County. Recommended for Approval. Mr. Freeman stated that this item is for approval of the loan application mentioned under item 2.A. in the amount of \$1,339,000.00 from the Drinking Water State Revolving Fund loan program for the Waynoka project. He noted provisions of the loan agreement. Staff recommended approval.

Ms. Debbie Maxity, City Administrator; Mr. Rick Smith, Financial Advisor; Bryce Kennedy, City Attorney; and Gene Myers and Leslie Smith, engineers, were present in support of the grant request.

Mr. McDonald moved to approve the Drinking Water SRF loan to the Waynoka Utilities Authority, and Mr. Farmer seconded.

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

Mr. Farmer asked the amount the monthly water bill would be increased to construct the new system. Mr. Rick Smith said that rates had not been raised since 1993, so it will be substantial, basically tripling the average monthly bill of \$1.40. He said the maintenance cost is included.

C. Consideration of and Possible Action on a Proposed Order Approving Loan for Durant City Utilities Authority, Bryan County. Recommended for Approval. Mr. Freeman said the Durant City Utilities Authority had requested a loan in the amount of \$12,385,000.00 for partial long-term financing of the \$16,060,000 interim construction loan from the Board obtained in December 2001. He said the construction loan was for the modification of the wastewater treatment plant and for constructing a 3.5 million gallon per day cleansing batch reactor facility. Additional modifications were also proposed. Mr. Freeman noted provisions of the loan agreement, which \$4.6 million of the loan proceeds will be from the Clean Water SRF loan fund, and \$7.785 million will be from the state bond loan program. Staff recommended approval.

Mr. Rick Smith, Financial Advisor, was present in support of the loan application. He said that the interest rate on the notes would be reduced from 4.75% to a blended rate of approximately 1.5%. Mr. Duane Smith asked Mr. Rick Smith is he was aware of the savings to the City by utilizing the Board's program? Mr. Rick Smith answered that from an interest rate standpoint, Durant would have had the ability to issue revenue bonds on its own; however, to get the lowest rate, it would have had to acquire credit enhancement and insurance, and costs associated resulting in an average rate of 4.75%. He said 40% of this loan is at a .5% rate because of SRF funds, with the rest of the loan at 1.4%; a 3.0-3.5% difference could realize millions of dollars in terms of the overall issue. Rick Smith added that is why communities are coming to the Board, because it has very attractive rates and terms, and the staff makes it easy on the community.

Mr. Thomasson moved to approve the loan to the Durant City Utilities Authority, and Mr. Sharp seconded.

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

D. Consideration of and Possible Action on a Proposed Resolution Consenting to Amendment of Lien Position Securing Loan for Yale Water and Sewage Trust, Payne County. Recommended for Approval. Mr. Freeman explained that this item is for the approval of a resolution amending lien position. He said that on June 9, 1988, Yale obtained an \$820,000 loan from the Board that at the time the Board took a security interest in the utilities system revenues which consisted of water, sewer, and electric. In the fall of 1991, Yale acquired the local natural gas distribution system with a \$400,000.00 loan from the American National Bank of Sapulpa. As a result of the gas system acquisition, the Board acquired a lien on the gas revenues. At the time of the gas loan, the Board agreed the revenue from the gas system would be a subordinate position. Subsequently, the loan from the American National Bank has been paid off, and Yale is in the need of obtaining a \$115,000 loan to replace leaking gas lines. The bank has agreed to provide loan funds, with a senior lien, and the Board having a second lien on gas revenues. The \$115,000 bank loan will be for a term of seven years, with a 4.05% interest rate. He said that even with the new loan for the gas system repairs, Yale will have approximately a 2.8-times debt coverage ratio. Staff recommended approval.

Mr. Joe Johnson, City Manager, was present in support of the request.

Mr. Sevenoaks moved to approve the request to amend lien position with the Yale Water and Sewage Trust, and Mr. Sharp seconded.

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

E. Consideration of and Possible Action on Selection of Bond Counsel in Connection with the Issuance of Obligations to Provide Funding for the State Loan Program. Mr. Freeman said that this item is for the selection of bond counsel for the next issue of bonds for the Board's bond revenue loan program. He said that staff requested proposals from 12 bond counsel firms; two proposals were received, one from the firm of Fagin, Brown, Bush, Tinney & Kiser of Oklahoma City, and one from the Floyd Law Firm of Norman. Staff reviewed the two proposals, and the Finance Committee met with representatives of the two firms on March 12. The Board's Finance Committee consists of Mr. Farmer, Mr. Secrest, Mr. Mitchell, and Mr. Thomasson. Mr. Freeman asked Mr. Secrest to present the Committee's recommendation.

Mr. Secrest stated that the Finance Committee recommends, and he so moved, that the Board select the law firm of Fagin, Brown, Bush, Tinney & Kiser to serve as bond counsel to the Board for the proposed series 2003 state loan revenue bond debt issuance, with the stipulation that the fee for bond counsel services related to the issuance of the series 2003 bonds not exceed \$35,000.00. Mr. Sevenoaks seconded.

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

F. Consideration of and Possible Action on Selection of Underwriter in Connection with the Issuance of Obligations to Provide Funding for the State Loan Program. Mr. Freeman said the staff requested proposals from 19 underwriting firms, and received responses from six firms: UBS Paine Webber, Wells Nelson & Associates, Edward Jones, Capital West Securities, Oppenheim, and A.G. Edwards. He said that staff reviewed proposals from each of the firms and recommended a short list of firm representatives for the Finance Committee to meet with on March 12. Mr. Freeman asked Mr. Mitchell to present the Committee's recommendation.

Mr. Mitchell stated that in the matter of selection of underwriters to the Board for the proposed Series 2003 State Loan Program Revenue Bond debt issuance, the Finance Committee recommends, and he moved, that:

1. The Board select the underwriting firm of Capital West Securities, Inc., to serve as Senior Managing Underwriter to the Board;
2. The Board select the underwriting firms of Oppenheim, a division of BOSC, Inc., and Wells Nelson and Associates as Co-Managing Underwriters to the Board;
3. The allocation of initial issuance be 70% to Capital West, 15% to Oppenheim, and 15% to Wells Nelson;
4. The Board select Capital West as Remarketing Agent and allocate 100% of variable rate remarketings to Capital West;

5. The allocation of term rate conversions be 100% to Capital West for conversions less than \$12 million; and
6. The allocation of term rate conversions be 70% to Capital West, 15% to Oppenheim, and 15% to Wells Nelson for Conversions \$12 million or greater.

Mr. McDonald seconded the motion.

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

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. Mathis asked that agenda item 3.G.1., Stoney & Joyce Lacey, #2002-571, be withdrawn from the Board's consideration due to publication of notice problems.

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. N.

Mr. Farmer moved to approve the Summary Disposition Agenda items, as amended, and Mr. McDonald seconded. Mr. Currie asked about nitrates in Beaver County.

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

The following items were approved:

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

<u>REAP Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
ACOG				
1.	FAP-01-0046-R	Rural Water, Sewer & Solid Waste Management District #1	Canadian	\$129,726.59

OEDA	2.	FAP-02-0020-R	City of Waynoka	Woods	99,999.00
SODA	3.	FAP-02-0021-R	Elmore City Public Works Authority	Garvin	82,500.00

- D. Contracts and Agreement Recommended for Approval.
 1. Consideration of Agreement of Shared Services with Governor’s Office for Secretary of Environment.
- E. Applications for Temporary Permits to Use Groundwater:
 1. M & J Farms, Inc., Custer County, #2002-553
- F. Applications to Amend Temporary Permits to Use Groundwater:
 None
- G. Applications for Regular Permits to Use Groundwater:
 1. **Stoney & Joyce Lacey, Custer County, #2002-571 *withdrawn***
 2. Town of Forgan, Beaver County, #2002-581
 3. Ralph D. Hill, Texas County, #2002-587
- H. Applications to Amend Regular Permits to Use Groundwater:
 None
- I. Applications to Amend Prior Rights to Use Groundwater:
 None
- J. Applications for Regular Permits to Use Stream Water:
 1. John & Ellen McDonnell, Haskell County, #2002-056
- K. Applications to Amend Regular Permits to Use Stream Water:
 None
- L. Well Driller and Pump Installer Licensing:
 1. New Licenses, Accompanying Operator Certificates and Activities:
 a. Licensee: Wes’s Water Well Service DPC-0581
 Operator: Wesley Campbell OP-1338
 Activities: Pump installation
 2. a. Licensee: 4-State Water Well DPC-0583
 Drilling & Pump Service OP-1339
 Operator: Brice Bormann
 Activities: Groundwater wells, test holes and observation wells
 Monitoring wells and geotechnical borings
 Pump installation
 Heat exchange wells
- M. Dam and Reservoir Plans and Specifications:
 None

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

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

There were no questions or items for discussion about agency work and other items of interest.

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. Considerations of Items Transferred from 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 just before the meeting, he had received a call from the agency's House fiscal analyst who advised the agency will be taking an additional budget cut of 1.35% for the rest of the fiscal year. He said as a point of reference, 1% equals about \$80,000, and are mostly REAP grants. He said regarding the budget for this fiscal year, the agency is doing well; employees have resigned, and others are sharing responsibilities which has enabled the agency to save a lot of money to make it through this fiscal year, and help to offset some of the problems in the next fiscal year. Mr. Schuelein said the management team has met several times over the past few months to evaluate any way to save money, leading to, for example, the reduction in copying costs for the Board packet and agenda which is estimated to save the annual budget about \$10,000. Other opportunities are being looked at to streamline activities, i.e., shifting the bathymetric mapping program to Water Quality Division coordinating with BUMP to save approximately \$10,000; coordinating data processing needs by anticipating large hardware and software purchases through future grant requests; and we will continue to look at other areas. He said the Budget Committee had determined that if the cuts could be held at 15%, it would not affect personnel. He said if the agency is expected to absorb another 11% cut, we'll have to go back to "ground zero" and re-evaluate such options as "voluntary out" for retirees.

Mr. Mitchell commended the staff for its approach of "we can survive" and finding ways to save money rather than telling the Legislature we must have the money. He said it is good for the employees, the management, and the Board members, and he applauded the staff.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

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

8. PRESENTATION OF DRAFT PROPOSED NEW PERMANENT RULES AND AMENDMENTS TO CURRENT RULES OF THE BOARD

A. Background and Summary of Public Participation – Mr. Smith stated that last month he had explained the process, and staff had presented the rules changes. This month the Board will vote on the proposed changes for each chapter as presented, and there may be members of the public present to speak to those rules as well. Chairman Grandstaff asked Mr. Mathis and Mr. Freeman to present the proposed rule changes:

B. Proposed Amendment to Chapter 5 – Fees.

1. Summary of final draft proposed rules. Mr. Mathis said the proposed changes regarded fees associated with being able to file applications on line, instead of filing paper copies. He said that permit applications could still be made by filing the paper application “the old fashioned way.” That is the only amendment proposed regarding fees. Staff recommended approval.

2. Questions and Discussion by Board Members. Mr. Currie asked who paid the credit card fee; Mr. Mathis responded the applicant would pay the fee.

3. Comments by Public. Mr. Mathis stated there were no negative comments received. There was no public comment on the proposed rule.

4. Vote on whether to approve proposed amendments as presented or as may be revised after discussion and comment. Mr. Thomasson moved to approve the proposed amendment to Chapter 5 as presented, and Mr. McDonald seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Secrest, Sevenoaks, Sharp, Thomasson, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: None

C. Proposed Amendments to Chapter 20 – Appropriation and Use of Stream Water.

1. Summary of final draft proposed rules. Mr. Mathis noted the significant proposed change regarding a flow restriction of 35 cfs on the Barren Fork in Adair and Cherokee Counties had been discussed at the February meeting. Mr. Mathis noted other proposed changes in the Chapter to allow for electronic filing of applications, grammatical changes, and updated citations. Staff recommended approval.

Mr. Mathis said the proposed instream flow setting in this rule is for the Barren Fork as a scenic river area. He said staff had worked with the significant water users in the area, Adair County RWD #5, through a Planning Assistance to the States study, to look at alternative sources of water and offstream storage during times of potential restriction as a result of the rule. He said that as a result of the significant comment at the last Board meeting, staff has reviewed the comments and looked at the study and information provided by the contractor, and based on that and looking at existing permits being grand-fathered, staff now recommends increasing the flow restriction to 50 cfs, and the proposed language has been distributed. He said the rule would mean that once the flow level of 50 cfs was reached, all water users would

have to revert to offstream storage or another source of water. This will also be a consideration during the water right application process.

2. Questions and Discussion by Board Members. Chairman Grandstaff asked why the language referencing July through September, was stricken from the original rule. Mr. Mathis responded that was to clarify; those are usually the most critical months and this will be a year-round standard. Mr. Secrest asked if staff had received any comments from rural water districts in Adair County? Mr. Mathis answered that the proposed change had been provided to the Adair County RWD #5, and he had spoken with the system operator about attending the meeting or providing comment, and he did not received any indication of concern. Mr. Mathis said he felt the district is ready to get on with the project.

3. Comments by Public. Mr. Barry Bolton, representing the Oklahoma Department of Wildlife Conservation, stated to the members that his agency supports the rule as presented today. He applauded Mr. Smith, Mr. Mathis, and Mr. Smithee in this landmark effort to protect Oklahoma scenic rivers. He urged the Board to adopt the rule as presented.

Mr. Gene Whatley, Executive Director of the Oklahoma Rural Water Association, stated to the members that his association is somewhat concerned about the impact to Adair County RWD #5, and that he had talked with the manager, Lyle Collins, who does have some concerns about supply during dry periods. He said the system serves 420 customers; and he recognized the district is working with the OWRB on an alternative source supply. He said he is concerned about the interim period, and did not want the system to be impacted. He asked the members to consider the impact of the rule on the District's ability to provide water to its customers. Chairman Grandstaff asked if the District was grand fathered; Mr. Whatley responded one permit is, the other has a restriction.

Ms. Marla Peek, Oklahoma Farm Bureau, stated she had visited with the Adair County Farm Bureau Board of Directors about this issue, and they expressed concern about potentially limiting people to the amount of water that can be withdrawn from the stream. She said the District's permit that has the largest amount of acre-feet was issued in 1994 and has a provision in it that if the flow reaches 75 cfs, the District cannot withdraw water. However, she said it was her understanding the new provision of 50 cfs would become effective when adopted. She said the District has been actively seeking storage and is working with the Corps of Engineers and are waiting for a recommendation on location to determine cost. She said the OFB concern has been that at the February meeting staff explained to the Board that 35 cfs was a magic number and now its 50 cfs. Ms. Peek said that she was concerned about the people's water supply, and that the Adair County OFB had written a letter expressing those concerns. She is also concerned the Board is considering small mouth bass over the water needs of individuals. She said the OFB supported the 35 cfs, and would like to see the Board reconsider.

Mr. Larry Swanson, representing the Sierra Club, addressed the members and stated he commended the study that the rule be increased to 50 cfs as it is important to the habitat and wildlife that these streams supply.

Ms. Sarah Penn, Assistant Attorney General, stated to the Board members that the Attorney General's office is in support of these rules, and they believed it is the most protective that can be considering the impact necessary for users in the area.

Mr. Duane Smith responded to comments about Adair County RWD #5. He said the District has two permits, one that has no flow restriction, and one that has a 75 cfs flow restriction. By adopting this rule, the 75 cfs will be lowered to 50 cfs, which will ease some of the burden. He said the OWRB has been working with the District, even with the 75 cfs restriction, to get them to offstream storage, which they want to do and they need to do. He said the District's long-term plan is to grow considerably, and there are records that the Barren Fork flow can be as low as 2 cfs, which will not adequately supply its customers. The District understand it will have to go to offstream storage, and that it will have to pay for it. Mr. Smith

said the OWRB has worked with Mr. Ed Fite, Executive Director, Oklahoma Scenic Rivers Commission, about the 35 cfs level, and the impact to the users whether its 35 or 50 is not much. Regarding Adair RWD #5, at 35 specifically, the District will need off stream storage, and at 50 cfs it will still need off stream storage, so setting the level at 35 does not mean the District won't have to spend money to get off stream storage. The OWRB will work with the District and will get on a compliance schedule; they were not shut off while they've had the 75 cfs, and they won't be shut off under the 50 cfs restriction. Mr. Smith said this Board approved a Planning Assistance to the States grant through the Corps of Engineers, a 50-50 cost-share program, to analyze the offstream storage potential in that area for the District, and that report will be released probably within the next month, and the District will be working with the Financial Assistance Division to provide offstream storage. The difference between the 35 cfs and the 50 cfs is not critical to the users. Regarding the scenic river designation, the Legislature has set policy that they will be protected more than the other rivers. It is reasonable to look at 50 cfs as being more protective, and not having a major impact to the users. The Department of Wildlife Conservation has committed to using its resources to monitor the habitat and the fish, and the restriction will be evaluated as to whether there is a better number. He recommended the Board approve the rule as presented.

Mr. Secrest asked if there are cost estimates for the offstream storage; Mr. Mathis responded there are not as yet, but there will be several options to look at a "least-cost" estimate, including future growth.

4. Vote on whether to approve proposed amendments as presented or as may be revised after discussion and comment. Mr. Thomasson moved to approve the proposed amendment to Chapter 20 as presented, and Mr. Sharp seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Secrest, Sevenoaks, Sharp,
Thomasson, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: None

D. Amendments to Chapter 30 –Taking and Use of Groundwater.

1. Summary of final draft proposed rules. Mr. Mathis said this year there were minor changes to Chapter 30. One proposal is for the electronic filing of applications; there are also grammatical changes, updating citations, and typographical changes.

2. Questions and Discussion by Board Members. There were no questions by the Board members. Mr. Currie commented he would like to see something on meters.

3. Comments by the Public. There were no comments by the public.

4. Vote on whether to approve proposed amendments as presented or as may be revised after discussion and comment. Mr. Thomasson moved to approve the proposed amendment to Chapter 30 as presented, and Mr. Mitchell seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Secrest, Sevenoaks, Sharp,
Thomasson, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: None

E. Amendments to Chapter 35 – Well Drillers and Pump Installers Licensing.

1. Summary of final draft proposed rules. Mr. Mathis explained that the Well Drillers Advisory Council had been hard at work reviewing the rules and making several proposals to update technology, and the significant change is adding education requirements. He said there

were two members of the Council present to speak to the Board, as well as to make one additional provision that needed clarification and they will present the language.

Mr. Danny Ewbank, Chairman of the Well Drillers Advisory Council, spoke to the members and stated that the rules that have been presented contain housecleaning items to fill in cracks and close some loopholes. He said the proposed rules are not going to cause a great burden on contractors, but basically, if everyone performed the job with integrity and professionalism, there wouldn't be a need for the rules. With regard to the education credits, this brings Oklahoma in line with surrounding states, it is the trend in the industry, as the sole purpose is to protect our groundwater. Mr. Ewbank stated these are good rules, and the Council would like to see them passed.

Mr. Smith complimented the Council and their diligence to make the program professional, and to protect the environment. He asked Mr. Ewbank his opinion about meters on irrigation wells. Mr. Ewbank replied that he would not be opposed to meters, but the problem with meters is mechanical; they break, they can be changed, and they can be bypassed. He said the OWRB does not have enough personnel to go out and check every meter on every irrigation well in Oklahoma. He said it would be unenforceable legislation; cheaters will still cheat, and the good guys will do it right. Each meter, depending upon the quality of the meter will cost between \$500-\$1,000, and if they must be installed properly by the manufacturer, or they will not operate accurately. Mr. Mitchell made a few comments about the operation of wells and sand.

Mr. Ewbank added that it is not the intent of the Council to create a burden on the industry, there are a lot of great contractors getting the job done right, the rules are for those who will not. Chairman Grandstaff complimented the Council on its work.

Mr. Mathis distributed the proposed language change suggested by the Council regarding direct push geotechnical borings.

General Counsel Dean Couch stated that on page 8315 and 8316 in the packet, an oversight correction regarding the creation of rules for heat exchange wells should be stricken on page 8314, and he suggested striking the word "fresh" add the word "and ", and strike through the words, "and heat exchange" on line 10, to be consistent with the change already noted on line 12.

Mr. Smith stated staff recommended approval of the rules as presented with the additional changes.

2. Questions and Discussion by Board Members. There were no other questions by the Board members.

3. Comments by the Public. There were no comments by the public.

4. Vote on whether to approve proposed amendments as presented or as may be revised after discussion and comment. Mr. Sharp moved to approve the proposed amendment to Chapter 35 as presented with the additional amendments, and Mr. Farmer seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Secrest, Sevenoaks, Sharp, Thomasson, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: None

E. Proposed Amendments to Chapter 50 – Financial Assistance.

1. Summary of final draft proposed rules. Mr. Joe Freeman explained that there are two areas of changes proposed in Chapter 50: subchapter 8 needs modification to allow communities with a population of 1,750 to be a higher priority for a Rural Economic Action Plan grant, and for rural water districts, the change is from 450 non-pasture taps to 525 taps. The proposals will bring the rules into compliance with statutory change in those two areas. He said

that in subchapter 9, the proposed change enables the Clean Water State Revolving Loan Fund program to fund non-point source pollution control projects, along with traditional point source wastewater treatment and collection infrastructure construction projects. The proposal will bring the rules into compliance with statutory changes. Mr. Freeman said no public comments were received regarding the rules changes. Staff recommended approval.

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

3. Comments by the Public. There were no comments by the public.

4. Vote on whether to approve proposed amendments as presented or as may be revised after discussion and comment. Mr. Thomasson moved to approve the proposed amendment to Chapter 50 as presented, and Mr. Mitchell seconded.

AYE: Currie, Farmer, McDonald, Mitchell, Secrest, Sevenoaks, Sharp,
Thomasson, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: None

9. NEW BUSINESS

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

There were no New Business items for the Board's consideration. However, Mr. Smith stated he and Mr. Fite had discussed the Board again holding a Board meeting and educational tour on the Illinois River sometime this summer.

10. ADJOURNMENT

There being no further business, Chairman Grandstaff adjourned the regular meeting of the Oklahoma Water Resources Board at 11:04 a.m., March 11, 2003.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Grady Grandstaff, Chairman

_____/s/_____
Richard Sevenoaks, Vice Chair

_____/s/_____
Harry Currie

_____/s/_____
Lonnie Farmer

/s/
Richard McDonald

 Absent
Bill Secrest

 /s/
Wendell E. Thomasson

 /s/
Glenn A. Sharp

ATTEST:

 /s/
Ervin Mitchell, Secretary

(SEAL)