

**OKLAHOMA WATER RESOURCES BOARD  
OFFICIAL MINUTES  
August 14, 2007**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Mark Nichols at 9:30 a.m., on August 14, 2007, 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 August 7, 2007, at 5:00 p.m. at the Oklahoma Water Resources Board's offices.

**A. Invocation**

Chairman Nichols asked Mr. Ed Fite to provide the invocation. He asked Mr. Knowles to serve as Assistant Secretary in the absence of Board Secretary Ford Drummond.

**B. Roll Call**

**Board Members Present**

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

**Board Members Absent**

Ford Drummond, Secretary

**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, Chief, Planning and Management Division  
Derek Smithee, Chief, Water Quality Programs Division  
Mary Lane Schooley, Executive Secretary

## **Others Present**

Steve Dunavant, Rogers County Rural Water District #5, Claremore, OK  
Martin Howard, Rogers County Rural Water District #5, Claremore, OK  
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK  
Baxter Vieux, Vieux Inc., Norman, OK  
Josh McClintock, McClintock Associates, Oklahoma City, OK  
Tom Lay, Elks Lodge, Oklahoma City, OK  
Harold Thompson, Elks Lodge, Shawnee, OK  
Dan Becker, Dolese, Oklahoma City, OK  
Mark Helm, Dolese, Oklahoma City, OK  
Jeff Packham, Journal Record, Oklahoma City, OK  
Charlie Swinton, BancFirst, Oklahoma City, OK  
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK  
Mark Schlachtenhaufen, Capitol Network News, Oklahoma City, OK  
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK  
Mike Spear, Indian Ridge, Oklahoma City, OK  
Gary Crow, Wagoner County Rural Water District #7, Wagoner, OK

## **C. APPROVAL OF MINUTES**

Chairman Nichols stated the draft minutes of the July 10, 2007, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Mr. Fite moved to approve the minutes of the July 10, 2007, Regular Meeting, and Mr. Sevenoaks seconded.

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

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

Mr. Duane Smith, Executive Director, addressed the members and audience, and said it had been an interesting month. He said he and Dave Dillon attended the Western States Water Council meeting in Bozeman, Montana, and some of the topics that were discussed in terms of what other states are doing, and are very interesting in light of Oklahoma now going through the comprehensive planning process. Idaho has a law separating groundwater from surface water similar to Oklahoma as well as tribal claims and the Idaho Supreme Court has now ruled the water rights must be conjunctively managed; these are similar issues as in Montana, and looking at Oklahoma law and updating the plan, the state must be very smart in how water policy is implemented for the next 50 years. Looking at the Western states, the private property rights is not what is giving security to people's ability to take water, it's the conjunctive use management because the courts are not ruling in favor of the private property right aspect of groundwater. The courts are recognizing there is a hydrologic connection between groundwater and surface

water. He said we are going to have to understand this relationship and manage water to the best use of everyone. He said it is a “hard sell” in Oklahoma, but the ability for someone—city, industry, or private individual—to take water long term will depend upon the sustainability of the resource long term, not about depleting the resource long term. He said comments he has heard is we don’t want to deplete the resource, but we have a law that allows the depletion of the resource. So, we need to work with how we are able to grow our economy, how we are able to get people water, how we are able to get people water long term and still have it sustainable for generations to come—that is the goal. He said he personally believed there are minor tweaks in the law that could accommodate that, and that will be the focus of discussions during the planning process. He said there are a number of lawyers in the west that specialize in this type of issue and we should look at getting some outside views and their concept on setting priorities. There are reasons why the Western states don’t set priorities and we need to understand that have a legal review of that. How do we implement instream flows into an administrative doctrine when the reality in Oklahoma is that streams naturally go dry. Mr. Smith wanted to assure people that the goal is to make water sustainable for everyone in the future, and all these issues will be complicated as we go through the planning process. Mr. Sevenoaks stated he agreed with Mr. Smith’s comments, but he wanted to be sure that it didn’t appear the OWRB had an agenda; Mr. Smith responded that his comments reflect comments received at virtually every meeting that has been held--and hopefully that is driving the research at OSU--the Water Resources Research Advisory Board meeting and looking at methodologies for instream flow assessments...all coming in as information in order to address issues smarter than we have.

Mr. Smith added that in regard to the water plan funding, it has been frustrating in regard to the technical side of the planning process, as the Corps of Engineers (COE) now has the paperwork to move forward with CDM to begin the first phase of the technical work. This will establish the format by which information will come into the planning process. He said he had met with the City of Bartlesville and a Planning Assistance to the State program was begun with the COE to look at the water demand and alternatives. The COE has identified seven alternatives including maximizing current reservoir storage a Hulah and Copan, update yield studies, and look at reallocating flood control structures, but long term the plan is to evaluate a line from Kaw Reservoir to Bartlesville, but it isn’t affordable. As part of the water plan, Lone Chimney and other communities will determine if there is a consortium that could support a water supply from Kaw Reservoir across the northern and northeastern part of Oklahoma.

Mr. Smith said he had spent time in Washington, D.C. and the Environment and Public Works Committee—Senator Inhofe is the ranking member—and in the WRDA bill there is \$6.5 million through the COE to match the water plan dollars, making a total of \$13 million to work on the water plan. He said more than that is in the WRDA bill, and he named several of the many communities such as Ada, Norman, Wilburton, Weatherford, Bethany, Woodward, Langley, Durant, Midwest City, Edmond, and others which indicates only the tip of the infrastructure needs in Oklahoma. He said while looking at the water plan, we cannot wait five years for the completion of the plan to have implementation, but are moving forward with such projects as Bartlesville. He commented about the funding for the Arbuckle-Simpson and the ability to complete the study because of partnerships with others. He said it is going to take a lot of hard work to get it done, and he publicly thanked the Oklahoma Congressional Delegation for its support and particularly Senator Inhofe and his staff for listening and working on getting funding into the bill. He said these are not special projects for Oklahoma, but the same thing that other states such as Texas and Kansas are doing as well. He said he is very optimistic, and he

complimented Mr. Dave Dillon on his job thus far, but moving forward with the COE has shifted gears and there will be a lot more effort on the technical side. Ms. Lambert asked about the timeframe of funding the project, and Mr. Smith said he hoped when Congress returned in September the bill will be passed; although the President said he would veto. He said it was difficult to say, but if it doesn't come through in September, there will be bigger delays.

Mr. Smith said the last item on the agenda concerns the audit. He said the audit has several recommendations, and as we look at the OWRB and the permitting program, the key piece is to upgrade the computer system and the permitting system. Staff requested funding of \$1 million to support a number of items, including the streamgaging program, that will be GIS-friendly and is seen as addressing recommendations in the audit, and the price tag is about \$300,000.00. He said he will be going to the Legislature this next session and explain why that is necessary and try to obtain funding to do that. Also, he has had several meetings with Dr. Ken Crawford at the Climate Survey at OU, who is working on a NIDIS (National Integrated Drought Information System) that is a federal program that the WSWC is a primary sponsor for support in Congress. Now there is money behind the bill for grants to states to implement the drought information system. Oklahoma has received a NDIS grant, and part of it will be used for updating the computer database; there are other grants the OWRB will be working on with Dr. Crawford. He said this is a major effort through the delegation and an avenue that has not been concentrated on before. Mr. Sevenoaks asked about the Office of the Secretary of Environment's involvement; and Mr. Smith responded that funding through the OSE regards the Clean Water Act. Mr. Sevenoaks asked about the Farm Bill, and Mr. Smith said he had visited in Washington with the NRCS about bringing money back to Oklahoma through CREP and other types of programs, and there is a lot of information to visit with agencies about such as the Conservation Commission about how to maximize the dollars coming back to Oklahoma.

Mr. Smith said he would be traveling with Dr. Focht to Texas University at Austin to meet about research on the Red River. He said he told them that before he attended, he wanted a commitment that none of the research had anything to do with a water transfer to Texas because he would not go if that were the case. This is about how to do best management practices, how to reduced sediment in Lake Texoma, how to get people involved and educated to better manage the land to take care of the resource, and bring Oklahoma and Texas research dollars to Oklahoma.

Mr. Smith will be meeting with the Corps of Engineers in San Antonio at its annual strategic planning session, and he complimented the COE staff as great people who are great to work with, but the problem has been how slow it is to get things going with the Corps. He said it isn't the same with other federal agencies, but the COE also has other issues to deal with such as Katrina, the Mississippi River, etc., where there is so much litigation. He will be meeting with Mike Fallin with the Southwest Division about how to streamline the process.

Mr. Smith concluded his report.

## **2. FINANCIAL ASSISTANCE DIVISION**

**A. Emergency Grant for Marietta Public Works Authority, Love County.** Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that at the July Board meeting, the members voted and authorized the Chairman to approve flood-related emergency grant requests between Board meetings. Staff received such a request from the Marietta Public Works

Authority on July 19, which Mr. Freeman reviewed with the members. As a result of heavy rains received earlier in the summer, Marietta's main interceptor sewer line collapsed causing sewer overflows and bypasses. This main line carries the majority of the communities' sewage to the wastewater treatment plant, and the situation is now being corrected with the installation of 365 linear feet of 12-inch sewer line. Mr. Freeman said the project cost is approximately \$34,500 with secured local funding of \$5,175.00 and the OWRB emergency grant of \$29,325.00.

There was no discussion by Board members.

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Rural Water District #5, Rogers County. Recommended for Approval. Mr. Freeman stated this item is a \$4.7 million Drinking Water State Revolving Fund loan request by the Rogers County Rural Water District #5. The District is requesting the loan to construct a new raw water meter vault, chemical feed system, a rapid mix and splitter structure; and the District will also be modifying the existing clarifiers, adding a new clarifier and installing new higher service pumps.

In addition, the District will be refinancing the existing OWRB FAP loan with a balance of approximately \$900,000.00. This loan was partial financing along with Rural Development, for a five-mile water supply line to serve customers in north and east portions of the District and to rebuild an intake structure.

Mr. Freeman said the new loan will bear a fixed interest rate plus a .5% administrative fee and will mature within 20 years of completion of construction. The District currently serves approximately 4,200 connections; the debt-coverage ratio stands at approximately 1.46 times. It is estimated the District will save about \$1.6 million in interest expense. Staff recommended approval of the loan request.

Mr. Martin Howard, Chairman; Mr. Steve Dunavant, District Manager; and Mr. Rick Smith, Financial Advisor, were present in support of the loan request.

Ms. Lambert asked that in addition to securing revenues on the water system, there may also be a mortgage on the system, and under what conditions would that need arise? Mr. Freeman answered that if there is a new facility, the Board will take a mortgage on a portion and won't take a mortgage on all the line work, for instance, as the title work would be extensive. He said it also depends upon the size of the community, for example with the City of Tulsa, the Board would not take a lien because of the title work, in addition to the comfort level with the repayment strength based upon the revenues.

Mr. Fite moved to approve the loan request to the Rogers County Rural Water District #5, and Mr. Sevenoaks seconded.

Mr. Herrmann asked the total amount of indebtedness of the District to the Board after approval of this loan. Mr. Freeman responded about \$6 million.

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

C. Consideration of and Possible Action on a Proposed Order Approving Loan for Duncan Public Utilities Authority, Stephens County. Recommended for Approval. Mr. Freeman said to the members that this item is a Drinking Water State Revolving Fund loan request from the Duncan Public Utilities Authority. He said following the distribution of this month's board packet, Duncan opened bids for the project, and the bids came in higher than the engineer's

original estimate. The order in the meeting notebook reflects the adjusted loan request amount of \$7,755,000.00. Duncan is requesting the loan for major renovation to the South Water Treatment Plant including filter renovations, addition of a SCADA system, and building modifications for code compliance. Mr. Freeman noted provisions of the loan agreement. He said Duncan has been a long-time, excellent loan customer of the Board, and currently has five outstanding loans with the Board with an outstanding principal due of approximately \$15.4 million. Duncan has a strong debt-coverage ratio of approximately 6.2 times. It is estimated Duncan will save about \$2.4 million in interest expense by borrowing from the Board. Staff recommended approval.

Mr. Keith McDonald, financial advisor, was present in support of the loan request.

Mr. Herrmann moved to approve the loan to the Duncan Public Utilities Authority, and Ms. Lambert seconded.

Chairman Nichols asked how much over were the bids, and Mr. McDonald answered the bid was \$2 million over. Mr. Freeman said for the size of the project he was surprised there was only one bidder, and Mr. McDonald said he is considering looking at the separate aspects of a bid and see if smaller contracts would improve the cost savings.

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

NAY: None

ABSTAIN: None

ABSENT: Drummond

D. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Funds for Rural Water District #7, Wagoner County. Recommended for Approval.

Mr. Freeman stated this request by Wagoner County RWD #7 is for a \$275,000.00 increase in its Drinking Water State Revolving Fund loan that is needed as a result of the bids coming in higher on their project. He said the Board originally approved a \$1,575,000.00 Drinking Water SRF loan at the June 2007 Board meeting. The loan is for construction of a 400,000-gpd water treatment plant, rehabilitation of the exiting flocculation and sedimentation basins, and for rehabilitation of the old office building. Mr. Freeman noted provisions of the loan agreement. Mr. Freeman said the District has had sustained growth over the last several years, and water connections have increased by about 12% since 1996. The District's debt-coverage ratio—with a recently implemented rate increase—will be approximately 1.4-times. Staff recommended approval of the increase in obligation of funds.

Mr. Gary Crow, District Chairman, and Mr. Rick Smith and Mr. Worley Akin, financial advisors, were present in support of the loan increase.

The members asked about the increases in bids to districts, and the financial advisors present representing several entities commented that many bids are coming in higher due to the price of construction materials, and the limited contractors available due to overall increase in construction, but they hoped it is a temporary situation.

Mr. Fite moved to approve the request for increase in obligation of funds to the Wagoner County RWD #7, and Mr. Herrmann seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Drummond

E. Consideration of and Possible Action on a Proposed Order Approving Extension of Time for Obligation of Funds for Piedmont Municipal Authority, Canadian County. Recommended for Approval. Mr. Freeman said this request from the Piedmont Municipal Authority is for a six-month extension of time to close its loan with the Board. The Authority is requesting the extension because of needing to re-bid the project. He said the original bid advertisement omitted required wording regarding equal employment opportunity and minority business. The Authority has re-advertised for bids for the project, which are due to be received on August 16, and at that time staff will prepare for closing and get the project underway. He reminded the members the project is a \$4.6 million Drinking Water SRF loan for the construction of about six miles of 16-inch water line and one mile of 10-inch water line in order for Piedmont to obtain water from Oklahoma City. In addition, loan proceeds will be used for booster pump station and a 400,000-gallon storage tank. Mr. Freeman noted provisions of the loan agreement. He said that Piedmont has experienced rapid growth over the past several years and the water and wastewater connections have increased by well over 30% since 2000. He said that Piedmont's debt-coverage ratio stands comfortably above two times and it is estimated they will save approximately \$1.5 million in interest expense by borrowing from the Board. Staff recommended approval of the request.

Mr. Rick Smith, financial advisor, was present in support of the request for an extension of time.

Mr. Herrmann moved to approve the request for an extension of time for the obligation of funds to the Piedmont Municipal Authority, and Ms. Lambert seconded.

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

F. Consideration of and Possible Action on Proposed Resolution Authorizing Certain Individuals to Sign and Act on Behalf of the Board Regarding the Board's Financial Assistance Program, State Revolving Fund Programs, and Issues of Indebtedness, and Authorizing Members to Act as Assistant Secretary. Recommended for Approval.

Mr. Freeman said this item authorizes certain individuals to sign and act on behalf of the Board regarding the Board's Financial Assistance program and State Revolving Fund loan program, and also names the Board members—except Chairman—as assistant secretary in the absence of the secretary. He said the resolution allows the trustee bank—BancFirst—to know the Board's composition, and to have signatures on file for verification. The form of the resolution is no different than previous signatory resolutions except for the addition of Ms. Lambert replacing Mr. Secrest as member of the Board. Staff recommended approval.

Ms. Lambert asked for clarification that the members may sign only after Board approval, and Mr. Smith responded that is correct. Mr. Freeman added except as in the case of the emergency grant where the Board has authorized the Chairman to sign. He said it usually regards loans the Board has approved and are ready to close. Mr. Sevenoaks asked about the director, and the financial division chief and assistant ability to sign, and Mr. Freeman answered those signature are only for items that are contractually non-binding.

Ms. Lambert moved to approve the resolution, and Mr. Knowles seconded.

AYE: Farmer, Fite, Herrmann, Keeley, Knowles, Lambert, Sevenoaks, Nichols  
NAY: None

ABSTAIN: None  
ABSENT: Drummond

Mr. Smith recognized financial advisors Mr. Keith McDonald, Mr. Rick Smith, and Mr. Paul Hodge, all former employees of the Board's, and in particular their work in the Board's Financial Assistance and Planning Divisions.

### **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 Nichols read the statement above and asked for requests to move items. There were no requests to move items to the Special Consideration Agenda.

Ms. Lou Klaver asked that item G.5., regular groundwater application by the City of Guymon , #2007-541, and item I.1., regular stream water permit for the Parsleys #2006-574, be withdrawn. Both applications had notification problems.

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

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

Mr. Herrmann asked if item 3.D. and the various cooperative agreements with the US Geological Survey for the streamgaging program is the same as in the past. Mr. Couch responded for the cost match the USGS has joint funding agreement in total with the OWRB, and the Board in turn has memorandum agreements with the cooperators that provide the actual funding; the Board just passes through the funding . He said while there had been some changes in the location of gages and what's being considered, he believed it to be the same which is monitored by the Water Quality Program Division. Mr. Smith added that the USGS program over the years has been a difficult program for the Board because the Board does not control the costs. As federal salaries increase and overhead costs increase—all the cost aspects of streamgaging—which typically goes up 5-6% each year--and there are no additional state dollars into the program. The OWRB cooperates on a number of gages totalling approximately \$137,000.00, so as the federal dollar goes up, the cooperator cost has to go up, and either gages must be cut or additional money must come to the program. He said data is critical to implementation of water management, and staff has looked at the budget in an effort not to cut gages. Mr. Smithee and the USGS had a meeting last week to talk to cooperators about the funding situation and getting additional cooperators. He said while this year there may not be a



cut, there has been feedback from agencies and organizations such as Wildlife Department, Tourism and Recreation and industry and cities, and the tribes as well as engineers conducting technical work, and we are trying to make the program whole. He anticipated a “push” at the Legislature or gages will have to be cut, and hopefully others will contact their legislature about their support for the gaging program. Mr. Sevenoaks asked about the gages funded by major metropolitan areas, and Mr. Smith answered that Tulsa and Oklahoma City fund all the gages those cities rely on, the State does not fund those, but there are other long-time gages; some of the gages have been in existence for 75 years and it would be difficult to cut that as a data source.

There being no further questions or discussion about the Summary Disposition Agenda items, Chairman Nichols called for the vote.

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

<b>REAP</b>				<b>Amount</b>
<b><u>Item No.</u></b>	<b><u>Application No.</u></b>	<b><u>Entity Name</u></b>	<b><u>County</u></b>	<b><u>Recommended</u></b>
GGEDA				
1.	FAP-05-0020-R	Rural Water District #1	Craig	\$150,000.00
NODA				
2.	FAP-00-0023-R	Rural Water District #2	Noble	99,999.00
OEDA				
3.	FAP-05-0047-R	Rural Water District #1	Ellis	150,000.00
SODA				
4.	FAP-05-0034-R	Ravia Public Works Authority	Johnston	79,999.00

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

1. Interagency Agreement between the Oklahoma Department of Agriculture Food and Forestry (ODAFFF) and the Oklahoma Water Resources Board to conduct groundwater sampling at swine licensed managed feeding operation facilities.
2. Contract for Volunteer Monitoring between Lake Hudson Association of Mayes County and Oklahoma Water Resources Board.
3. Contract for Lab Analysis Between Oklahoma Department of Environmental Quality and Oklahoma Water Resources Board.
4. Letter Agreement between the U.S. Army Corps of Engineers and the Oklahoma Water Resources Board to conduct workshops relating to the Map Modernization Management

Support Program.

5. Intergovernmental Agreement between the Board of Regents of the University of Oklahoma and the Oklahoma Water Resources Board for fish identification and related services.
6. Memorandum Agreement between the Chickasaw Nation, U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
7. Memorandum Agreement between the Choctaw Nation, U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
8. Memorandum Agreement between the City of Lawton, U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
9. Memorandum Agreement between Applied Energy Services, Shady Point, Inc., U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
10. Memorandum Agreement between Fort Cobb Reservoir Master Conservancy District, U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
11. Memorandum Agreement between the City of Moore, U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
12. Memorandum Agreement between the City of Ada, U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
13. Memorandum Agreement between the Central Oklahoma Master Conservancy District, the U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
14. Memorandum Agreement between the Foss Reservoir Master Conservancy District, the U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
15. Memorandum Agreement between the City of Norman, the U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
16. Memorandum Agreement between the Lugert-Altus Irrigation District, the U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data collection.
17. Memorandum Agreement between the Hardage Steering Committee, the U.S. Geological Survey and the Oklahoma Water Resources Board for water monitoring and data

collection.

18. Joint Funding Agreement between the U.S. Geological Survey and the Oklahoma Water Resources Board for the FY-2008 Federal-State Cooperative Program.

19. Amendment of Joint Funding Agreement between the U.S. Geological Survey and the Oklahoma Water Resources Board entitled, "Drought of 2006 in Oklahoma compared with four major drought periods of the 20<sup>th</sup> Century" to extend the ending date of the program.

20. Amendment of Joint Funding Agreement between the U.S. Geological Survey and the Oklahoma Water Resources Board entitled, "Arbuckle-Simpson Aquifer Special Studies, South-Central Oklahoma" to extend the ending date of the program.

E. Applications for Temporary Permits to Use Groundwater:

1. Kay York Lierman, Kingfisher County, #2007-532
2. Matthew McGowan, Pittsburg County, #2007-533

F. Applications to Amend Temporary Permits to Use Groundwater:

1. Tulsa Grass and Sod Farms, Inc., Tulsa County, #2002-520

G. Applications for Regular Permits to Use Groundwater:

1. Okmulgee County RWD No. 5, Okfuskee County, #2006-574
2. City of Cleveland, Pawnee County, #2007-506
3. Abel deBoer, Cimarron County, #2007-525
4. Pat & Jim Canaday, Major County, #2007-540
5. City of Guymon, Texas County, #2007-541

H. Applications to Amend Regular Permits to Use Groundwater:

None

I. Applications for Regular Permits to Use Stream Water:

1. Thelma Parsley and Barry Parsley, Carter County, #2006-042
2. Shawnee Lodge No. 657 B.P.O. of Elks of USA, a Corporation, Pottawatomie County, #2006-068
3. William Gabehart, Caddo County, #2007-015
4. W. A. Bourne, Bryan County, #2007-025
5. Fred O. Turner, II, Lincoln County, #2007-029
6. Charles Merwin Selman Trust, Washington County, #2007-032

J. Applications to Amend Regular Permits to Use Stream Water:

None

K. Applications for Term Permits to Use Stream Water:

None

- L. Well Driller and Pump Installer Licensing:
  - 1. New Licenses, Accompanying Operator Certificates and Activities:
    - C. Sunbelt Industrial Services, Inc., DPC-0701
    - D. Canadian Water Well Inc., DPC-0705
    - E. George and Sons Drilling, DPC-0707
    - F. Teague Pump Service, DPC-0709
  - 2. New Operators, Activities for Existing Licenses:
    - C. Layne Western, DPC-0123
    - D. Engineering Services and Testing, DPC-0658
  
- M. Dam and Reservoir Plans and Specifications:  
None
  
- N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:
  - 1. Oklahoma Department of Transportation, Cotton County, #FP-07-30
  - 2. Oklahoma Department of Transportation, Cotton County, #FP-07-31
  
- O. Applications for Accreditation of Floodplain Administrators:  
None

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

A. Update on Comprehensive Water Plan Activities. Mr. Dave Dillon, Director of Planning, said Mr. Smith has discussed the frustration side of the technical planning effort, although it is great the Notice to Proceed to use CDM for the technical work has been issued by the Corps of Engineers. He said he looked forward to designing the technical work that will be done, and he anticipated providing a schedule. He said he has been working on a grant to the Bureau of Reclamation for up to \$600,000.00 to be spent mostly on the data migration project to update the existing platform. Another application related to NIDIS is a NOAA application up to \$300,000.00 to partner with the Oklahoma Climatological Survey for data migration and GIS for users online for drought information specific to an area. On the policy side, Mr. Dillon said regarding the contract with the OWRRI, 22 of the 42 meetings have been conducted and he reminded the members of the schedule of upcoming meetings, saying they are going well, and encouraged the members' attendance at a meeting.

**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 Stream Water No. 2006-037, David A. Kimbell, Caddo County:

1. Summary – Ms. Lou Klaver said this application filed by David Kimbell is for a stream water permit to use 68 acre-feet each year to irrigate 43 acres of land in Caddo County. Mr. Kimbell intends to divert stream water from Spring House Spring located on an unnamed tributary of East Cache Creek that flows across the his land. The application was protested by neighbors both downstream and upstream. Ms. Klaver explained the elements of law that must be met by an applicant in order to obtain a permit. In this matter, Mr. Kimbell established that on an annual average basis the annual precipitation runoff calculation shows that 68 acre-feet does flow past this diversion point in addition to Spring House Spring located on the property which at low flow estimations is 40-gallon per minute, or 64 acre-feet over a year's time. Therefore, there is enough water to meet the needs upstream for domestic users, and plenty of water flowing downstream. The hearing examiner determined there is a present and future need for the water to irrigate the wheat crop, the use is a beneficial use; however, the protestants were concerned about the fourth element of no interference with domestic or existing appropriate uses. The protestants believed the proposed use of 68 acre-feet would adversely impact their stream, and while it appeared there would not be interference on an annualized basis, the protestants raised the fact that interference could occur during the irrigation season or a shorter time period when the applicant would be placing the water to use. Ms. Klaver said the facts did show that in 2006 the unnamed tributary on occasion did go dry, that East Cache Creek dropped substantially, and that the well-known cattle watering hole in the area went dry. However, the applicant was not irrigating in 2006 and the evidence established that the weather conditions contributed to the low flow problem. The evidence did establish that much of the time this stream is prolific and the water flow through that unnamed tributary is more than enough to support domestic use and the irrigator. She added the applicant has a swimming pool below the stream that has an inlet and outlet and he is planning to put a gravity-flow pipe to a pond from which he will irrigate.

Ms. Klaver said the hearing examiner found that interference would not occur, but that the permit should be conditioned that the applicant cannot interfere with downstream domestic use. Staff recommended approval of the permit with that condition.

2. Discussion and presentation by parties. Mr. Jim Barnett, representing the applicant, stated to the members he found the proposed order acceptable in all respects, that it tracks the stream water law very well, is an appropriate order, and he urged the Board's approval.

Mr. Herrmann asked what time of year the water is used for irrigation, and how does that relate to the time when the stream typically runs dry? Mr. Barnett answered he did not know that the stream typically runs dry, but in 2006 it did, although it's a gravel bed stream and the flow went under the gravel. As far as the irrigation, he said it would occur as needed for winter wheat in the Fall. Mr. Fite asked about the type of aquatic community of the stream, and Mr. Barnett said he did not know the answer to that question, but the matter was not raised at the hearing.

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 regular stream water permit #2006-037, and Mr. Farmer seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Drummond

B. Application to Amend Temporary Permit to Use Groundwater No. 2005-570, Indian Ridge, L.L.C., Grady County:

1. Summary – Ms. Lou Klaver stated to the members this application was filed by Indian Ridge, L.L.C. in Grady County, and is an amendment requesting the addition of three wells to a current temporary groundwater permit. Indian Ridge previously obtained a groundwater use permit from the OWRB for 550 acre-feet of groundwater each year to irrigate a golf course. Twenty-three wells were proposed, drilled, constructed and connected together to an irrigation network system. However, at that time, the notice was not properly given on three of the wells and the permit was issued for 550 acre-feet for irrigation from 20 wells, not 23 wells. Those three wells were then disconnected from the system. Now, the applicant is asking for the Board to amend the permit to add the three wells. No additional water is being requested.

Ms. Klaver stated the protestants to this proceeding were also the protestants to the previous proceeding (by Indian Ridge). In order to add these wells, the permittee must show the wells are necessary to withdraw the 550 acre-feet, and the hearing examiner found they were drilled as part of the original network and are needed. The wells are located on the land dedicated to the permit, and there will not be waste caused by pollution or depletion. In this case, there was no concern about pollution, but about drawdown or interference in the groundwater basin in the area.

At the previous hearing it was discussed the domestic wells would be reach 180 feet while the applicant's well is drilled to 280 feet, so interference should not be a problem. Also, there are shale layers below the domestic wells. Expert testimony was presented at the previous hearing that the maximum amount of drawdown calculations would be 350 feet, and the protestants' wells are 1400 and 1500 feet away from the well they are concerned about. Staff recommended approval of the addition of the wells.

2. Discussion and presentation by parties. Mr. Mike Spear, representing the applicant was present. There were no protestants in attendance.

There was no discussion by Board members.

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.

Ms. Lambert moved to approve the amendment to temporary groundwater permit #2005-570, and Mr. Herrmann seconded.

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

C. Application for Temporary Permit to Use Groundwater No. 2005-550, Dolese Bros. Co., Kingfisher County:

1. Summary and Update from July 10, 2007, Board Meeting – Ms. Lou Klaver said this item concerns the Dolese application to use 155 acre-feet of groundwater from 111 acres dedicated over the Alluvium and Terrace Deposits of the Cimarron River. Dolese intends to make one sand lake of groundwater slurry where it will extract sand. The dispute of the application regarded the amount that should be permitted, whether the amount permitted out of the lake that is not returned, or the total amount that is pumped from the lake whether returned or not. The other issue was nitrate migration.

Ms. Klaver explained that at the July meeting, extensive argument was presented to the Board by both the attorneys for the applicant and the protestants. The decision was to allow the Board’s ad hoc Rules and Policy Committee consider the matter and come back to the Board with a recommendation or more thorough understanding of the mining process and how it works with the Oklahoma Groundwater Law. Ms. Klaver said that Mr. Keeley, as Chairman of the Board Rules and Policy Committee, has a recommendation.

2. Recommendation and Motion from Water Policy/Rules Committee – Mr. Jack Keeley said he has been considering the issue for the past month. He said it seemed reasonable to quantify the permit for a sand mine to the amount of water that actually leaves the site as moisture in the sand. He said he had consulted the Chairman and Mr. Fite, and Mr. Smith had spoken with Mr. Sevenoaks and everyone is in agreement.

Mr. Keeley stated that on behalf of the Rules and Policy Committee, he recommend that the proposed findings and conclusions and order presented to the Board on July 10, 2007, be adopted as the Board’s final order, and he so moved. Mr. Fite seconded the motion.

Ms. Lambert asked whether the language, “it is further ordered” was included in the original order, and Mr. Couch responded that it was included. Mr. Herrmann referred to earlier discussions between the Board and the Mining Commission about this type of issue, and he asked if the idea of the water that leaves the mine, the 5%, is that consistent with the previous discussions. Mr. Smith responded that it is, and the testimony at the hearing reflected that as well, which is approximately the amount of water that leaves the sand sites.

Mr. Barnett asked if this [the motion] is a vote on accepting the Committee’s report, or the application? Chairman Nichols responded this is a vote on the application. Mr. Barnett stated the letter he received indicated there would be opportunity to speak to the matter; however, Mr. Couch interjected the agenda did not allow for presentation by the parties. Mr. Barnett stated he objected to the Board proceeding without the opportunity to be heard. Ms. Lambert asked why presentation by parties was not included on the agenda, and Mr. Couch

responded there was significant discussion at the July meeting and it was his understanding the Board would not want to hear that again. He said it is unnecessary as a legal matter to allow that presentation again. Mr. Sevenoaks asked if that was not a matter of course that the Board allows a presentation by both parties before a vote? Mr. Couch responded that it was his understanding when the matter was tabled for discussion by the Committee that it was as if it were a discussion at a Board meeting--the motion specified the Committee would discuss it. That was done and as if it were done at a Board meeting and vote is taken, and now a motion has been made. He said discussion by the parties was allowed last month, and that is why it is not on the agenda in the usual manner this month. Mr. Couch said if the Board wants, there could be a new business item at this point to allow presentation by the parties on this matter. Mr. Sevenoaks said if it isn't going to be open for discussion through public notice, then he would not want a new business item. He said there is a motion on the floor and the Board could vote on that motion or table for further discussion. Mr. Couch said the tabling motion can be presented in place of the main motion, or the motion could be withdrawn, and the motion to table presented and voted on. Chairman Nichols said if the sense of the Board were to discuss it further, the simplest way would be to withdraw the motion and then table it until the next meeting where it can be on the agenda as an item for discussion.

Mr. Smith said that from the Board's perspective, if the members want to re-hear the arguments given last month, a tabling motion would be appropriate. If you've already heard that (discussion), then nothing has changed in the order, except for the review by Mr. Keeley. Ms. Lambert said she would only entertain a motion to rehear if there is any new information, but she did not want to revisit the issue; the evidence was heard at the last meeting. Mr. Sevenoaks was concerned about the normal procedure, and Mr. Smith said this is not the normal course, but in this case it was tabled for review by the Committee but nothing has changed since those facts were presented. He said the parties had the opportunity to present, and are not being denied the opportunity, it is not a legal issue, but how you feel. Chairman Nichols said if the Board wanted to hear discussion again, that could be done. Mr. Sevenoaks said there is a motion on the table. Ms. Lambert stated the motion is to approve the application, and Chairman Nichols affirmed that is correct.

Mr. Herrmann moved to go into executive session. The motion on the table must be addressed first, Mr. Couch said. Chairman Nichols said the Board must withdraw or vote on the current motion first.

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.

Chairman Nichols called for the vote on the motion on the table to approve the application.

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

D. Consideration of Items Transferred from the Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda for discussion.



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

Mr. Monte Boyce addressed the members and presented the first look at the agency's FY'08 budget for approximately \$23.5 million; about \$1.5 million higher than last year due to the funding for the Oklahoma Comprehensive Water Plan. He said 14.26% has been collected because there was some carry over from the July collections that will be reviewed after the FY'07 computations are complete. He said \$1.1 million was carryover funds from such projects as the Chloride Control study that is federal dollars. Chairman Nichols and Mr. Sevenoaks asked about the carryover funds. Mr. Smith said no state money carried over. Mr. Boyce said 8% of the fiscal year has been completed, and 7.5% expended and obligated.

Mr. Boyce concluded his report, and there were no other questions by Board Members.

Chairman Nichols said the Board had discussed traveling to Norman to tour the National Weather Service, but during the school year is not a good time, and the meeting room is inadequate for Board meetings. The Chairman inquired where the Board would like to travel—which would most likely be in November following the Governor's Water Conference in October—and it was the consensus the Board should visit the Lake Eufaula area. Staff will look into making arrangements.

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

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

## **8. Review and Discussion of Final Performance Audit June 28, 2001 through June 30, 2006, and Proposed Recommendations.**

Mr. Duane Smith distributed a copy of the Auditor's final report, and an agency response to the recommendations made by the Auditor. He said he appreciated the opportunity to speak about the report, because one of the issues is that the Board should oversee the activities of staff and he thought it important to respond and make corrections as necessary on a very constructive note. Overall, he said, if the (OWRB) staff were to conduct an a audit it would probably come out differently, it is difficult for someone outside the agency that typically does financial audits to do a performance audit on water law that is very complicated, and there is a lack of understanding about how things are done. However, there are things in the report that should be looked at constructively, with certainly no criticism to the Auditor.

Mr. Fite commented he believed the OWRB did a good job going through the audit, that Mr. Smith is doing a good job, that the staff is doing a good job, and there were no glaring pitfalls to be concerned about. Mr. Sevenoaks said the audit pointed out that the Board needed to make sure there is transparency with any issues—we are issuing permits and there are people who have some questions, and they should have easy access. Chairman Nichols said that any issues of wrongdoing that had been implied over the last few years, were cleared.

Mr. Smith reviewed the final performance recommendations by the Auditor, and the response by staff for proposed modifications to the water rights process. There was discussion

among the members and staff regarding each of the Auditor's recommendations and the staff's proposed response, and whether proposed rule changes may be needed. Some of the highlighted matters included, whether there is a need for a backup hearing examiner, the collection of additional information regarding applications for the sale of water, tracking the status of applications, the processing of the Coal County permit (notification of withdrawal for lack of response), monitoring applications that were modified after being protested and making that information available to the public, and the making the notification process available on the website.

**9. NEW BUSINESS**

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

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

**10. ADJOURNMENT**

There being no further business, Chairman Nichols adjourned the regular meeting of the Oklahoma Water Resources Board at 11:35 a.m. on Tuesday, August 14, 2007.

**OKLAHOMA WATER RESOURCES BOARD**

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

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

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

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

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Linda Lambert  
ATTEST:

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

\_\_\_\_\_/s/\_\_\_\_\_  
F. Ford Drummond, Secretary  
(SEAL)