

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

December 13, 2005

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:30 a.m., on December 13, 2005, in the Board Room of the Oklahoma Water Resources Board offices, 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. The agenda was posted on December 6, 2005, at 5:00 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

Mr. Currie provided the invocation.

B. Roll Call

Board Members Present

Rudy Herrmann, Chairman
Mark Nichols, Vice Chairman
Bill Secrest, Secretary
Harry Currie
Lonnie Farmer
Jack Keeley
Kenneth Knowles
Richard Sevenoaks

Board Members Absent

Ed Fite

Staff Members Present

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

Others Present

Allan Brooks, Fagin Firm, Oklahoma City, OK
Richard Hefner, Canadian Valley Ranch, OK
Sarah Yauk, Buffalo, OK
Jack M. Givens, Mangum, OK
Susan M. Givens, Mangum, OK
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
Mark Walker, Meridian, OK
John Griffin, Meridian, OK
Candy Matson, Department of Environmental Quality, Oklahoma City, OK
Anne Burger, First Southwest, San Antonio, TX
Tim Peterson, First Southwest, Houston, TX
C. J., Hahn, Town of Granite, OK
Roger McCain, City of Bridgeport, OK
Donna McSpadden, Sardis Lake, Clayton, OK
Rou Cooke, Save Our Water, Oklahoma City, OK
Rick Smenner, Save Our Water, Eufaula, OK
Tom Liu, New York, NY
Ryan Adams, City of Sand Springs, OK
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK
Shawn Lepard, Edmond, OK
Mike W. Ray, Oklahoma Publishing Today, Oklahoma City, OK
Ricky Pearle, Ryan Whatley & Coldiron, Oklahoma City, OK
R.C. Wett, Antlers, OK
James Davis, Bethany, OK
James Schritter, Bethany, OK
Rick Lang, Wagoner County Rural Water District #4, Broken Arrow, OK
Arnold Kunze, Wagoner County Rural Water District #4, Broken Arrow, OK
Phil Brown, re: Glencoe; Stillwater, OK
Bill Giles, Wagoner Rural Water District #4, Broken Arrow, OK
Mark Porter, Town of Glencoe, OK
Howard Ground, Public Service Company of Oklahoma, Rural Route #3, Box 9190
Eufaula, OK
J.O. Zellner, Save Our Water, Eufaula, OK
Susanne Bain, Save Our Water Lake Eufaula, Stigler, OK
Karen Weldon, Save Our Water Lake Eufaula, Stigler, OK
Karen Smenner, Save Our Water Lake Eufaula, Eufaula, OK
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK
Chuck Shipley, AMCP, Tulsa, OK
Barbara Foster, Save Our Water, Eufaula, OK
Harold Foster, Save Our Water, Eufaula, OK

C. APPROVAL OF MINUTES

Chairman Herrmann stated the draft minutes of the November 1, 2005, Regular Meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were changes.

There were no amendments to the minutes as proposed, and Mr. Nichols moved to approve the minutes of the November 1, 2005 Regular Meeting, and Mr. Farmer seconded.

AYE: Currie, Farmer, Keeley, Nichols, Secrest, Sevenoaks, Herrmann
NAY: None
ABSTAIN: Knowles
ABSENT: Fite

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane A. Smith, Executive Director, began his report with the introduction of Representative R. C. Pruitt attending on behalf of the Sardis Lake Water Authority; there is an agenda item for the Board's consideration of a grant to the Authority. Rep. Pruitt addressed the Board and thanked the members for consideration of the REAP grant requested by the Sardis Lake Water Authority.

Mr. Smith continued by reporting to the Board the various meetings and activities in regard to support for the recapitalization of the Board's Statewide Water Development Revolving Fund and funding for the Comprehensive Water Plan in the 2006 legislative session. He had met with Secretary Scott Meacham to include the proposal in the Governor's Budget Request; Representative Susan Winchester and Representative Don Armes and Senator Ted Fisher and Senator Kenneth Corn will author legislation that will remove the cap for the Rural Economic Action Plan (REAP) account projects fund for the Water Resources Board and dedicate that money to the water plan, financial assistance program and cost-share for the Conservation Commission. He said he had several positive meetings with several key legislators and while no one has indicated the programs are not worthwhile, it is a matter of prioritizing the dollars available. Two things for the public to understand: there is no proposal for a tap fee for cities, and no proposal for an increase in the gross production tax.

The Oklahoma Rural Water Association has approved and is distributing a resolution of support and Oklahoma Municipal League; Oklahoma Conservation Districts are sending a similar resolution as well as the State Chamber and Environmental Federation of Oklahoma showing support. Once the session begins, there will be pressure on money as there are needs in other areas as well such as rural fires and all are good projects, but the highest priority for the water projects fund is the funding for the \$5.4 billion dollars of financing for Oklahoma communities over the next twenty years that will receive the benefit of a reduced interest rate saving the communities money over time. Mr. Smith called upon the communities to contact their legislators in support of prioritizing existing dollars to be directed toward funding water and wastewater projects. Mr. Smith said the current fund is capped at \$6.8 million—the OWRB portion—the cap on the Gross Production Account is \$150 million, divided among several agencies, and the OWRB portion is identified at a certain percentage, and capped at \$6.8. If the cap is removed it is estimated the fund could increase to about \$12 million this year; in this proposal, one-half of the fund would go toward water planning and financial assistance. If the legislation passes, funding would become available over several years allowing the OWRB to plan its work, be ready for the funding, and get the work done on schedule.

Mr. Smith spent a considerable amount of time and made a presentation to the Board members about fee increase that is being proposed under the rules revision schedule for 2006. He explained that about one-third of the agency's budget comes from state appropriated dollars, one-third are from fees, and one-third from federal dollars. As the state and federal dollars are reduced and other spending priorities come forward such as the war in Iraq and hurricane relief, funding for the OWRB is impacted for example, each year the OWRB has requested \$500,000.00 from the federal government for the Arbuckle-Simpson Study and this year the

federal government has budgeted \$150,000.00, indicative of declines across the Board in other areas such as the Clean Water Act funds being zeroed out. Mr. Smith said the proposal is for a \$100 administrative fee on all groundwater and surface water permits. The last fee increase was in 1995, and currently there is no administrative fee on any groundwater permit; there is a fee for surface water permits, varying \$10-\$25 depending upon the amount. In the 1970s there were about 21 full-time employees that worked in the water right administration program, and today there are ten. Mr. Smith illustrated through a PowerPoint presentation that over 80% of permits are in the agriculture industry in both groundwater and surface water, indicating that the biggest number of permits and the amount of water permitted is for agriculture. The Oklahoma Groundwater Laws were put into place to provide, "security, certainty, and stability" for water use, and to allow private citizens the ability to use water on a regular basis. The OWRB has invested in technology, and when asking for fee increased, the agency is asking for ways to invest in an administrative system that provides benefit to the general public while making the operation of the agency more efficient. Mr. Smith demonstrated the capabilities of the Board's website accessibility to the general public and the availability of technological information layered through geographic information systems that provide information on just about every aspect from well logs, to groundwater basins, to depth of wells and other facts. The availability of the information on the website allows for complaint and field investigations to be preliminarily investigated in the office, saving time, money, and resources in the field. He demonstrated several aspects of the GIS program noting the information available by accessing the program now that couldn't be done before without an extensive field investigation, aiding applicants and the hearing process with information that is more accurate and taking less staff time to process. Mr. Smith also explained the mechanics of administering the state's water rights program, the costs of the program, how a fee increase would assist staff in performing its job, how a fee increase would assist staff in being ahead of the curve in management of the state's resources rather than responding in crisis situations i.e., Arbuckle-Simpson study. Mr. Smith concluded his presentation and invited comments from the Board members and public. Mr. Smith responded to questions by the Board members.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for City of Bridgeport, Caddo County, Oklahoma. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is for the consideration of an emergency grant for the City of Bridgeport, which has experienced water supply problems that have been reported in the news recently. Bridgeport is requesting an emergency grant in the amount of \$74,000.00. The City owns and operates a water distribution system that serves 52 customers, and in November both of the City's wells stopped producing water. For the time being, the City is pumping water from an older abandoned well which use is requiring a "boil order," while bottled water is being distributed. Bridgeport is proposing to construct a new well and all related construction and appurtenances as necessary to provide water to the City. The total estimated project cost of \$87,122.00, with funding secured by \$13,122.00 in local funds and the requested OWRB Emergency grant of \$74,000.00. Staff recommended approval.

Mayor Roger McCain was present in support of the emergency grant request.

Mr. Nichols moved to approve the emergency grant to the City of Bridgeport, and Mr. Keeley seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks,
Herrmann
NAY: None
ABSTAIN: None
ABSENT: Fite

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Glencoe Public Works Authority, Payne County. Recommended for Approval. Mr. Freeman said this request by the Glencoe Public Works Authority is for a Clean Water SRF Construction loan in the amount of \$210,000.00. Glencoe is requesting the loan to rehabilitate its sewer system by replacing 2,500 feet of 8-inch sewer line, including service line connections. Mr. Freeman noted provisions of the loan agreement, the debt coverage ratio is 1.3-times, and it is estimated that Glencoe would realize a savings of \$102,000.00 by borrowing from the Board. Staff recommended approval of the loan application.

Vice-Mayor Mark Porter and Phil Brown, project engineer, were present in support of the loan application.

Mr. Keeley moved to approve the loan to the Glencoe Public Works Authority, and Mr. Farmer seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks,
Herrmann
NAY: None
ABSTAIN: None
ABSENT: Fite

C. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water District #20, Okmulgee County. Recommended for Approval. Mr. Freeman said this item is for the consideration of a \$490,000.00 loan request by Okmulgee County RWD #20. The District is requesting the loan to refinance three loans it has with GMAC. The loan will be funded from the Board's series 2003A State Loan Program Revenue Bond issue, and will be secured on the District's water revenues. Mr. Freeman noted provisions of the loan agreement, stated the debt-coverage ratio is 2.0-times, and it is estimated the District will save approximately \$204,000.00 by borrowing from the Board. Staff recommended approval of the loan request.

Mr. Pete Scott, District Manager, and Mr. Rick Smith, Financial Advisor, were present in support of the loan application.

Mr. Secrest moved to approve the loan to Okmulgee County RWD #20, and Mr. Keeley seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks,
Herrmann
NAY: None
ABSTAIN: None
ABSENT: Fite

D. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water, Sewer, Gas, and Solid Waste Management District #4, Wagoner County, Recommended for Approval. Mr. Freeman said Wagoner County RWGSW District No. 4 has requested a State Loan Program Revenue Bond series loan in the amount of \$860,000.00. The District will utilize the loan proceeds to construct a new 8-inch sewer line extension to Northeastern State University campus, and two 12-inch water lines to increase the capacity to Continental Industries, increase the water line size going into the Oneta water tower; paint the water tower;

and install a booster pump station south of the Oneta water tower. Mr. Freeman noted provisions of the loan agreement; he said the District's debt-coverage ratio stands at approximately 1.3-times, and it is estimated the District will save approximately \$270,000.00 by borrowing from the Board. Staff recommended approval of the loan request.

Mr. Arnold Kunze, Chairman; Mr. Bill Giles, Office Manager; and Rick Lang, Operations Manager, were present in support of the loan application. Mr. Kunze and Mr. Secrest responded to questions by Mr. Sevenoaks about the organization and ownership of the District.

Mr. Knowles moved to approve the loan application to the Wagoner County RWSGSWM District #4, and Mr. Nichols seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Sevenoaks,
Herrmann

NAY: None

ABSTAIN: Secrest

ABSENT: Fite

E. Consideration of and Possible Action on a Proposed Order Approving Loan for Sand Springs Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated this request by the Sand Springs Municipal Authority is for a Clean Water SRF loan in the amount of \$3,005,000.00 for upgrades to the Avery Drive lift station and force main improvements to attain compliance with an Oklahoma Department of Environmental Quality Consent Order. Mr. Freeman noted provisions of the loan agreement; the debt-coverage ratio stands at 2.5-times, and it is estimated the Authority will save approximately \$165,000.00 by borrowing from the Board. Staff recommended approval of the loan application.

Mr. Ryan Adams, Finance Director, and Mr. Rick Smith, Financial Advisor, were present in support of the loan request.

Mr. Freeman and Mr. Smith noted that this is an unusual situation where the construction bids actually came in under what was expected.

Mr. Nichols moved to approve the loan to the Sand Springs Municipal Authority, and Mr. Knowles seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks,
Herrmann

NAY: None

ABSTAIN: None

ABSENT: Fite

F. Consideration of and Possible Action on a Proposed order Approving Loan for Tulsa Metropolitan Utility Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated to the members that the Tulsa Metropolitan Utility Authority had requested loan funds totaling \$3,210,000.00 to refinance the Authority's existing 2002A and 2002B Clean Water Interim Construction loans. The loans were originally incurred for the purpose of rehabilitating three of the cities lift stations and force mains. He said that \$1,202,500.00 would be provided from the Clean Water SRF loan program, and \$2,005,000.00 would be funded from the Board's State Loan Program Revenue Bonds. Mr. Freeman noted provisions of the two loan agreements. He said Tulsa's debt-coverage ratio stands at approximately 1.45-times, and it is estimated the TMUA would save approximately \$1 million by borrowing from the Board. Staff recommended approval of the loan request.

There were no representatives of the Tulsa Metropolitan Utility Authority in attendance.

Mr. Secrest moved to approve the loan applications for the Tulsa Metropolitan Utility Authority, and Mr. Keeley seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Herrmann
NAY: None
ABSTAIN: Sevenoaks
ABSENT: Fite

G. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Funds for Rural Water, Sewer, and Solid Waste Management District #2, Bryan County. Recommended for Approval. Mr. Freeman stated the Bryan County RWSSWMD #2 has requested a \$600,000.00 increase in loan funds from the Drinking Water SRF program. Funds for the project to construct major water treatment plant improvements and rehabilitate a water storage tank were originally approved by the Board on September 13, 2005. However, bids on the project came in higher than the engineer's estimate. Mr. Freeman said the District debt coverage ratio stands at approximately 1.58-times. The loan terms will remain the same. Staff recommended approval of the increase in obligations of funds.

Mr. Allan Brooks, bond counsel for the district, was present in support of the increase in loan funds.

Mr. Secrest moved to approve the increase obligation of loan funds to the Bryan County RWSSWMD #2, and Mr. Farmer seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann
NAY: None
ABSTAIN: None
ABSENT: Fite

H. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Funds for Rural Water District #5, Wagoner County. Recommended for Approval. Mr. Freeman said this request from Wagoner County RWD #5 is for an increase of \$1,035,000.00 in its Drinking Water SRF loan, originally approved on August 9, 2005. The requested increase is due to higher estimated bids for the wastewater plant improvements. The new loan amount will not exceed \$4,735,000.00. The terms of the loan remain the same as previously approved by the Board and the loan will be secured by a lien on the District's revenues. Mr. Freeman said the District has been a good customer of the Board and currently has two outstanding loans. The debt coverage ratio with this proposed increase stands at approximately 1.57-times. Staff recommended approval of the increased loan amount.

Mr. Orville Morgan, District Manager and Mr. Rick Smith, financial advisor, were present in support of the requested increase.

Mr. Currie asked about the number of customers the District had, and Chairman Herrmann asked if the increase is bids are a trend for the area. Mr. Freeman said that it is, that prices are going up continually.

Mr. Knowles moved to approve the requested increase in obligation of funds, and Mr. Keeley seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Sevenoaks, Herrmann
NAY: None
ABSTAIN: Secrest
ABSENT: Fite

I. Consideration of and Possible Action on a Resolution Authorizing Staff to Request Proposals for Services in Connection with Issuing Obligations to Fund the State Loan Program, the Clean Water State Revolving Fund Loan Program and the Drinking Water State Revolving Fund Loan Program. Recommended for Approval. Mr. Freeman explained this item is for the

consideration of a resolution authorizing staff to request proposals for underwriters, bond counsel, tax counsel, printers, bond insurance and liquidity providers, if necessary, in conjunction with new debt issuances for the State Revolving Fund Loan Program, the Clean Water State Revolving Fund Loan program, the Drinking Water State Revolving Loan program, and the FAP loan program. He said there is approximately \$164 million in unobligated SRF funds, there has been \$170 million in additional projects identified that will be brought to the Board by the end of Spring 2006. Additionally, there is approximately \$25 million in unobligated State Loan Program funds to be utilized by the end of the fiscal year. Throughout the Board's debt issuance process, staff will work closely with the Board's Ad Hoc Finance Committee—Mr. Secrest, Mr. Herrmann, Mr. Farmer, and Mr. Nichols. Staff recommended approval of the resolution.

Chairman Herrmann asked how the debt issuance will “play out” in light of uncertainty in the news about changes in the EPA and federal government? Mr. Freeman responded that if the law is changed requiring 50% of funding obligated within 12 months, there will be language included in the RFPs that smaller series may be necessary. Right now, the changes are in the Senate version of the bill by the Joint Committee on Taxation, but has not been included in the House version; hopefully, resolution will be made in the conference committee version. Mr. Sevenoaks asked if the legislation would change in past funding structures, and Mr. Freeman responded it would only affect future funding proposals.

Mr. Secrest, on behalf of the Finance Committee, moved to approve the resolution authorizing staff to request proposals for service providers in connection with issuing obligations, and Mr. Nichols seconded.

AYE:	Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann
NAY:	None
ABSTAIN:	None
ABSENT:	Fite

Mr. Keeley recognized Mr. Freeman and the FA staff for their recent recognition by EPA through the Clean Water State Revolving Fund 2005 Performance and Innovation Award for innovative and effective use of SRF financing mechanisms. Mr. Smith commented about the division having earned the award. The Board congratulated Mr. Freeman and his staff for their work and recognition by the EPA.

3. SUMMARY DISPOSITION AGENDA

Chairman Herrmann 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 for the transfer of items; however, Mr. Schuelein requested that items 3.D.2 and 3.D.9,

be withdrawn from the Board's consideration. Mr. Mathis requested that items 3.E.2., 3.E.3. and 3.E.4. as well as item H.2. be withdrawn also.

Mr. Sevenoaks asked about the REAP grant to the Sardis Lake Water Authority; and Mr. Smith responded that the system is in place and the Authority is using water from the lake. This grant is for the installation of a fence, the repairs to lines, and the possibility of obtaining additional water from the lake.

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

There being no further discussion, Mr. Sevenoaks moved to approve the Summary Disposition Agenda as amended, and Mr. Nichols seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secret, Sevenoaks, Herrmann
 NAY: None
 ABSTAIN: None
 ABSENT: Fite

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:

<u>REAP Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
INCOG				
1.	FAP-03-0035-R	Olive Public Schools	Creek	\$50,000.00
KEDDO				
2.	FAP-02-0018-R	Sardis Lake Water Authority	Pushmataha	79,710.00
SWODA				
3.	FAP-03-0022-R	Headrick Utility Trust	Jackson	79,000.00
4.	FAP-98-0028-R	Blair Public Works Authority	Jackson	97,270.00

D. Consideration of and Possible Action on Contracts and Agreements. Recommended for Approval.

1. Consideration of Contract with the University of Oklahoma through its College of Continuing Education to Host Floodplain Management Workshops.
2. *Consideration of Amendment to Joint Funding Agreement with the U. S. Geological Survey for the Federal-State Cooperative Program. Item withdrawn*
3. Consideration of Memorandum Agreement with the Chickasaw Nation of Oklahoma for Stream Gaging in the Historical Tribal Area.
4. Consideration of Memorandum Agreement with the Choctaw Nation of Oklahoma for Stream Gaging in the Historical Tribal Area.
5. Consideration of Service Level Agreement with the Oklahoma Office of State Finance.

6. Consideration of Agreement No. 4 with the Texas Department of Licensing and Regulation for Work Related to Weather Modification Activities.
 7. Consideration of Fifth Subagreement with Weather Decisions Technologies for Evaluation of Weather Modification Activities.
 8. Consideration of Renewal Agreement with the University of Oklahoma through its Department of Civil Engineering and Environmental Science for Work Related to the Arbuckle-Simpson Hydrologic Study.
 9. *Consideration of Master Agreement for Products and Services with Black Box Network Services for On-Site and Remote Phone System Maintenance. Item withdrawn*
- E. Applications for Temporary Permits to Use Groundwater:
1. Crooked Creek Duck Club, L.P., Caddo County, #2004-579
 2. City of Ponca City, Kay County, #2004-582
 3. Jerry Ray Harvey, J. Todd Harvey & G. Scott Harvey, Caddo County, #2005-511
 4. Roy L. Jr. and Pansy C. Tinney, Greer County, #2005-566 *Items withdrawn (3)*
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. Roy L. Jr. and Pansy C. Tinney, Greer County, #1979-640
- G. Applications for Regular Permits to Use Groundwater:
1. Phil D. Burden, Beckham County, #2005-564
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Diane Athey, Garfield County, #1974-164
 2. Robert & Ramona McCord, Tillman County, #1976-674 *Item withdrawn*
- I. Applications to Amend Prior Rights to Use Groundwater:
- None
- J. Applications for Regular Permits to Use Stream Water:
1. Deer Creek Farm Development, L.L.C., Oklahoma County, #2005-010
 2. Hanson Aggregates West, Inc., Love County, #2005-014
 3. Tommie Jr. and Judy McPherson, Garvin County, #2005-019
- K. Applications to Amend Regular Permits to Use Stream Water:
1. Larry H. Thompson, Beaver County, #2002-044
 2. Scott C. Barrington, Grady County, #2004-017
- L. Well Driller and Pump Installer Licensing:
1. New Operators and/or Activities for Existing Licenses:
 - a. Licensee: Associated Environmental Industries Corp. DPC-0269
 - Operator: Mitch Dennis OP-1466

- M. Dam and Reservoir Plans and Specifications:
 - 1. Tyann Development, L.L.C., Tyann Commercial Center Pond Dam, Tulsa County, DS-05-08

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

- O. Applications for Accreditation of Floodplain Administrators:
Names of floodplain administrators to be accredited and their associated communities are individually set out in the December 13, 2005 packet of Board materials.

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

A. Update on the Water Quality Standards (Chapter 45) and Water Quality Standards Implementation (Chapter 46) Revisions. Mr. Derek Smithee, Chief, OWRB Water Quality Division, stated it is once again water quality standards revision time. He said the first revision of the standards were done in 1957, pre-dating the Clean Water Act and other federal demands for regulations. The process for promulgating the standards is always a challenge, and serve as a foundational document for all water quality management in the state, and all other regulations across the state, i.e., water discharge permits, Confined Animal Feeding Operation regulations, etc., are all built upon the Water Quality Standards.

Mr. Smithee reviewed with the Board members the process and the proposed 2005 revisions through a PowerPoint Presentation, and focused on the “headliner issues”. He distributed a packet of the proposed changes and said the rule making covers two fundamental roles of the Board: Chapter 45 which is the Water Quality Standards, and Chapter 46 which is Water Quality Standards Implementation, translating the standards into water quality management.

The majority of the discussions regarded proposed criterion for Chlorophyll A to protect sensitive water supplies, the philosophy for establishing the criterion, the benefit for establishing the criterion rather than a phosphorous standard, and what is recommended by EPA and already established in surrounding states. The proposed revisions will be presented formally to the Board in January, with anticipated action by the Board in February. The revisions will then be reviewed and approved by the Legislature, Governor, and EPA. The proposals can be found on the OWRB website.

B. Update on water and weather conditions across the state. Mr. Mike Mathis, Chief, Planning and Management Division, presented through a PowerPoint presentation the current soil moisture conditions and general water level conditions across the state. He said the OWRB is a member of the Governor’s Drought Team, and more specifically the OWRB chairs the Water Availability Outlook Committee in support of that Team. The Team shares up-to-date data and information electronically with efficient coordination. Mr. Mathis shared with the Board members the data collected from the 116 Mesonet stations, current drought conditions and wildfire hazards across the state, areas that have experienced a prolonged dry spell, and nationwide 3-12 month forecasts for precipitation and continued drought conditions.

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 Regular Permit to Use Groundwater No. 2005-517, Town of Granite, Greer and Kiowa Counties.

1. Summary – Mr. Mike Mathis stated to the members that the applicant requests a permit to take and use 280 acre-feet of groundwater per year for municipal water supply. The water is proposed to be withdrawn from two wells on 280 acres of dedicated land in Greer and Kiowa Counties. The land overlies the Alluvial and Terrace Deposits of the North Fork of the Red River Groundwater Basin, for which the maximum annual yield and equal proportionate share has been determined as one acre-foot of water per acre of land dedicated.

Mr. Mathis said this application is associated with prior rights from 1952 and 1958. He noted a map provided that illustrated the locations and amount of other municipal supply utilized by Granite: the 1952 permit authorizes 320 acre-feet withdrawn from two wells—also known as the north and south wells—and the 1958 permit authorizes 160 acre-feet from one well located approximate 2.5 miles from the first dedicated lands. The current application dedicated the same lands as is recognized in the two prior rights, and the applicant is requesting that the two wells be approved and added to the prior right permits. Mr. Mathis talked about the well spacing and that the Granite South well is located 1257 feet away from the nearest well on the land of the protestant, and is less than the 1320-ft spacing rule. The South well has been dilled, completed and used since March 1978, and prior to the groundwater basin study of the area. The applicant will not be increasing the pumping rate but will continue to use these wells at the same combined rate since 2002 at about 510 gallons per minute. By evaluation of the evidence presented in the record it was concluded that the South well is about 63 feet short of compliance with the well spacing distance; the applicant has used the well since 1978 and it would be inequitable and unreasonable to deny authorization of the use of the well. Evidence in the record also indicated that the maximum combined rate of 510 gallons per minute would have a potential drawdown of approximately 3-3 ½ feet in the protestants well. The protestant's pumpage of its irrigation well alone has an estimated potential drawdown of approximately 14 feet on its own area.

Mr. Mathis stated that the record showed the application to be in compliance with the Oklahoma Groundwater Law, and staff recommended approval.

2. Discussion and presentation by parties. Chairman Herrmann invited the applicant to speak to the Board. He asked both parties to limit comments to five minutes.

Mr. E.J. Hahn, representing the Town of Granite, stated to the Board that the town probably will not use the additional water, but wanted to have it permitted in the event the town of Lone Wolf or the state reformatory wells fail they would be able to provide additional water to the Quartz Mountain Regional Water Authority which supplies water to most entities in the surrounding area. He described to the members where the existing wells and the protestant's wells are located, said the wells are not pumped continuously, the protestant has two center pivot irrigation systems he operates on the adjoining quarter section, and he did not believe the Granite wells would impact their water level.

Mr. Sarah Yauk introduced herself and her sister, Susan Givens, landowners adjacent to the Granite application, and she stated her father Mr. Jack Givens would speak to the Board. Mr. Givens, who served on the OWRB at one time, addressed the members and stated his daughters also own land in the Lugert-Altus Irrigation District, and the lake originally extended about 2.5 miles north of the bridge, but had silted in after giving a 50-year life since it was built; the first time he irrigated from it was in 1948. Mr. Givens said there was a noticeable difference from when the lake was full and the level of water in the well. He said the evidence states that the wells of the area are 65 feet deep, and his wells hit red bed at 63 feet with the casing being drilled a few more feet for stabilization, leaving only 3 feet of water. Mr. Givens stated he believed the additional permitted water for the Town of Granite would impact the surrounding area as the first well he drilled pumped 1100 gallons per minute and now a newer well on the same 80 acres pumps 240 gallons. He said the study was conducted in 1978 before the lake was silted-in and he believed the wells south of the applicant's well permit would be impacted.

Mr. Mathis responded to Mr. Given's comments that the information in the basin study about the depth to water and the saturated thickness as it is typical the area varies across the basin, and that is why the information is viewed from a local regional perspective. Chairman Herrmann noted the pumpage rate limitations on the permit and Mr. Mathis stated that should assist in limiting the drawdown particularly in light of the irrigation wells that are typically high-capacity wells. Mr. Currie asked about the prior right issue and the application; Mr. Mathis explained that the prior rights are taken out of the calculations for the basin study, but the study determined there should only be permits for one-acre foot of water per acre of land dedicated, and the proposed order is in compliance with the Oklahoma Groundwater Law for 280 acre-feet of water which is allowable under the law to obtain the 280 acres above and beyond the prior rights.

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.

There being no further discussion, Mr. Keeley moved to approve application number 2005-517 to the Town of Granite, and Mr. Sevenoaks seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks,
Herrmann

NAY: None

ABSTAIN: None

ABSENT: Fite

B. Application for Regular Permit to Use Groundwater No. 2005-522, Prague Public Works Authority, Okfuskee and Pottawatomie Counties.

1. Summary - Mr. Mathis explained this item is a request by the Prague Public Works Authority for a regular groundwater permit to withdraw 794 acre-feet per year for municipal water supply. The water is to be taken from two wells located on 397 acres of dedicated land in Okfuskee and Pottawatomie Counties, overlying the Vamoosa-Ada Groundwater Basin. The maximum annual yield and equal proportionate share have been determined by the Board and each landowner is entitled to two acre-feet per acre per year. The Authority has proposed to use water for municipal water supply for the residents and customers in the City of Prague. He said that although the Board's well-spacing rule is applicable to the Authority's application, there is no evidence of any well on land of the protestant's or any other person within the spacing distance of the Authority's proposed well.

Mr. Mathis stated the protestants were concerned about depletion of the groundwater basin; the basin has been studied and the Authority's use will be within that allocation. The Authority will have the well drilled by a licensed well driller in compliance with the Board's construction standards in addition to having to meet the municipal water supply regulations of the Department of Environmental Quality. The record showed the application to be in compliance with the Oklahoma Groundwater Law, and staff recommended approval.

2. Discussion and presentation by parties. Chairman Herrmann invited the applicant to address the members. Mr. Jim Thompson, representing the City of Prague, stated the Authority is entitled to the water rights, and it intended to comply with the Board's rules and regulations. He appreciated the Board's consideration of the application.

Mr. Richard Hefner, adjacent landowner and protestant, spoke to the members about his concern of the application, and said he owned a cattle operation. He was concerned about two items, one--the lack of scientific data available to make the decision of allocation for the city's wells. He said that it became evidence in Mr. Smith's earlier report that funding is not available and the current data is not available to the Board as far as the drawdown of the aquifer in localized areas and most of the data used by the Board is twenty years old and produced by the U.S. Geological Survey. He said staff had indicated to him that local well data is not taken into account nor the drawdowns that may be affected when determining the allocation for the new permitted wells, and so he did not believe the Board had the proper tools to determine how much water could be drawn without affecting the adjacent landowners. Another concern Mr. Hefner stated is that the permitted rates requested by the applicant also includes a usage by the New Dominion Oil Company actively drilling in the area. He said there is no limit to the amount of water the company can use, as well as the addition of users to the city's line. He said he and other domestic users in the area depend upon the aquifer, and he is concerned about municipalities expanding into rural areas and acquiring water rights and permitting wells at the expense of private landowners.

Mr. Sevenoaks said the law is that if you own the land anyone can drill a well as long as requirements are met and the aquifer can be pumped, that is contemplated as mining in the law.

Mr. Smith commented that this is the most common type of protest that is received by the agency. People protest an application and want the OWRB to protect and guarantee their usage of water and that is not what the law guarantees. What the law guarantees is that if you own a piece of land, you can take water from that land—which is opposite of what the protestants want, which is their use is already existing and the Board should protect that use from interference. The law says that if you own a piece of land you have the ability to take water and the person having the land next to it also has the same right to take water. The law sets out a set of guidelines but does anticipate there may be an impact. The alternative is to say no one can use the water, and the staff tries to look at reasonableness and well spacing and in this case there is a maximum annual yield determined and well spacing set, and in this

matter the wells are outside the well spacing. He said its not a perfect system, but staff works within it as best it can to protect.

Chairman Herrmann added that the Board is sensitive to protestant concerns, but are bound by the oath of office to uphold the laws of the State of Oklahoma, even though in some cases, there are concerns.

3. Possible executive session. The Board did no vote to enter and 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 regular groundwater permit number 2005-522, and Mr. Knowles seconded.

AYE: Currie, Farmer, Keeley, Knowles, Nichols, Secrest, Sevenoaks, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Fite

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.

Prior to Mr. Jim Schuelein's report, Mr. Smith said that Mr. Schuelein has attended 252 Board meetings and this is his final meeting. Mr. Schuelein, Chief, Administrative Services Division, stated to the members the budget report reflects agency operations through the first five months of the fiscal year, or 41%, and reflects the agency has received 4.8 % and is on target.

Chairman Herrmann asked that the minutes reflect the Board's appreciation for Mr. Schuelein's long-standing service to the OWRB, and wish him well in his retirement pursuits.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

There were no Supplemental Agenda items for the Board consideration.

8. Presentation on Oklahoma Farm Bureau and Oklahoma Farm Bureau Legal Foundation Draft Voluntary Conservation Management Plan for Portions of the Canadian River.

Ms. Marla Peek, Director of Regulatory Affairs for the Oklahoma Farm Bureau, made a presentation to the members about the work the Bureau, and the Bureau Legal Foundation, has been doing in regard to the Arkansas River Shiner critical habitat issue and the need to finalize the volunteer management plan for the shiner. Ms. Peek explained why the OFB became involved in the endangered species issues, the impact to water rights, and an agreement as the result of a lawsuit against the U.S. Fish and Wildlife Service to develop a volunteer management plan approved by the state's environmental agencies that would protect the habitat of the shiner and removes the official critical habitat designation.

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.

Mr. Chuck Shipley, representing protestants on a pending water right matter, addressed the members about a "motion for summary judgment" and potential pollution complaint that he had notified the Board after business hours on the Friday before the Board meeting, making it a matter to be considered under New Business. Mr. Dean Couch, OWRB General Counsel, cautioned the Board about hearing evidence that would be presented to the hearing examiner in the same matter the following day (December 14). The Board discussed whether the matter qualified for consideration under "New Business" in the Open Meeting Act, whether the evidence presented should be presented to the members prior to proper adjudication, the inappropriateness of the Board hearing the evidence, and that if the Board were to hear Mr. Shipley's information the applicant in the matter would request the Board hear its evidence-- whose attorneys were present and objected to the Board hearing information from Mr. Shipley.

Mr. Couch assured the members that the matter had been forwarded to the appropriate agencies for appropriate action in regard to the pollution matter, and he cautioned the Board about hearing evidence in a matter through the procedure that is in place and would be before the hearing examiner the next day to learn more precisely the facts. Mr. Duane Smith explained to the members that all of the activities surrounding the hearing are included in the process, and the Board's role in the process is to take consideration of the proposed order prepared after the hearing examiner has reviewed and considered all facts presented on both sides of the issue and then vote to approve or not approved. The Board relies upon staff to have followed proper procedures and to do the things necessary in order to evaluate the evidence in compliance with the Board's rules. Anything outside of that is an opportunity for others to come to the Board and question the process. He said Mr. Shipley's request to be heard is just not to be informative, and if there is any evidence that comes forward without time for cross-examination of witnesses, etc., could taint the Board and the disposition of the hearing.

The Chairman invited a member to make a motion to continue discussion, which there was none. He would determined the matter had received proper response by the agency, and there was no need for the Board to hear any evidence at this time due to the timing of the already scheduled administrative hearing set for the next day. There was no further discussion or action by the Board on the request.

Mr. Smith said that Ms. Karen Weldin, co-chair of Save Our Water Lake Eufaula, was in attendance along with several other members of the organization, and he asked that she be given time to address the Board.

Ms. Weldin stated that she and members of the group had attended the meeting today in order to become more active in management of Lake Eufaula and the workings of the Oklahoma Water Resources Board. She explained the goals and activities of the SOW group, and expressed her desire to meet with the executive director and staff of the Board. Mr. Smith responded that a meeting would be scheduled after the holidays.

As an extension of the Executive Director's report, Mr. Secret asked about the legislative committee meeting that was held recently with the topic of consolidating the Department of Environmental Quality and the OWRB. He suggested the Board's Legislative Committee meet and take a stand on the matter. Mr. Smith responded the first meeting was a opportunity for Mr. Steve Thompson and Mr. Smith to discuss both agencies, and that was the

extent of the meeting. Representative Bingman stated his goal as chairman would be that if there are overlapping areas of jurisdiction where consolidation could gain efficiencies that would be his interest. He said bill-filing deadline was December 9, and if a bill has been filed then the Board committee may need to meet.

Chairman Herrmann stated he has asked that the seating be re-arranged for the January meeting, that the staff look at an outside meeting for February, and reminded the members that the Capitol Water Day will be held in April.

10. ADJOURNMENT

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 12:30 p.m. on December 13, 2005.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Rudolf J. Herrmann, Chairman

_____/s/_____
Jess Mark Nichols, Vice Chairman

_____/s/_____
Lonnie Farmer

_____/s/_____
Jack W. Keeley

_____/s/_____
Harry Currie

_____/s/_____
Richard Sevenoaks

_____/s/_____
Edward H. Fite

_____/s/_____
Kenneth K. Knowles

ATTEST:

_____/s/_____
Bill Secrest, Secretary

(SEAL)