

**OKLAHOMA WATER RESOURCES BOARD  
OFFICIAL MINUTES**

**January 13, 2004**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Grady Grandstaff at 1:30 p.m., on January 13, 2004, in the Board Room of the OWRB Offices, located at 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 Glenn Sharp gave the invocation.

**B. Roll Call**

**Board Members Present**

Grady Grandstaff, Chairman  
Glenn Sharp, Vice Chairman  
Harry Currie  
Lonnie Farmer  
Jack Keeley  
Bill Secrest  
Richard Sevenoaks

**Board Members Absent**

Richard McDonald  
Ervin Mitchell, Secretary

**Staff Members Present**

Duane A. Smith, Executive 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, Water Quality Programs Division  
Mary Lane Schooley, Executive Secretary

**Others Present**

Ron Rosson, Oklahoma City, OK  
Kelly Schwartz, John Arledge & Associates, Oklahoma City, OK  
Jim Denton, John Arledge & Associates, Oklahoma City, OK  
Gary Taylor, HD-10, Dewey, OK  
Allan Brooks, Fagin Firm, Oklahoma City, OK  
Janis Francis Smith, The Journal Record, Oklahoma City, OK  
Perry Streebin, Search Inc., Norman, OK  
Tim Dooley, Ecology Management, Inc., Fort Smith, AR  
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK  
Gretchen Smith, Office of the Attorney General, Oklahoma City, OK  
Representative Gary Taylor, Dewey, OK  
John Callahan, SMC Engineers, Oklahoma City, OK  
Max McDermott, McDermott Living Trust, Alva, OK  
Srini Sundaramoorthy, Tetra Tech FAC/Bartlesville, Tulsa, OK  
Martha Ober, BancFirst, Oklahoma City, OK  
Charlie Swinton, BancFirst, Oklahoma City, OK  
Edward Pharoah, Town of Maysville, OK  
Wayne Minyard, Atoka County Rural Water District #1, Bennington,, OK  
Mike R. Allen, Town of Mayesville, OK  
Travis Cummin, Grady County Rural Water District #7, Ninnekah, OK  
Deavoy Park, Town of Maysville, OK  
Greg Elliott, Valero, Ardmore, Ok  
Sheila Baker, StanTech, Oklahoma City, OK  
Jim Barnett, KIRA/McDermott Living Trust, Oklahoma City, OK  
Cathie Arnold, Norman, OK  
Chuck Hutchinson, Sardis Lake, Clayton, Ok  
Mike Hall, City of Bartlesville, OK  
Steve Brown, City of Bartlesville, OK  
Ted Lockin, City of Bartlesville, OK  
Laura Hicks, City of Bartlesville, OK  
Glenn Bonner, City of Bartlesville, OK  
Harriet Eden, Clayton, OK  
Donna McSpadden, Sardis Lake Water Authority, Clayton, OK  
Scott Howard, Oklahoma Water Resources Board, Oklahoma City, OK  
Jane McDermott, McDermott Living Trust, Alva, OK

**C. APPROVAL OF MINUTES**

Chairman Grandstaff stated the draft minutes of the December 9, 2003 Regular Meeting have been distributed. He noted a correction regarding the Summary Disposition Agenda, on page 1107; Mr. Grandstaff was not in attendance at the December meeting. He said he would entertain a motion to approve the minutes unless there were additional changes.

Mr. Secrest moved to approve the minutes of the December 9, 2003, Regular Meeting, and Mr. Sharp seconded.

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

## **D. EXECUTIVE DIRECTOR'S REPORT**

Mr. Smith addressed the members and said that this morning he and several Board members met at the Governor's Mansion to hear the Oklahoma Academy for State Goals key recommendations for energy and water, a result of the Town Hall Meeting held over several days in November. He said the main recommendation for water is for the OWRB to have funded and develop a statewide water plan. He said the proposal is that the state is divided into regions, and stakeholders in each region would devise the plan. The role of the OWRB would be to identify the criteria. The funding is proposed at \$6.5 million the first year, and the OWRB would oversee the spending of the funds through an allocation process to each region. The focus of the study is important: how are we going to get water to Oklahomans? Every city, rural water district water, and small communities in this state need to have at a very minimum a 50-year water plan on how that community is going to get and utilize water resources.

Mr. Smith stated he is very encouraged by the recommendation, and it will provide additional legislative muscle to get the funds. The issues such as transferring Arbuckle-Simpson water to Canadian County will be a major catalyst to get this done. He said it was a very worthwhile effort, and he thanked those members who attended.

Mr. Smith said he had met with the Jordanians, Israelis and Palestinians as part of the peace process in that area. He said they talked about water issues in the Middle East and outlined in the peace process water is one of the issues that need to be resolved for long-lasting peace in the Middle East. He said the people of Amman, Jordan have running water once a week, and the Palestinians on the West Bank are drinking water with 400mg/l nitrate levels. These are real issues, and several action items were designed.

The Environmental Protection Agency has approved the .037 phosphorous standard for the scenic rivers. The key to approval was the agreement between the State of Oklahoma and Arkansas on what the cities are going to do to implement their discharge to meet 1mg/l. He said his hat goes off to Secretary of Environment Miles Tolbert for the negotiations with those communities in Arkansas. One of the agreements that was made was that the OWRB would work with Arkansas to look at the standard; to make it weaker or to now determine whether it can be met, but rather what we would agree to do with anyone on any standard, and that is to look at the science used to set the standard and if there is better science that leads to a different number, that will be considered. He said that looking at the USGS studies that have been done and the EPA studies that have been done, that standard probably could have been set less than .037. The OWRB in setting the standard has now put into motion a number of things that would not have happened if we had not adopted that standard; he is very proud of that, and expects to see big improvements in water quality in the Illinois River. He said the nonpoint source side has not been addressed, so the states will be working toward a monitoring plan and lots of good things are going on in that area.

The Oklahoma Legislature will convene February 2, and are starting subcommittee meetings now on the budget. This year the priority items are: the water plan, and the financial assistance program. He said in looking at the financial assistance program and how we are going to address the needs in Oklahoma for the next 20-50 years, and we look at the past 20 years and had \$25 million of seed money, if that \$25 were brought to a present-day value calculation, we would need to put in \$118 million to get the same benefit. He said he doesn't know how that will happen, but we must explain to people that if we don't do things to secure the program, then projects for cities and towns won't be feasible. Mr. Smith stated he had visited with legislators about a Capitol Improvements bond package, and if there is one, these types of projects can be included, and get money into the financial assistance program.

Mr. Smith concluded his report introducing the OWRB Employee of the Quarter, Mr. Scott Howard.

## 2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Rural Water District #1, Atoka County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this \$75,000 emergency grant request is from the Atoka County RWD #1. The District primarily serves the town of Wardville, and the water source is a small pond estimated to have less than a three-months supply remaining. The Department of Environmental Quality has issued a boil order to the District, and to solve the problem, the District proposes to connect to Pittsburg County RWD #11 for their water supply. The project will consist of 15,840 L.F. of 4-inch PVC pipe, a master meter, and a directional bore creek crossing, and will be funded with the grant request of the OWRB plus \$11,000 in local funds. Staff recommended approval of the emergency grant request.

Mr. Wayne Minyard, consultant, and Mr. John Callahan, engineer were present in support of the application.

Mr. Secrest moved to approve the emergency grant to Atoka County RWD #1, and Mr. Currie seconded.

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

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water, Sewer, Gas & Solid Waste Management District #7, Grady County. Recommended for Approval. Mr. Freeman stated the Grady County Rural Water, Sewer, Gas & Solid Waste Management District #7 has requested a loan in the amount of \$805,000.00 to go along with a \$500,000 CDB grant from the Department of Commerce, and \$100,000.00 from the Town of Ninnekah for water system improvements. The project includes construction of a 225,000-gallon elevated storage tank, 284,000-gallon standpipe with 12,150 L.F. of 8-inch connecting water lines and other appurtenances, refinance a bank loan, establish debt service reserve, and pay related costs of issuance. Mr. Freeman noted provisions of the loan agreement. The District will save approximately \$292,000.00 by borrowing from the OWRB. Staff recommended approval.

Mr. Travis Cummins, Chairman, was present in support of the loan request.

Mr. Secrest move to approve the loan request to the Grady County RWD #7, and Mr. Currie seconded.

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

C. Consideration of and Possible Action on a Proposed Order Approving Loan for Maysville Municipal Authority, Garvin County. Recommended for Approval. Mr. Freeman said the Maysville Municipal Authority had made application for a loan in the amount of \$1,280,000.00 to construct a 260,000-gallon water storage tank, install 48 fire hydrants, install 2,850 L.F. of 12-inch line, 5,570 L.F. of 8-inch line, 41,860 L.F. of 6-inch line, and install gate valves. Mr. Freeman noted provisions of the loan agreement. Maysville will save approximately \$656,000 by borrowing from the OWRB. Staff recommended approval.

Mr. Ed Farrow, trustee; Mr. Denny Park, trustee; and Mike Allen, city clerk and treasurer were present in support of the loan application.

Mr. Sharp moved to approve the loan to the Maysville Municipal Authority, and Mr. Currie seconded.

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

D. Consideration of and Possible Action on a Proposed Order Approving Loan for Bartlesville Municipal Authority, Washington County. Recommended for Approval. Mr. Freeman stated the Bartlesville Municipal Authority had made application for a Drinking Water SRF loan in the amount of \$45,510,000 to construct a new 26-mgd water treatment plant with a 4-million gallon treated water reservoir; make improvements to the Hulah Lake raw water pump station including flow measurement and a SCADA system, construct a new parallel raw water line from Hudson Lake, and construct a new finished water transmission line from the new treatment plant to the distribution system. Mr. Freeman noted provisions of the loan agreement. He said Bartlesville had been a good customer of the Board's since 1992, and the plant will be a regional facility serving the water needs of Bartlesville, Dewey, Osage RWD #1, Strikeaxe, Lincoln County RWD #2, Washington County RWD #5, Leeanne Water, Bar Dew Water Association, Ocheleta, Ramona, Minnesota Water District, and Washington County RWD #1. This loan was included in the evaluation conducted this last fall by Standard and Poor's, Moody's, and Fitch in determining the AAA rating on the Board's Drinking Water SRF bond issue. It is estimated that over the life of the loan, Bartlesville should save in excess of \$13 million dollars by borrowing from the OWRB. Staff recommended approval.

Mr. Ted Lockin, mayor; Laura Hicks, vice-mayor; Glenn Bonner, chair, Bartlesville Development Corporation; Representative Gary Taylor; Steve Brown, city manager; Mike Hall, director of water utilities; Rick Smith, financial advisor; and Srinu Sundaramoorthy, engineer, were all present in support of the loan request.

Mr. Sharp moved to approve the DWSRF loan to the Bartlesville Municipal Authority, and Mr. Secrest seconded.

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

E. 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, 2003 and 2002, Audits of the CWSRF Administrative Fund and the Drinking Water Treatment Loan Administrative Fund as of June 30, 2003 and 2002.

Mr. Freeman stated this item is for presentation of the report regarding the Board's Audit Committee annual audit and compliance meeting, held following the December Board meeting. Mr. Mitchell serves as chairman of the committee; the other members are Mr. Farmer, Mr. Currie, and Mr. Keeley. During the committee meeting, the members reviewed the following items: reports to be filed with the bond rating agencies, standby bond purchase banks, and the national repositories. The committee reviewed the Board's arbitrage tax reports to the IRS, documentation exception reports, report of no loan default, and review of outstanding legal proceedings involving the Board, and reviewed the Board's various outstanding debt service reserve balance policies. Mr. Freeman stated that representatives of the Board's auditors, John M. Arledge, reviewed the annual audits of the Board's various loan programs. Mr. Jim Denton and Mr. Kelly Swartz of the Arledge firm were present to review the

reports with the Board.

Mr. Kelly Swartz addressed the members and highlighted the results of the audits for the past year ending September 30, 2003. He said the Board packet contained the documents he wished to review with the Board. He said he reviewed the bond issue series, Clean Water SRF, and two administrative bond loan funds through the Drinking Water and Clean Water funds. There were no changes in financial reporting requirements, changing either the appearance or the way financial transactions were reported. Regarding the individual audits and bond issue audits, all reports were unqualified, the auditor reports were clean opinions, and the yellow book (governmental compliance) reported no internal control violations, and as part of the reporting package, combined individual financials of the bond issues are included. Mr. Swartz stated a comparative between 2002 and 2003 regarding financial changes was made; total assets decreased about \$12 million as well as the total liability decreasing, which results in the use of some of the loan cash paying down related debt as the bond loans mature. He said the total interest income for the two years is from \$12 million in 2002 down to \$10 million in 2003, which is a combination of a drop in interest rates and the economy, as well as loaning out some of the 2001 bond money. Total interest expense decreased likewise from \$10 million to \$8 million; coinciding with a decrease in variable rates. Operating expenses between the two years on all the bond issues were \$1.5 million in 2002, and \$1.6 million in 2003, remaining fairly constant.

Mr. Swartz noted the revolving fund audit resulted in a clean opinion, unqualified auditor's report, yellow book laws and regulations report note no instances of bond law regulations or any internal control problems or findings. The comparative between 2002 and 2003 revealed the overall assets going from \$209 million to \$222 million, reflecting the result of the interest earning as well as loan monies being passed down from EPA that were term-loaned out this past year. Total interest income going from 4.9 to 4.3, remaining fairly constant; total federal grants loaned back out equaled \$14 million in 2003 and \$10 million in 2002; total interest expenses went up slightly due to additional interest on \$28 million borrowed the prior year. Other operating expenses remained constant the two years as well, making a net gain between the two years of about \$5 million.

Regarding the Drinking Water and Clean Water administrative loan funds, Mr. Swartz stated that the .5% mentioned as part of the loan agreement, these two items starting off both entities received clean opinions, audit reports, likewise yellow book laws and regulations report no violations, and no internal control findings. Regarding total administrative fees, interest income, and operating expenses all remained fairly consistent, the only variable being last year (2002) when some of the funds were used to cover the bond issue costs on the \$28 million SRF debt issues (\$208,000 transfer out), otherwise, it was a stable two-year period. The Drinking Water Administrative fund between the two years show the administrative fees up a little after increasing some of the loans in the Drinking Water program. The other operating expenses are up a little bit from \$12,000 to \$119,000 between the two years relating to some advisory fees and additional personnel costs this year.

Overall, Mr. Swartz said that between all the entities, it was a fairly consistent, good year, with clean opinions on all the audit reports and yellow book finding report that go along with those documents. The last item in the audit summary letter, which is a required communication letter, is also available in the members' packets and he asked the Board to review them on an individual basis. Mr. Swartz stated that would conclude his report, and he would entertain any questions.

Mr. Freeman invited members of the Board's Audit Committee to make comments, and said that concluded the presentation and staff recommended approval.

Mr. Keeley commented that he had read the audit reports and that they were all positive, nice and courteous, with the one exception of EPA's Region 6 in Dallas. He said that over the years he has had a lot of experience with government reviews and a lot of experience with EPA

reviews, but in this case this review was glowing and the statement read, "it should serve as a model for all the states in the region, and indeed the country." He congratulated the Board and the staff for that glowing report.

Mr. Currie moved to accept the audit report as presented, and Mr. Keeley seconded.

AYE: Currie, Farmer, Keeley, Secrest, Sevenoaks, Sharp, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: Mitchell, McDonald

Mr. Duane Smith added that the audit process is so critical to the Board's financial assistance program, and it not only gives the Board a handle on what is going on financially, but when S&P awarded the Board a AAA rating on its bonds, one of the things listed was the management of the program, which was one of the strengths and positives in being able to achieve the AAA rating. He congratulated Mr. Freeman and his staff for their excellent work. And today, on the three loans, he said the communities were saved a total of about \$14 million dollars.

### **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 to the Special Consideration 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. N.**

There being no other questions regarding any items on the Summary Disposition Agenda, Mr. Sevenoaks moved to approve the Summary Disposition Agenda, and Mr. Sharp seconded.

AYE: Currie, Farmer, Keeley, Secrest, Sevenoaks, Sharp, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: Mitchell, McDonald

#### **The following items were approved:**

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

<b><u>REAP</u></b>				<b><u>Amount</u></b>
<b><u>Item No.</u></b>	<b><u>Application No.</u></b>	<b><u>Entity Name</u></b>	<b><u>County</u></b>	<b><u>Recommended</u></b>

SWODA

1. FAP-02-0038-R Rural Water, Sewer & Solid Waste Management District #3 Roger Mills 53,985.00

D. Contract and Agreements Recommended for Approval:

1. Consideration of Joint Funding Agreement with the U. S. Geological Survey for Work Related to the Arbuckle-Simpson Study.
2. Consideration of Interagency Agreement with the Department of Environmental Quality for Monitoring to Support Development of Total Daily Maximum Loads in Selected Oklahoma Watersheds.

E. Applications for Temporary Permits to Use Groundwater:

1. Mayes Co. RWD #3, Mayes County, #2002-557
2. Richard Reynolds & Annenda Reynolds, Trustees of the Richard Reynolds Living Trust, Canadian County, #2003-540
3. Eloise Gamble, LeFlore County, #2003-558
4. Parker Land Company, Harmon County, #2003-578
5. Shaun R. & Cara L. McGuire, Delaware County, #2003-579

F. Applications to Amend Temporary Permits to Use Groundwater:

1. Velma Golf Assoc., Inc., Stephens County, #1981-943B

G. Applications for Regular Permits to Use Groundwater:

1. Michael & Lucinda Ray, Texas County, #2003-572
2. Pauline Pirtle Revocable Trust, Beaver County, #2003-577

H. Applications to Amend Regular Permits to Use Groundwater:

1. Alva & Luisa Howard, Beaver County, #1976-716
2. Tri-State Feeders, Inc., Beaver County, #1977-691

I. Applications to Amend Prior Rights to Use Groundwater:

None

J. Applications for Regular Permits to Use Stream Water:

1. Town of Skiatook, Osage County, #1978-091
2. Meridian Aggregates Company, Johnston County, #2001-025
3. Rogers County RWD #5, Rogers County, #2002-005
4. Jeffery Allen Barker, Choctaw County, #2003-032
5. Falcon Lake Club, Canadian County, #2003-035

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: HydroMaster Water Well Services
  - Operator: Thomas H. Oast
  - Activities: Groundwater wells, test holes and observation wells

DPC-0559  
OP-1235

- |     |  |          |
|-----|--|----------|
|     | Pump installation                                      |          |
| b.  | Licensee: Midwest Pump                                 | DPC-0664 |
|     | Operator: Kenny Bowen                                  | OP-1376  |
|     | Activities: Pump installation                          |          |
| c.  | Licensee: A-Honest Pump Service                        | DPC-0668 |
|     | Operator: Mike Trevino                                 | OP-1378  |
|     | Activities: Pump installation                          |          |
| 2.  | New Operators and/or Activities for Existing Licenses: |          |
| a.  | Licensee: Pump and Supply, L.L.C.                      | DPC-0337 |
| (1) | Operator: Robert E. Tucker                             | OP-1374  |
|     | Activities: Pump installation                          |          |
| (2) | Operator: Michael Tabor                                | OP-1375  |
|     | Activities: Pump installation                          |          |

M. Dam and Reservoir Plans and Specifications:

1. G.T. Blankenship and R.D. Gravelin, Shadowlake, Cleveland County, DS-03-10
2. City of Oklahoma City/Department of Water & Wastewater Utilities, Lake Overholser, Canadian County, DS-03-11

N. Applications to Acquire Assets:

1. Application by the City of Ada to acquire the assets of Rural Water District No. 4, Pontotoc County, RWA 03-02

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

A. Update and Discussion Regarding 2004 Revisions to Oklahoma's Water Quality Standards. Mr. Derek Smithee, Chief, Water Quality Programs Division, distributed to the members a document including the strikeout/underline version of the staff-proposed revisions to Chapter 45 Oklahoma Water Quality Standards (WQS), and Chapter 46, the companion implementation document. He said the WQS are the backbone to all water quality management in Oklahoma, and all around the nation. Because of their far-reaching impact in water quality management, staff work with the public sector, the private sector, state and federal agencies, and at times struggle through revisions until there is a document that meets the needs of a majority of Oklahomans. He said this triennial revision has been successful, and is actually required by both state and federal regulation.

Mr. Smithee made a PowerPoint presentation of the proposed revisions, stating that the steps in the process are to identify topics, conduct research and development, sponsor meetings with state agencies regarding their specific jurisdictions, and conduct a series of informal meetings for two-way communication on the proposed revisions. Finally, there is a formal public hearing, and legislative approval.

The specific recommendations are:

- (1) Deletion of certain antidegradation language regarding thermal discharges through hydropower generation;
- (2) Creation of new subsection compiling narrative criteria for beneficial uses;
- (3) Clarified bacteria language;
- (4) Dealt with culturally significant waters (received the most comments);
- (5) Corrected spelling, grammar, citations, etc.

- (6) Updated site specific and numeric criteria; and
- (7) In Chapter 46 dealt with beneficial use support assessment protocols and additional bio criteria.

Mr. Smithee spoke specifically about the changes in antidegradation language, explaining at one time the WQS dealt with thermal discharges into waters of the state, and small reservoirs were exempt. That changed about 15 years ago, but the language was retained; staff had met with representatives of OG&E, and also American Electric Power, and recommends that language be revoked, primarily because the Clean Water Act no longer requires it in the WQS. The new subsection regarding narrative criteria; the Clean Water Act requires certain criteria that applies to all beneficial uses and traditionally several of the criteria was housed in a unique beneficial use, i.e., objectionable bottom deposits were housed under the aesthetics beneficial use section, and were not applied to other beneficial uses. A new subsection has been created compiling existing narrative that applies to the entire suite of beneficial uses. This is not a change; rather clarifying what has been done in Oklahoma. Bacteria are getting a lot of attention because it is the single greatest cause of impairment in Oklahoma and the nation. Oklahoma uses three different bacteriological indicators to render a decision on whether the waters can support ingestion (public water supply), or body contact uses. There has been some misapplication of the bacteria criteria in how we determine use support in that there was the potential for “cherry picking” so that a use was or was not impaired; the change is that all the information is used to make a use support determination. Some changes simply regard corrections, none of which are substantive.

Mr. Smithee stated the most significant item that garnered comment was culturally significant waters. In 1998 OWRB staff recognized it was to everyone’s advantage if the state of Oklahoma and the 39 tribes located in Oklahoma partnered together to work in concert to manage water quality as opposed to conflict. So staff met with tribal leadership and state leadership and ultimately promulgated “culturally significant waters” (CSW). The purpose was to recognize those instances where the WQS were not protective enough for some of the special tribal uses such as ingestion of raw water for ceremonial purposes. The EPA approved it, but it has never been exercised since. This year; however, staff received a request from the Caddo Tribe to promulgate many waters as culturally significant, even some outside the existing Caddo tribal lands. There is no mechanism to create a CSW, and an alarm went out for the potential to misapply or make erroneous application of the CSW protection resulting in misunderstanding. During the formal comment period, significant comments were received requesting that the entire CWS concept be withdrawn. The proposal today is that be withdrawn and to go back and work with the tribes and others to find a mechanism that will work. There were a few tribes that preferred the CWS be retained, but the Oklahoma Municipal League, Oklahoma Independent Petroleum Association, Municipal Utility Association, and the Department of Environmental Quality to mention several asked that CWS be withdrawn.

Other proposals for Chapter 45 include Appendix A updates, updated table of beneficial uses, Appendix E updates, and Appendix G corrections. Also for Chapter 46, proposals included refinement of Use Support Assessment Protocols (USAP), and biocriteria for Central Oklahoma and the Texas Plains Eco-Region.

There was some discussion by the Board members about whether a proposal for the tribes could be presented later, and the issue of the tribes’ individual ability to promulgate its own water quality standards and the federal government recognizing tribes to receive treatment as a state.

Mr. Smithee concluded his presentation outlining the remaining steps in the process before the proposed rules revisions are permanent.

Mr. Tim Dooley with OK Industries, made comments in regard to copper in Morris Creek, and Mr. Greg Elliott with Valero Energy Corporation made comments in regard to use attainability analysis on a tributary of Sand Creek, and both stated their appreciation to the staff and the Board.

There were no other comments or discussion regarding the proposed revisions to Chapter 45 and Chapter 46 of the Oklahoma Water Quality Standards.

## **5. SPECIAL CONSIDERATION**

For INDIVIDUAL PROCEEDINGS, a majority of a quorum of Board members, in a recorded vote, may call for closed deliberations for the purpose of engaging in formal deliberations leading to an intermediate or final decision in an individual proceeding under the legal authority of the Oklahoma Open Meeting Act, 25 O.S. 2001, Section 307 (B)(8) and the Administrative Procedures Act, 75 O.S. 2001, Section 309 and following.

A majority vote of a quorum of Board members present, in a recorded vote, may authorize an executive session for the purposes of CONFIDENTIAL COMMUNICATIONS between the public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct the pending investigation, litigation, or proceeding in the public interest, under the legal authority of the Oklahoma Open Meetings Act, 25 O.S. 2001, Section 307(B)(4).

### **A. Application for Temporary Permit to Use Groundwater No. 2003-557, Millennium Golf Properties LLC, Oklahoma County:**

1. Summary – Mr. Mike Mathis, Chief of the Planning and Management Division, said this application for a temporary groundwater permit is by Millennium Golf Properties in Oklahoma County. The applicant is requesting a permit to take and use 294.5 acre-feet of groundwater per year for irrigation of a golf course in Oklahoma County. He said the water is proposed to be withdrawn from five wells located on 147.25 acres of dedicated land that overlies the Garber Wellington formation in Oklahoma County, for which a groundwater basin study has not been completed, therefore, each landowner is entitled to two acre-feet of groundwater per acre of land dedicated. The applicant's wells will pump the groundwater into a holding pond and will then be pumped by an automated, computer operated irrigation system, which will only be operated at night. Mr. Mathis stated the applicant has had water use that was not permitted; however, at the hearing they stated that was an oversight, and are in the process of obtaining the proper permits with the Board, and expressed an intent to comply with the Oklahoma Groundwater law in the future.

Mr. Mathis stated the protestants were concerned about interference and depletion of their domestic wells. There have been some problems with low water levels during dry years, but there was no evidence to indicate the uses by the golf course would impermissibly withdraw groundwater beyond what would be allocated under the law.

Mr. Mathis stated the application is in compliance with the Oklahoma Groundwater law, and staff would recommended approval.

2. Discussion and presentation by parties. Mr. Ron Rosson, General Partner for Millennium Golf, spoke to the members about his company's desire to be conscientious stewards of natural resources. He said Millennium operates two golf courses in the metro area; both are members of the National Audubon Society Conservation program, a national program available to golf courses. Other aspects of the program are to leave non-golfing areas in their

natural state, and use of computerized irrigation systems. They are also involved in the state bluebird program. He said that as a result of being members of the society, it is anticipated the courses will use in any given year 25-30 % of the water allocated.

There were no protestants in attendance.

3. Possible executive session. The Board did not vote to enter executive session.

4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Mr. Farmer moved to approve the application for temporary groundwater permit #2003-557 to Millennium Golf Properties, and Mr. Keeley seconded.

AYE: Farmer, Keeley, Secrest, Sevenoaks, Grandstaff

NAY: None

ABSTAIN: Currie

ABSENT: Mitchell, McDonald, Sharp

B. Application for Temporary Permit to Use Groundwater No. 2003-571, McDermott Living Trust, Alfalfa County:

1. Summary – Mr. Mathis stated this application is to take and use 40 acre-feet of groundwater for commercial bottling. The water is to be taken from three wells located on 320 acres of land overlying the Alluvium and Terrace Deposits of the Salt Fork on the Arkansas River in Alfalfa County. A basin study has not been conducted in this area; therefore, the landowner is entitled to take up to two acre-feet of groundwater per acre of land dedicated. The applicant's intended use is the production of bottled water for distribution and commercial sale, although the applicant testified that all aspects of the plant and operation have not been finalized. The applicant has contacted the State Department of Health to obtain the appropriate permit for the bottled water facility. Mr. Mathis stated the applicants testified they intended to replace one of the wells with a new well to be drilled and completed within 250 feet of the existing well by a licensed water well driller in accordance with the Board rules and regulations. The applicant plans to have approximately 15-20 employees working in the plant so people will be on hand to monitor drops in pressure or leaks if they occur.

Mr. Mathis stated the protestants expressed concern that the applicant's use would cause their groundwater to be depleted. The Department of Wildlife Conservation has a fish hatchery located on adjacent land, and the reservoirs at the hatchery are supplied by water from a well. One of the protestants is located approximately two miles north of the applicant's wells. The concerns were acknowledged; however, no evidence was entered into the record that showed the proposed use by the bottled water plant would deplete the groundwater in the area.

Mr. Mathis stated that the record showed the application to be in compliance with the Oklahoma Groundwater Law, and staff recommended approval of the proposed findings of fact, conclusions of law and Board order.

2. Discussion and presentation by parties. Mr. Jim Barnett, representing the McDermott Living Trust, addressed the members and introduced the trustees whose land and property the bottled water operation would be located. He said he reviewed the proposed order and found it to be accurate and complete, and he appreciated the Board's favorable consideration.

Mr. Sevenoaks asked how many gallons a day the plant would be using; Mr. Barnett responded that has not been determined as yet since the owners are still acquiring the requisite permits and financing. Mr. Barnett stated he did not envision that the use would adversely impact the aquifer or the resident two miles north.

Ms. Gretchen Smith, Assistant Attorney General, represented the Oklahoma Department of Wildlife Conservation, and was accompanied by Mr. Kim Erickson, Chief of Fisheries for the Department. She asked that the record reflect that they have an interest in the application, are

in attendance today, and their objections to the application were made at the hearing. Mr. Sevenoaks asked how much water the hatchery used; Mr. Erikson stated he did not have that information with him, but would provide a response.

3. Possible executive session. The Board did not vote to enter executive session.

4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Mr. Sevenoaks moved to approve the proposed findings of fact, conclusions of law and Board order for permit application 2003-571, and Mr. Farmer seconded.

AYE: Currie, Farmer, Keeley, Secrest, Sevenoaks, Grandstaff

NAY: None

ABSTAIN: None

ABSENT: Mitchell, McDonald, Sharp

C. Consideration of items transferred from the Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

## **6. PRESENTATION OF AGENCY BUDGET REPORT.**

Mr. Jim Schuelein, Chief, Administrative Services Division, began his report saying the budget-to-actual report is in a new format, and not all the information previously provided is included because of the new software system now in operation. He noted the report provided did indicate cash balances, and allotted funds in certain categories. He said the new system does not allow the agency to report on all categories just yet, but he expressed his intent to find a format to provide the information on expenditure and budgeting the Board members are used to seeing. Mr. Currie asked about the system; and Mr. Schuelein responded that the Office of State Finance purchased the software for \$17 million, and has required all agencies to use the system where, for instance, a procedure that once took five steps now takes 15 steps. He said that all of state government is struggling with the change. In the end, he said, it will be a good system. He said in the meantime, staff would do their best.

## **7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.**

There were no Supplemental Agenda items for the Board's 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; however, in Mr. Mitchell's absence, Chairman Grandstaff asked Mr. Keeley to act as secretary.

**9. ADJOURNMENT**

There being no further business, Chairman Grandstaff adjourned the regular meeting of the Oklahoma Water Resources Board at 2:50 p.m. on Tuesday, January 13, 2004.

**OKLAHOMA WATER RESOURCES BOARD**

\_\_\_\_\_/s/\_\_\_\_\_  
Grady Grandstaff, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Glenn Sharp, Vice Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Harry Currie

\_\_\_\_\_/s/\_\_\_\_\_  
Lonnie Farmer

\_\_\_\_\_/s/\_\_\_\_\_  
Richard Sevenoaks

\_\_\_\_\_/s/\_\_\_\_\_  
Bill Secrest

\_\_\_\_\_/s/\_\_\_\_\_  
Jack W. Keeley

\_\_\_\_\_/s/\_\_\_\_\_  
Jess Mark Nichols

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Ervin Mitchell, Secretary

(SEAL)