

OKLAHOMA WATER RESOURCES BOARD MEETING INFORMATION

The Oklahoma Water Resources Board meets monthly (generally the second Tuesday of each month, at 9:30 a.m.) at the agency's Oklahoma City office, 3800 N. Classen Boulevard, unless otherwise specified. A draft Board meeting agenda and packet materials are scheduled to be prepared approximately 10 days prior to the Board's meeting. A final agenda is scheduled to be posted approximately one week prior to the meeting; supplemental agenda items (those unknown at the final meeting agenda's posting, but known more than 24 hours prior to the meeting) are scheduled to be posted on the Friday prior to the Board meeting. The standard sections of the agenda are numbered in a series; additional or special items will appear on the agenda subsequently. Standard sections include the following:

- 01000 = Call to Order
- 02000 = Financial Assistance Division
- 03000 = Summary Disposition Agenda
- 04000 = Items of Interest
- 05000 = Special Consideration Items
- 06000 = Agency Budget Report
- 07000 = Consideration of Supplement Agenda

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

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

1.C. September 13, 2005, Draft Official Minutes

**For consideration at the
October 11, 2005, Board meeting**

DRAFT

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

September 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 September 13, 2005, in the Board Meeting 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.

A. Invocation

Chairman Herrmann asked for a moment of silence for the hurricane victims.

B. Roll Call

Board Members Present

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

Board Members Absent

None

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

Regina Clinton, Brian County Rural Water District #2, Mead, OK
Merle V. Pearce, Brian County Rural Water District #2, Mead, OK
O'Della Luttrell, Stamper Project, Colcord, OK
Eddy Martin, Stamper Project, Colcord, OK
Joe Baty, Stamper Project, Colcord, OK
James Chamberlain, Stamper Project, Colcord, OK
James Ferrell, City of Pauls Valley, OK
Mayor Tim Gamble, City of Pauls Valley, OK
Bill Werner, Stamper Project, Shawnee, OK
Joyce Chamberlain, Stamper Project, Colcord, OK
Leroy Chamberlain, Stamper Project, Colcord, OK
Rick Pearce, Ryan Whatley & Coldiron, Oklahoma City, OK
Anne Burger Entekin, First Southwest Co, San Antonio, OK
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma Cit, OK
Joe E. Taron, Pottawatomie County Development Authority, Shawnee, OK
Gary Kinder, SMC, Oklahoma City, OK
Bud Green, City of Nicoma Park, OK
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma Cit, OK
Allan Brooks, Fagin Firm, Oklahoma City, OK
Cheryl Dorrance Oklahoma Municipal Utility Power/OML, Oklahoma City, OK
D. Neal Martin, Pottwatomie County Rural Water District #3, Shawnee, OK
Bud Ground, Public Service of Oklahoma, Oklahoma City, OK
Representative Gary Banz, Midwest City, OK

C. APPROVAL OF MINUTES

Chairman Herrmann stated the draft minutes of the August 9, 2005, Regular Meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were changes.

Mr. Nichols moved to approve the minutes of the August 9, 2005 Regular Meeting, and Mr. Keeley seconded.

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

(Mr. Farmer joined the meeting at 9:35 a.m.)

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, addressed the members and stated to the Board he had met with several groups around the state including city officials in Guymon regarding economic issues and new companies locating in the area; visited with Kenny Knowles at Arnett and his activities in the preservation of the Prairie Chicken; attended the 20th Anniversary banquet of the Oklahoma Academy for State Goals; met with the Oklahoma State University Environmental Institute about legislative priorities in water planning and financial assistance for the 2006 session; spoke to the Oklahoma Rural Water Association Technical Session and made

a “call for action” from the association for support of the OWRB Financial Assistance program and water planning; met with Speaker Todd Hiett and staff about legislative priorities and his support for Rep. Winchester being the point person in the House for the Comprehensive Water Plan and Financial Assistance Program; and met with the US Geological Survey regarding funding it received for trend analysis of phosphorous in the Illinois River and other sites.

Upcoming meetings Mr. Smith will be attending or speaking to are the Arkansas-Oklahoma Arkansas River Compact Commission on September 21-22, at Tahlequah, Oklahoma; Richard Sevenoaks is speaking at the Oklahoma Municipal League conference on September 15 on water planning; Mr. Smith is speaking to the Association of State Governments on September 27, and the Oklahoma State University Water 2005 Conference on September 28; and the Kansas-Oklahoma Arkansas River Compact Commission meets October 5 at the Port of Catoosa.

Mr. Smith announced the October Board meeting will be at Tahlequah on October 10-11, with a tour of the area, and the November meeting will be moved to be held in conjunction with the Governor’s Water Conference November 1-2. The first one-half day symposium is on groundwater; the Board meeting will be that morning at 9:30 a.m.

Mr. Smith concluded his report introducing Representative Gary Banz of Midwest City in attendance today supporting Nicoma Park emergency grant application.

Chairman Herrmann proceeded with the remainder of the meeting agenda.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Nicoma Park Development Authority, Oklahoma County, Oklahoma. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is for the consideration of a \$99,999.00 emergency grant request from the Nicoma Park Development Authority located in eastern Oklahoma County. About 40% of the town is currently on the town’s centralized wastewater collection system that was partially funded by the Board in the 1990s. He said an additional portion of the town using individual septic systems desires to be added to the collection system due to discharges that are occurring. In order to expand the wastewater collection system the proposed project will include an 8” gravity sewer line, manhole, service connections, and a lift station. Mr. Freeman said the project will be funded with \$76,926.00 of local funds and the grant requested of the Board. Staff recommended approval of the grant application.

Mayor Bud Green, and Representative Banz were present in support of the application.

Mr. Fite moved to approve the grant request to the Nicoma Park Development Authority, and Mr. Currie seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Pottawatomie County Development Authority, Pottawatomie County. Recommended for Approval. Mr. Freeman said the Pottawatomie County Development Authority has requested a Drinking Water SRF loan for \$423,901.50 to construct a 158,000 gallon standpipe, and approximately 2,800 feet of 6-inch line to connect to the existing system. Mr. Freeman stated

the provisions of the loan agreement. It is estimated the Authority will save approximately \$175,000 in interest by borrowing through the OWRB. Staff recommended approval.

Dr. Joe Taron, Chairman, was present in support of the loan application.

Mr. Currie asked about the area of the county that is served by the system, and asked about the source of water for the Authority.

Mr. Sevenoaks moved to approve the loan to the Pottawatomie County Development Authority, and Mr. Nichols seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

Mr. Smith recognized that Dr. Taron has been honored as an Oklahoma Water Pioneer, and that his presence is appreciated at the meeting today.

C. Consideration of and Possible Action on a Proposed Order Approving Loan for Pauls Valley Municipal Authority, Garvin County. Recommended for Approval. Mr. Freeman said this \$900,000.00 Clean Water SRF loan request by the Pauls Valley Municipal Authority is requested for wastewater system improvements including installing five aerators and a force main, modifying the main lift stations, replacing sewer lines and improvements to sludge removal systems. Mr. Freeman noted provisions of the loan agreement. The debt coverage ratio stands at approximately 1.6-times, and it is estimated the Authority will save approximately \$420,000.00 by borrowing from the OWRB. Staff recommended approval

Mayor Tim Gamble, City Manager Jim Frizell, and Financial Manager Rick Smith were present in support of the loan application.

Mr. Farmer moved to approve the loan to the Pauls Valley Municipal Authority, and Mr. Keeley seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

D. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water, Sewer, and Solid Waste Management District #2, Bryan County. Recommended for Approval. Mr. Freeman stated the Bryan County Rural Water, Sewer, and Solid Waste Management District #2 has requested a loan in the amount of \$1,200,000.00. The Drinking water SRF loan will be used to make improvements to the existing water system and to pay related costs of issuance, and for rehabilitating the water storage tank. Mr. Freeman noted provisions of the loan agreement. He said the District has been rapidly growing and has increased the number of connections by 44% over the last ten years to approximately 8,200. The District's debt-coverage ratio stands at about 2.15, and it is estimated the District will save approximately \$480,000.00 by borrowing from the OWRB. Staff recommended approval.

Ms. Regina Clinton, Manager and Merle Pierce, field representative, were present in support of the application.

Mr. Secrest moved to approve the loan to the Bryan County RWSSWM #2, and Mr. Farmer seconded.

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

NAY: None
ABSTAIN: None
ABSENT: None

E. Consideration of and Possible Action on a Proposed Order Approving Loan for Altus Municipal Authority, Jackson County. Recommended for Approval. Mr. Freeman stated that the Altus Municipal Authority had requested \$10,808,700.00 financing request. The long-term refinancing request is for its Drinking Water SRF Interim Construction Loan in the amount of a 6-million gallon per day reverse osmosis water treatment plant. He said that \$6,775,000.00 of the loan will be funded from the Board series 2003 FAP loan program bond issue, and \$4,033,700.00 of the loan will be funded from the Drinking Water SRF loan program with a .5 administrative fee. Mr. Freeman noted provisions of the loan agreement. Altus's water connections have increased by about 5% over the last ten years, and it is estimated that approximately \$3.3 million will be saved over twenty years by borrowing from the OWRB. Staff recommended approval of the loan request.

Mr. Mike Nettles, City Administrator, was present in support of the loan request.

Mr. Sevenoaks asked if the plant was on line; Mr. Nettles responded it is being adjusted and will be operational soon. Chairman Herrmann asked the debt coverage for the Authority, and Mr. Freeman responded that at this time it is at about 2.4%, and the Authority intends to pay the loan in five years rather than 20 years. Mr. Sevenoaks asked about the Authority's source of water and Mr. Nettles responded it is Tom Steed Reservoir.

Mr. Nichols moved to approve the loan to the Altus Municipal Authority, and Mr. Keeley seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

Chairman Herrmann mentioned that the next item is part of the advance planning that the OWRB does in order "prime its pump" and have financing available such as the loans that have been approved today.

F. Consideration of and Possible Action on Selection of Financial Advisor to the Board in Connection with the Board's Clean Water State Revolving Fund Program and Drinking Water State Revolving Fund Loan Program. Recommended for Approval. Mr. Freeman stated this item is for the selection of a financial advisor to assist on a new issuance of bonds to sustain the State Revolving Fund Loan Programs. Requests for proposals were sent to 23 state, regional and national firms and responses were received from Public Financial Management from Minneapolis; Stevens Incorporated from Little Rock; First Southwest Company from Texas; and Piper Jaffray from Phoenix. Staff reviewed the four proposals based on each firm's experience as financial advisors, the financial advisory experience of the person assigned to work with the Board, the understanding of the scope of service that is being asked to be performed, and fees and expenses for services.

Mr. Freeman stated that upon that review, the two top-rated firms proposals were presented to the Board's Finance Committee on September 12. At the meeting, the Committee met with First Southwest Company, and Public Financial Management.

Mr. Secrest, Chair of the Board's Finance Committee, stated that the Finance Committee recommends, and he moved, that the Board select the financial advisory firm of First Southwest Company, to serve as financial advisor to the Board. He added that after

clarification, the firm has agreed that its total not to exceed maximum fee will be capped at \$52,500.00 per bond issue plus expenses not to exceed \$10,000.00 per year. Other members present at the meeting were Chairman Herrmann, Mr. Farmer, Mr. Secrest, and Mr. Nichols was absent.

Mr. Sevenoaks seconded the motion.

Mr. Currie asked if the firm has worked for the Board previously. Mr. Freeman answered it had not, but it is financial advisor to several entities throughout the country. Headquarters are in Dallas, the representative that will work with the Board is located in the San Antonio office. Mr. Secrest added the firm is also the financial advisor to the Oklahoma Transportation Authority. Mr. Currie asked the term of the contract. Mr. Freeman answered the firm will provide services for the next bond issue, and the statutes provide that the Board is allowed 12 months following that to utilize their services for another bond issue if needed; there is no contract term.

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

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 to transfer items to the Special Consideration Agenda. Mr. Mathis asked that agenda item 3.G. regular groundwater application #2004-570 be withdrawn from the Board's consideration due to publication notice error.

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.P.

Mr. Currie asked about the deep well being drilled for the Arbuckle-Simpson study project. Mr. Mathis answered there would only be one deep well at 3,000 feet, and there would be several shallower monitoring wells placed strategically around the basin. He said local landowners have been very cooperative in making site selections. He said it is the landowner's option to keep the well or for the OWRB to plug it.

There being no other requests regarding Summary Disposition items, Mr. Nichols moved to approve the Summary Disposition Agenda as amended, and Mr. Keeley seconded.

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

The following items were approved:

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>
None				

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

1. Consideration of Intergovernmental Agreement with the Central Oklahoma Master Conservancy District for Tributary Monitoring at Lake Thunderbird.
2. Consideration of Reimbursable Funding Agreement with the U.S. Geological Survey, Mid-Continent Mapping Division, for Ecoregion Mapping.
3. Consideration of Easement and Agreement with Robert Jack Hoover and Louann Hoover for the Construction of a Groundwater Observation Well and Water Monitoring.
4. Consideration of Intergovernmental Agreement with Oklahoma State University School of Geology for Work Related to the Arbuckle-Simpson Aquifer Study.
5. Consideration of Amendment to Joint Funding Agreement with the U. S. Geological Survey, Water Resources Division, for Investigation of Recharge Age Dates of Groundwater in the Garber-Wellington Aquifer Near Tinker Air Force Base.
6. Consideration of Joint Funding Agreement with the U. S. Geological Survey, Water Resources Division, for Streamflow Monitoring in the Upper Washita River Basin.
7. Consideration of Fourth Subagreement with Weather Decision Technology for Evaluation of Weather Modification Activities.
8. Consideration of Third Subagreement with the Oklahoma Climatological Survey for Evaluation of Weather Modification Activities.
9. Consideration of Amendment Agreement with the Office of the Secretary of Environment for Wetlands Internet Mapping Project.

E. Applications for Temporary Permits to Use Groundwater:

1. LaDon & Patsy Morris, Garvin County, #2005-510
2. Malcolm D. Harden, Hughes County, #2005-537

F. Applications to Amend Temporary Permits to Use Groundwater:

1. Charles B. Farni, Roger Mills County, #1981-759B
2. J. C. Alexander, Jr., Muskogee County, #1985-529

3. Harrall Meats, Inc., Custer County, #2004-548
- G. Applications for Regular Permits to Use Groundwater:
 1. *Robert A. Williams & Andrea Mendoza-Williams, Tillman County, #2004-570*
withdrawn
- 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. Arcadia Farm, L.L.C., Oklahoma County, #2005-015
 2. Eugene H. Grantham, Pittsburg County, #2005-016
- 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: E.T. Water Services DPC-0655
 Operator: Edward Thomas OP-1457
 Activities: Groundwater wells, test holes and observation wells
 Pump installation
 b. Licensee: Dustin Gieser's Pump
 Service: DPC-0659
 Operator: Dustin L. Gieser OP-1362
 Activities: Pump installation
 c. Licensee: Mark L. Tickel DPC-0661
 Operator: Mark L. Tickel OP-1462
 Activities: Groundwater wells, test holes and observation wells
 Pump installation
 2. New Operators and/or Activities for Existing Licenses:
 a. Licensee: Prosonic Corporation DPC-0564
 Operator: Chad A. Petry OP-1461
 Activities: Monitoring wells and geotechnical borings
- M. Dam and Reservoir Plans and Specifications:
 None
- N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:
 a. Oklahoma Department of Transportation, Woods County, FP-05-07
 b. Oklahoma Department of Transportation, Canadian County, FP-05-08
- O. Applications for Accreditation of Floodplain Administrators:
 Names of floodplain administrators to be accredited and their associated communities are individually set out in the September 13, 2005 packet of Board materials

- P. Waiver of Notice, Agreed Settlement and Consent Order:
Approval of Waiver of Notice, Agreed Settlement and Consent Order for Mark Tickel and T & T Water Well Drilling, Drilling/Pump Contractor License No. DPC-0193 and Operator Certification No. OP-0296

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

There were no questions or item of discussion by the Board Members.

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. 2005-518, Ken & Sharon Stamper, Delaware County.

1. Summary – Mr. Mike Mathis, Chief, Planning and Management Division, stated to the members that this applicant, Ken & Sharon Stamper of Delaware County, requested a permit to take and use 15 acre-feet of groundwater per year for industrial use in a poultry waste processing facility. The water is proposed to be withdrawn from one well located on 48.3 acres of dedicated land in Delaware County. The land overlies the Boone Roubidoux Group. The applicant is developing a Phase I demonstration project of approximately six-months duration that is designed to convert poultry litter to a commercially viable products. The applicant is an experienced mechanical and environmental engineer, and will be residing on the site during the project. He said the processed water will be recycled and reused. The applicant will use a Board-licensed water well driller to drill and complete the well in compliance with the OWRB standards and will not be discharging any wastewater, but will be requesting a permit from the Oklahoma Department of Environmental Quality for management and retention of stormwater runoff. The packaging and sale of the fertilizer produced will be regulated by the Department of Agriculture, Food & Forestry.

Mr. Mathis stated that testimony established there are two old abandoned wells on the dedicated land, and in order to protect the groundwater from any pollutants to the basin, the proposed order has a condition the wells be located and properly plugged.

Mr. Mathis stated the protestants were concerned the applicant's groundwater withdrawal would interfere and cause groundwater in the area of their wells to be depleted. The closest well is Ms. Luttrell's and is approximately 400 feet from the applicant's proposed well area. Staff has conducted modeling and the estimated drawdown is about 1-1/2 feet of the well, which is not considered to be an impact.

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

2. Discussion and presentation by parties. Mr. Ken Stamper approached the members and stated he had no statement to make, but appreciated the Board's consideration. Mr. Sevenoaks asked the applicant about the operation of the facility. Mr. Stamper answered that the facility would involve chemical and biochemical processes to eliminate waste and make liquid fertilizer from poultry waste transported to the site; the gas produced will be sold for electricity. He said there would be no land application of the waste, only some surface runoff--required to be captured by the Department of Environmental Quality--that would be the quality of approximately pond water. He explained the project is financed in part by the State of Oklahoma, the State of Arkansas, and the Environmental Protection Agency, and the product will be marketed outside the watershed through existing fertilizer networks that sell in bulk, i.e. Farmers Cooperatives, etc. He said he expected to produce approximately 10,000 gallons per year in Phase I, and perhaps 100,000 gallons by Phase II. The members had additional questions about location, site topography, and general operation.

The protestant, Eddie Martin, expressed his concern about the source of the litter from the State of Arkansas, and additional storage of litter in the Illinois River watershed. He questioned whether the system was a closed-loop system and if there would not be spreading of the runoff wastewater. He was concerned about the lowering of the water table, whether the well driller performed the grout work on the well, and he talked about the characteristics of the water quality of the area, saying the water is good but at a shallow level.

Ms. Luttrell told the members her well is the closest, and she expressed her concern about the possible lowering of her water table. She said if the table were lowered 1-1/2 foot, she would not have water. She said she had good, clean water and she asked who would be responsible if something were to happen to her well, a deeper well would reach sulphur water, and she could not afford a new one. She was also concerned about the containment of the runoff water to keep it from the Illinois River.

Mr. Joe Baty spoke to the members stating he lived about one mile away from the property, and he is related to Eddie Martin and that is also his interest. He stated his concern about how the well would be completed, that the shallow water is plentiful and of good quality but more susceptible to pollution. He was also interested in how it was determined Ms. Luttrell's well would be drawn down 1-1/2 foot and that if the well causes the water from the shallow zone to drain to the lower zone and lower her water table further. He said that they were fortunate to live where the water is of good quality and plentiful, and he was concerned something would happen to change that, and he was also concerned about having to drill deeper and possibly hit sulphur water. He asked that if the Board did approve the permit, he would like it to be conditioned to protect the shallower zone. Mr. Currie asked at what level are the shallow wells, and Mr. Beatty responded his well is at 68 feet, Ms. Luttrell said her is at 45 feet, and Mr. Martin said his are at 38 feet and 157 feet.

Mr. Mathis explained that every site is different in this area, and the testimony of the well driller was that he would "zone" the well and find the range of wells of the area, saturated thicknesses, and attempt to isolate the shallower areas. He said the drawdown monitoring on the desk top model evaluated the amount of water being pumped over time to get a feel for what kinds of impact can be determined on a relatively close regional basis. Regarding the runoff and the DEQ permitting, Mr. Mathis responded that the applicant is working with the DEQ on a

stormwater management permit but the actual processing of the litter is under the jurisdiction of the of the ODAFF. He reminded the members this is a temporary permit, as the basin study has not been completed and there is annual review; however, staff would respond to complaints if issues arise.

There was further question and discussion about the depth of the proposed well, the isolation of the shallower zones for protection, the possibility of casing of the well at 260 feet to protect the upper zone, whether this is a beneficial use of water, and that if there are damages remedy would have to be sought through the court system. Mr. Sevenoaks commented that the Board would do its best to ensure protection through the well drilling process, but that Mr. Stamper had a right to the water as do the residents, and that the Board is very cognizant of the Illinois River and is encouraged to see the Conservation Commission working to find a solution to the poultry litter problem.

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 temporary groundwater permit #2005-518, and Mr. Keeley seconded.

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

NAY: None

ABSTAIN: Fite

ABSENT: None

- B. 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, stated to the members the budget report this month incorporates the budget-to-actual of the first months of the fiscal year. He noted in regard to the agency's gasoline expenditure that last year the agency budgeted \$40,000 for fuel and spent about \$68,000, and this year the first six weeks of the fiscal year, the agency has spent \$8,800 and expecting the worse to come; \$55,000 was budgeted for fuel this year. He said that overall the budget is down about \$190,000.00 over last year and salaries, insurance and fringes were up about \$120,000.00 and the agency received a small increase of about \$130,000.00 so the balance will be made up from other sources. Mr. Sevenoaks asked if the agency was fully staffed; Mr. Schuelein answered the agency is not fully staffed, and is somewhat below the appropriated FTE level. The agency is allowed to utilize "project term limited" positions, filled on an as-funded basis; if the funding ends, so the does the position.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

There was a Supplemental Agenda items for the Board consideration.

- A. Consideration of Findings, Conclusions and Order Approving the Citizen Potawatomi Nation Acquisition of Assets of the Pottawatomie County Rural Water District No. 3, Recommended for Approval. Mr. Mike Mathis explained to the Board members that this item

concerns the Pottawatomie County Rural Water District #3 and is a process that doesn't often come before the Board, but one where the Board has responsibility to review and approve acquisitions. In this matter, the Citizens of the Potawatomi Nation, headquartered in Shawnee, have agreed to acquire the assets of the Rural Water District whose service area covers roughly the southern one-third of Pottawatomie County. He said there are about 600 taps on the system and a special meeting was held earlier this year by the benefit holders of the District, and the asset purchase agreement was approved by a vote of 72-10. After that, the matter was considered by the Board of County Commissioners, which was done and approved the agreement in June.

Mr. Mathis explained that the District has been struggling financially and the Citizen Potawatomi Nation has a significant interest in the system because one-third of the customers are tribal members, and wanted to bring stability to the system. He said the proposed findings and conclusions recognize the value and stability of the Citizens of the Potawatomi Nation will bring to the water system operation. The only concern by staff is that the asset purchase agreement would be enforceable since this is a tribal entity so a provision was included in the actual agreement that indicated the agreement is governed by federal, state and tribal laws. He said that was included expressly in the proposed order. Staff recommended approval.

Mr. Neal Martin, representing the Rural Water District, said he attended the meeting in order to answer questions if necessary. Through question and answers, Mr. Martin discussed with the members that the District had not been making full payments to Rural Development each month, the tribe had agreed not to increase the rate for a basic period of three years but would have to negotiate with Rural Development, and from a customer standpoint it is very good news and new customers would be hooked up without charge. He said the original system had been designed to accommodate 617 users, but 100 dropped out and 200 are only paying the minimum and since more people are needed to connect, the Tribe has provided incentive by eliminating membership fees and offering to lay the line to homes, as this is an economically depressed area. Mr. Martin said there were improvements that needed to be done to the system but the District doesn't have the money to do them.

Mr. Smith explained the Board's responsibility in the matter. He said it is unique as it is a tribal government and traditionally in acquisitions another rural water district would be involved but with this matter it is a sovereign entity and there could be question about whether the Tribe has to come to the Board, but the District wants it to come here. He read from the statutes the pertinent sections. Mr. Smith said that the staff reviewed the financials of the Tribe and found that the assets exceeded liabilities by \$61 million. He said the staff then reviewed the level of service to the customer and the Tribe has made a substantial agreement with the citizens and by vote approved it, as did the County Commissioners. Mr. Smith stated his concern regarded the sovereignty of the Nation and taking away the complaint process of the citizen by having to go to tribal court rather than state court so he recommended as a condition that the citizens be able to go to state court as a remedy to enforce the agreement. Mr. Couch stated that the condition being recommended and is before the Board today is that the approval by the Board be conditioned enforcing the agreement. Mr. Smith said the agreement language would give the Indian members of the District the option to file with the tribal court, and the non-Indian members could file in state court, and there may be a federal claim.

Mr. Sevenoaks was concerned about the sovereignty issue, about the water quality standards, and about turning over the District to an entity that is not responsible to the State of Oklahoma or to the Board. He expressed concern about setting a precedent with tribal governments and conducting water business that could be used as a model, and that the Attorney General's office nor the tribal representatives were present today to discuss the matter, and he believed the agreement was not strict enough and should have specific language or risk acquiescing the Board's authority.

There was further discussion that the Board is not signing the contract with the District, but rather approving the contract between the District and the Tribe and assuring enforcement of the agreement, whether it was arguable that the language proposed does waive the Tribal sovereignty, that the Tribe may want to go to tribal court but would protect those who wanted to go to other court, and that the anticipated closing of the acquisition is October 1, but would also have to be approved by Rural Development.

Mr. Sevenoaks suggested because of the time element for review and with such importance that the matter be tabled to the next Board meeting, and the members discussed the merits of that proposal. Mr. Sevenoaks then moved to table consideration of the approval of the acquisition of assets until the October meeting, and to invite the Attorney General's office to attend and allow members to review the asset agreement. Mr. Fite seconded.

There was further discussion about the issue of the waiving of tribal sovereign immunity, and the terms of enforcement of the agreement, and that conflict of law issues are decided by a judge. Chairman Herrmann repeated the motion and called for the vote, explaining an "aye" vote will table the motion to the next meeting.

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

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 matters of new business for the Board's consideration; however, Chairman Herrmann reminded members the October 11, 2005 Board meeting would be held in Tahlequah, and that the November meeting would be moved to be held in conjunction with the Governor's Water Conference on November 1, 2005 at 9:30 in Oklahoma City at the Board's offices.

9. ADJOURNMENT

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 11:20 a.m. on Tuesday, September 13, 2005.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

Jess Mark Nichols, Vice Chairman

Lonnie Farmer

Jack W. Keeley

Harry Currie

Richard Sevenoaks

Edward H. Fite

Kenneth K. Knowles

ATTEST:

Bill Secrest, Secretary

(SEAL)

2. FINANCIAL ASSISTANCE DIVISION

October 11, 2005

FINANCIAL ASSISTANCE DIVISION

OWRB 09/28/2005

EMERGENCY GRANT APPLICATIONS

PRIORITY LISTING

PRIORITY NUMBER	PRIORITY POINTS	APPLICANT	COUNTY	PROJECT TYPE	DATE REQUESTED	AMOUNT RECOMMENDED	PROJECT STATUS
1.	70	ALDERSON PWA	PITTSBURG	SEWER	09/16/2002	\$90,000.00	RFC/SOF
2.	70	RWD #6	KAY	WATER	12/22/2004	\$54,768.00	RFC+
3.	68	SULPHUR	MURRAY	SEWER	03/14/2005	\$25,000.00	RFC+
4.	68	WESTVILLE	ADAIR	SEWER	09/08/2005	\$100,000.00	RFC+
5.	67	BROKEN BOW	MCCURTAIN	SEWER	10/01/2002	\$100,000.00	RFC/SOF
6.	67	STROUD	LINCOLN	WATER	05/26/2005	\$24,000.00	RFC+
7.	62	MORRISON	NOBLE	SEWER	09/02/2005	\$57,197.00	RFC+
8.	61	PERKINS	PAYNE	SEWER	04/22/2002	\$75,000.00	RFC
9.	60	BEAVER	BEAVER	SEWER	02/11/2005	\$53,676.25	RFC

RFC - READY FOR CONSIDERATION; SOF - SECURING OTHER FUNDING
 + RECOMMENDED FOR APPROVAL ON 10/11/2005

TOTAL \$579,641.25

**WATER RESOURCES FUND
GRANT ACCOUNT
September 30, 2005**

Beginning Balance, 09/01/2005		\$983,501.24
<u>Income:</u>		
Interest from investments maturing during month		
Reserve Fund Earnings	2,665.99	
Grant Refunds:	241,965.29	
Total Income		244,631.28
<u>Grants Funded:</u>		
City of Piedmont	50,000.00	
Total Grants Funded		(50,000.00)
Ending Balance, 09/30/2005		\$1,178,132.52
Funds obligated for approved grants		(414,481.31)
Total of grants recommended for approval		(260,965.00)
Total unobligated funds available for grants		\$502,686.21

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

IN THE MATTER OF GRANT APPLICATION)
NO. FAP-04-0017-G IN THE NAME OF)
RURAL WATER DISTRICT #6, KAY COUNTY,)
OKLAHOMA.)

PROPOSED

ORDER APPROVING GRANT APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 11th day of October 2005. The Board finds that since the application for this grant was assigned a priority ranking of 70 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$54,768.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Purpose:

Rural Water District #6, Kay County, owns and operates a water system that serves 393 customers around the Towns of Garber, Billings, Covington, Hunter, and Douglas. The north side of the district, as well as the Towns of Hunter and Douglas are supplied water by a well field located north of the Salt Fork River. Due to more than normal rainfall in previous years the existing 10-in. line crossing the river has become exposed. The pipe is in a very precarious position and a large amount of drift could break it apart. When this happens the customers supplied by this line will be without potable water for at least a month. The district has proposed to resolve their problem by drilling a new line 75 ft. west of the existing main. The proposed project consists of 1,400 ft. of 10-in. HDPE pipe installed by directional drilling and all related construction and appurtenances. The total estimated project cost is \$166,768.00, with funding provided by \$112,000.00 of local funds and the requested OWRB emergency grant of \$54,768.00.

Conditions:

1. The amount of the grant will be based on 32.85% of the actual total eligible cost of the project. The amount of the grant shall not exceed \$54,768.00.
2. Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of grant funds as required by the Board. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board. Disbursement of grant funds without supporting documentation shall be considered unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

**Rural Water District #6, Kay County
OWRB Emergency Grant No. FAP-04-0017-G**

6. The applicant shall return or otherwise pay to the Board, any grant funds expended for unauthorized or unallowable purposes. Authorized purposes are those which are necessary for the completion of the project described in the grant application, which application is incorporated by reference herein, or which are necessary for the project as approved, if the project is different from that described in the application. Any funds returned by the applicant under this paragraph shall bear interest at the maximum rate allowed by law. The applicant shall direct to the Board any and all questions regarding whether an expenditure is authorized.

7. Furthermore, prior to and during the construction period, Kay County RWD #6 is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

_____/s/_____
Joe Freeman, Chief
Financial Assistance Division

EMERGENCY GRANT APPLICATION
RECOMMENDED FOR APPROVAL

APPLICANT: Sulphur Municipal Authority
COUNTY: Murray

DATE RECEIVED: 03/14/2005
APPLICATION NUMBER: FAP-05-0004-G

Amount Requested: \$25,000.00

Amount Recommended: \$25,000.00

EMERGENCY DESCRIPTION: The City of Sulphur, Murray County, owns and operates a water and sewer system that serves 2,276 customers. The City is under consent order with the Oklahoma Department of Environmental Quality regarding overflows in the system. One recurring overflow occurs at the crossing of Rock Creek. The City has proposed to resolve their problem by adding an additional siphon at this crossing. The proposed project consists of constructing the new siphon and approximately 140 linear feet of 16-in. sanitary sewer line along with all related and necessary appurtenances. The total project cost is \$88,657.50, with funding provided by \$63,657.50 of local funds and the requested OWRB emergency grant of \$25,000.00.

Priority Ranking				Priority Points
Emergency Ranking <u>2</u> (Maximum: 50 points)				<u>40</u>
WATER AND SEWER RATE STRUCTURE (Maximum: 13 points)				
Water rate per 5000 gal/month:	\$ 18.63	() Flat Rate	-3	
Sewer rate per 5000 gal/month:	<u>16.11</u>	() Decreasing Block	-2	
		() Uniform	<u>0</u>	
TOTAL	\$ 34.74	(x) Increasing Block	<u>+2</u>	<u>13</u>
	10 Points	(x) Sales tax (W/S)	<u>+1</u>	
INDEBTEDNESS PER CUSTOMER (Maximum: 10 points)				
Total Indebtedness:	\$ 1,013,651.52			
Monthly Debt Payment:	\$ 5,462.00			<u>0</u>
Number of Customers:	2276			
Monthly Payment Per Customer:	\$ 2.40			
LOCAL PARTICIPATION (Maximum: 10 points)				
From Reserves:	\$ 63,657.50			
Contribution from Loan:	\$ 0.00			<u>8</u>
% Project Local Funded:	<u>71.80%</u>	<u>8</u> points		
MEDIAN HOUSEHOLD INCOME \$ 27,236.00 (Maximum: 10 points)				<u>2</u>
ABILITY TO FINANCE PROJECT (Maximum: 12 points)				
FP =	$\frac{(\$25,000.00)(0.1102)}{(2276)(12)}$	= \$ 0.10		<u>0</u>
AMOUNT OF GRANT REQUESTED (Maximum: 10 points)				
AR =	\$25,000.00	; OWRB Loan: <u>No</u>		<u>10</u>
BENEFIT OF PROJECT TO OTHER SYSTEMS <u>No</u> (Maximum: 5 points)				<u>0</u>
REQUEST NUMBER <u>2</u>				<u>-5</u>
TOTAL PRIORITY POINTS				<u>68</u>

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

IN THE MATTER OF GRANT APPLICATION)
NO. FAP-05-0004-G IN THE NAME OF)
SULPHUR MUNICIPAL AUTHORITY,)
MURRAY COUNTY, OKLAHOMA.)

PROPOSED

ORDER APPROVING GRANT APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 11th day of October 2005. The Board finds that since the application for this grant was assigned a priority ranking of 68 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$25,000.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Purpose:

The City of Sulphur, Murray County, owns and operates a water and sewer system that serves 2,276 customers. The City is under consent order with the Oklahoma Department of Environmental Quality regarding overflows in the system. One recurring overflow occurs at the crossing of Rock Creek. The City has proposed to resolve their problem by adding an additional siphon at this crossing. The proposed project consists of constructing the new siphon and approximately 140 linear feet of 16-in. sanitary sewer line along with all related and necessary appurtenances. The total project cost is \$88,657.50, with funding provided by \$63,657.50 of local funds and the requested OWRB emergency grant of \$25,000.00.

Conditions:

1. The amount of the grant will be based on 28.20% of the actual total eligible cost of the project. The amount of the grant shall not exceed \$25,000.00.
2. Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of grant funds as required by the Board. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board. Disbursement of grant funds without supporting documentation shall be considered unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

**Sulphur Municipal Authority, Murray County
OWRB Emergency Grant No. FAP-05-0004-G**

6. The applicant shall return or otherwise pay to the Board, any grant funds expended for unauthorized or unallowable purposes. Authorized purposes are those which are necessary for the completion of the project described in the grant application, which application is incorporated by reference herein, or which are necessary for the project as approved, if the project is different from that described in the application. Any funds returned by the applicant under this paragraph shall bear interest at the maximum rate allowed by law. The applicant shall direct to the Board any and all questions regarding whether an expenditure is authorized.

7. Furthermore, prior to and during the construction period, Sulphur MA is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

_____/s/_____
Joe Freeman, Chief
Financial Assistance Division

EMERGENCY GRANT APPLICATION
RECOMMENDED FOR APPROVAL

APPLICANT: City of Stroud
COUNTY: Lincoln

DATE RECEIVED: 05/26/2005
APPLICATION NUMBER: FAP-05-0007-G

Amount Requested: \$24,000.00

Amount Recommended: \$24,000.00

EMERGENCY DESCRIPTION: The City of Stroud, Lincoln County, owns and operates a water system that serves 1,258 customers. In early May of 2005 a major leak occurred in the raw water transmission line from Stroud Lake to the Water Treatment Plant. This line supplies water for the City of Stroud, and allows the city to provide water to the Kendrick Municipal Authority. The leak occurred under a dike of the sludge ponds at the Wastewater Treatment Plant. In order to repair the leak, without breaching the sludge ponds, crews had to bypass the section of line that runs under the dike. The proposed project consists of installing 320 ft. of 12-in. ductile iron pipe with all related construction and appurtenances. The total estimated project cost is \$28,356.29, with funding secured by \$4,356.29 of local funds and the requested OWRB emergency grant of \$24,000.00.

Priority Ranking		Priority Points
Emergency Ranking <u>2</u> (Maximum: 50 points)		<u>40</u>
WATER AND SEWER RATE STRUCTURE (Maximum: 13 points)		
Water rate per 5000 gal/month: \$ 12.60	<input type="checkbox"/> Flat Rate	<u>-3</u>
Sewer rate per 5000 gal/month: <u>9.05</u>	<input type="checkbox"/> Decreasing Block	<u>-2</u>
	<input type="checkbox"/> Uniform	<u>0</u>
TOTAL \$ 21.65	<input checked="" type="checkbox"/> Increasing Block	<u>+2</u>
5 Points	<input checked="" type="checkbox"/> Sales tax (W/S)	<u>+1</u>
INDEBTEDNESS PER CUSTOMER (Maximum: 10 points)		
Total Indebtedness: \$ 1,700,000.00		
Monthly Debt Payment: \$ 11,947.10		
Number of Customers: 1258		
Monthly Payment Per Customer: \$ 9.50		<u>6</u>
LOCAL PARTICIPATION (Maximum: 10 points)		
From Reserves: \$ 4,356.29		
Contribution from Loan: \$ 0.00		
% Project Local Funded: 15.36% <u>1</u> point		<u>1</u>
MEDIAN HOUSEHOLD INCOME \$ 27,222.00 (Maximum: 10 points)		<u>2</u>
ABILITY TO FINANCE PROJECT (Maximum: 12 points)		
FP = $\frac{(\$24,000.00)(0.1102)}{(1258)(12)}$ = \$.18		<u>0</u>
AMOUNT OF GRANT REQUESTED (Maximum: 10 points)		
AR = \$24,000.00 ; OWRB Loan: <u>No</u>		<u>10</u>
BENEFIT OF PROJECT TO OTHER SYSTEMS <u>YES</u> (Maximum: 5 points)		<u>5</u>
REQUEST NUMBER <u>2</u>		<u>-5</u>
TOTAL PRIORITY POINTS		<u>67</u>

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

IN THE MATTER OF GRANT APPLICATION)
NO. FAP-05-0007-G IN THE NAME OF)
CITY OF STROUD, LINCOLN COUNTY,)
OKLAHOMA.)

PROPOSED

ORDER APPROVING GRANT APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 11th day of October 2005. The Board finds that since the application for this grant was assigned a priority ranking of 67 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$24,000.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Purpose:

The City of Stroud, Lincoln County, owns and operates a water system that serves 1,258 customers. In early May of 2005 a major leak occurred in the raw water transmission line from Stroud Lake to the Water Treatment Plant. This line supplies water for the City of Stroud, and allows the city to provide water to the Kendrick Municipal Authority. The leak occurred under a dike of the sludge ponds at the Wastewater Treatment Plant. In order to repair the leak, without breaching the sludge ponds, crews had to bypass the section of line that runs under the dike. The proposed project consists of installing 320 ft. of 12-in. ductile iron pipe with all related construction and appurtenances. The total estimated project cost is \$28,356.29, with funding secured by \$4,356.29 of local funds and the requested OWRB emergency grant of \$24,000.00.

Conditions:

1. The amount of the grant will be based on 84.64% of the actual total eligible cost of the project. The amount of the grant shall not exceed \$24,000.00.
2. Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of grant funds as required by the Board. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board. Disbursement of grant funds without supporting documentation shall be considered unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

City of Stroud, Lincoln County
OWRB Emergency Grant No. FAP-05-0007-G

6. The applicant shall return or otherwise pay to the Board, any grant funds expended for unauthorized or unallowable purposes. Authorized purposes are those which are necessary for the completion of the project described in the grant application, which application is incorporated by reference herein, or which are necessary for the project as approved, if the project is different from that described in the application. Any funds returned by the applicant under this paragraph shall bear interest at the maximum rate allowed by law. The applicant shall direct to the Board any and all questions regarding whether an expenditure is authorized.

7. Furthermore, prior to and during the construction period, City of Stroud is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

_____/s/_____
Joe Freeman, Chief
Financial Assistance Division

EMERGENCY GRANT APPLICATION
RECOMMENDED FOR APPROVAL

APPLICANT: Westville Utility Authority
COUNTY: Adair

DATE RECEIVED: 09/08/2005
APPLICATION NUMBER: FAP-05-0013-G

Amount Requested: \$100,000.00

Amount Recommended: \$100,000.00

EMERGENCY DESCRIPTION: The Westville Utility Authority, Adair County, owns and operates a water and sewer system that serves 827 customers. The Authority is under consent order with the Oklahoma Department of Environmental Quality that calls for an upgrade of the current wastewater treatment plant. The treatment plant discharges into The Barren Fork River, which is a designated Scenic River and is included on Oklahoma's list of impaired waters. Monitoring results show violations for all three indicator organisms specified in the water quality standards: Fecal Coliform bacteria, Escherichia Coli, and Enterococci. The Town of Westville is the only potential point source of bacteria within the Barren Fork watershed in Oklahoma. The Authority proposes to resolve their problem by constructing a new SBR treatment plant including an Ultra-Violet (UV) disinfection system for the effluent. The proposed project includes constructing the plant and all related construction and appurtenances. The estimated total project cost is \$2,830,449.00, with funding secured by a \$680,480.00 Rural Development Loan, \$1,950,000.00 Rural Development Grant, an OWRB REAP Grant of \$99,969.00, and the requested OWRB emergency grant of \$100,000.00.

Priority Ranking		Priority Points
Emergency Ranking <u>2</u> (Maximum: 50 points)		<u>40</u>
WATER AND SEWER RATE STRUCTURE (Maximum: 13 points)		
Water rate per 5000 gal/month:	\$ 29.06	<input type="checkbox"/> Flat Rate
Sewer rate per 5000 gal/month:	<u>20.62</u>	<input type="checkbox"/> Decreasing Block
		<input type="checkbox"/> Uniform
		<input checked="" type="checkbox"/> Increasing Block
		<input type="checkbox"/> Sales tax (W/S)
TOTAL	\$ 49.68	
	10 Points	
INDEBTEDNESS PER CUSTOMER (Maximum: 10 points)		
Total Indebtedness:	\$ 1,843,794.00	
Monthly Debt Payment:	\$ 10,224.21	
Number of Customers:	827	
Monthly Payment Per Customer:	\$ 12.36	
LOCAL PARTICIPATION (Maximum: 10 points)		
From Reserves:	\$ 0.00	
Contribution from Loan:	\$ 680,480.00	
% Project Local Funded:	<u>24.04%</u> <u>2</u> point	
MEDIAN HOUSEHOLD INCOME \$ 22,381.00 (Maximum: 10 points)		<u>4</u>
ABILITY TO FINANCE PROJECT (Maximum: 12 points)		
FP =	$\frac{(\$100,000.00)(0.1102)}{(827)(12)} = \$ 1.11$	<u>2</u>
AMOUNT OF GRANT REQUESTED (Maximum: 10 points)		
AR =	\$100,000.00 ; OWRB Loan: <u>No</u>	<u>-5</u>
BENEFIT OF PROJECT TO OTHER SYSTEMS <u>YES</u> (Maximum: 5 points)		<u>5</u>
REQUEST NUMBER <u>1</u>		<u>0</u>
TOTAL PRIORITY POINTS		<u>68</u>

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

IN THE MATTER OF GRANT APPLICATION)
NO. FAP-05-0013-G IN THE NAME OF)
WESTVILLE UTILITY AUTHORITY,)
ADAIR COUNTY, OKLAHOMA.)

PROPOSED

ORDER APPROVING GRANT APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 11th day of October 2005. The Board finds that since the application for this grant was assigned a priority ranking of 68 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$100,000.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Purpose:

The Westville Utility Authority, Adair County, owns and operates a water and sewer system that serves 827 customers. The Authority is under consent order with the Oklahoma Department of Environmental Quality that calls for an upgrade of the current wastewater treatment plant. The treatment plant discharges into The Barren Fork River, which is a designated Scenic River and is included on Oklahoma's list of impaired waters. Monitoring results show violations for all three indicator organisms specified in the water quality standards: Fecal Coliform bacteria, Escherichia Coli, and Enterococci. The Town of Westville is the only potential point source of bacteria within the Barren Fork watershed in Oklahoma. The Authority proposes to resolve their problem by constructing a new SBR treatment plant including an Ultra-Violet (UV) disinfection system for the effluent. The proposed project includes constructing the plant and all related construction and appurtenances. The estimated total project cost is \$2,830,449.00, with funding secured by a \$680,480.00 Rural Development Loan, \$1,950,000.00 Rural Development Grant, an OWRB REAP Grant of \$99,969.00, and the requested OWRB emergency grant of \$100,000.00.

Conditions:

1. The amount of the grant will be based on 3.54% of the actual total eligible cost of the project. The amount of the grant shall not exceed \$100,000.00.
2. Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of grant funds as required by the Board. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board. Disbursement of grant funds without supporting documentation shall be considered unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

**Westville Utility Authority, Adair County
OWRB Emergency Grant No. FAP-05-0013-G**

6. The applicant shall return or otherwise pay to the Board, any grant funds expended for unauthorized or unallowable purposes. Authorized purposes are those which are necessary for the completion of the project described in the grant application, which application is incorporated by reference herein, or which are necessary for the project as approved, if the project is different from that described in the application. Any funds returned by the applicant under this paragraph shall bear interest at the maximum rate allowed by law. The applicant shall direct to the Board any and all questions regarding whether an expenditure is authorized.

7. Furthermore, prior to and during the construction period, Westville UA is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

_____/s/_____
Joe Freeman, Chief
Financial Assistance Division

EMERGENCY GRANT APPLICATION
RECOMMENDED FOR APPROVAL

APPLICANT: Morrison Public Works Authority
COUNTY: Noble

DATE RECEIVED: 09/02/2005
APPLICATION NUMBER: FAP-05-0012-G

Amount Requested: \$57,197.00

Amount Recommended: \$57,197.00

EMERGENCY DESCRIPTION: The Morrison Public Works Authority, Noble County, owns and operates a water and sewer system that serves 365 customers. The Authority is under consent order with the Oklahoma Department of Environmental Quality that calls for upgrades to their current lagoon system. During the rehabilitation of the southeast lagoon the construction crew encountered ground water. The Authority is unable to put the lagoon back into service without contaminating the ground water. They propose to resolve this problem by adding a clay liner to the lagoon. The proposed project consists of an additional 2 feet of excavation, installing a 2-ft clay liner, and all related construction and appurtenances. The estimated total project cost is \$68,272.00, with funding provided by \$11,075.00 of local funds and the requested OWRB emergency grant of \$57,197.00.

Priority Ranking	Priority Points																												
Emergency Ranking <u>2</u> (Maximum: 50 points)	<u>40</u>																												
<p>WATER AND SEWER RATE STRUCTURE (Maximum: 13 points)</p> <table> <tr> <td>Water rate per 5000 gal/month:</td> <td align="right">\$ 28.60</td> <td><input type="checkbox"/> Flat Rate</td> <td align="right"><u>-3</u></td> </tr> <tr> <td>Sewer rate per 5000 gal/month:</td> <td align="right"><u>10.00</u></td> <td><input type="checkbox"/> Decreasing Block</td> <td align="right"><u>-2</u></td> </tr> <tr> <td></td> <td></td> <td><input type="checkbox"/> Uniform</td> <td align="right"><u>0</u></td> </tr> <tr> <td></td> <td></td> <td><input checked="" type="checkbox"/> Increasing Block</td> <td align="right"><u>+2</u></td> </tr> <tr> <td></td> <td></td> <td><input checked="" type="checkbox"/> Sales tax (W/S)</td> <td align="right"><u>+1</u></td> </tr> <tr> <td>TOTAL</td> <td align="right">\$ 38.60</td> <td></td> <td></td> </tr> <tr> <td></td> <td align="right">10 Points</td> <td></td> <td></td> </tr> </table>	Water rate per 5000 gal/month:	\$ 28.60	<input type="checkbox"/> Flat Rate	<u>-3</u>	Sewer rate per 5000 gal/month:	<u>10.00</u>	<input type="checkbox"/> Decreasing Block	<u>-2</u>			<input type="checkbox"/> Uniform	<u>0</u>			<input checked="" type="checkbox"/> Increasing Block	<u>+2</u>			<input checked="" type="checkbox"/> Sales tax (W/S)	<u>+1</u>	TOTAL	\$ 38.60				10 Points			<u>13</u>
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TOTAL	\$ 38.60																												
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<p>INDEBTEDNESS PER CUSTOMER (Maximum: 10 points)</p> <table> <tr> <td>Total Indebtedness:</td> <td align="right">\$ 263,129.28</td> </tr> <tr> <td>Monthly Debt Payment:</td> <td align="right">\$ 3,462.85</td> </tr> <tr> <td>Number of Customers:</td> <td align="right">365</td> </tr> <tr> <td>Monthly Payment Per Customer:</td> <td align="right">\$ 9.49</td> </tr> </table>	Total Indebtedness:	\$ 263,129.28	Monthly Debt Payment:	\$ 3,462.85	Number of Customers:	365	Monthly Payment Per Customer:	\$ 9.49	<u>6</u>																				
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<p>LOCAL PARTICIPATION (Maximum: 10 points)</p> <table> <tr> <td>From Reserves:</td> <td align="right">\$ 11,075.00</td> </tr> <tr> <td>Contribution from Loan:</td> <td align="right">\$ 0.00</td> </tr> <tr> <td>% Project Local Funded:</td> <td align="right"><u>16.20%</u> <u>1</u> point</td> </tr> </table>	From Reserves:	\$ 11,075.00	Contribution from Loan:	\$ 0.00	% Project Local Funded:	<u>16.20%</u> <u>1</u> point	<u>1</u>																						
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<p>MEDIAN HOUSEHOLD INCOME \$ 28,482.00 (Maximum: 10 points)</p>	<u>1</u>																												
<p>ABILITY TO FINANCE PROJECT (Maximum: 12 points)</p> <p align="center">FP = $\frac{(\\$57,197.00)(0.1102)}{(365)(12)}$ = \$ 1.43</p>	<u>3</u>																												
<p>AMOUNT OF GRANT REQUESTED (Maximum: 10 points)</p> <p>AR = \$57,197.00 ; OWRB Loan: <u>No</u></p>	<u>3</u>																												
<p>BENEFIT OF PROJECT TO OTHER SYSTEMS <u>No</u> (Maximum: 5 points)</p>	<u>0</u>																												
<p>REQUEST NUMBER <u>2</u></p>	<u>-5</u>																												
TOTAL PRIORITY POINTS	<u>62</u>																												

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

IN THE MATTER OF GRANT APPLICATION)
NO. FAP-05-0012-G IN THE NAME OF)
MORRISON PUBLIC WORKS AUTHORITY,)
NOBLE COUNTY, OKLAHOMA.)

PROPOSED

ORDER APPROVING GRANT APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 11th day of October 2005. The Board finds that since the application for this grant was assigned a priority ranking of 62 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$57,197.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Purpose:

The Morrison Public Works Authority, Noble County, owns and operates a water and sewer system that serves 365 customers. The Authority is under consent order with the Oklahoma Department of Environmental Quality that calls for upgrades to their current lagoon system. During the rehabilitation of the southeast lagoon the construction crew encountered ground water. The Authority is unable to put the lagoon back into service without contaminating the ground water. They propose to resolve this problem by adding a clay liner to the lagoon. The proposed project consists of an additional 2 feet of excavation, installing a 2-ft clay liner, and all related construction and appurtenances. The estimated total project cost is \$68,272.00, with funding provided by \$11,075.00 of local funds and the requested OWRB emergency grant of \$57,197.00.

Conditions:

1. The amount of the grant will be based on 83.80% of the actual total eligible cost of the project. The amount of the grant shall not exceed \$57,197.00.
2. Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of grant funds as required by the Board. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board. Disbursement of grant funds without supporting documentation shall be considered unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

**Morrison Public Works Authority, Noble County
OWRB Emergency Grant No. FAP-05-0012-G**

6. The applicant shall return or otherwise pay to the Board, any grant funds expended for unauthorized or unallowable purposes. Authorized purposes are those which are necessary for the completion of the project described in the grant application, which application is incorporated by reference herein, or which are necessary for the project as approved, if the project is different from that described in the application. Any funds returned by the applicant under this paragraph shall bear interest at the maximum rate allowed by law. The applicant shall direct to the Board any and all questions regarding whether an expenditure is authorized.

7. Furthermore, prior to and during the construction period, Morrison PWA is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

_____/s/_____
Joe Freeman, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Tishomingo Municipal Authority, Johnston County

Loan Application No.: ORF-04-0003-CW
 Clean Water SRF Construction Loan ("CWSRF Loan")

Amount Requested: \$810,000.00

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

Payment Term: Interest, administrative fee, and principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than twenty (20) years following the date the Project is completed.

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

Purpose: The applicant will utilize the loan proceeds to (i) make sewer system lift station improvements to the 11 (eleven) lift stations in order to comply with an enforceable order from the Oklahoma Department of Environmental Quality, (ii) refinance an interim loan with Community Resources Group (CRG) issued for the purposes of a CMOM (Capacity Management Operations and Maintenance) Engineering Report, and (iii) pay related cost of issuance. The project will include installing remote transmitting units for each lift station, control systems for 7 (seven) lift stations, and 4 (four) small grinder stations; rehabilitating the main lift station and 5 (five) other lift stations, adding standby generators, SCADA (Supervisory Control and Data Acquisition) connections, and programming to each lift station; and appurtenances.

<u>Sources of Funds</u>		<u>Uses of Funds</u>	
CWSRF Loan	\$810,000.00	Project	\$663,084.00
		Refinance Interim Loan	95,000.00
		Bond Counsel	17,500.00
		Local Counsel	15,000.00
		Financial Advisor	15,000.00
		Other Cost & Rounding	4,416.00
Total	<u><u>\$810,000.00</u></u>	Total	<u><u>\$810,000.00</u></u>

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

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-04-0003-CW IN THE NAME OF)
TISHOMINGO MUNICIPAL AUTHORITY)
JOHNSTON COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 11th day of October 2005.

WHEREAS, Tishomingo Municipal Authority (the "Applicant") has made its Application for Funding No. ORF-04-0003-CW (the "Loan Application") to the Board for a loan from the Clean Water State Revolving Fund Loan Account (the "CWSRF"), pursuant to Title 82 Oklahoma Statutes Supp. 2002, Sections 1085.51 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan for wastewater system improvements to further compliance with State and Federal standards; and

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

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

Application for Funding No. ORF-04-0003-CW in the name of the Tishomingo Municipal Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds and certification of compliance with applicable technical and environmental programs requirements, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) make sewer system lift station improvements to the 11 (eleven) lift stations in order to comply with an enforceable order from the Oklahoma Department of Environmental Quality (the "Project"), (ii) refinance an interim loan with Community Resources Group for the purpose of a CMOM (Capacity Management Operations and Maintenance) Engineering Report, and pay related costs of issuance, all as more specifically set forth in the Loan Application. The project will include installing remote transmitting units for each lift station, control systems for 7 (seven) lift stations, and 4 (four) small grinder stations; rehabilitating the main lift station and 5 (five) other lift stations, adding standby generators, SCADA (Supervisory Control and Data Acquisition) connections, and programming to each lift station; and appurtenances.

Terms and Conditions

1. A loan shall be made to the Applicant to provide funds for the project described in the Loan Application in an aggregate principal amount not to exceed \$810,000.00. The Applicant shall pay interest on the loan at the fixed rate to be determined prior to closing plus an

ORDER APPROVING LOAN APPLICATION
Tishomingo Municipal Authority
ORF-04-0003-CW

administrative fee at the rate of 0.5% per annum, all on the outstanding balance of disbursed loan proceeds. Interest, administrative fee, and any principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than twenty (20) years following the date the Project is completed.

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

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

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and CWSRF requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

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

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

So ordered this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

/s/
Joe Freeman, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Chouteau Public Works Authority, Mayes County

Loan Application No.: ORF-04-0009-CW
 Clean Water SRF Construction Loan ("CWSRF Loan")

Amount Requested: \$1,985,700.00

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

Payment Term: Interest, administrative fee, and principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than twenty (20) years following the date the Project is completed.

Security Position: The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, and garbage revenues, the proceeds of a one cent sales tax, and may include a mortgage on the Applicant's water, sewer, and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) make improvements to the existing wastewater treatment plant to achieve new effluent permit requirements and (ii) pay related costs of issuance. The projects will include construction of a headworks facility with flow metering, mechanical augur monster screen, and grit removal facilities, a two cell sequencing batch reactor, an effluent parshall flume structure and metering facility, and a chlorine contact basin with a dechlorination facility. The projects will also include rehabilitating the anaerobic digester to control and minimize hydrostatic pressure, modifying the existing clarifier to serve as a gravity waste sludge thickener, a gravel access road, and necessary electrical work, grading, yard piping, and appurtenances.

<u>Sources of Funds</u>	
CWSRF Loan	\$1,985,700.00
Total	<u><u>\$1,985,700.00</u></u>

<u>Uses of Funds</u>	
Project	\$1,945,700.00
Bond Counsel	20,000.00
Financial Advisor	20,000.00
Total	<u><u>\$1,985,700.00</u></u>

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

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-04-0009-CW IN THE NAME OF)
CHOUTEAU PUBLIC WORKS AUTHORITY)
MAYES COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 11th day of October 2005.

WHEREAS, Chouteau Public Works Authority (the "Applicant") has made its Application for Funding No. ORF-04-0009-CW (the "Loan Application") to the Board for a loan from the Clean Water State Revolving Fund Loan Account (the "CWSRF"), pursuant to Title 82 Oklahoma Statutes Supp. 2002, Sections 1085.51 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan for wastewater system improvements to further compliance with State and Federal standards; and

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

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

Application for Funding No. ORF-04-0009-CW in the name of the Chouteau Public Works Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds and certification of compliance with applicable technical and environmental programs requirements, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) make improvements to the existing wastewater treatment plant to achieve new effluent permit requirements and (ii) pay related costs of issuance, all as more specifically set forth in the Loan Application. The projects will include construction of a headworks facility with flow metering, mechanical augur monster screen, and grit removal facilities, a two cell sequencing batch reactor, an effluent parshall flume structure and metering facility, and a chlorine contact basin with a dechlorination facility. The projects will also include rehabilitating the anaerobic digester to control and minimize hydrostatic pressure, modifying the existing clarifier to serve as a gravity waste sludge thickener, a gravel access road, and necessary electrical work, grading, yard piping, and appurtenances.

Terms and Conditions

1. A loan shall be made to the Applicant to provide funds for the project described in the Loan Application in an aggregate principal amount not to exceed \$1,985,700.00. The Applicant shall pay interest on the loan at the fixed rate to be determined prior to closing plus an

**ORDER APPROVING LOAN APPLICATION
Chouteau Public Works Authority
ORF-04-0009-CW**

administrative fee at the rate of 0.5% per annum, all on the outstanding balance of disbursed loan proceeds. Interest, administrative fee, and any principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than twenty (20) years following the date the Project is completed.

2. The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, and garbage revenues, the proceeds of a one cent sales tax, and may include a mortgage on the Applicant's water, sewer, and other real property

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

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and CWSRF requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

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

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

So ordered this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

/s/
Joe Freeman, Chief
Financial Assistance Division

**LOAN APPLICATION
RECOMMENDED FOR APPROVAL**

Applicant: Minco Municipal Authority, Grady County

Loan Application No.: FAP-05-0009-L
State Loan Program Revenue Bond Loan ("FAP Loan")

Amount Requested: \$2,500,000.00

Interest Rate: The FAP Loan shall bear interest at a fixed rate of interest.

Payment Term: Principal and interest payments shall be made on a semi-annual basis. The term of the FAP Loan shall be no longer than thirty (30) years.

Security Position: The loan shall be secured with a lien on the revenues of the Applicant's water and sewer systems, the proceeds of a 3% sales tax, and may include a mortgage on the Applicant's real property.

Purpose: The applicant will utilize the loan proceeds to: (i) refinance the Authority's 1999 Minco Municipal Authority Utility System Revenue Bonds in the original amount of \$2,260,000; (ii) provide funds for engineering studies related to the City's water system (the "Project"); (iii) establish a debt service reserve; and (iv) pay related costs of issuance.

<u>Sources of Funds</u>		<u>Uses of Funds</u>	
FAP Loan *	\$2,495,000.00	Refinance	\$2,257,900.35
99 Bonds - Construction Fund	62,353.96	Engineering Studies	75,000.00
Bond Account	128,625.82	99 Bonds - Construction Fund	62,353.96
Sinking Fund	90.22	Reserve Fund	194,636.26
		Conversion Fee	42,460.00
		Local Counsel	10,000.00
		Bond Counsel	22,500.00
		Financial Advisor	15,500.00
		Trustee Bank/Escrow Fee	2,500.00
		Admin. & Misc.	3,219.43
Total	<u>\$2,686,070.00</u>	Total	<u>\$2,686,070.00</u>

* From proceeds of the State Loan Program Revenue Bonds, Series 2003A

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

IN THE MATTER OF LOAN APPLICATION)
NO. FAP-05-0009-L IN THE NAME OF)
MINCO MUNICIPAL AUTHORITY)
GRADY COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 11th day of October 2005.

WHEREAS, the applicant, Minco Municipal Authority (the "Applicant") has made its Application for Funding No. FAP-05-0009-L (the "Loan Application") to the Board for a loan from the proceeds of the Board's State Loan Program Revenue Bonds issued pursuant to a General Bond Resolution dated as of August 1, 1986, as supplemented and amended (the "Bond Resolution"), and authorized by Title 82 Oklahoma Statutes 2001, Sections 1085.31 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan to provide for acquisition, development, and utilization of storage and control facilities for water and sewage systems for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities and/or refinancing indebtedness originally incurred for such purposes; and

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

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

Application for Funding No. FAP-05-0009-L in the name of the Minco Municipal Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) refinance the Authority's 1999 Minco Municipal Authority Utility System Revenue Bonds in the original amount of \$2,260,000; (ii) provide funds for engineering studies related to the City's water system (the "Project"); (iii) establish a debt service reserve; and (iv) pay related costs of issuance, all as more specifically set forth in the Loan Application.

Terms and Conditions

1. A loan shall be made out of proceeds of the Board's State Loan Program Revenue Bonds to the Applicant to provide funds for the project described in the Loan Application in an aggregate principal amount not to exceed \$2,500,000.00. The Applicant shall pay interest on the loan at a fixed rate of interest. Principal and interest payments shall be made on a semi-annual basis or as otherwise provided for under the Bond Resolution. The term of the loan shall be no longer than thirty (30) years.

**ORDER APPROVING LOAN APPLICATION
MINCO MUNICIPAL AUTHORITY
FAP-05-0009-L**

2. The loan shall be secured with a lien on the revenues of the Applicant's water and sewer systems, the proceeds of a 3% sales tax, and may include a mortgage on the Applicant's water and sewer systems and other real property.

3. The funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other loans, either as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from proceeds of the Board's State Loan Program Revenue Bonds in accordance with the requirements of the Bond Resolution.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and Bond Resolution requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

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

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

So ordered this 11^h day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed By:

/s/
Joe Freeman, Chief
Financial Assistance Division

3.C. SUMMARY DISPOSITION AGENDA ITEMS

FINANCIAL ASSISTANCE DIVISION

October 11, 2005

AMEND SCOPE OF REAP GRANT
RECOMMENDED FOR APPROVAL

APPLICANT: Bluejacket Public Works Authority
COUNTY: Craig

DATE RECEIVED: 09/02/2003
APPLICATION NUMBER: FAP-03-0039-R

Amount Requested: \$79,900.00

Amount Recommended: \$79,900.00

PROJECT DESCRIPTION: Bluejacket Public Works Authority, Craig County, owns and operates a public water system that serves the Town of Bluejacket. The Authority's current steel well building has exceeded its useful life and needs to be replaced, their standpipe is due for an interior and exterior repainting, and a fence needs to be constructed around these facilities for security reasons. The Authority proposes to resolve their problem by tearing down the current steel well building and replacing it with a new block building with a separate chlorine room, making the needed repairs to the standpipe, constructing the fence, and related necessary construction and appurtenances. The total estimated project cost is \$79,900.00, which is the amount of the requested REAP Grant.

Priority Ranking		Priority Points
Population <u>294</u> (Maximum: 55 points)		<u>55</u>
WATER AND SEWER RATE STRUCTURE (Maximum: 13 points)		
Water rate per 5,000 gal/month: \$ 27.00	<input type="checkbox"/> Flat rate <u>-3</u>	<u>12</u>
Sewer rate per 5,000 gal/month: <u>16.50</u>	<input type="checkbox"/> Decreasing Block <u>-2</u>	
Total \$ 43.50	<input type="checkbox"/> Uniform <u>0</u>	
	<input checked="" type="checkbox"/> Increasing Block <u>+2</u>	
10 points	<input type="checkbox"/> Sales tax (W/S) <u>+1</u>	
INDEBTEDNESS PER CUSTOMER (Maximum: 10 points)		
Total Indebtedness: \$ 267,438.00		<u>9</u>
Monthly Debt Payment: \$ 2,049.75		
Number of Customers: 151		
Monthly Payment Per Customer: \$ 13.57		
MEDIAN HOUSEHOLD INCOME \$ 26,458.00 (Maximum: 10 points)		<u>2</u>
ABILITY TO FINANCE PROJECT (Maximum: 12 points)		
FP = $\frac{(\$79,900.00)(0.1102)}{(151)(12)}$ = \$ 4.86		<u>8</u>
AMOUNT OF GRANT REQUESTED (Maximum: 5 points)		
AR = \$79,900.00		<u>2</u>
REQUEST NUMBER <u>3</u>		<u>-8</u>
ENFORCMENT ORDER <u>No</u> (Maximum: 5 points)		<u>0</u>
TOTAL PRIORITY POINTS		<u>80</u>

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

IN THE MATTER OF REAP GRANT APPLICATION)
NO. FAP-03-0039-R IN THE NAME OF THE)
BLUEJACKET PUBLIC WORKS AUTHORITY,)
CRAIG COUNTY, OKLAHOMA.)

**PROPOSED
ORDER AMENDING SCOPE OF REAP GRANT**

This matter came on for consideration before the Oklahoma Water Resources Board on the 11th day of October 2005. The Board finds that since the application for this grant was previously approved on July 12, 2005 and the application for this grant has received a priority ranking of 80 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the REAP Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$79,900.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Conditions:

1. The amount of the REAP grant shall not exceed \$79,900.00.
2. REAP Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the REAP grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of REAP grant funds as required by the Board or its staff. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board or its staff. Disbursement of grant funds without supporting documentation shall be considered and deemed unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended REAP grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.
6. The project shall consist of tearing down the current steel well building and replacing it with a new block building with a separate chlorine room, making the needed repairs to the standpipe, constructing the fence, and related construction and appurtenances, as more fully described in the engineering report included in applicant's grant application. Applicant is authorized to expend the REAP grant funds only for purposes of completing such project. The applicant shall return or otherwise pay to the Board, any REAP grant funds expended for unauthorized or unallowable purposes. Any funds due to be returned by the applicant under this paragraph shall additionally bear interest at the maximum rate allowed by law until repaid in full. Whenever there is any doubt as to whether an expenditure is authorized, the applicant shall consult with Board staff and obtain staff's answer before making the expenditure.

Bluejacket PWA
OWRB REAP Grant No. FAP-03-0039-R

7. Furthermore, prior to and during the construction period, Bluejacket PWA is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 11th day of October 2005, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)

Reviewed by:

_____/s/_____
Joe Freeman, Chief
Financial Assistance Division

3. SUMMARY DISPOSITION AGENDA ITEMS

Administrative Services Division

D. Contracts and Agreements Recommended for Approval

October 11, 2005

AGENDA ITEM 3D(1)

**INTERGOVERNMENTAL SUBAGREEMENT
SUMMARY**

WITH: **Grand Lake Association (GLA)**

PURPOSE: This agreement provides funding for the Grand Lake Association to conduct volunteer monitoring at Grand Lake o' the Cherokees in northeastern Oklahoma.

AMOUNT/SOURCE: \$ 24,000 State General Revenue and other sources of revenue available to the Board.

TERM: October 1, 2005 – August 31, 2006

CONTRACT FOR VOLUNTEER MONITORING
BETWEEN
GRAND LAKE ASSOCIATION
AND
OKLAHOMA WATER RESOURCES BOARD

This contract is between **the Grand Lake Association, Inc., an Oklahoma nonprofit corporation (herein GLA)**, and the Oklahoma Water Resources Board, an agency of the State of Oklahoma (herein OWRB).

WITNESSETH:

WHEREAS, as part of the Oklahoma Water Watch volunteer water quality monitoring program administered by the OWRB, the GLA has assisted with the OWRB by coordinating volunteer water quality monitoring efforts at Grand Lake O' The Cherokees since 1992, with 37 shore-line sites and nine in-lake sites being monitored on a regular basis as of 2001; and

WHEREAS, the OWRB has previously provided funding to the GLA to support a portion of the volunteer monitoring efforts at Grand Lake; and

WHEREAS, a jurisdictional area of environmental responsibility of the OWRB under Section 1-3-101(c)(8) of 27A of the Oklahoma Statutes is the expenditure of funds for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources; and

WHEREAS, the OWRB and **GLA** desire to **continue their mutual efforts to** monitor water quality at Grand Lake and to provide more specificity through this contract regarding mutual obligations of the **GLA** and OWRB relating to the volunteer monitoring program at Grand Lake.

IT IS THEREFORE MUTUALLY AGREED by and between **the Grand Lake Association, Inc.** and the Oklahoma Water Resources Board as follows:

1. **SERVICES TO BE PROVIDED BY GLA.** The **GLA** shall provide the services as described in the Statement of Work set forth in Attachment 1 incorporated by reference herein.
2. **EQUIPMENT ACQUISITION; TRANSFER.** The **GLA** contract coordinator will coordinate with the OWRB contract coordinator prior to purchasing equipment to be used primarily to carry out the services to be provided by the **GLA** under this contract. Such equipment shall be made available and transferred to the OWRB if the **GLA** fails to have sampling data delivered to the OWRB for a period of six continuous months.
3. **BUDGET.** The Budget set forth in Attachment 2 of this contract is incorporated by reference herein. The projected expenditures set forth in the budget may be adjusted by mutual agreement of the **GLA** contract coordinator and OWRB contract coordinator.
4. **INVOICES TO OWRB.** The **GLA** shall submit invoices to the OWRB on or before the 10th day of each month detailing the services performed and other activities conducted by the **GLA** pursuant to this contract. Invoices shall be in a form acceptable to the OWRB and shall contain itemized listings of expenses claimed in categories described in the Attachment 2 Budget. If the OWRB rejects an invoice, the **GLA** shall be advised of deficiencies or reasons for rejecting the invoice or itemized expenditures therein, and **GLA** may thereafter submit a revised invoice. To adjust any budget category amount, a written revised budget must be approved by the OWRB contract coordinator, provided that the total budget amount cannot be adjusted without written approval of the OWRB and **GLA**.
5. **GLA TRAVEL REIMBURSEMENT.** The **GLA** may seek reimbursement for travel expenses related to services performed under this contract through the monthly invoices, provided that such reimbursement shall be limited to those expenditures and amount limits set forth in the State Travel Reimbursement Act, Section 500.1 and

following of Title 74 of the Oklahoma Statutes. Registration fees for conferences approved by the OWRB may be reimbursed as part of the travel reimbursement claim.

6. AUDITS. All books, records, documents, accounting procedures, practices or any other items of the GLA relating to this contract shall be subject to examination by the OWRB and the State Auditor and Inspector of the State of Oklahoma. The GLA shall maintain accurate records and documentation of all expenditures claimed to fulfill its obligations under this contract and shall retain the same for at least three (3) years after the termination of this contract. Access to such records and documentation shall be made available during reasonable business hours to any authorized representative of the State of Oklahoma for inspection, copying and audit purposes.

7. PAYMENT TO GLA. For services performed under this contract by GLA, the OWRB shall pay to the GLA an amount not to exceed Twenty-four Thousand and No/100 Dollars (\$24,000.00), with payment claims to be submitted to the Office of State Finance after receipt and approval of invoices by the OWRB pursuant to paragraph 4 of this contract.

8. CONTRACT PERIOD; TERMINATION; EXTENSION. This contract shall be effective from October 1, 2005 through August 31, 2006, provided that this contract may be terminated by either party upon written notice to the other party. On such early termination, any equipment purchased by the GLA primarily to carry out the services provided by the GLA under this contract shall be made available and transferred to the OWRB. This contract may be extended or renewed upon mutual agreement of the parties.

GRAND LAKE ASSOCIATION, INC.

OKLAHOMA WATER RESOURCES BOARD

Name Title

Rudolf J. Herrmann, Chairman

Date: _____

Date: _____

Attachment 1
STATEMENT OF WORK

The **Grand Lake Association** will provide the services described below. The contract coordinator and contact information for the **GLA** is:

The contract coordinator and contact information for the OWRB is:

1. Quarterly activity reports –

- a. When activity reports due. Beginning **December 31, 2005**, and at the end of each three-month period thereafter, the **GLA** will submit a written quarterly report detailing activities conducted and purchases made by the **GLA** pursuant to the contract during the immediately preceding quarter.
- b. Dates and categories of activities and purchases. Dates and the activities conducted and purchases made on the dates will be listed in the report under the following categories:
 - (1) Data entry
 - (2) Training sessions
 - o Assembly of handbooks
 - o Purchase of materials for handbooks
 - o Copying costs for training paperwork and Liability Statements
 - (3) Quality Control sessions
 - (4) Conducting Inventory and Supply Maintenance
 - (5) Travel to and from training sessions, public outreach sessions and meetings with OWRB staff
 - (6) Conducting Bacteria collection and analysis
 - (7) Public awareness and speaking events
 - o Literature as needed
 - o PowerPoint, overhead, or slide presentations
 - (8) Equipment purchases that directly relate to data collections or public outreach activities
 - (9) Supply purchases
 - o Monitoring equipment supplies
 - o Record keeping supplies
 - o Training and Quality Control session supplies
 - o Equipment cleaning and maintenance supplies
 - (10) Record keeping
 - (11) Equipment Cleaning and Maintenance
 - o Cleaning kits
 - o Calibrating instruments
 - o Performing yearly upkeep on Hydrolab units
 - (12) Volunteer Recruitment
 - o Literature as needed
 - o Registration fees if applicable
 - (13) Data Collection and/or Analysis

2. Monthly meetings - A designated **GLA** representative will attend monthly meetings at the Oklahoma City office of the OWRB on specific dates as agreed between the **GLA** contract coordinator and OWRB contract coordinator to review program activities and direction.

3. General monitoring and submittal of data sheets and information – The **GLA** will coordinate sample collection by certified volunteer monitors and assemble volunteer data sheets to be submitted to the OWRB during the monthly meeting or as otherwise agreed by the **GLA** and OWRB contract coordinators. The water quality data collected will be in a form specified by the OWRB. A minimum of

20 sites in the Grand Lake basin area, at locations mutually agreed by the GLA and OWRB, will be monitored on a monthly basis at least six times during the period October 1, 2005 through August 31, 2006. In addition, the OWRB and GLA contract coordinators will coordinate to implement the entry of data to an electronic medium and transfer the data to the OWRB offices.

4. Public speaking and awareness; recruitment of volunteers – The GLA will participate in public speaking and awareness events as appropriate and will recruit and conduct training of new volunteers on an as needed basis.

5. General training – The GLA will conduct at least four general training sessions during the contract year for new and existing volunteers. Curriculum for such training shall be established by the OWRB and GLA contract coordinators.

6. Quality control training - In coordination with the OWRB, GLA will conduct a minimum of two sessions on quality control in the Grand Lake vicinity. Curriculum for such training shall be provided by the OWRB in coordination with the GLA and shall specifically include but not be limited to quality control for sample collection for bacteria. The GLA shall advise volunteers in brochures, pamphlets or other notices about the availability of the quality control sessions and that water quality monitoring volunteers must attend at least one quality control session per year to remain certified as Water Quality Monitors.

7. Recognition of volunteers - GLA will coordinate at least one outreach event during the contract year that offers an opportunity to unite the volunteer water quality monitors, recognizes their efforts, and provides supplemental training and educational opportunities to the volunteers. Such supplemental training and educational opportunity may count as one of the four general training sessions described in paragraph #5.

8. Special bacteria sampling requirements - GLA will organize volunteers to conduct monitoring for bacteria in the waters of Grand Lake during the period from October 1, 2005 through _____ and during the period _____ through August 31, 2006. GLA shall instruct the certified volunteers to collect and analyze bacteria levels based on protocols established by the OWRB in coordination with GLA and to forward the bacteria sample result information by sending hardcopy reports to the OWRB monthly. The OWRB will coordinate with the GLA on establishing protocols to send the bacteria information electronically to the OWRB.

9. Chlorophyll-a sampling and analysis - GLA will provide specific instructions to volunteers about sampling for chlorophyll-a. The instructions will include directions on how to collect, filter and grind water quality samples for chlorophyll-a analysis. The locations and schedule for chlorophyll-a sampling will be established by the OWRB and GLA contract coordinators and will utilize OWRB protocols. The GLA shall submit the completed samples for analysis to the Environmental Laboratory at the Oklahoma Department of Environmental Quality in Oklahoma City in compliance with QA/QC protocols established by the OWRB and GLA contract coordinators. Hardcopy reports of the chlorophyll-a sample results will be sent to the OWRB monthly. The OWRB will coordinate with the GLA on establishing protocols to send the chlorophyll-a sample result information electronically to the OWRB.

Attachment 2

BUDGET

The	Item	Total
	Data entry	\$1,000.00
	General volunteer training sessions	\$1,000.00
	Quality control training sessions	\$500.00
	Inventory and supply maintenance	\$600.00
	Travel reimbursement (including conference registration fees)	\$2,800.00
	Bacteria collection and analysis costs	\$1,500.00
	Public Awareness/Speaking	\$400.00
	Equipment	\$10,000.00
	Supplies	\$3,000.00
	Record keeping	\$200.00
	Equipment maintenance	\$600.00
	Volunteer recruitment	\$300.00
	Data collection and analysis	\$1,500.00
	Contract Total not to exceed	\$24,000.00

budget amounts are projected maximum annual totals for the categories of activities listed and are based on previous monitoring coordination, public outreach and other activities conducted by the GLA. To adjust any budget amount, a written revised budget must be approved by the OWRB contract officer, provided that the total budget amount cannot be adjusted without written approval of the OWRB.

AGENDA ITEM 3D(2)

**MONITORING CONTRACT
SUMMARY**

WITH: **Office of the Attorney General**

PURPOSE: This agreement engages the U. S. Geological Survey to conduct water quality monitoring of the Illinois River and its tributaries as a part of the State-Federal Cooperative Program.

Program funds are passed through the OWRB to the U.S. Geological Survey, Oklahoma District, who will conduct the monitoring.

AMOUNT/SOURCE: \$ - Office of the Attorney General.

TERM: October 1, 2005 – September 30, 2006

The Agreement was not available at the time of board mailout. A copy will be provided to the board prior to the board meeting.

AGENDA ITEM 3D(3)
JOINT FUNDING AGREEMENT AMENDMENT
SUMMARY

WITH: U. S. Geological Survey, Oklahoma District

PURPOSE: This amendment agreement engages the USGS to expand the scope of the existing agreement to monitor water quality in the Illinois River and its tributaries.

AMOUNT/SOURCE: \$ - Office of the Attorney General.

TERM: October 1, 2005 – September 30, 2006

This joint funding agreement amendment was not available at the time of Board mailout. A copy will be provided to the Board prior to the Board meeting.

AGENDA ITEM 3D(4)

**SOFTWARE ASSURANCE AGREEMENT
SUMMARY**

WITH: **Stellent Sales Inc.**

PURPOSE: This agreement engages the contractor to provide document imaging support services for the OWRB according to the schedule attached.

AMOUNT/SOURCE: \$ 13,682.20 State General Revenue and other sources of revenue available to the Board.

TERM: September 1, 2005 – August 31, 2006 with renewals available

Stellent Sales, Inc.
CUSTOMER CHOICE
SOFTWARE ASSURANCE AGREEMENT

This Software Assurance Agreement is entered into this 1st day of September, 2005, by and between the Oklahoma Water Resources Board ("Customer"), Stellent Sales, Inc. (a wholly owned subsidiary of Stellent, Inc., herein "Stellent"), and Imaging Solutions Company, an authorized Advantage Partner representing Stellent ("AP") located in Wichita, Kansas, upon such terms and conditions as are set forth below. Information about the parties is set forth in Exhibit B.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and the receipt of consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1.0 Initial Term:** This Agreement shall become effective after approval of all parties and the Oklahoma Department of Central Services. The Initial Term of this Agreement shall be for twelve (12) months beginning on September 1, 2005 and ending August 31, 2006, provided the Agreement shall be renewable by the Customer for up to four annual terms under the same terms and conditions set forth herein, provided further that this Agreement may be terminated at any time by the Customer upon thirty (30) days written notice to Stellent.
- 2.0 Renewals:** This Agreement shall be renewable at the option of the Customer for up to four (4) additional twelve (12) month periods at the end of the Initial Term under the same terms and conditions set forth herein. Customer will send a Notice of Renewal to Stellent at least 60 days before the end of the Initial Term or Renewal Period.
- 3.0 Assurance Fee:** The Customer shall pay to Stellent an annual Assurance Fee for the Stellent software products purchased by the Customer and covered under this Agreement as set forth in Exhibit C.
- 4.0 Product Updates:** Stellent shall provide, on a timely basis and without additional charge or fee, the End User of the Customer with all minor releases or updates and major upgrades of Stellent software covered by this Agreement which are released during the Initial Term and each Renewal Period.
- 5.0 Technical Support:** Stellent will provide support to both the Customer, and to the AP in support of the Customer, solely for the Stellent software covered by this Agreement. It is the responsibility of the Customer to provide for support and configuration of all other hardware and software associated with the Stellent systems. The Support Services are specified in Exhibit A.
- 6.0 Training and Designated Contacts:** The Customer will be required to maintain at least one person who has completed the Stellent technical certification course for the products covered under this Agreement. The Customer will only contact Stellent for support by one of two designated contacts specified in Exhibit B. The primary contact must have completed the appropriate Stellent technical certification course(s).

7.0 Incorporation of License Agreement: The terms, conditions, limitations and restrictions contained in the Stellent (formerly Optika) Software License Agreement, July 1999 Version, which the Customer received and accepted at the time of its receipt of Stellent (formerly Optika) products, shall be, to the extent allowed by Oklahoma law, incorporated into this Agreement by this reference.

8.0 Products Covered: The software products indicated on Exhibit C have been licensed by Customer and are covered by this Agreement.

Stellent:

AP:

Customer:

Stellent Sales, Inc.

Imaging Solutions Company

Oklahoma Water Resources Board

By: _____

By: _____

By: _____

Name: _____

Name: _____

Name: _____

Title: _____

Title: _____

Title: _____

Stellent Sales, Inc.
CUSTOMER CHOICE
SOFTWARE ASSURANCE AGREEMENT

Exhibit A

Support Services provided by Stellent

The following services will be provided to the Customer in support of the Stellent software covered under this Agreement.

1. Telephone Support - **Stellent will provide 7 x 24 direct telephone support for Stellent software. Non-critical issues should be submitted during normal support hours from 7am to 6pm Mountain Time Monday through Friday. Any on-site assistance by Stellent is not covered under this Agreement. On-site assistance can be arranged at the then current published daily rate plus any travel related expenses.**
2. Response Time - **Stellent will respond to any critical Stellent software issue within 2 hours and exercise diligent efforts to fix such critical issues in a timely fashion. A critical issue is defined as the Stellent system being down and non-operational. Stellent will respond to any non-critical Stellent software issue within one business day.**
3. Email Support - **Incidents may be opened via Internet email addressed to ibpmsupport@stellent.com**
4. Developer Support - **Support for application development efforts (in C++ or Visual Basic) using the Stellent Software Development Kit (SDK) and other Stellent integration tools.**
5. Web Support – **Access to Stellent’s Technical Support Web Site which includes:**
 - Technical Support Knowledge Base
 - File Central – patches, drivers, etc.
 - Incident Logging and Status Review
 - News Items and Product Information

Support Services provided by AP

The following services will be provided to the Customer by the AP in support of the Stellent software, including Stellent software configuration, covered under this Agreement.

1. Telephone Support – **The AP will provide telephone support for Stellent software during their normal business hours of 8:00 AM to 5:00 PM CentralTime Monday through Friday.**
2. System Configuration – **The AP will provide reasonable assistance with overall system configuration, operation, and expansion related to Stellent software. The AP may require a separate service contract with the Customer for this support if the AP assistance is not related to Stellent software.**

Stellent Sales, Inc.
CUSTOMER CHOICE
SOFTWARE ASSURANCE AGREEMENT

Exhibit B
Parties to this Agreement

Stellent Sales, Inc., formerly Optika and a wholly owned subsidiary of Stellent, Inc.

Stellent Colorado Springs, Inc. 2).	Technical Support: 1 (888)-688-8324 (Option
7450 Campus Drive, 2 nd Floor	Fax Support: 719-531-7915
ATTN:Customer Support	Email Support:
Colorado Springs, CO 80920	
ibpmsupport@stellent.com	

Customer

Company Name:	Oklahoma Water Resources Board
Installation Address:	3800 North Classen Boulevard Oklahoma City, OK 73118
Billing Address:	Same
Billing Contact:	Mike McGaugh E-mail:
mlmccaugh@owrb.state.ok.us	

Primary Contact:

Name and Title:	Jann Hook, IS Administrator
Telephone:	405.530.8800 Fax: 405.530.8900
Email address:	jphook@owrb.state.ok.us

Primary Technical Contact:

Name and Title:	David Hamilton, Systems Administrator
Address: (updates will (be sent to this address)	Same as above
Telephone:	405.530.8885 Fax: Same as above
Email address:	dbhamilton@owrb.state.ok.us

Alternate Technical Contact:

Name and Title:	Andy Scurlock, Database Administrator
Address: (updates will (be sent to this address)	Same as above
Telephone:	405.530.8886 Fax: Same as above
Email address:	tascurlock@owrb.state.ok.us

AP

Company Name: Imaging Solutions Company
Address: 201 N. Mead
Wichita, KS 67202

Primary Contact:

Name and Title: Amy Addis, Product Specialist
Telephone: 316.630.0440 Fax: 316.684.3866
Email address: aaddis@imagingco.com

Primary Technical Contact:

Name and Title: Gene Christian, Systems Integration Services
Manager
Telephone: Same as above Fax: Same as above
Email address: gchristian@imagingco.com

Stellent Sales, Inc.
CUSTOMER CHOICE

SOFTWARE ASSURANCE AGREEMENT

Exhibit C
Products Covered under this Agreement:

<u>Quantity</u>	<u>Product</u>	<u>Date Purchased</u>	<u>Version</u>	<u>Fee (US\$/yr.)</u>
<u>1</u>	<u>Scan Station Level I</u>	11/23/2004	4.0	\$328.90
<u>1</u>	<u>Scan Station Level II</u>	11/23/2004	4.0	\$438.90
<u>2</u>	<u>Index Station</u>	11/23/2004	4.0	\$987.80
<u>10</u>	<u>Acorde Process/Context/ERM Connection</u>	2/15/2001	4.0	\$ 11,226.60
<u>20</u>	<u>Acorde Production Client</u>	2/15/2001	4.0	\$660.00
		TOTAL:		\$13,682.20

AGENDA ITEM 3D(5)
CONTRACT AMENDMENT
SUMMARY

WITH: **Oklahoma Rural Water Association**

PURPOSE: This agreement provides additional funding for the Rural Water Association to conduct training and provide technical support.
This agreement incorporates funding appropriated by the State Legislature that was carried over from previous years – and provides it to ORWA for its intended purpose.

AMOUNT: \$ 277,900 to ORWA (an increase of \$7,300)
\$ 34,056 to OWRB (an increase of \$17,078)

SOURCE: State General Revenue and REAP Water Projects Funds

TERM: July 1, 2005 to September 30, 2005.

**AMENDMENT OF CONTRACT BETWEEN
OKLAHOMA RURAL WATER ASSOCIATION AND
OKLAHOMA WATER RESOURCES BOARD**

This AMENDMENT OF CONTRACT ("Contract Amendment") dated for convenience of reference the 11th day of October, 2005, but effective on the date of execution by the parties hereto, by and between the Oklahoma Rural Water Association, hereinafter "ORWA", and the Oklahoma Water Resources Board, hereinafter "OWRB",

WITNESSETH:

WHEREAS, ORWA and OWRB entered into a certain Contract dated July 12, 2005 (the "Original Contract"), whereby the ORWA agreed to provide technical assistance and training to rural water and wastewater system operators and board members and OWRB agreed to pay for such work as described in said Original Contract; and,

WHEREAS, the parties have learned that appropriated funds from previous fiscal years are available for expenditure toward the technical assistance and training purposes administered by the parties pursuant to the Original Contract; and

WHEREAS, pursuant to paragraph no. 4 of the Original Contract, the parties mutually desire to enter into this Contract Agreement to acknowledge and provide for the expenditure of the additional, available funds.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual agreements and covenants contained herein, the ORWA and OWRB do hereby agree as follows:

1. AMENDMENT OF ORIGINAL CONTRACT. The Original Contract by and between the ORWA and the OWRB dated July 11, 2005 is amended to modify the total funds available for compensation to ORWA to reflect an increase of \$7,300.00, and modify the funds available for contract administration by the OWRB to reflect an increase of \$17,078.00, as follows:

For and in consideration of the assistance provided by the ORWA, it is agreed that the OWRB will pay the ORWA a total amount not to exceed Two Hundred Seventy-seven Thousand Nine Hundred and No/100 Dollars (\$277,900.00) as such services are performed. The parties agree that the OWRB will use up to \$34,056.00 for contract administration.

2. ORIGINAL CONTRACT AS AMENDED REMAINS EFFECTIVE. Except for the total compensation and contract administration amounts set forth in the Original Contract, which are amended pursuant to Paragraph 1 of this Contract Amendment, all other terms, conditions and provisions set forth in the Original Contract in its entirety with all attachments shall remain unchanged and are incorporated by reference as though fully set forth in this Contract Amendment. The parties shall continue to perform their obligations described in the Original Contract. The Original Contract, as amended by this Contract Amendment, constitutes the entire agreement between the parties hereto relating to the substance hereof, and remains in effect for the balance of the contract term through June 30, 2006.

3. SUMMARY DISPOSITION AGENDA ITEMS

PLANNING AND MANAGEMENT DIVISION

October 11, 2005

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

October 11, 2005

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMT. RECOMMENDED
1978-503 5/19/2005	City of Norman	20*	Cleveland County Garber-Wellington Formations	7,208.02 acres* Secs. 4, 5, 6, 7, 8 & 18, T8N, R2WIM; Secs. 1 & 2, T8N, R3WIM; Secs. 16, 17, 19, 28, 30, 31, 32, 33 & 34, T9N, R2WIM; Secs. 13, 14, 22, 23, 24, 25, 26, 27, 34, 35 & 36, T9N, R3WIM	Municipal use 14,182 a.f.* Irrigation of golf course 234 a.f.* Total: 14,416 a.f.*

*Applicant requests to change the use for a portion of the groundwater to include irrigation of a golf course. The remainder of the authorized water will continue to be used for municipal water supply. Request also includes adding one well to be used solely for the irrigation of the golf course. This will bring the total number of wells authorized to 20. All other aspects of the permit will remain the same.

1997-617 4/23/2004	Dean & Saska Koch	2*	Caddo County Rush Springs Sandstone	160 acres* Sec. 11, T11N, R13WIM	Irrigation of 160 acres 320 a.f.*
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*Applicants request to amend their temporary groundwater permit by adding 80 acres to lands dedicated (for a total of 160 acres), 160 acre-feet of groundwater each year (for a total of 320 acre-feet) and one well (for a total of two wells). All other aspects of the permit will remain the same.

2002-612 6/2/2005	Milo-Woodford RWSG & SWMD	2*	Carter County Oscar Group and/or Wellington Formation	80 acres Sec. 17, T3S, R1WIM	Rural water use 160 a.f.
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*Applicant requests to amend its temporary groundwater permit by adding one well for a total of two wells authorized. All other aspects of the permit will remain the same.

PLANNING AND MANAGEMENT DIVISION
Applications for Regular Permits to Use Groundwater

October 11, 2005

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMT. RECOMMENDED
2005-551 7/26/2005	George F. & Clara Huebsch	4	Marshall County Antlers Sandstone	480 acres Secs. 14 and 23, T5S, R4EIM	Municipal & rural water use 838 a.f. Irrigation of 75 acres 150 a.f. Drilling oil & gas wells 20 a.f. Total: 1,008 a.f.
2005-553 8/3/2005	Chickasaw Nation	3	Love County Antlers Sandstone	221 acres Sec. 19, T9S, R2EIM	Rural water use 464.1 a.f.
2005-554 8/3/2005	Chickasaw Enterprises, Commerce Division of the Chickasaw Nation	3	Love County Antlers Sandstone	324 acres Secs. 19, 20, 29 & 30, T9S, R2EIM	Rural water use 680.4 a.f.

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

October 11, 2005

APP. NO. & DATE FILED	NAME OF APPLICANT	POINTS OF DIVERSION	COUNTY & STREAM SYSTEM	PURPOSE & AMT. RECOMMENDED
2005-014 5/11/2005	Hanson Aggregates West, Inc.	One point of diversion on the Red River Sec. 33, T8S, R1EIM	Love County SS 1-9	Mining sand & gravel 2,116 a.f.

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

October 11, 2005

APP. NO. & DATE FILED	NAME OF APPLICANT	POINTS OF DIVERSION	COUNTY & STREAM SYSTEM	PURPOSE & AMT. RECOMMENDED
1999-022B 7/27/2005	Lacey Weger	Private pond on an unnamed tributary of Sand Creek Sec. 2, T8S, R7E1M	Bryan County SS 1-7	Irrigation of 158 acres* 50 a.f.

*Applicant requests that the area of use be changed to include additional irrigable lands. All other aspects of the water right will remain the same.

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

October 11, 2005

DPC NUMBER	NAME OF FIRM	CERTIFIED ACTIVITIES	OPERATORS
New Licenses, Accompanying Operator Certificates and Activities:			
DPC-0657	Rita Blanca Groundwater & Well Service	Groundwater wells, test holes and observation wells Monitoring wells and geotechnical borings Pump installation	John L. "Rusty" Gilmore OP-1459
		Pump installation	Winston Gilmore OP-1460
New Operators and/or Activities for Existing Licenses:			
DPC-0515	Clark K. Johnson	Monitoring wells and geotechnical borings	Clark Johnson OP-0953
		Monitoring wells and geotechnical borings	Charles B. Hinkle OP-1265
DPC-0641	Citizen Potawatomi Nation	Monitoring wells and geotechnical borings Heat exchange wells	Carrol Draper OP-1436
DPC-0655	E.T. Water Services	Groundwater wells, test holes and observation wells	Phillip Thomas OP-1458

**PLANNING AND MANAGEMENT DIVISION
Dam and Reservoir Plans and Specifications**

October 11, 2005

COUNTY	NAME OF APPLICANT & NAME OF PROJECT	PLANS & SPECS PREPARED BY	HAZARD CLASSIFICATION	LEGAL DESCRIPTION
Mayes County	City of Tulsa/Tulsa Metropolitan Utility Authority Spavinaw Dam	Craig & Keithline, Inc.	High	Sec. 15, T22N, R21E1M

Applicant requests approval of its plans to rehabilitate Spavinaw Dam. The dam is 2,570 feet long, 75 feet high, and stores 1,638 acre-feet at normal pool. Maximum storage is 30,590 acre-feet. Applicant requests authorization to rehabilitate the spillway.

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

October 11, 2005

APPLICATION NO. & COUNTY	NAME OF APPLICANT	LOCATION	PROJECT NARRATIVE
FP-05-09 Mayes County	Oklahoma State Parks (Dept. of Tourism)	Sec. 23, T23N, R21EIM, Neosho River down-stream of Pensacola Dam	Place riprap along riverbank to prevent erosion

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

October 11, 2005

NUMBER	NAME OF COMMUNITY	FLOODPLAIN ADMINISTRATOR
FPA-082	Blanchard, City of	Camille Dowers
FPA-083	Warner, Town of	Carla Reed

5. SPECIAL CONSIDERATION ITEMS

PLANNING AND MANAGEMENT DIVISION

October 11, 2005

PLANNING AND MANAGEMENT DIVISION
Application for Regular Permit to Use Groundwater

October 11, 2005

NUMBER & DATE	COUNTY	NAME OF APPLICANT	RECOMMENDATION
2005-526 4/07/2005	Garfield	Kremlin-Hillsdale Rural Water District No. 1	Approval of Proposed Findings of Fact, Conclusions of Law and Board Order

Applicant requests a permit to withdraw 60 acre-feet per year for municipal and rural water supply. The water is proposed to be withdrawn from one well located on 120 acres of dedicated land in Garfield County. The record shows that the Applicant has a valid right to the dedicated land, the land overlies the Enid Isolated Terrace Groundwater Basin (for which the maximum annual yield and equal proportionate share have been determined by Board order dated November 9, 1982, and each landowner is entitled to 0.5 acre-foot per acre); municipal and rural water supply is a beneficial use; waste will not occur, and an exception to the Board's spacing rule has been met. The application should be approved and a regular permit should be issued.

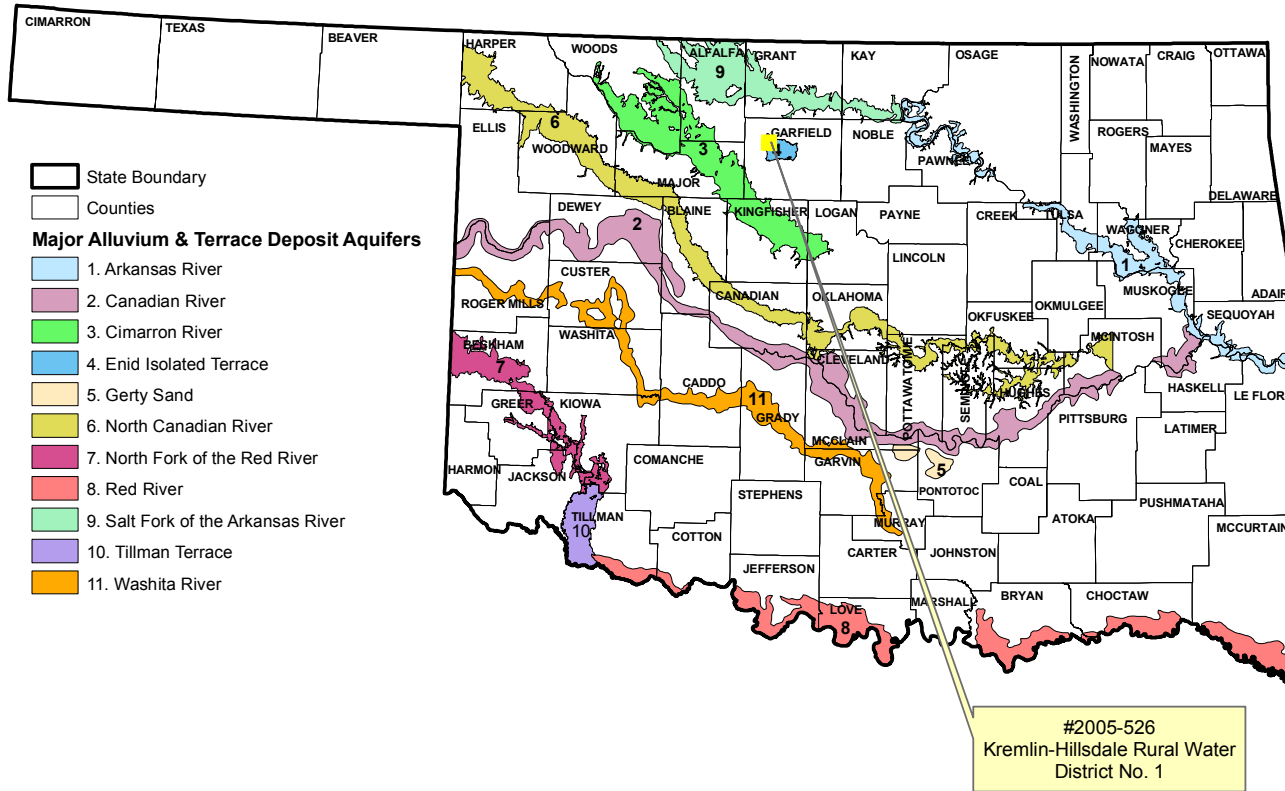
In addition to the other usual conditions for such permits, this permit shall contain the express conditions that 1) the well shall be limited to a maximum withdrawal rate of 150 gallons per minute, 2) the authorization to withdraw groundwater from any portion of the dedicated land shall terminate at the same time as the Permittee's groundwater lease for such land terminates, and 3) Permittee must show Board staff that the test well has not been abandoned, or has been abandoned and plugged in accordance with Board rules.

The Protestants were primarily concerned as follows:

1. The primary issue in the case is the spacing between the Applicant's proposed well and the domestic wells of the landowners within 1,320 feet. Upon consideration of the evidence in the record, a spacing exception should be granted. See Finding of Fact no. 7 and Conclusion of Law no. 8.

2. The Protestants contend that the Applicant, as a rural water district, could acquire groundwater rights and groundwater elsewhere by eminent domain. However, the record shows that the current application satisfies the requirements of the Groundwater Law and Board rules. See Conclusion of Law no. 10.

**PROTESTED GROUNDWATER APPLICATION
OKLAHOMA WATER RESOURCES BOARD
OCTOBER 11, 2005**



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

In the Matter of the Application of)
Kremlin-Hillsdale Rural Water District No. 1) Application No. 2005-526
for a Permit to Use Groundwater in Garfield County)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND BOARD ORDER

This proceeding arose out of the application in the name of Kremlin-Hillsdale Rural Water District No. 1, Garfield County, Oklahoma ("applicant") for a permit to use 60 acre feet of groundwater for municipal and rural residential water supply in Garfield County. The application was protested by numerous persons who own land or residences adjacent to or near the applicant's dedicated land. The matter was heard on August 17, 2005 in Oklahoma City, Oklahoma before Jerry Barnett, Hearing Examiner on behalf of the Board. After the hearing, the matter was taken under advisement. A Proposed Order was prepared, served on the parties, and submitted to the Board for consideration at its October 11, 2005 meeting.

Upon consideration of the matter, the Board makes the following Findings of Fact and Conclusions of Law, approves the application, and directs that the permit be issued according to certain terms specified below.

FINDINGS OF FACT

Upon its evaluation of the evidence and additional records, and facts officially noticed in the record, the Board hereby makes the following Findings of Fact:

BACKGROUND OF APPLICATION

1. On April 7, 2005 the applicant filed an application for a permit to use groundwater for municipal and rural residential water supply. As subsequently revised, the application requested use of 60 acre feet from 120 acres of land consisting of the NW 1/4 of the NE 1/4, the NE 1/4 of the NE 1/4, and the SW 1/4 of the NE 1/4, all in Section 9, T 23 N, R 7 WIM, Garfield County. (Legal descriptions of section numbers, township numbers and range numbers are hereinafter abbreviated as "Section xx-yy-zz".) The application requests authorization for one (1) well located in the SE 1/4 of the SW 1/4 of the NE 1/4 of Section 9-23-7 (referred to in the record as "Test Well No. 4"). The application contained various other terms.

NOTICE OF APPLICATION; PROTESTS

2. After the application was deemed ready for notification to interested persons, Board staff prepared a notice for applicant to mail and to publish. The applicant gave notice by certified mail to each surface owner of land within 1320 feet of the outside boundary of the ten-acre tract location of the well requested in the application. Applicant also published the notice on May 19 and 26, 2005 in *The Enid News and Eagle*, a newspaper of general circulation in Garfield County, the county where the well is located. During the prescribed protest period, written protests against the application were received from Jim G. Henderson on behalf of LDC Corporation, and from attorney Bryce Kennedy on behalf of Phil Treadwell and numerous other residents

of the Northwood Addition in the SE 1/4 of Section 9-23-7. A hearing on the application was scheduled for August 17, 2005 and the parties were so notified.

HEARING

3. The hearing was held as scheduled on August 17, 2005 in Oklahoma City before Jerry Barnett as Hearing Examiner on behalf of the Board. The applicant was represented by attorney James R. Barnett of Oklahoma City. The protestants were represented by attorney Bryce Kennedy of Enid. The hearing was opened, testimony and argument were heard, and the hearing was adjourned. Thereafter the matter was taken under advisement. A Proposed Order was prepared, served on the parties, and presented to the Board at its October 11, 2005 meeting.

OWNERSHIP; LEASE

4. The "Revised Water Lease" in the record shows, and the Board finds, that the applicant holds a lease from the surface owner of the 120 acres of dedicated land in the N 1/2 and the SW 1/4 of the NE 1/4 of Section 9-23-7, Garfield County (hereinafter referred to as the "Dedicated Land") to use the groundwater underlying this land. The lease is for a term of 40 years following the date of approval by the Board of applicant's application for a permit. The lease is made subject to certain other conditions.

LAND LOCATED OVER GROUNDWATER BASIN

5. The applicant's Dedicated Land lies over the groundwater basin known as the Enid Isolated Terrace Aquifer in Garfield County (referred to herein as the "Enid Isolated Terrace"). By its order dated November 9, 1982, the Board has determined the maximum annual yield and equal proportionate share of the groundwater in this basin to be 0.5 acre foot per acre of land overlying the basin.

BENEFICIAL USE

6. The applicant proposes to use the water for municipal and rural residential water supply through applicant's water system. This includes supplying water to approximately 111 households and 140 pasture taps, plus the Towns of Kremlin and Hillsdale, in northern Garfield County. It appears from the record that the applicant will exercise reasonable intelligence and reasonable diligence in the application of this groundwater for the lawful purpose of public water supply, in an amount that is economically necessary for such purpose. This issue was not contested by the protestants. The Board finds that this is a beneficial use of fresh groundwater.

ISSUE OF WASTE BY DEPLETION

7. a. General. There was no evidence to indicate that the applicant's water system is or will be inefficient. It appears that excessive losses of fresh groundwater will not occur if this application is approved and permitted. There was no reason to find that in the future the applicant would drill a well, take or use fresh groundwater without a permit; take more fresh groundwater than is authorized by the permit; take or use fresh groundwater in any manner so that the water is lost for beneficial use; transport the water from the wells to the place of use in such a manner that there is an excessive loss in transit; use the water in such an inefficient manner that excessive losses occur; allow any fresh groundwater to reach a pervious stratum and be lost into cavernous or pervious materials encountered in a well; or use the water for air conditioning or cooling purposes without providing facilities to aerate and reuse such water.

b. Well spacing. The primary issue in the case is the spacing between the applicant's proposed well and the domestic wells of the landowners in the adjacent Northwood residential development. The applicant has drilled a test well known as "Test Well No. 4" located in the SE 1/4 of the SW 1/4 of the NE 1/4 of Section 9-23-7. This test well is located less than 1320 feet from the domestic wells of several protestants. Applicant contended that it has satisfied the requirements to obtain an exception to the well spacing rule, while the protestants contended that the applicant has not met such requirements and the applicant's well cannot be approved unless certain conditions are imposed.

i. Applicant's test well evidence. Applicant has an existing groundwater permit no. 75-583 which originally authorized use of 160 acre feet per year from two wells in the SW 1/4 of the NW 1/4 of the NW 1/4 of Section 10-23-7. In 1991 and 1992 the applicant evaluated its original 1975 permit and concluded among other things that it would be prudent to acquire additional water rights and wells to meet its foreseeable demands. Consequently, in 1991 and 1992 the applicant sought and obtained amendments of the 1975 permit which authorized increasing the amount to 240 acre feet and adding two wells, including one well in the SE 1/4 of the SE 1/4 of the SE 1/4 and one well in the SE 1/4 of the SW 1/4 of the NE 1/4, both in Section 4-23-7. However, in 1996 the well in the SE 1/4 of the SE 1/4 of the SE 1/4 of Section 4-23-7 became contaminated with hydrocarbons, apparently from a pipeline release in proximity to the well. The latter well, which had been one of the applicant's primary production wells, eventually had to be plugged and abandoned. In addition, nitrates in two of applicant's other production wells in the NW 1/4 of Section 10-23-7 elevated to problematic levels, running just below or exceeding the permissible drinking water standard of 10 milligrams per liter ("mg/L"). (The most recent samples from these two wells showed nitrate levels of approximately 9.7 mg/L.) As a result, the applicant once again initiated an investigation to pursue and obtain an additional water well field or water supply. In doing so, applicant sought out potential well locations (a) that could produce groundwater with adequate quantity and quality, (b) which belonged to landowners who were willing to convey or lease to applicant the right to produce groundwater from such land, and (c) which had adequate electricity available and were in reasonable proximity to the applicant's existing water lines. From December 1999 through May 2000, applicant drilled four test wells. Test Well No. 1 was drilled in the SW 1/4 of the SW 1/4 of the NW 1/4 of Section 11-23-7, approximately three-quarters of a mile east-southeast of the applicant's existing well field in the NW 1/4 of Section 10-23-7, but this test well had only 5 feet of saturated thickness and did not produce an adequate supply of water. Test Well No. 2 was drilled on the Dedicated Land, near the center of the NE 1/4 of Section 9-23-7, but only 3 feet of water-bearing sand was encountered, so no pump test was conducted and no casing was installed. Test Hole No. 3 was drilled also on the Dedicated Land, in the SE 1/4 of the NE 1/4 of the NE 1/4 of Section 9-23-7, and had an estimated yield of 175 gallons per minute ("gpm"). However, the water quality sampling revealed unacceptable levels of total petroleum hydrocarbons in this well (0.35 mg/L) for use as a public water supply. The applicant suspects that Test Hole No. 3 was contaminated by the same hydrocarbon plume that ruined applicant's well in the southeastern corner of Section 4-23-7. Test Well No. 4, located in the southeastern corner of the portion of the Dedicated Land in the SW 1/4 of the NE 1/4 of Section 9-23-7, came to be the test well that applicant wants to develop for production and approval in this case. The "Multi-Purpose Completion Report" ("MPCR") of record for Test Well No. 4 shows that when it was originally drilled in May 2000, it had a saturated thickness of approximately 27 feet (from 30 feet to redbed at 57 feet) and had an estimated yield of

175 gpm. When pumped at 175 gpm for 2 hours, the water level in Test Well No. 4 was drawn down to 46.5 feet. Applicant's well driller testified that the well was then pumped at 150 gpm and the water level recovered to 45 feet. The applicant is satisfied with this test well's production capacity and water quality, and so applicant proposes to develop Test Well No. 4 as the well to be used if this application is approved. Applicant subsequently drilled three other test wells ("Test Well Nos. 5, 6 and 7") in March 2002 just west of the eastern boundary of the NE 1/4 of Section 8-23-7, approximately 1 1/2 miles west of the applicant's existing well field, but none of these three test wells produced enough water to warrant completion as a public water supply well. If this application is approved, applicant intends to complete and pump Test Well No. 4 most of the time around 80 gpm, but it did not commit to this as a maximum because it may need to pump a higher volume from time to time for blending with the water from the existing well field, or to satisfy increases in customer demand. Applicant's well driller, who has 30 years' experience in well drilling and has drilled hundreds of wells in the Enid Isolated Terrace for domestic, irrigation, and public water supply purposes, testified that he has not seen and is not aware of any case where wells in the Enid Isolated Terrace caused interference problems in neighboring wells in close proximity.

ii. Distance and well construction evidence. According to global positioning system ("GPS") readings taken by Board staff, applicant's Test Well No. 4 is located approximately 490 feet south-southwest from a domestic well owned by Herschel and Karen Rodgers, which is the nearest well of a protestant for which there is spacing evidence in the record. The Rodgers well is located in the SW 1/4 of the SE 1/4 of the NE 1/4 of Section 9-23-7. There is no MPCR or other information document of record which shows how or when the Rodgers well was originally drilled. There are at least two other domestic wells of protestants in close proximity to the applicants' test well. The well of protestant Monty Kirby is located in the NE 1/4 of the NW 1/4 of the SE 1/4 of Section 9-23-7, approximately 565 feet west-southwest from the applicant's test well location. The MPCR of record for the Kirby well shows that when it was originally drilled in October 1996, it had a saturated thickness of approximately 11 feet (from 51 feet to redbed at 62 feet) and had an estimated yield of 20 gpm. The well of protestant Eugene Lennox is located in the NW 1/4 of the NW 1/4 of the SE 1/4 of the same Section 9, approximately 1180 feet west-southwest from the applicant's test well. The MPCR of record for the Lennox well shows that when it was originally drilled in September 1998, it had a saturated thickness of approximately 16 feet (from 38 feet to redbed at 54 feet) and had an estimated yield of 15 gpm. There are numerous other protestants who reside in the Northwood Addition in the SE 1/4 of the NE 1/4, and the SE 1/4, of Section 9-23-7, within a quarter-mile of the applicant's test well.

iii. Protestants' contentions. The protestants depend on their domestic wells as their sole water supply for their homes. They are concerned that the applicant's proposed development and use of its Test Well No. 4 will adversely draw down their groundwater and wells. The protestants produced testimony and documentary evidence of an expert in hydrology to support their contention that the applicant would cause a substantial, adverse drawdown effect upon their groundwater and wells. The expert witness, a former director of public services for the City of Enid who is familiar with the Enid Isolated Terrace, employed a drawdown analysis which considered the available evidence of record regarding the basin, Test Well No. 4, and the protestants' wells, as well as several variables: (a) distance from Test Well No. 4 (including for example, 500 feet, 750 feet and 1000 feet), (b) rate at which Test Well No. 4 is pumped (including 50 gpm, 100 gpm, 150 gpm and 175 gpm), and (c) length of time

Test Well No. 4 is continuously pumped (24 hours, 7 days, and 30 days). The protestants' expert's analysis also assumed that there would be 6 feet of drawdown in the protestants' wells to account for domestic pumping at 20 gpm for 24 hours. The analysis results were varied, depending on the variables. For example, pumping Test Well No. 4 at 100 gpm continuously for 24 hours would leave a saturated thickness of 9.9 feet at a distance of 200 feet, while pumping Test Well No. 4 at 175 gpm continuously for 30 days would leave a saturated thickness of -4.1 feet at a distance of 200 feet. Additional examples showed that pumping Test Well No. 4 continuously for 30 days at 100 gpm, at 150 gpm and at 175 gpm would leave saturated thicknesses of 7.6 feet, 3.0 feet and 0.6 feet, respectively, at a distance of 500 feet. The protestants' expert testified that in his opinion, leaving a saturated thickness of only 3 feet at a distance of 500 feet due to pumping at 150 gpm is an excessive drawdown, but that pumping from 50 to 100 gpm would be sustainable and would not cause excessive drawdown in the protestants' wells. He recommended that if the Board approves the location of Test Well No. 4, a maximum withdrawal rate of 75 to 80 gpm should be imposed to assure that applicant will not cause an excessive drawdown in the protestants' wells.

iv. Finding on well spacing. Given the effort and expense that applicant has undertaken to acquire the right to take and use groundwater from the Dedicated Land and to test for suitable water, the Board finds it would be inequitable and unreasonable to force the applicant to find some location other than that of Test Well No. 4 that satisfies the spacing distance of 1320 feet from authorized wells on land of another person. Furthermore, the Board finds reason to question the results of the analysis offered by the protestants. For example, it is not likely that the protestants' domestic wells will be pumped for 24 hours, thus it is questionable whether there will be as much as 6 feet of drawdown in the protestants' wells as a result of their own pumping. Moreover, the Board staff's analysis of the basin characteristics and well lithologies of record indicated that pumping the applicant's Test Well No. 4 at a rate of 175 gpm continuously for 30 days will produce a drawdown of less than 2 feet in a well 500 feet away. Upon consideration of all the evidence on this issue, the Board finds that if the applicant's Test Well No. 4 is completed and limited to a maximum withdrawal rate of 150 gpm, such will not cause an excessive drawdown in the protestants' existing wells which are less than 1320 feet from Test Well No. 4. The Board further finds that subject to this condition, applicant will not drill wells nor produce fresh groundwater therefrom contrary to the Board's well spacing rule codified at Oklahoma Administrative Code ("OAC") Section 785:30-3-6.

c. Finding on waste by depletion. Upon consideration of the record and the facts discussed in this Finding of Fact no. 7, the Board finds that waste by depletion as specified in 82 O.S. § 1020.15 will not occur if this application is approved.

ISSUE OF WASTE BY POLLUTION

8. a. Well construction. The MPCR for Test Well No. 4 and applicant's representations establish that Test Well No. 4 will be completed by a Board-licensed water well driller, with measures that meet or exceed the Board's rules for water well construction to prevent pollution. Moreover, the applicant's proposed use as a public water supply is required to comply with rules and requirements of the Department of Environmental Quality ("DEQ") governing construction and operation of public water supply systems. Based upon the applicable law, the Board is precluded from

determining whether the applicant will allow waste by pollution to occur by the applicant's activities regulated by or within the jurisdiction of the DEQ.

b. Abandoned wells. The applicant stated in the application that to its knowledge, there are no abandoned or unused water wells, hand dug wells, or windmills on the property where the water is proposed to be used. The MPCR for Test Well No. 2 shows that it was plugged on December 1, 1999 in accordance with the Board's rules for plugging abandoned wells. However, there is no evidence whether Test Hole No. 3 has been abandoned or if so, whether it has been properly plugged. In order to assure that waste by pollution is prevented, the Board finds that the permit should not be issued until the applicant demonstrates to Board staff, or Board staff otherwise confirms, that Test Hole No. 3 has not been abandoned or, if it has been abandoned, it has been properly plugged and the report thereof filed. Subject to this condition, the Board finds that waste by pollution, as a result of the applicant's failure to plug abandoned water wells, will not occur.

c. Finding. Accordingly, the Board finds that waste by pollution as specified in 82 O.S. § 1020.15 will not occur.

CONCLUSIONS OF LAW

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

LAW APPLICABLE TO USE OF GROUNDWATER GENERALLY

1. Under 60 O.S. § 60, the owner of the surface of a given tract of land owns the fresh groundwater beneath the surface of that land. That surface owner, or a person with an appropriate, valid lease from the surface owner, may use such groundwater in accordance with the use regulations imposed by the Oklahoma Groundwater Law, 82 O.S. § 1020.1 and following.

SUBJECT MATTER JURISDICTION

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

PERSONAL JURISDICTION; DUE PROCESS

3. Due and proper notice of this proceeding was given to all potentially interested persons as required by law. The applicant, the protestants and all other potentially interested persons have been afforded due process of law and an adequate opportunity to be heard. Of these, only the applicant and those protestants represented by Mr. Kennedy have met the procedural requirements to be recognized as parties in this proceeding. All other interested persons have defaulted and abandoned their interests for failure to appear at the hearing or otherwise failing to follow required protest procedures according to OAC Section 785:4-7-3(c).

GROUNDWATER LAW; ISSUES BOARD MUST DETERMINE

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

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

If the Board finds for an applicant on all these issues according to § 1020.9 and OAC Section 785:30-3-5, the Board is required to approve the application and issue the appropriate permit.

OWNERSHIP; LEASE

5. The Board concludes that applicant has a valid lease from the owner of the surface of the Dedicated Land which authorizes the applicant to take and use groundwater therefrom for a term of 40 years subject to the terms of the lease. The Board further concludes that the applicant's right to use the groundwater from the land covered by the "Revised Water Lease" depends upon the applicant's leasehold interest in that tract. Accordingly, the permit should provide a condition to the effect that the permit is co-terminous with the lease for that land and groundwater, which shall be presumed to be October 10, 2045.

LAND LOCATED OVER GROUNDWATER BASIN

6. The applicant's dedicated land lies over the Enid Isolated Terrace groundwater basin. The Board has determined the maximum annual yield and equal proportionate share of the groundwater in this basin to be 0.5 acre foot per acre of land overlying the basin.

BENEFICIAL USE

7. "Beneficial use" is defined in OAC Section 785:30-1-2 as:

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

The facts in this case establish that applicant's proposed use meets this definition. In this case, the proposed use is to supply water to a rural water district and its customers, including municipalities. This clearly is an "application" of groundwater "for a lawful purpose and as is economically necessary for that purpose". Furthermore, "municipal" use of fresh groundwater is expressly provided to be a beneficial use in 82 O.S. § 1020.2. There is no material distinction between "municipal" use and "rural water district" use - both in essence are supplying necessary water service to members of the public. The Board thus concludes that the proposed use is a beneficial use under applicable law.

NO WASTE BY DEPLETION

8. a. General. Title 82 O.S. § 1020.9 provides to the effect that before the Board takes final action on a groundwater application, the Board must determine whether waste as specified by 82 O.S. § 1020.15 will occur. Section 1020.15(A) is quoted as follows:

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

1. Drilling a well, taking, or using fresh groundwater without a permit, except for domestic use;
2. Taking more fresh groundwater than is authorized by the permit;
3. Taking or using fresh groundwater in a manner so that the water is lost for beneficial use;
4. Transporting fresh groundwater from a well to the place of use in such a manner that there is an excessive loss in transit;
5. Using fresh groundwater in such an inefficient manner that excessive losses occur;
6. Allowing any fresh groundwater to reach a pervious stratum and be lost into cavernous or otherwise pervious materials encountered in a well;
7. Permitting or causing the pollution of fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin. The Board shall be precluded from determining whether waste by pollution will occur pursuant to the provisions of this paragraph if the activity for which the applicant or water user intends to or has used the water as specified under Section 1020.9 of [title 82] is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental Quality or the State Department of Agriculture[, Food and Forestry];
8. Drilling wells and producing fresh groundwater therefrom except in accordance with the well spacing previously determined by the Board;
9. Using fresh groundwater for air conditioning or cooling purposes without providing facilities to aerate and reuse such water; or
10. Failure to properly plug abandoned fresh water wells in accordance with rules of the Board and file reports thereof."

According to OAC 785:30-1-2, paragraphs (1) through (6) and paragraphs (8) and (9) are interpreted as forms of "waste by depletion" (as that term is used in the case of Oklahoma Water Resources Board v. Texas County Irrigation and Water Resources Ass'n, 1984 OK 96). (Paragraphs (7) and (10) may be interpreted as forms of "waste by pollution", discussed in Conclusion of Law no. 9 below.) In this case, there was no basis to find or conclude that the applicant would commit waste by depletion as described in 82 O.S. § 1020.15(A).

b. Well spacing; exception. According to 82 O.S. § 1020.15(A)(8) and OAC 785:30-1-2, well spacing is one of the "waste by depletion" issues which the Board must determine. Because the maximum annual yield for the

Enid Isolated Terrace groundwater basin has been determined, the Board's well spacing rule must be considered. Section 785:30-3-6 of the OAC provides in part as follows:

"(a) **Spacing.** Within groundwater basins where the maximum annual yield has been determined, no new or proposed well(s) shall be drilled and completed within one thousand three hundred twenty feet (1320') of an authorized existing well or proposed well location on lands of another, provided that the well on lands of another is capable of taking water from the same basin...."

The applicant's Test Well No. 4 is subject to this rule because the maximum annual yield has been determined for the subject basin, the protestants' wells are "authorized existing wells" within the scope of this rule, and the protestants' wells take water from the same Enid Isolated Terrace groundwater basin. Test Well No. 4 is less than 1320 feet from several wells of the protestants, and therefore does not meet the spacing requirement of subsection (a) of the rule. However, subsection (b) of 785:30-3-6 provides exceptions to the spacing rule for certain circumstances. Subsection (b) provides in part:

"(b) **Location exceptions.** A location exception shall be granted if the person requesting the exception shows in an individual proceeding that drilling or completing the new or proposed well at the location required to comply with the established well spacing set forth in subsection (a) of this section would be inequitable or unreasonable, that notice, as set forth in 785:30-3-4, of the location exception request is provided and that one of the following conditions is met:

* * *

(2) There is presented substantial, competent evidence to the Board and the Board determines that the well requested to be authorized will not be pumped at a rate and/or duration that creates a cone of depression which will cause an excessive drawdown in the existing wells located within the established well spacing distance of the well proposed to be authorized."

This puts the burden on the applicant to meet the threshold of demonstrating facts that show that the rule's application is inequitable or unreasonable. Based upon the evidence and facts summarized in Finding of Fact no. 7, the Board concludes that the applicant has met the burden of showing that it would be inequitable or unreasonable to require the applicant to plug Test Well No. 4 and drill more than 1320 feet from the nearest well of the protestants. The Board further concludes that if the condition described in Finding of Fact no. 7.b.iv. is imposed, then Test Well No. 4 will not be pumped at a rate or duration that will cause an excessive drawdown in the protestants' wells. The Board therefore concludes that the well spacing exception in OAC 785:30-3-6(b)(2) (subject to the condition described) is satisfied in this case, and Test Well No. 4 is not contrary to 82 O.S. § 1020.15(A)(8).

ISSUE OF WASTE BY POLLUTION

9. a. The Texas County case also held that in a groundwater application proceeding, the Board must determine whether waste by pollution will occur. This case law on waste by pollution has been augmented by the 2001 amendments of §§ 1020.9 and 1020.15. One of the provisions of 82 O.S. § 1020.15 which the Board is required to consider is paragraph 10 of subsection A, which pertains to waste by

pollution by "failure to properly plug abandoned fresh water wells in accordance with rules of the Board and file reports thereof." Applying this law to the facts, the Board concludes that waste by pollution will not occur if the issuance of the permit is conditioned as described in Finding of Fact no. 8.b.

b. The activity for which the applicant intends to use the groundwater is within the DEQ's jurisdictional area of environmental responsibility for public water supplies as provided by 27A O.S. §§ 1-3-101(B)(6) and 2-6-301 et seq. This activity is also subject to the DEQ's rules governing public water supplies at OAC Title 252, Chapters 625 and 631. Sections 1020.9 and 1020.15 provide in such a case that the Board shall be precluded from making a determination whether waste by pollution pursuant to § 1020.15(A)(7) will occur as a result of such activity. (Section 1020.15(A)(7) pertains to waste by "permitting or causing the pollution of a fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin.") Applying these authorities in this case, the Board is precluded from determining whether waste will occur by the applicant permitting or causing the pollution of fresh groundwater by permitting waste to filter or otherwise intrude into such groundwater.

OTHER ISSUES

10. The protestants contended that the applicant, as a rural water district, could acquire groundwater rights and groundwater elsewhere by eminent domain, and thus should not be approved to take groundwater from the requested location in proximity to the protestants and other Northwood Addition homeowners. The Board notes that 82 O.S. § 1324.10(A)(16) grants a rural water district power to

"have and exercise the right of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes [providing for railroad corporations to acquire property by eminent domain], provided, that the use of said eminent domain provisions, shall be restricted to the purpose of developing and providing rural...water works...."

Assuming without deciding that the protestants are correct that this statutory provision would authorize the applicant to acquire the right to take and use groundwater, as well as the right to take land for works, the Board declines to follow the protestants' argument. The applicant has chosen to pursue its acquisition from a willing seller, and it has done so in a way which satisfies the requirements of the Groundwater Law and Board rules. The Board will not force the applicant to do otherwise.

ULTIMATE CONCLUSION

11 Based on the Findings of Fact and Conclusions of Law above, the Board concludes that the application should be approved subject to the terms specified in the Order below.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the application no. 2005-526 by Kremlin-Hillsdale Rural Water District No. 1 shall be and the same is hereby approved, subject to the terms set forth in this Order. A regular permit

shall be issued which authorizes use of 60 acre feet of groundwater per year for municipal and rural residential water supply. The permit shall reflect the dedication of a total of 120 acres of land, consisting of 80 acres in the N 1/2 of the NE 1/4 and 40 acres in the SW 1/4 of the NE 1/4, all in Section 9-23-7 in Garfield County. The permit shall authorize use from one (1) well in the SE 1/4 of the SW 1/4 of the NE 1/4 of Section 9-23-7, Garfield County.

IT IS FURTHER ORDERED that this permit shall contain the following express conditions:

"Use of the well located in the SE 1/4 of the SW 1/4 of the NE 1/4 of Section 9, T 23 N, R 7 WIM, Garfield County shall not exceed the maximum withdrawal rate of 150 gallons per minute."

"The authorization to withdraw groundwater from the dedicated land shall terminate at the same time as the permittee's groundwater lease for such land terminates, which shall be presumed to be October 10, 2045 unless evidence otherwise is shown. If and whenever the lease is terminated, the permittee shall give written notice thereof to the Board within thirty (30) days after the effective date of termination of the lease."

IT IS FURTHER ORDERED THAT, notwithstanding any other provision of this Order, the permit shall not be issued and the permittee shall not use any water or well described herein until the permittee first demonstrates to Board staff, or Board staff otherwise confirms, that the test well in the SE 1/4 of the NE 1/4 of the NE 1/4 of Section 9-23-7, Garfield County has not been abandoned, or if it has been abandoned, then it has been plugged in accordance with Board rules and the report thereof filed.

IT IS SO ORDERED by the Oklahoma Water Resources Board in regular and open meeting this 11th day of October, 2005.

OKLAHOMA WATER RESOURCES BOARD

Rudolf J. Herrmann, Chairman

ATTEST:

Bill Secrest, Secretary

(SEAL)