

**OKLAHOMA WATER RESOURCES BOARD  
OFFICIAL MINUTES**

**April 19, 2006**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 1:30 p.m., on April 19, 2006, in the Governor's Large Conference Room, 212 State Capitol Building, Oklahoma City, Oklahoma.

The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on April 13, 2006, at 9:30 a.m. at the Oklahoma Water Resources Board's offices.

**A. Invocation**

Chairman Herrmann asked Member Harry Currie to provide the invocation.

**B. Roll Call**

**Board Members Present**

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

**Board Members Absent**

Bill Secrest, Secretary

**Staff Members Present**

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

**Others Present**

Mary Nell Brueggen, Oklahoma Water Resources Board  
Hank Wallace, Lone Wolf, OK  
Pat Stinson, Coleman Rural Water and Sewer District #4, Wapanucka, OK  
John Germany, Coleman Rural Water and Sewer District #4, Wapanucka, OK  
Keith McDonald, Wells Nelson, Oklahoma City, OK  
Larry Mitchell, City of Lawton, OK  
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK  
Mike Schammel, USDA Rural Development, OK  
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK  
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK  
Billie Brown, Sierra Club, Oklahoma City, OK  
Nancy Smart, Sierra Club, Oklahoma City, OK  
Floy Parkhill, Citizens for the Protection of the Arbuckle Simpson Aquifer, Tishomingo, OK  
Bob Donaho, Citizens for the Protection of the Arbuckle Simpson Aquifer, Tishomingo, OK  
Rob Singletary, Office of the Attorney General, Oklahoma City, OK  
Buck Irwin, Millerton Public Works Authority, Millerton, OK

**C. APPROVAL OF MINUTES**

Chairman Herrmann said that since Mr. Bill Secrest was unable to be at the meeting today, he had asked Mr. Richard Sevenoaks to be the Acting Secretary to attest document signing.

Chairman Herrmann stated the draft minutes of the March 14, 2006, Regular Meeting have been distributed. He noted a correction that had been made on page 1109 regarding a change in the amount of money—from \$250,000 to \$500,000 (regarding collection of the proposed fee). There were no other amendments to the minutes as proposed, and Mr. Nichols moved to approve the minutes of the March 14, 2006, Regular Meeting, and Mr. Fite seconded.

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

Chairman Herrmann said because of the day’s activities, many legislators had been invited to the meeting as they can come in, and he asked OWRB Executive Director Duane Smith to acknowledge the legislators in attendance at this time, and to hold his report until the end of the meeting.

Mr. Smith introduced Senator Lerblance, present for a couple of matters: he was author of the resolution for Water Appreciation Day, and he is also chairman of the Senate Environment Committee which hears many bills affecting the OWRB, and also on the Board’s agenda today is a \$75,000 grant to the town of Hartshorne. Senator Lerblance expressed his appreciation for the Board considering his remarks out of the agenda’s order, and said it is good to visit today. He said the Board, like the legislature, has a lot of issues on the plate today and water is so important and a huge topic statewide. He said we needed to work together and he enjoyed working with Mr. Smith and his staff. Senator Lerblance referred to the grant to Hartshorne on the agenda, that is his hometown, and he asked for the Board’s approval. The Senator said this year there are not a lot of energy and environment issues in the legislature,

but they take conservation and clean water and the environment seriously, and everyone needs to work together. Before he left he said HB 3020, adding two new members to the Board, passed that morning.

Mr. Smith introduced Representative Jerry Ellis from southeast Oklahoma and is specifically at the meeting in behalf of the grant requested for the town of Millerton. Representative Ellis was also at the press conference earlier expressing support for the comprehensive water plan (OCWP). Representative Ellis said he is supportive of the OCWP and he hoped it became a reality in order for the state to move forward. He said he is appreciative that with the Board's approval, Millerton would receive a grant of \$63,537.00, and he introduced Mayor Buck Irwin and his wife Mary.

Chairman Herrmann stated that if other legislators or the Governor were able to step into the meeting, he would allow interruption of the Board's agenda flow. Chairman Herrmann read the Governor's proclamation, "Water Appreciation Day April 19, 2006." (Copy attached)

Mr. Clay Pope, Executive Director of the Oklahoma Association of Conservation Districts, entered the room and Mr. Smith introduced him for comment. Mr. Pope expressed his appreciation for the partnership with the OWRB, along with the Oklahoma Conservation Commission, National Association of Conservation Districts, and the Natural Resources Conservation Service. Mr. Pope spoke to the cooperative effort between the groups to address water priorities in Oklahoma, and they supported the OCWP, rehabilitation of flood control structures, and nonpoint source pollution issues and he felt there is a good chance to get done some of the things they are working on together.

## **2. FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Millerton Public Works Authority, McCurtain County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the Millerton Public Works Authority located in McCurtain County has requested a \$63,537.00 emergency grant to repair a leak in one of its wastewater lagoons. Engineers have concluded the leak is the result of drought conditions, and if not repaired, there is potential for ground and surface water contamination. It is estimated the project will cost \$74,750.00 and funded with \$11,213.00 in local funds, and the OWRB grant. Staff recommended approval of the request.

Mayor Buck Irwin was present in support of the grant application.

Mr. Fite moved to approve the emergency grant to the Millerton Public Works Authority, and Mr. Keeley seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Secrest

B. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for City of Hartshorne, Pittsburg County, Oklahoma. Recommended for Approval. Mr. Freeman stated this item is for the consideration of a \$75,000 emergency grant request from the City of Hartshorne that experienced a malfunctioning pressure-reducing valve that severely reduced the integrity of a major water line. It has been determined the line is on the verge of sustaining a major break which would leave the city completely without water. The city proposed to install 1900 feet of 6-and-8-inch waterline, and the project will cost about \$115,000.00 and will be funded from \$40,000.00 in local funds and the \$75,000.00 emergency OWRB grant.

Mr. Freeman stated the mayor was unable to attend today.

Mr. Fite moved to approve the emergency grant request to the City of Hartshorne, and Mr. Nichols seconded.

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

C. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Rural Water, Sewer & Solid Waste Management District #4, Johnston County, Oklahoma. Recommended for Approval. Mr. Freeman stated this item is a request by the Johnston County RW&SD #4 for an emergency grant in the amount of \$70,200.00. The District's wastewater system consisting of polyethylene tanks, small diameter lines and lagoon system is failing, and raw sewage is surfacing in their lagoons are experiencing overflows. In order to correct the situation, the tanks will be replaced with 75 new concrete tanks; and the project will be funded with a \$21,000.00 Rural Development loan, \$57,300.00 Rural Development grant, and the OWRB emergency grant. Staff recommended approval.

Mr. Pat Stinson, Chairman and Mr. John Germany, operator, were present in support of the grant request.

Mr. Sevenoaks moved to approve the emergency grant to the Johnston County RWD&S #4, and Mr. Currie seconded.

Mr. Currie asked about how many tanks were being replaced, and what was the reason for replacing them. Mr. Sevenoaks asked if the septic tanks were located on private property; Mr. Freeman stated they are, but are owned by the District. Mr. Smith added the District must own the tanks or otherwise the OWRB cannot provide the funding; it is an easement situation. Mr. Sevenoaks stated his concern about replacing septic tanks and asked for discussion at a later time.

There being no other questions, Chairman Herrmann called for the vote.

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

D. Consideration of and Possible Action on a Proposed Order Approving Loan for Lawton Water Authority, Comanche County. Recommended for Approval. Chairman Herrmann stated this item is for the consideration of one of the larger loans the Board has acted on in recent history. Mr. Freeman stated this item is for the consideration of a \$33,653,600.00 Drinking Water State Revolving Loan Fund request from the Lawton Water Authority. He said that Lawton is asking for the loan to construct a 40 million-gallon-day water treatment plant, modify the intake facility at Lake Ellsworth, install water distribution lines, construct an 860,000 gallon elevated storage tank, and to modify the Waurika pipeline. The loan will mature within twenty years of the completion of construction, and bear a 3.05% fixed interest rate, plus .5 administrative fee. Mr. Freeman noted provisions of the loan agreement and other funding of \$3 million in local funds, and a 1,446,400 STAG grant administered by the OWRB. Lawton has been a long-time customer of the Board, and currently has nine outstanding loans with an aggregate original principal balance of approximately \$27.5 million dollars. The debt coverage ratio for Lawton stands at approximately 3.27-times, and it is estimated the Authority will save \$8 million dollars by borrowing from the Board for this new project.

Mr. Larry Mitchell, Lawton City Manager, and Mr. Keith McDonald, financial advisor, and former Senator Butch Hooper were present in support of the request.

Mr. Farmer moved to approve the loan to the Lawton Water Authority, and Mr. Nichols seconded.

Mr. Sevenoaks asked about the breakdown of the closing cost fees that usually appears in the provided information, and Mr. Freeman responded that the Lawton Water Authority was paying for the cost of the fees, not the OWRB loan proceeds; therefore, that amount was not disclosed. Chairman Herrmann asked, considering potential growth in Lawton, how long this particular expansion would last before using its capacity. Mr. McDonald answered the current capacity is adequate for about 20 million gallon per day, along with the Medicine Park plant totals, about 30 million so hopefully by the time of completion it will allow the operations to switch back and forth depending on rainfall and water resources, it gives a secondary treatment source, and allows gravity feed from Lake Ellsworth versus pumping for Waurika Lake. Long-term, this plant is expandable to 40 million gallons per day.

There being no further questions or comments, Chairman Herrmann called for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: Secrest

Mr. Smith introduced Kerry Dennis with Congressman Cole's staff, and Chad Bradley of Congressman Lucas's staff. He said this is an SRF program, or 80% federal dollars and 20% state funded, so without the support from the Congressional Delegation, the program would not be available. He added he and Mark Nichols met with Congressman Lucas in Washington, D.C. and Congressman Cole in Norman, and both expressed concern of decreasing funds and support of the program. That effort has saved \$8 million dollars of "real money" for the City of Lawton. Mr. McDonald added that the first phase of the project financed by the OWRB saved the City nearly \$6 million dollars.

### **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.

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

There were no other questions or requested action on items on the Summary Disposition Agenda; however, Mr. Derek Smithee requested that agenda item 3.D.4., contract with the University of North Texas, be withdrawn from the Board's consideration.

Mr. Knowles moved to approve the Summary Disposition Agenda as amended, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: Herrmann on item E.3.  
ABSENT: Secrest

**The following items were approved:**

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

<u>REAP Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
EODD 1.	FAP-02-0064-R	Gans Utility Authority	Sequoyah	\$110,000.00

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

1. Extension and Amendment Agreement Between the Board of Regents of the University of Oklahoma and the Oklahoma Water Resources Board.
2. First Amended Interagency Agreement Between Oklahoma Water Resources Board and Grand River Dam Authority for Additional Funding and Water Quality Monitoring Below Grand Lake Pensacola Dam and Below Lake Hudson Kerr Dam.
3. Letter Agreement on Planning Assistance to States Regarding the Arkansas River Corridor Ecosystem Restoration Study in Conjunction with Future Low Water Dam Requirements.
4. *Second Modification to Subagreement Between Oklahoma Water Resources Board and University of North Texas for Additional Funding and Extension of Time for Services in Support of Grand Lake Revegetation Project. **Item withdrawn***
5. Master Agreement for Products and Services with Black Box Network Services for On-Site and Remote Phone System Maintenance.
6. Service Agreement for the Oklahoma Water Resources Board Planning Retreat with the Lazy E Arena.
7. Second Amendment Agreement Between the Office of the Secretary of Environment and Oklahoma Water Resources Board for an Additional Period of Time Regarding the Clean Water Act FY 03 104(b)(3) Total Maximum Daily Loads (TMDL) Development (Special Purpose) Whereby the OSE Will Make Certain Federal Funding Available to the OWRB for Performance of Certain Tasks.
8. Agreement Between the Office of the Secretary of Environment and Oklahoma Water Resources Board Wherein the OSE Will Fund the OWRB to Perform the Work and Deliver Products Relating to the FY 05/06 Water Pollution Control Program/Monitoring of the Clean Water Act.

- E. Applications for Temporary Permits to Use Groundwater:
1. Wilmot Farm, L.L.C., Harper County, #2005-543
  2. City of Edmond, Oklahoma County, #2005-573
  3. Duke Energy Field Services, L.P., Grady County, #2005-578
  4. *Johnston Co. RWD #3, Johnston County, #2005-582* **Item withdrawn**
  5. Gary and Jennifer Brewster, Caddo County, #2006-503
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. William N. Saunders, III, Revocable Living Trust, Caddo County, #1982-642
  2. Earnie Dean and Sharon K. Jantzen, Major County, #2003-609
- G. Applications for Regular Permits to Use Groundwater:
1. Roy Henry and Angela Kay Heinrich, Canadian County, #2005-569
  2. C S Investments, A Texas General Partnership, Choctaw County, #2005-577
  3. John and Pieter Van der Laan, Tillman County, #2005-584
  4. Bryan County RWS&SWM District No. 6, Atoka and Bryan Counties, #2005-585
  5. Charles S. and Rhonda J. Arrington, Beckham County, #2006-501
- 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. Roger Watson, Custer County, #2005-025
  2. Herbert Stanley Wells, Jr., Bryan County, #2005-026
  3. Meadors-Crilly Family Limited Partnership, Hughes County, #2006-002
  4. H. Dickinson's Properties, L.L.C., LeFlore County, #2006-004
  5. Ben T. Walkingstick, Jr., Lincoln County, #2006-008
  6. Walkin-Parrot, L.L.C., Lincoln County, #2006-010
  7. Margarita Munoz, Payne County, #2006-011
- 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: Craig's Water Well Service.	DPC-0714
Operator: Craig Wenthold	OP-1207
Activities: Pump installation	
b. Licensee: Sooner Pump & Supply	DPC-0716
Operator: Jon T. Bournon	OP-1488
Activities: Pump installation	
c. Licensee: Timothy Clint Bassett	DPC-0718
Operator: Timothy Clint Bassett	OP-1490
Activities: Groundwater wells, test holes and observation wells	
d. Licensee: Matthew R. Wollaston	DPC-0720
Operator: Matthew R. Wollaston	OP-1491

- Activities: Monitoring wells and geotechnical borings
    - e. Licensee: Daniel P. Wollaston DPC-0722
    - Operator: Daniel P. Wollaston OP-1492
    - Activities: Monitoring wells and geotechnical borings
    - f. Licensee: Roy Plummer DPC-0724
    - Operator: Roy Plummer OP-1493
    - Activities: Pump installation
  
- 2. New Operators and/or Activities for Existing Licenses:
  - a. Licensee: *Crouch Drilling* *DPC-0045*
  - Operator: *Donny Crouch* *OP-1489*
  - Activities: *Groundwater wells, test holes and observation wells*
  - Pump installation*
  - Heat exchange wells* **Item withdrawn**
  - b. Licensee: Pumps & Water Systems DPC-0318
  - Operator: Benjamin Hauser OP-0833
  - Activities: Groundwater wells, test holes and observation wells
  - c. Licensee: Pump & Supply, L.L.C. DPC-0337
  - 1. Operator: Jack R. Ostrom OP-1486
  - Activities: Pump installation
  - 2. Operator: Steve Madison OP-1487
  - Activities: Pump installation
  - d. Licensee: Geotechnical Services, Inc. DPC-0385
  - 1. Operator: Corey Joe Lewis OP-1484
  - Activities: Monitoring wells and geotechnical borings
  - 2. Operator: Shawn Gensler OP-1485
  - Activities: Monitoring wells and geotechnical borings
  
- M. Dam and Reservoir Plans and Specifications:
  - 1. Howard J. Spradlin, Willow Creek Dam, DS-06-02, Sequoyah County
  - 2. USDA – NRCS and Dewey County Conservation District, Barnitz Creek Site No. 14, Washita County
  - 3. USDA-NRCS and Johnston County Conservation District, Mill Creek Site No. 18, Johnston County
  - 4. USDA – NRCS and Caney Valley Conservation District, Double Creek Site No. 3, Dewey County
  
- N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:  
None
  
- O. Applications for Accreditation of Floodplain Administrators:  
Names of floodplain administrators to be accredited and their associated communities are individually set out in the April 19, 2006 packet of Board materials.



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

No items.

**5. SPECIAL CONSIDERATION**

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

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

A. Application for Regular Permit to Use Groundwater No. 2005-565, Glen K. Wallace Living Trust, Greer County.

1. Summary – Mr. Mike Mathis, Chief, Planning and Management Division, stated to the members that the applicant is requesting a permit to take and use 255 acre-feet of groundwater per year for irrigation purposes. The water will be taken from one well located on 255 acres of dedicated land in Greer County. The land overlies the North Fork of the Red River Groundwater Basin for which a study has been completed, and determined that each landowner is entitled to one acre-feet of groundwater per acre of land dedicated. The applicant will use a licensed water well driller to construct the well to meet the Board's minimum standards.

Mr. Mathis stated the protestants were concerned about depletion in that region, and the applicant testified at the hearing he would ensure the well is constructed at the minimum, if not more, than 1320 feet from the protestant's wells. With that, Mr. Mathis said these are neighbors who have a long history of working together, and staff recommended approval of the application.

2. Discussion and presentation by parties. Mr. Glen Wallace addressed the members, described the location in relation to Quartz Mountain Lodge, and stated the land is good, irrigatable land and while he has a cattle operation, he fell short of water last year and he needed the water to support the livestock. He understood the protest by the Blair Public Works Authority, and he stated he would keep the well 1320 feet away from the city wells. Blair also has access to water from Altus.

Mr. Currie asked what Mr. Wallace planned to irrigate, and Mr. Wallace responded blue stem (grass). He also mentioned that he may at some point in the distant future plant grapes for a winery, but that may not ever happen.

There were no representatives of the Blair Public Works Authority in attendance.

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

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

Mr. Nichols moved to approve regular groundwater permit #2005-565, and Mr. Keeley seconded.

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

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. Monte Boyce, OWRB Comptroller, addressed the members and presented the budget report reflecting agency operations ending March 31, 2006. The agency has completed 75% of the fiscal year, expended and obligated 78% of the budget, and collected 73.39% of the budget. This quarter a revision to the budget will be made to add two programs that were not in the original budget which are federal grants awarded after the budget was completed.

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

There were no Supplemental Agenda items for the Board consideration.

## 8. NEW BUSINESS

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

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

## 1. D. EXECUTIVE DIRECTOR'S REPORT

Chairman Herrmann asked Mr. Smith to present his report. He said there was one item he had asked Mr. Smith to address; from time to time there are questions that are asked regarding how the Water Board issues permits within the construct of the water laws of the State of Oklahoma. Mr. Smith compiled a document in response so that the general public can understand how the Courts have interpreted and acted upon any water matters that have come through the Courts, which he will present

Mr. Smith, first, noted that Mr. Bill Secrest was absent because of being involved in the Oklahoma Rural Water Annual meeting activities, as well as taking care of his ill wife. Mr. Smith stated that the ORWA had awarded Mr. Lonnie Farmer the "ORWA Founders Award" for his instrumental work in forming the Association. He said that Mr. Farmer goes among the ranks of persons such as Bob Kerr and those water pioneers that had the foresight to do things for water resources in Oklahoma that other people only thought about. He also helped to form the

National Rural Water Association, along with 21 other men who saw the need for rural water, saw a need for the districts to get together through an association, and saw a need for training people in rural areas to operate systems; and, now fast forward to today where the OWRB is able to provide funding the rural water districts that are the lifeblood of Oklahoma. Mr. Smith and the audience congratulated Mr. Farmer on his service and achievement.

Mr. Smith updated the members on the fate of the rules approved at the March meeting to increase fees on groundwater permit applications to generate \$1.1 million to assist the agency in operating the water management program in Oklahoma. A resolution to disapprove the rule was approved 99-1 by the House of Representatives on April 18. He said, though, as part of the discussion on the bill, Representative Don Armes and Representative Gus Blackwell, in addition to Mr. Herrmann and Mr. Nichols, have visited with legislators and the consensus is that the vote was not against the Water Board, and is not against the permitting program, the vote was against the fee; the legislators do support an appropriation. He said that as he had visited with the various state groups such as Farm Bureau and Municipal League, and others, everyone prefers an appropriation over a fee increase. Mr. Smith said, however, that if there were not an appropriation, there would be changes in the permitting program, which encompasses many things, i.e., streamgaging for example, and the comprehensive water study and the data necessary. He said that data is the part of the program that needs to be funded so the agency can continue to evaluate needs, evaluate permits and applications, evaluate water supplies, and this is only going to become more controversial.

Mr. Nichols added that he agreed that is the situation, and there seemed to be good support for an appropriation. There are five weeks to go, and hopefully it will happen between now and then. Chairman Herrmann asked the Board about its plan to work with those groups to be sure they articulate their support of the program so that the appropriation materializes rather than vaporizes. Mr. Smith said Rep. Blackwell asked the Farm Bureau if it would be willing to write a letter in support, and other groups as well, and he said the plan is to continue to work with these groups and try to make people aware it is a necessary program and that the funding is necessary. Mr. Currie stated he felt it was important that the program support itself as a fee since economics and budget years may influence the level of funding through an appropriation each year. Mr. Smith responded that at the same time, the valid argument against the fee is that there are other benefits of a good permitting program that shouldn't be borne only by the permit holder i.e., domestic users, recreation use, environmental benefits and no fees are placed on those users. That argument came out loud and clear to the legislature from farm groups who hold 80% of water permits; and their message is they don't mind paying their fair share, but do not want the burden of funding the program on the back of agriculture when there are other benefits that would not be paying that fee, that would come from an appropriation. Chairman Herrmann said the Board cannot assume it will get solved via an appropriation, and follow-through is needed and if it doesn't appear in the form of an appropriation there will have to be decisions made by staff and consequences that may not be comfortable relative to the operation of the permitting program.

Mr. Smith directed the Board's attention to the handout that was prepared by request of Chairman Herrmann. He said there has been some question about how the agency approved permits in the past, that permits may not be approved according to the statute, and maybe the statutes need to be changed, but it wasn't clear where the problem was. Chairman Herrmann asked for facts about the number of permits approved, how many appealed, how many are overturned, and that are included are in the memorandum. Mr. Smith said that in the last three years, the OWRB has issued 448 long-term permits and 81 of those have been protested, and that is what the Board members deal with at monthly meetings, and the rest are dealt with under the Special Consideration Agenda, which are non-protested items. Staff makes sure, before going to hearing, the application meets the criteria level for approval before sending to the

Board. So, to the extent there is a unanimous vote at a Board meeting that means to staff the rules and statutes are being followed in bringing that to the Board, and it is not considered by staff as a “rubber stamp” by the Board. Staff sees the Board’s job as making sure that staff has followed the rules and statutes, and if there are some no votes, staff will re-evaluate every position to make sure that they are doing their very best to follow the statutes, and to bring it to the Board so that the Board has confidence in staff. Of the 81 protested applications, 56 orders have come to the Board (some have been resolved other ways) and four have been appealed; of 448 applications, four have been appealed in the last three years. Staff is working with protestants and applicants everyday and it takes a lot of time and effort to work out controversies so it is not protested or appealed but sometimes it happens and typically its between landowners for example regarding the distance between the wells, and that can be resolved before being appealed; of those appealed, none have been overturned in the last three years. He hoped that with only four appealed in the last three years that gives the Board members comfort the staff is providing that service and bringing that up to the Board in an adequate, professional, open manner.

Chairman Herrmann stated that he asked for the compilation because it seemed to be an objective measure of that process as the ultimate test is by the Courts of the work that has been done, and keeps politics, emotion, opinion, and preference out of the way. It is an objective a measure he thought could be used, and is very positive data relative to the performance of the process, and he thanked staff for the response.

Mr. Smith continued his report saying the Red River Compact Commission met in Hot Springs, Arkansas. The major issue is the rules in southwest Oklahoma on the North Fork of the Red River and Sweetwater Creek and how the water is divided between Texas and Oklahoma. Oklahoma has a proposal to split the water 60% to Texas and 40% that would be consistent with all other streams where there are rules. Texas wants to take 100% from of the water from Sweetwater Creek and give Oklahoma the remaining water from the North Fork. The issues involved in that proposal is that there is a quantity issue, and a quality issue in Lugert-Altus (Sweetwater Creek is named that because the North Fork is salty), and Oklahoma does not believe it is appropriate for an upstream state to pick and choose where it will take water and give the downstream state water from whichever they choose not to dam. Mr. Smith stated he believed that Texas is the only state in the compact that will disagree so he has given the compact notice he wants to vote as a resolution of the compact how to interpret the compact so that there is a 60-40 split from each stream that crosses the border. He anticipated Texas would not vote for it; in order for rules to passed in the compact, the vote must be unanimous by all states, so there will not be rules, but there can be a resolution that will help defend the position if the matter were go to court in the future. He said that Texas has requested rules and regulations for Lake Texoma. Mr. Farmer mentioned the situation involving the Canadian River Compact and Palo Duro, and Mr. Smith said that matter has not been resolved.

Mr. Smith bragged on Governor Henry and his support in the Governor’s Budget for funding the Comprehensive Water Plan and recapitalization of the Financial Assistance Program, which is the start of the budget process. He thank the Governor for his continued support and priority for these two items in particular, for the designation of Water Appreciation Day and the importance he puts on water resources in his administrative program. Mr. Smith stated that as an executive agency, the Governor’s agenda is the agency’s agenda, and to the extent the Board can fulfill his agenda is the Board’s mission. Mr. Smith also gave credit to Secretary of Environment Miles Tolbert for his support and attendance at today’s activities.

Mr. Smith announced the Governor has decided to join the Western Governor’s Association; Oklahoma has been a member of the Southern Governors Association. He said Oklahoma is also a members of the Western States Water Council, which is the water arm of the WGA, and the significance is that this year he will become Chairman of the WSWC and

meeting with the Western Governors in June to discuss priorities for the WSWC, which are water and wastewater infrastructure financing, and to the extent the WGA will make an issue of water and wastewater financing only helps Oklahoma, and we are in a good position to get that on the WGA agenda, and subsequently approach Congressman Lucas and Congressman Cole to obtain good proactive legislation. Mr. Knowles commented that when supporting certain issues, all Governors' must agree.

Chairman Herrmann recognized Mr. Bill Secret. Mr. Smith commented that Mr. Secret chairs the Oklahoma Rural Water Association, and the respect he received is an indication of the work he has done to get water to rural Oklahomans and the work he has done with the Water Resources Board, and significant work to make sure there is enough money in the financial assistance program funding for rural water. He thanked Mr. Secret for his work, and also recognized Gene Whatley, Executive Director of the ORWA.

Mr. Smith talked about the agency's plan to move forward with the Comprehensive Water Plan once it is funded. He said he had met with the Association of Regional Governments, Rural Development, and Rural Water Association and talked about how to make assessments in Oklahoma on the municipal and rural water lines in addition to the Rural Water Survey, but to be able to know what lines are going to need to be replaced within the next 5, 10, and 15 years, and the financing that will be needed and a timeline developed, to know where the fire hydrants are and where they need to be placed for rural firefighting, etc. The idea is to use \$100,000 to be set aside for the COGs, along with matching money, to double the benefit of the funding. The cities clearly support and are moving forward in mapping water lines, and this is a major first year assessment; phase two would look at population projections and needed lines and if those needs cannot be met, and look at what is the appropriate solution. Mr. Smith talked about other ideas that are being explored in regard to the comprehensive water plan and the future of the Board's financial assistance program benefits to communities. There was discussion about the benefits of work through the interstate organizations such as WGA and connecting state's water plans; that Oklahoma is way behind the western states, and Kansas is much further ahead; and there are severe issues among the western states.

Mr. Smith complimented the Oklahoma Rural Water Association and the Oklahoma Municipal League and their cooperation and support for the funding for the Comprehensive Water Plan.

Mr. Smith asked Mr. Mike Melton to present the legislative report. Mr. Melton highlighted the recent activities and status of measure affecting the Water Board. A printed report was distributed. There was brief discussion of a few measures.

Mr. Bill Secret and Mr. Gene Whatley presented to Mr. Duane Smith the "Friend of Rural Water" Award for his support of Rural Water and to provide funding to all areas of the state for a quality of life for all Oklahomans, and for his leadership in bringing various people together and support of funding for the comprehensive water plan, a very important effort for the well-being of the state.

## **9. ADJOURNMENT**

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 3:00 p.m. on Wednesday, April 19, 2006.

**OKLAHOMA WATER RESOURCES BOARD**

\_\_\_\_\_/s/\_\_\_\_\_  
Rudolf J. Herrmann, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Jess Mark Nichols, Vice Chairman

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

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

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Edward H. Fite

\_\_\_\_\_/s/\_\_\_\_\_  
Kenneth K. Knowles

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Bill Secrest, Secretary

(SEAL)