

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

December 12, 2006

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:30 a.m., on December 12, 2006, in the meeting room of the Oklahoma Water Resources Board, at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on December 5, 2006, at 4:55 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

Mr. Secrest provided the invocation.

B. Roll Call

Board Members Present

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

Board Members Absent

Ford Drummond

Staff Members Present

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

Others Present

Ron Cooke, Save Our Water Lake Eufaula, Oklahoma City, OK
Doug Haines, City of Woodward, OK
Mike Mathis, C.H. Guernsey Engineering, Oklahoma City, OK
Mike Spear, Indian Ridge, Oklahoma City, OK
John Smith, Payne County Rural Water Corporation #3, Stillwater, OK
Sally Smith, Payne County Rural Water Corporation #3, Stillwater, OK
Don Kiser, Fagin Brown Bush Tinney Kiser, Oklahoma City, OK
Robert M. Jones, Capitol West, Oklahoma City, OK
Mike Sand, Caddo Nation, Binger, OK
Jim Barnett, KIRA, Oklahoma City, OK
Chris Gander, BOSCO, Oklahoma City, OK
Bud Ground, PSO, Oklahoma City, OK
Calvin Oyster, Payne County Rural Water Corporation #3, Stillwater, OK
Rob Singleterry, Office of the Attorney General, Oklahoma City, OK
Nate Ellis, Fagin Firm, Oklahoma City, OK
John Dorman, City of Stillwater, OK
Anthony Daniel, City of Stillwater, OK
Dean Reimer, Ringwood, OK
Walt Regels, Ringwood, OK
Ruth Anne Kennedy, City of Stillwater, OK
Arvil Morgan, Coweta, OK
Raleigh Jones, Payne County Rural Water Corporation #3, Stillwater, OK
Jerry Horn, Payne County Rural Water Corporation #3, Stillwater, OK
Norman Durham, Payne County Rural Water Corporation #3, Stillwater, OK
Lowell Barts, Payne County Rural Water Corporation #3, Stillwater, OK
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK
Dan Galloway, City of Stillwater, OK
Michael McNitt, The Oklahoman, Oklahoma City, OK
Courtney Brown, Doernes Sanders Daniel & Anderson, Tulsa, OK

C. APPROVAL OF MINUTES

Chairman Herrmann stated the draft minutes of the November 13, 2006, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Mr. Nichols moved to approve the minutes of the November 13, 2006, Regular Meeting, and Mr. Secrest seconded.

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

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Smith began his report saying there was much positive feedback about the Governor's Water Conference and kickoff of the Comprehensive Water Plan. He said that later in the agenda a contract with the OSU/OWRRI and a presentation will be made by OWRB's Dave Dillon and OSU's Dr. Will Focht.

Mr. Smith stated he is the chair of the Western States Water Council and one of the issues the Council is working on is the National Drought Information System, or NIDIS. Congress passed the bill last week authorizing \$80 million to be spent on drought information systems. The current network is piecemeal across the country with different agencies doing different things, and the bill will focus and put money into “snowtell” for mountain snow pack information, streamgaging information, soil moisture, and many other types of data collected by NOAA, which will then publish reports that agencies such as the OWRB can have access to. Oklahoma is ahead of the curve with the MESONET program; Dr. Ken Crawford, who is the head of the Climate Survey, took a leave from the Survey to work on the NIDIS implementation. He is a world-renowned scientist, and we are lucky to have him here at the Oklahoma Climate Survey. Senator Jim Inhofe supported this major piece of legislation.

Mr. Smith stated that on Monday, December 11, he met with the parties of the Meers Saddle Mountain and he reported there is agreement to work on an agreement. He said the springs and creek will be protected, a technical review team will be formed including members from the US Geological Survey, Oklahoma State University and the OWRB to prepare a scope of work that will look at the data and propose well locations and pumping scenarios that could be utilized to protect the springs and creek. There are many emotional issues involved, and the parties agreed to look at the science and let that be the determining factor. The applicant agreed they did not want to impact the springs, and the protestant agreed they didn’t mind pumping the water for the rural water district if it did not impact the stream. Now, determining how to do that and not impact the stream is complicated. Mr. Smith said he is very positive and hopeful to bring an agreement to the Board. Chairman Herrmann asked about the time and cost involved in the analysis; Mr. Smith responded a budget and timeline would be put together. The applicant has performed a lot of the work and much of the data has already been collected. He said this seems an acceptable way to move forward on these applications, i.e., Meridian Aggregates, and he is interested in looking at contracting with some of the people identified such as Dr. Halihan at OSU and Neil Simonson at the Geological Survey, rather than hiring that type of expertise on staff. Mr. Nichols asked who would bear the cost of collecting and reviewing the data, and Chairman Herrmann observed in future instances it would be desirable for these matters to be worked out before coming to the Board.

Mr. Smith continued his report stating there have been many meetings regarding the water plan. He said he had met with the State Chamber Natural Resources Committee, and the Chamber has now included a legislative agenda recommendation that includes removing the cap off the gross production tax REAP account. He has visited with the Farmers Union Policy Committee about the OCWP and is supportive of removing the cap, as well as the Municipal League.

Mr. Smith announced the recent recognition of the OWRB’s Oklahoma Water Watch Program that received a First Place Award in the State Government Award Category at the Keep Oklahoma Beautiful sponsored Environmental Conference Awards Banquet. This is an annual statewide competition recognizing exceptional efforts by Oklahomans in the area of environmental improvement, education and promotion. Oklahoma Water Watch is the OWRB’s volunteer water quality monitoring and educational program created in 1992 and encouraging local efforts to protect and maintain the quality of rivers and lakes throughout Oklahoma. He added that EPA announced this week the program will receive \$100,000.00 for additional monitoring for harmful algal blooms using volunteers to sample in the Grand River basin and also for TMDL development. Additionally, \$70,000.00 will be granted to the OWRB for CAFO monitoring, supporting the contract with the Department of Agriculture, Food and Forestry, an area that has been under funded for a number of years.

Mr. Smith concluded his report. Mr. Ed Fite mentioned in regard to the OWW program that next to the dollars awarded through the OWRB grant program, the OWW effort is probably

the foremost opportunity for the OWRB to interact with Oklahomans. He recommended the Board earmark more money for the program in the next fiscal year.

(Mr. Fite and Mr. Farmer joined the meeting at 9:43 a.m.)

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Resolution Consenting to Amendment of Lien Position Securing Loan for Woodward Municipal Authority, Woodward County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item for the Board's consideration is a request from the Woodward Municipal Authority for a release of a sales tax lien that serves as partial collateral on its loan with the Board. He said that in September 1997, the Board funded a \$325,000.00 loan to Woodward for the construction of a 10-inch water supply line to the Town of Fort Supply. The loan was secured by a lien on Woodward's water and sewer revenue as well as a two-cent sales tax, and is set for maturity on September 2017. Woodward is requesting the release so it may be pledged for approximately \$25 million in financing numerous improvements included an arena and grandstand, water park, playground, golf course renovation, baseball, softball and football fields. Mr. Freeman stated staff is comfortable in releasing the sales tax lien because Woodward has prepaid over \$119,000 on its loan, leaving a balance of \$135,200.00. By maintaining a lien on Woodward's water and sewer revenues, the loan will still have an extremely strong debt coverage ratio of approximately 4.4-times, which is 3.5 times the Board's requirement of 1.2-times. Staff recommended approval of Woodward's request.

Mr. Doug Haynes, Chief Financial Officer, and Chris Gander, financial advisor, were present in support of the request for lien release.

Mr. Farmer moved to approve the lien release to the Woodward Municipal Authority, and Mr. Knowles seconded.

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

B. Consideration of and Possible Action on a Resolution Authorizing the Issuance of Oklahoma Water Resources Board State Loan Program Revenue Bonds, Series 2007 in Aggregate Principal Amount Not to Exceed \$20,000,000; Approving and Authorizing Execution of a Fifteenth Supplemental Bond Resolution Providing for the Issuance of Said Bonds; Waiving Competitive Bidding on the Bonds and Authorizing the Sale Thereof by Negotiation and at a Discount Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement with Respect to Said Bonds; Directing Deposit of Proceeds Derived from the Issuance of the Bonds in the State Treasury and Requesting the State Treasurer to Remit Such Proceeds to the Bond Trustee; Ratifying and Approving the Form of Promissory Note and Loan Agreement to be Executed by Borrowers in the State Loan Program; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as May be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval. Mr. Freeman said approval of this resolution would authorize an issuance of bonds for the State's revenue bond loan program. Mr. Freeman said the bond issue will be for refinancing a loan for the Tulsa Metropolitan Utility Authority, as well as providing funds for additional loans for two rural water districts and a couple of cities. Mr. Freeman read the resolution title enumerating the items authorized by approval of the resolution. Staff

recommended approval.

Representatives of the Board's Underwriters from Capitol West and BOSC were in attendance, and Mr. Don Kiser, the Board's bond counsel.

Mr. Freeman stated the issue is scheduled to close on March 14, 2007, and it will be on the Bond Oversight Council agenda for January 2007.

Mr. Secrest moved to approve the resolution authorizing issuance of bonds, and Mr. Nichols seconded.

Mr. Sevenoaks said this is a small issue, with Tulsa's project the main recipient; he asked if identifying projects in the 30% requirement, and Mr. Freeman responded that it is. Mr. Sevenoaks said the TMUA had expressed concern about the Board's ability to do small bond issues in the future. Mr. Freeman said there is no problem with bond issues for the State Revolving Fund program; there has been a decline in the state loan program because the interest rate on the revolving fund was more competitive. He said, however, the Tax Act passed this May has discouraged how much debt can be issued. Chairman Herrmann stated the Board should expect more, smaller issues in the future on the state loan program. There was discussion of interest rates, and the impact of the Tax Act on state programs, and options to the Board that will be presented at a future meeting.

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

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

NAY: None

ABSTAIN: None

ABSENT: Drummond

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board's staff, or any other person attending this meeting, may 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.

Chairman Herrmann read the statement above and asked for requests to move items. Mr. Smith asked that item D.1., Agreement with Oklahoma State University for State Water Plan Assistance, be transferred to the Summary Disposition Agenda to allow for presentation and discussion on the matter.

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.

Mr. Sevenoaks asked about the REAP grant to Sardis Lake Water Authority, and whether this is the same district the Board has funded and if the Authority is currently using the water from Sardis Lake. Mr. Freeman responded that the Authority was funded through Rural Development, but the Board has provided some grant dollars for small projects; this funding is to replace line breaks. There are several different rural water districts that use water from the lake; the main user is Latimer County and Pushmataha County Rural Water Districts.

Ms. Lou Klaver asked that items 3. E.1, 4, and 5 be removed from the Board's consideration at this time.

There being no further questions or discussion regarding items on the Summary Disposition Agenda, Chairman Herrmann asked for a motion. Mr. Nichols moved to approve the Summary Disposition Agenda items as amended, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Drummond

The following items were approved:

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

REAP				Amount
<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Recommended</u>
ASCOG				
1.	FAP-04-0057-R	Tipton Public Works Authority	Tillman	\$99,300.00
INCOG				
2.	FAP-01-0019-R	Rural Water, Sewer and Solid Waste Management District #3	Osage	99,700.00
KEDDO				
3.	FAP-06-0043-R	Sardis Lake Water Authority	Pushmataha	79,710.00
4.	FAP-06-0036-R	Pittsburg Public Works Authority	Pittsburg	39,999.00
NODA				
5.	FAP-06-0024-R	Rural Water, Sewer and Solid Waste Management District #4	Noble	99,999.00
SODA				
6.	FAP-04-0047-R	Calera Public Works Authority	Bryan	99,999.00
SWODA				
7.	FAP-06-0008-R	Bessie Public Works Authority	Washita	46,492.00

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

1. Agreement with Oklahoma State University for State Water Plan Assistance.
2. Planning Assistance to States Supplemental Agreement No. 1 with the U.S. Army Corps of Engineers and City of Bartlesville to Amend Cost Sharing Responsibilities for Bartlesville Water Supply Study.
3. Letter Agreement Planning Assistance to States with the U.S. Army Corps of Engineers for Water System and Supply Study for City of Bristow.
4. Letter Agreement Planning Assistance to States with the U.S. Army Corps of Engineers and City of Shawnee for Water Supply Yield Study for City of Shawnee.

5. Agreement for Services with City of Edmond for Mapping Lake Arcadia.
 6. *Consideration of Lease Renewal Agreement with IDK Investors, LLC for Office Space for the Oklahoma City Office. Moved to Special Consideration Agenda.*
- E. Applications for Temporary Permits to Use Groundwater:
1. *Matt T. Wiggins, Cimarron County, #2006-559 Item withdrawn*
 2. Chain Land and Cattle Co., Inc., Dewey County, #2006-576
 3. Chain Land and Cattle Co., Inc., Dewey County, #2006-577
 4. *Jimmy & Ginger Emmons, Dewey County, #2006-581 Item withdrawn*
 5. *Mark Cook and Paul & Gracie Cook, Alfalfa County, #2006-594 Item withdrawn*
- F. Applications to Amend Temporary Permits to Use Groundwater:
None
- G. Applications for Regular Permits to Use Groundwater:
1. William Bradley Hutchison, Major County, #2006-588
 2. Richardson Brothers Farms, Inc., Tillman County, #2006-593
- H. Applications to Amend Regular Permits to Use Groundwater:
None
- I. Applications to Amend Prior Rights to Use Groundwater:
1. Dean & Benita Reimer, Major County, #1966-680
- J. Applications for Regular Permits to Use Stream Water:
1. Othel H. Gamble, Sr., Trust B, LeFlore County, #2006-049
 2. Chester Bench, Choctaw County, #2006-050
 3. Saddle River Trust, Oklahoma County, #2006-051
 4. Clifton M. Wiggins, Carter County, #2006-052
- 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: Dolese Bros. Co. DPC-0740
 - (1) Operator: Jeremy W. Hudlow OP-1516
 - Activities: Monitoring wells and geotechnical borings
 - (2) Operator: Cary L. Taylor OP-1517
 - Activities: Monitoring wells and geotechnical borings
 - b. Licensee: Fanning Water Well Drilling DPC-0742
 - (1) Operator: Johnny Fanning OP-1518
 - Activities: Groundwater wells, test holes and observation wells
 - Pump installation
- M. Dam and Reservoir Plans and Specifications:
W.R. Goddard, Sr., The Irrigator Lake, Carter County

- N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:
1. Oklahoma Department of Transportation, Logan County, FP-06-13
 2. Oklahoma Department of Transportation, Grant County, FP-06-14
 3. Oklahoma Department of Transportation, Wagoner County, FP-06-16
 4. Oklahoma Department of Transportation, Craig County, FP-06-17
 5. Oklahoma Department of Transportation, Garfield County, FP-06-18

- O. Applications for Accreditation of Floodplain Administrators:
None

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

A. Update on Process and Topic in the 2006/2007 Water Quality Standards Rulemaking.

Mr. Derek Smithee, Chief of the Water Quality Programs Division, stated to the members that the staff has begun the Triennial Review of the Water Quality Standards. He described the process, including rulemaking notice and gathering of comments through mid-January, presentation to the Board in March and final approval required by the Legislature and Governor, and final review and approval by EPA Region 6.

Mr. Smithee enumerated the topics that are under review this year: site specific phosphorous for Eucha-Spavinaw Lake, High Quality Water designation for the Lower Mountain Fork River, Use Attainment Assessment for the Canadian River (south of Highway 89 bridge), and sediment Use Support Assessment Protocols (USAP). He said new criterion development include diazinon, nonylphenal, perchlorate; designation of nutrient limited water for Lake Chickasha, deletion of beneficial use for hydropower, navigation, industrial and municipal process and cooling water. He said there is also clarification of High Quality Water and Sensitive Water Supply guidelines, Appendix E (site specific), changes from "instream" to "water column", new Appendix B (wildlife issues), and dissolved metals USAP, and Appendix A split into seven appendices based upon watersheds and adding water body identification numbers, additional groundwater list in Appendix H, and grammar and typographical corrections.

There were general questions and answers with the Board members.

- B. Update on Activities Regarding Applications for Water Rights, Meers-Saddle Mountain Ranch, Comanche County. Ms. Klaver stated Mr. Smith covered the update in the Executive Director report.

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. 2005-570, Indian Ridge L.L.C., Grady County.

1. Summary - Ms Lou Klaver, Acting Chief of the Planning and Management Division, stated to the members that this application is for a groundwater permit filed by Indian Ridge Corporation in Grady County. The applicant is requesting to withdraw 550 acre-feet of groundwater per year, withdrawn from 20 wells on 780 acres of land for irrigation of 320 acres of golf course. It was determined by the hearing examiner that the land overlies the Duncan Sandstone and Chickasha formation groundwater basin. The applicant intends to pump the water into a holding pond to be pumped through an irrigation system, and maintenance personnel will be on site and able to correct any leak problems within 24 hours. It should be noted that the applicant has used the wells without authorization from the Board in the past, but provisional temporary permits have been obtained in order to use the water short term. Staff finds that because waste has occurred in the past, doesn't mean it will necessarily occur in the future, but staff recommends imposing a condition on the permit that expressly prohibits future waste and provides sanctions were waste to occur.

Ms. Klaver said the applicant has requested 20 groundwater wells, 21 wells were drilled, three were found to be not in the correct location; however, staff is recommending the approval of 20 well locations and the additional permit condition that instructs groundwater for irrigation cannot be taken until staff confirms that the three wells are connected to the irrigation system. The applicant will need to come back to the Board and add those wells to the permit, not use the wells, etc., but they are not authorized under this permit.

Ms. Klaver stated the protestants in this matter were concerned the 20 wells will deplete the groundwater in the area, and concerned about adverse impact to their groundwater and their wells. She said the facts did not establish that waste by depletion would occur; the protestant's nearest well is located about ½ mile and the other protestant's land is two miles south. Ms. Klaver said the protestant's wells are 180 feet, and applicant's proposed wells are 340 feet deep, there are layers of shale, and neither interference nor other impact should occur.

Staff found that the applicant owns the land, irrigation of the golf course is a beneficial use, the 20 wells are necessary to irrigate the golf course, that the land overlies a fresh groundwater basin, and that waste will not occur. Ms. Klaver stated that staff recommended approval.

2. Discussion and presentation by parties. Ms. Klaver stated the applicant is represented by Mr. Mike Spear; however, there were no representatives of the protestants in attendance. Mr. Spear did not have comments to add to Ms. Klaver's presentation. A gentleman from Caddo Nation approached the podium to make comments; however, Ms. Klaver and General Counsel Couch stated the representative was not a party to the proceedings, and therefore not allowed to provide comments on the application. Ms. Klaver stated that several protestants are members of the Caddo Nation, however did not attend the hearing in that capacity, and the representative intends to place a letter into the file which will be incorporated into the record of the application file.

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

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

Mr. Farmer moved to approve the temporary groundwater permit no. 2005-570 to Indian Ridge L.L. C., and Mr. Nichols seconded.

Mr. Sevenoaks expressed concern about continued bad behavior but recognized conditions to mitigate future problems. Ms. Klaver interjected the applicant had a “recurring oversight” out of concern for the course greens and did not think in advance, and did commit waste over the course of a few years, and off and on there were PTs, but, she said the applicant is now trying to become compliant.

There were no other comments or questions by the Board members.

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

NAY: Fite, Secrest

ABSTAIN: None

ABSENT: Drummond

B. Application to Amend Temporary Permit to Use Groundwater No. 1981-622A, Dean & Benita Reimer, Major County.

1. Summary – Ms. Klaver stated this application requests an amendment to an already existing water right. The existing temporary groundwater permit authorizes the use of a total of 638 acre-feet of groundwater per year; the applicants are not increasing their permitted amount, but are requesting to add twelve wells to the existing one well, and to adjust the amounts that authorized. Presently, there are 313 acre-feet per year authorized for irrigation, and the applicant wishes to increase the amount to 532 acre-feet for irrigation of the 319 acres dedicated, and decrease the amount to 100 acre-feet for recreation, fish and wildlife purpose (a decrease of 219 acre-feet), and changing the authorized use of 6 acre-feet for “oil and gas production” to “commercial sale for oil and gas production.”

Ms. Klaver stated the applicant found different and varying rates of withdrawal in the Cimarron Alluvial and Terrace Deposits of the Cimarron River, and wants to supply the irrigation pivot system to use 900 gallons per minute, which requires the twelve additional wells. She explained to the members that the permittees have caused waste of groundwater in the past at various times by use of the twelve wells from time to time and waste has occurred without seeking authority first. However, the hearing examiner found and the staff recommends that waste in the past should not prohibit the granting of the permit as the applicant is seeking compliance. Well spacing is not a consideration in this matter as it is not a studied basin, a licensed well driller was used, and the protestants were concerned there would be an increase in the already elevated levels of nitrate from farming practices in the area. Protestant Mr. Schrahl testified that although his land is two miles south and land four miles east, he has seen a significant increase in the nitrate levels in his well. The hearing examiner appropriately concluded, however, that the Oklahoma Department of Agriculture oversees the application of fertilizer and irrigation, and under the Oklahoma Groundwater Law the Board is precluded from looking into that activity.

Ms. Klaver stated the protestants were also concerned about the lowering of the groundwater table; however, the hearing examiner found that evidence did not support impermissible lowering of the groundwater table. Because staff finds that the addition of the wells are necessary to irrigate the 319 acres, and that the recreation, fish and wildlife, and sale for oil and gas production are legitimate beneficial uses, the wells are located and the land overlies a fresh groundwater basin, and waste will not occur, staff is recommending approval of the application.

2. Discussion and presentation by parties. Ms. Klaver stated the applicant is represented by Mr. Dean Reimer; however, there were no protestants in attendance.
3. Possible executive session. The Board did not vote to enter executive session.
4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Mr. Sevenoaks moved to approve the application to amend temporary permit to use groundwater no. 1981-622A, and Mr. Knowles seconded.

Mr. Sevenoaks said when the basin has not been studied there is no well spacing, but he asked that once the basin is studied, what happens to the wells that may be improperly spaced, are they grandfathered-in, or do they go to a full well spacing? Ms. Klaver responded the applicant would have to go back to the full well spacing or there are several exceptions that an applicant is able to meet such as whether the property is large enough to relocate the well, or establish there won't be an impact. Mr. Sevenoaks asked about Ms. Klaver's statement about preclusion from looking at pollution issues; Ms. Klaver responded the law was amended to preclude the Board from making a waste by pollution determination if the activity by the application falls under the jurisdiction of the Department of Environmental Quality or the Department of Agriculture. She said that in the order it cites that the Department of Agriculture regulates and oversees chemical application, fertilizer application, basic irrigation practices, and anytime an applicant's activities falls out of that, the OWRB looks closely. Mr. Sevenoaks asked about the language on page 5020 regarding 82 O.S. 1020.15 (e), and Mr. Couch responded that under paragraph A.7. on page 5019 quotes directly the statutes where the legislature added the preclusion to that which is generally applicable, and the acts that are subject to those two agencies cannot be subject to the OWRB's waste by pollution determination. Ms. Klaver pointed to page 5020 and the language e.1. where the hearing examiner spells out the four specific activities that is overseen by the ODAFF. She said in waste by pollution, staff looks at how the well is constructed, and in waste by depletion the staff looks at the overview of the area, the extent of the cone of depression, and basically the applicant is taking less than the two acre-feet of groundwater per acre per year and there was no evidence the applicant would unreasonably and unlawfully deplete the groundwater basin.

Mr. Nichols asked if waste had occurred in the past, and Ms. Klaver answered that is true of the past, but currently the applicant is not using the water but is seeking to come into compliance with the law. She said there had been complaints investigated by staff that have been corrected and conditions are placed in the order to prevent waste in the future, or there are sanctions that will be implemented.

There being no further discussion, Chairman Herrmann called for the vote.

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

NAY: Fite

ABSTAIN: None

ABSENT: Drummond

Chairman Herrmann expressed concern about these two applications that have involved waste by depletion in the past and while he accepts staff recommendation, it is troubling about whether this is a pattern, or if there is waste by depletion that is occurring across the state that the Board is not aware of. Ms. Klaver answered there is a continuing struggle and oftentimes citizens add wells or think they are doing things they should but come to realize they aren't; she didn't believe there is a flagrant violation of the law, but there is a constant struggle; staff has a connect with both the Department of Environmental Quality and the Corporation Commission, and staff tries to help farmers as those situations are discovered.

C. Application to Acquire the Assets of Rural Water Corporation No. 3 by the City of Stillwater and the Stillwater Utilities Authority, RWA 2006-002, Payne County.

A. Summary – Ms. Lou Klaver stated to the members this item involves the Board's authority under the rural water district statutes under acquisition of assets. This application was submitted by the City of Stillwater and the Stillwater Utilities Authority to acquire, takeover, and operate Rural Water Corporation No. 3, Payne County. The Corporation, a not-for-profit corporation, serves 1100 customers west of Stillwater in the rural area, and has been purchasing treated water from Stillwater since the 1970s. Stillwater owns a water system, and the Authority operates the system for Stillwater. The governing boards of both entities have approved the acquisition.

Ms. Klaver stated the acquisition was protested, and there are a number of persons in attendance. The rural water corporation intends to convey and assign its water system, water rights, easements and equipment to Stillwater to become consolidated with Stillwater's system that serves about 10,000 customers. The Corporation intends to retain a small tract of land that has an office building, a tower lease agreement, and some residual cash. Stillwater will take over delivery of the water system, assume its debt, and will charge the same rate of water service to the new customers as its current customers. Stillwater will maintain and make improvements to the water system, essentially stepping into the shoes of the Corporation.

Ms. Klaver stated two hearings were conducted to ensure all members of the Corporations were duly notified of the acquisition; both letters of support and letters of opposition were received, and a number of individuals protested at the hearing, raising the issues of irregularities in the voting when the Corporation approved the proposed acquisition, the consideration of assets was inadequate, and other questions about the tower agreement.

Ms. Klaver read from the proposed order, on page 5028, items a.-d. regarding factors by which the Board may disapprove the acquisition. The hearing examiner found no contractual obligation would be adversely affected, that it would not affect Stillwater's ability to provide the same level service, that Stillwater's financial condition is sound, and that the competence and integrity of those operating the system is not an issue. Therefore, the staff and hearing examiner are recommending the proposed acquisition of assets.

2. Discussion and presentation by parties. Mr. John Dorman, Stillwater City Attorney, addressed the members and introduced the delegation from Stillwater and Corporation #3 who were in attendance. He stated Stillwater agrees with the proposed order and urged the Board's approval. He said Stillwater is working hard to become a regional provider of water and help neighboring providers, and he spoke of Lone Chimney and Noble County Corporation 51-East, and Rural District #3 projects. Regarding Corporation #3, this is a good deal for everyone; Corporation #3 members will have water for as long as they want without worries of negotiating a new contract, they will receive the same rates as residents of the city, they will see improvements to the system as the city has already agreed to a significant capitol project involving several infrastructure repairs that will enhance the service capabilities of the system. He said the city would benefit from the acquisition as well by acquiring 1100 new customers and the city will be able to assist with future growth.

Mr. Sevenoaks asked the about the physical location of the system; Mr. Dorman answered the system is to the west, running from the Noble County line to north of the Logan County line, and just east of HWY 86 on the western border of Stillwater.

Mr. Lowell Barto, attorney for the Corporation, stated to the members that this was an involved process, he has represented the Corporation since 2002 and an agenda item of "new water source update" has been on every monthly agenda and under that item every possible alternative has been considered to provide water in alternative to what it has been doing, which is contracting with the City. A committee was formed and met weekly for the better part of a year reviewing the contract agreement and that was approved by the governing boards, and

then presented to the members of the corporation. A majority of the members at a meeting called for that purpose approved the agreement.

Mr. Ron Markham, protestant to the acquisition, approached the members and stated he is not a member of Rural Water Corporation #3, nor a citizen of the City of Stillwater, and the OWRB is on the only Board where he has standing. He expressed his concern that through Stillwater's acquisition of the Corporation--that has lines across his property--it may in the future control the easement to provide for growth of Stillwater. He asked the Board to amend the proposed order to protect his property rights. There were no other protestants present.

Chairman Herrmann stated the Board is constrained in what criteria it is empowered by the Legislature to look at, although the Board is sympathetic to Mr. Markham's concerns.

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 the proposed order.

Mr. Sevenoaks moved to approve the proposed order to acquire assets, and Mr. Fite seconded.

Mr. Keeley asked the rate of service, and Mr. Dorman answered the rate is \$1.51 per 1,000 gallons, which is a 40% reduction rate service charges from the Corporation.

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

Mr. Smith introduced Dr. Norm Durham who was in attendance. Dr. Durham is the former director of the Oklahoma Water Resources Research Institute, and an Oklahoma Water Pioneer.

D. Consideration of items transferred from the Summary Disposition Agenda, if any.

3.D.1. Agreement with Oklahoma State University for State Water Plan Assistance.

Mr. Dave Dillon, OWRB Director of Planning, addressed the members and stated this is the first of several contracts the Board will consider regarding the Oklahoma Comprehensive Water Plan. He highlighted provisions of the agreement, noting the Oklahoma Water Resources Research Institute (OWRRI) will be the administrator, and that the agreement is a "cost reimbursement" agreement not to exceed \$1,336,532.00 over the course of 4.5 years; the funding is derived from the Gross Production Tax and authorized by the Legislature. The agreement will be in effect until July 31, 2011, with annual renewal, and matching funding through the OWRRI with approximately \$1.518 million, and the total project amount of \$2.84 million.

Mr. Dillon noted for the Board members' attention sections of the agreement describing the scope of work, stating there are two aspect of the agreement: research conducted by the Institute, and the gathering of input from stakeholders.

Dr. Will Focht, Director of the OWRRI, presented a PowerPoint presentation to the Board members regarding the qualifications, composition and functions of the Oklahoma Water Resources Research Institute, its role in the Oklahoma Comprehensive Water Plan, and the details of the scope of work of the agreement including the 40 listening session conducted with stakeholders, workshops to be held across the state, the Oklahoma Academy conducting a Town Hall to seek consensus of topics, and presentation of the final draft water plan.

Mr. Dillon stated staff recommended approval of the agreement, and explained two changes that had been made to the draft agreement: (1) notice of publication for a scientific journal where the Board will have a 60-day review prior to publication, and (2) the OSU matching funds from the extension service. He said the scope of work may undergo small

changes throughout but major changes will be brought to the Board, and he will make monthly updates to the Board.

Chairman Herrmann asked the Board members to consider how they would like to see the Board engaged in the process on an ongoing basis.

Mr. Nichols moved to approve the agreement with Oklahoma State University, and Mr. Knowles seconded.

Mr. Sevenoaks asked since there is a partnership, which has control to decide if and when the plan is published, for example, and what is the ultimate authority in case of a dispute, etc. Mr. Smith responded that the Water Board will approve the plan so what is produced by the OWRRI is a recommendation to the OWRB for approval, and the completion of their portion is the final plan that comes to the Board. He said the Board would have the ability for full review and put the final water plan in place. Mr. Dillon noted the paragraph in the agreement regarding the publication notification, it is included that the contractors agreement to suggested changes will not be unreasonably withheld, and the intent is that while the Research Institute is designed to publish research in the event there was something the Board was concerned about, they cannot unreasonably withhold the Board's comments. Mr. Sevenoaks also asked about how, if disagreement occurs, is the contract terminated; Mr. Dillon said standard contract language affords either side 30 days notice.

Chairman Herrmann expressed a desire to accelerate the process, Mr. Sevenoaks commented about the possibility of bias that may lead to a rural/urban conflict, and Mr. Fite said the Oklahoma Scenic Rivers Commission had worked with the Institute regarding the Illinois River and he was confident the Institute would be unbiased in its approach.

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

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

NAY: None

ABSTAIN: None

ABSENT: Drummond

Mr. Smith commented about the staff's appreciation for the Board's consideration of the agreement, which the idea and pre-work was Mike Mathis, who is attending the meeting today, and Mr. Smith thanked him for his work. Mr. Smith expressed confidence in the credibility of the Institute, the research component, the research dollars that can address technical issues, and his anticipation of work with the Institute, how the public will be brought into the process, and the product that will be the result.

Chairman Herrmann asked the members how they wanted to be involved, and they agreed that a presentation at each meeting for discussion and exchange of information would be appropriate. The idea of the creation of an Ad Hoc Committee may be useful as well.

No other items were transferred from the Summary Disposition Agenda.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Monte Boyce addressed the members and stated the financial report for the month ending November 30, 2006, is found on page 6000 in the notebook. Mr. Boyce noted he had added an appendix to the notebook report that is an excerpt from the Office of State Finance Procedures Manual and clearly defines the account codes. He said 42% of the fiscal year has been completed; the agency has expended and obligated 62% of the budget, and collected 41%

of the budget. He also noted that fund #25000 is the Water Infrastructure Development Fund, and the deposits for the OCWP have totaled \$1.9 million as of November 30.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

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

8. NEW BUSINESS

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

There were no new business items for the Board's consideration. However, Mr. Fite asked about the reporting by well drillers and staff being aware of unpermitted wells. Mr. Couch answered the well driller is required to file within 60 days of completion of a well which is one way to cross reference. Mr. Smith suggested that the Well Drillers Advisory Council consider the issue and make recommendations.

Chairman Herrmann said the meeting schedule for the 2007 meetings had been filed and provided, and he asked members to make suggestions for future out of town meetings.

9. ADJOURNMENT

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 11:40 a.m. on Tuesday, December 12, 2006.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Rudolf J. Herrmann, Chairman

_____/s/_____
Jess Mark Nichols, Vice Chairman

_____/s/_____
Lonnie Farmer

_____/s/_____
Jack W. Keeley

_____/s/_____
F. Ford Drummond

_____/s/_____
Richard Sevenoaks

_____/s/_____
Edward H. Fite

_____/s/_____
Kenneth K. Knowles

ATTEST:

_____/s/_____
Bill Secret, Secretary

(SEAL)