

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
September 11, 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 September 11, 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 September 5, 2007, at 4:45 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

Chairman Nichols asked Mr. Ed Fite to provide the invocation.

B. Roll Call

Board Members Present

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

Board Members Absent

None

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

Todd Lafferty, Wheeler Brothers, Watonga, OK
Bill Rosser, Wheeler Brother, Watonga, OK
Jim Barnett, Kerr Irvine Rhodes Ables, Wheeler Brothers, Oklahoma City, OK
Mike Mathis, Guernsey, Oklahoma City, OK
Ken Senour, Guernsey, Oklahoma City, OK
Joe Goerke, Driever Davis Barnhardt Strack, Oklahoma City, OK
Harlan Hentges, Driever Davis Barnhardt Strack, Oklahoma City, OK
Jim Buie, Bank of America, Dallas, TX
Brent Riley, Bank of America, Oklahoma City, OK
Stan Sims, Bank of America, Oklahoma City, OK
Donna McSpadden, Clayton, OK
John & Frances Hibbs, Waynoka, OK
Robert M. Jones, Capitol West, Oklahoma City, OK
John McCue, John Hibbs et al, Fairview, OK
Tom Lay, Kerr Irvine Rhodes Ables, Wheeler Brothers, Oklahoma City, OK
Scott A. Law, Matteson Ranch, Oklahoma City, OK
James Gammill, Oklahoma Rural Water Association, Oklahoma City, OK
Mark Selvidge, Kutak Rock, Oklahoma City, OK
Chris Cochran, Capitol West, Oklahoma City, OK
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK
Mark Schlachtenhaufen, Capitol News Network, Oklahoma City, OK
Austin Lafferty, Wheeler Brothers, Watonga, OK
Jamie Travis Smith, The Journal Record, Oklahoma City, OK
Garner Garrison, Sequoyah County Rural Water Association, Sallisaw, OK
Vance Mooney, Sequoyah County Rural Water Association, Sallisaw, OK
Herbert Davis, Sequoyah County Rural Water Association, Fort Smith, AR

C. APPROVAL OF MINUTES

Chairman Nichols stated the draft minutes of the August 14, 2007, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Ms. Lambert moved to approve the minutes of the August 14, 2007, Regular Meeting, and Mr. Knowles seconded.

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

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, addressed the members and audience, and said the temperatures are cooling, there had been some rain and looking at reservoir levels, the state is in about as good a position as can be expected this time of year. He said it had been an interesting month. He said it has been another busy month, and he highlighted several activities. Mr. Smith

said he traveled to Texas State University at San Marcos, Texas, and met with Dr. Will Focht of OSU, and researchers from TSU. The University is in a unique location where it owns the second largest spring in North America, coming from the Edwards Aquifer and forms the headwaters of the San Marcos River. Discussions centered on instream flow protection of the San Marcos River, how do you protect the river, and the ecology of the river system, while at the same time have a city like San Antonio using groundwater from the aquifer. He mentioned he would like to schedule a field trip of the Board to tour the area that is a karsts formation and is similar to the Arbuckle-Simpson Aquifer. He said as the Board enters the final year of the study, and talk about management options to protect the streams and springs, he thought it would be valuable to learn first hand about the Edwards Aquifer.

Mr. Smith said that Texas has also passed Senate Bill 3—Senate Bills 1 and 2 being their water plan bills that authorized monies to go toward the plan; SB 3 is a charge to the Texas Water Development Board to evaluate instream flows statewide, which is a daunting task. He said he would like the TWDB representative to address the Board about those activities. He said this has been one of the issues that have come up at the local input meetings, and it would be good to know how other states are handling the issue.

The National Groundwater Association will be conducting a conference on conjunctive use management, which Mr. Smith will attend and make a presentation. The economic benefits of conjunctive use management is the topic, and in Oklahoma people often think that means the groundwater user will not be able to pump, and that it would be a drastic economic impact to the groundwater users. He said he is interested in learning other states' perspectives.

The Arkansas-Oklahoma Arkansas River Compact Commission will meet in Fort Smith, Arkansas, on September 13. With the litigation that is on going the meeting should be fairly uneventful.

Senator Inhofe was in southwest Oklahoma and Mr. Smith was able to visit with him and his staff about the WRDA bill. It appears that it will be heard this month. There are many projects for Oklahoma in the legislation; the President has stated he would veto the bill. The bill is in the authorization stage and not the funding stage.

Interim studies will begin; Representative DeWitt has a committee meeting coming up on October 2 regarding CAFO setbacks. The OWRB has setbacks in the water law for CAFOs—three miles from a recreation area and water well setbacks from the pollution source. The study is primarily a part of the Department of Agriculture rules. Senator Rabon has an interim study on water availability that will meet soon.

Mr. Smith detailed the Governor's Water Conference and OWRRI Symposium scheduled for October 23-25, including presentations by John Paul Woodley Assistance Secretary of the Army, Civil Works, and Robert Johnson, Commissioner of the Bureau of Reclamation. He also highlighted the OWRB's 50th Anniversary banquet on October 24.

Governor Sebelius of Kansas has invited the OWRB to come to a reservoir management seminar next month in Kansas with Mr. Woodley.

Mr. Smith said the water plan local meetings are going well, and he had had meetings with ACOG about conducting studies on the Garber-Wellington Aquifer, and looking at producing water without extracting arsenic and selenium pollutants i.e. better well construction or locations, primarily regarding Canadian County looking for future water supply. Also Canadian County is looking at southeast Oklahoma, as a coalition of communities of central Oklahoma and looking at solidifying the water needs of central Oklahoma. Oklahoma City has applied for water from the Kiamichi River as well as the Central Oklahoma Master Conservancy

District. He added the oral argument for the Tarrant County case was on September 5, and is now before the judge. There are several pending applications that will have to be looked at once the ruling is made.

Mr. Smith concluded his report.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Checotah Public Works Authority, McIntosh County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the Checotah Public Works Authority had requested a Drinking Water State Revolving Fund loan in the amount of \$5,470,000.00. The loan proceeds will be used to expand the capacity of the existing treatment plant by renovating and enlarging the existing treatment units. The plant capacity will be increased from 1.9 million per day to 2.8 million gallons per day. The loan will also pay related costs for issuance. Mr. Freeman noted provisions of the loan agreement. Mr. Freeman said the Authority serves approximately 1400 water customers and 1300 sewer customers, as well as about six wholesale customers. He said the Authority's debt coverage ratio stands at 2.3-times, and it is estimated the Authority will save approximately \$1.7 million in interest savings by borrowing from the Board. Staff recommended approval.

Mayor Marvin Nichols, and Finance Director Betty Sanders, along with the Authority's financial advisors, were present in support of the loan request.

Mr. Herrmann moved to approve the loan application to the Checotah Public Works Authority, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

B. Consideration of and Possible Action on Selection of Bond Counsel in Connection with the Issuance of One or More Obligations to Provide Funding for the State Loan Program. The Board requested proposals from 17 bond counsels, and received proposals from two firms, Kiser Law Firm, L.L.C., and Kutak Rock. The proposals were reviewed based upon experience with new money revenue bond issues, pooled revenue bond issues, state and local bond issue experience, the experience of the assigned attorneys, and the fees quoted for services.

Mr. Freeman said the Board's Finance Committee met on Monday, September 10, to consider proposals for bond counsel; members of the Finance Committee are, Lonnie Farmer, Chairman, Mark Nichols, Rudy Herrmann, and Ford Drummond. Mr. Freeman asked Mr. Farmer to present the committee's recommendation.

Mr. Farmer stated that in the matter of the selection of bond counsel for the Board's state revenue bond loan program, the committee recommends and he so moves, the Board select the firm of Kutak Rock as the Board's bond counsel for the Board. Mr. Fite seconded.

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

NAY: None

ABSTAIN: None
ABSENT: None

C. Consideration of and Possible Action on Selection of Bond Counsel in Connection with the Issuance of One or More Obligations to Provide Funding for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Loan Programs. Mr. Freeman said that the Board requested proposals for the same 17 firms and received proposals from the firms of McCall Parkhurst Horton, and Kutak Rock for bond counsel for the Clean Water and Drinking Water SRF program. These proposals were reviewed along the same guidelines as the FAP proposals, along with the firm's experience with revolving loan funds and Clean Water and Drinking Water SRF bond issue experience, as well the fee for services. Mr. Freeman asked Mr. Farmer to present the Committee's recommendation.

Mr. Farmer stated that in the matter of selection of bond counsel for the Board's State Revolving Fund Loan Program Revenue Bond, the committee recommended and he so moved, that the Board select the firm of McCall Parkhurst and Horton to serve as bond counsel for the Board. Mr. Drummond seconded.

Ms. Lambert asked if these were new firms, or firms the Board has used in the past. Mr. Freeman responded that of the three firms that made proposals on the two programs, Mr. Kiser has been bond counsel for the Board for numerous issues since 1985. Kutak Rock firm has served on a recent issue by the Board, and has also served as underwriter counsel. The McCall Parkhurst firm has bid in the past but has not been retained.

Being no further questions, Chairman Nichols called for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: None

D. Consideration of and Possible Action on Selection of Investment Bankers(s) in Connection with the Issuance of One or More Obligations to Provide Funding for the State Loan Program. Mr. Freeman said this item is for the selection of investment banker for the FAP state revolving fund bond loan program. He said he anticipated closing a fixed rate FAP issue in the range of \$15-20 million in the next few months, and an additional issue within the next year. He said the Board requested proposals from 31 underwriting firms, and received proposals from eight firms: A.G. Edwards, RBC Capitol Markets, BOSCO, Capitol West Securities, Bank of America Securities, Luce Capitol Markets, and Morgan Keegan. A proposal was also received from Wells Nelson and Associates for the role of co-manager. The proposals were reviewed based upon the firms' underwriting experience, experience of the assigned personnel, the quality of the proposal, marketing capabilities, and fees.

The Finance Committee reviewed the proposals, and visited with the representatives from the Bank of America, and Capitol West Securities. Mr. Freeman asked Mr. Farmer to present the Committee's recommendation

Mr. Farmer stated, in the matter of selection of underwriter for the Board's State Revenue Bond Loan Program, the Finance Committee recommends, and he so moved, as follows: the Board select the underwriting firm of Capitol West Securities to serve as investment banker to the Board. Mr. Herrmann seconded.

Ms. Lambert asked if this is a new firm. Mr. Freeman responded Capitol West has been working on bond issues for the Board since 2001, and has worked as Senior Manager on the State Loan Program, and co-manager along with several other firms on the state revolving fund program. He added the Board has used various underwriting firms over the past three years.

Mr. Herrmann asked the expected size of this issue, and Mr. Freeman said the issue would be around \$15-20 million. Before the tax act change, the Board did much larger issues under this program, but because of the changes in pooled financing, the Board is doing more identified pool, and this issue will be for at least one borrower, and possibly two additional borrowers.

There being no further questions, Chairman Nichols asked for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: None

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. However, Ms. Lou Klaver asked that item E. 7., temporary groundwater permit for F.D. and Patricia Boyer Trust, #2007-542, be withdrawn from the Board's consideration. Mr. Couch recommended that item D. 14, maintenance contract with Oracle-Stellent be withdrawn from consideration.

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. Smith noted agenda item D. 9., contract amendment with the Oklahoma Rural Water Association, and said that he had invited Mr. Gene Whatley to make a presentation to the Board regarding the activities associated with the contract. Mr. Whatley is unable to attend due to illness, however, Mr. James Gammill is present to speak to the Board.

Mr. Gammill addressed the members and stated the Oklahoma Rural Water Association was organized in 1970 as a non-profit to provide training and technical assistance to rural water districts and small communities. The services, which are provided free of charge, are often service the districts are unable to pay for. The contract with the OWRB provides training and technical assistance including, 35 Board members training, 20 water and wastewater certification classes, and 12 laboratory water and wastewater classes. The total attendance at the training the past year was 1,272 Board members and operators across the state. Technical assistance includes

management and finance, operation and maintenance, leak detection, and water outage, which total 360 per year and provided statewide and free to everyone.

Mr. Sevenoaks said the funding is approved by the legislature and passed through the OWRB to the ORWA, and Mr. Gammill stated that is correct. He asked the total amount, and Mr. Gammill responded the total is \$301,000.00. Ms. Lambert said she applauded the training which is definitely a success, but wanted to know the measurable results. She encouraged the ORWA to consider the end result of the training, how does the training improve the quality of water. Mr. Gammill stated while he did not have statistics to provide, the ORWA had received positive comments from the OWRB as well as the ODEQ in the way that the systems are being operated and decision making processes have improved and are informed. There are approximately 5,800 operators in the state, of which there are about 2,000 new operators each year, and these are the people handling water products and treating water and there is definitely need for the training. Ms. Lambert stated the training is a means to a particular end, and she was curious about what the measurable results of that end are.

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

AYE: Drummond, Farmer, Fite, Herrmann, Keeley, Knowles, Lambert, Sevenoaks, Nichols
NAY: None
ABSTAIN: Herrmann on item D. 4.
ABSENT: None

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. 2006-605, Summit Lakes, L.L.C., Oklahoma County,

1. Summary – Ms. Lou Klaver, Chief, Planning and Management Division, stated to the members that Summit Lakes filed a permit application to use 312 acre-feet per year for recreational and irrigation purposes. Summit Lakes is developing a residential neighborhood in north Oklahoma City at 220th and N. May Ave. It is intended that 115 lots will be developed

featuring four small ponds, 7-8 surface acres in size. Recreational use is requested in order to keep the ponds full, and, to use 14 acre-feet per year to irrigate seven acres of landscaping at the entrance. The groundwater is proposed to be pumped from five wells located on approximately 146 acres dedicated to the application, and the land overlies the Garber-Wellington formation, which has not been studied. Because evaporation losses in the area amount to 56-60 inches per year, the hearing examiner reviewed the request for the total amount of 298 acre-feet per year, and found that, in agreement with the expert for the protestant, the amount economically necessary to keep the lakes full would be 150 acre-feet per year. The evidence supports the finding that the land is owned by Summit Lakes, overlies the Garber-Wellington, and recreation and irrigation are beneficial uses in the amount of 164 acres. Staff recommended approval of the proposed order.

2. Discussion and presentation by parties. There were no representatives of the applicant nor the protestants in attendance.

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

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

Mr. Sevenoaks moved to approve temporary groundwater permit #2006-605, Summit Lakes, and Ms. Lambert seconded.

Mr. Drummond asked if there was any discussion about whether the 150 acre-feet is adequate. Ms. Klaver responded the protestants, Deer Creek Water Corporation, brought Myers Engineering firm that stated that amount would be needed to keep the lakes “topped off”. She said she was not certain there was absolute agreement, but that was the testimony in the record, which was unrefuted. Mr. Herrmann asked why evaporative loss, associated with pumping groundwater into a surface body--a loss that would not otherwise occur--is not considered to be water used in an inefficient manner, or waste by depletion? Ms. Klaver said that in the past, the Board members have voted to consider that recreational use to supplement what is lost and to keep a lake at a certain level, and found that to be a beneficial use. There are numerous examples across the state where landowners fill lakes to a certain point with groundwater. Mr. Couch added that the inefficiency generally was in the definition of the generic term called waste, but the Legislature tells us now that waste is as specified in Section 1020.12 of the statutes. There are ten enumerated items of waste, seven of which are depletion, and three of which are pollution, so waste by depletion is as specified; none the hearing examiner proposes to fit within evaporation for topping off lakes. Even previously, the efficiency of that use and using groundwater for recreation, ponds, fountains and the Bricktown Canal for instance was accepted as not wasteful and a beneficial use. Mr. Herrmann commented about a presentation by Dr. Todd Halihan, that raises a technical question...is taking groundwater to the surface where these types of waste can occur, is that a wise use of the groundwater?

Mr. Sevenoaks asked if there is a 5-6 foot loss of water to evaporation, and Mr. Keeley asked if that is reasonable. Mr. Smith responded yes. Mr. Drummond said that in this case, the water is used when there isn't enough rainfall, and Mr. Klaver stated that is correct.

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

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

NAY: None

ABSTAIN: None

ABSENT: None

B. Application to Amend Regular Permit to Use Groundwater No. 1984-526, Wheeler Brothers Grain Co., L.L.C., Blaine County.

1. Summary – Ms. Lou Klaver stated to the members that this matter involves a request to amend an existing regular groundwater permit. Wheeler Brothers Grain Company, L.L.C., currently holds a regular groundwater permit that authorizes the use of 845.5 acre-feet of groundwater per year from 845.5 acres of land in Blaine County. Nine wells are authorized. The company operates a cattle feed lot as well as sells a small portion for oil and gas drilling and some use for irrigation. The application to amend the regular permit seeks to add land, add groundwater, change the allocation of amount among the purposes, and request deletion of five well locations and the addition of twelve new locations.

Ms. Klaver stated Wheeler Bros. is seeking to add 186.2 acres of land, add 186.2 acre-feet of groundwater and reduce the groundwater amount that is authorized and with additional water, use 554 acre-feet for the feedlot operations, and increase the amount for oil and gas wells by 16 acre-feet (raising to 31.7 a.f.) and decrease the irrigation amount. She said the permittee owns 186.2 acres of land that overlies the North Canadian Phase II that has been determined to be one-acre-feet per acre. The land overlies the same basin as the original permit, and the wells are in the same area.

She said the issue of beneficial use was disputed by the protestants. No one disputed that the applicant owned the land or that it overlies the basin. They disputed that groundwater for the use of feedlot operation was not beneficial, as they believed the water sprinkler system used for dust control of roads, ally ways, and for watering cattle was not beneficial. The hearing examiner found that the amount requested is a beneficial use, in a quantity that is economically necessary to operate the feedlot. The common standard industry uses a “scrape and remove” method, but in this case will use sprinklers and keep the ground moistened to keep the dust from becoming unbearable, which has happened in the past. The staff also finds that the permittee’s original use for oil and gas is beneficial and economically necessary. Others issues in dispute is that the wells in the area will be depleted, but the evidence did not support that, and the hearing examiner found that the permittee’s well will not be pumped at a regular duration and cause a drawdown of the protestant’s wells. With regard to waste by pollution, there were five wells drilled too close to the waste lagoon, and the hearing examiner has found that waste by pollution which belongs under the jurisdiction of the Agriculture Department and addressed there, but the OWRB retains jurisdiction over the drilling construction of wells. The Board found the wells were not constructed in such a manner and were placed too close to the waste lagoons and must be brought into compliance before the wells can be used. The proposed order approved the application, for the amounts requested, and the well locations, but contains the conditions that the permittee cannot use the five well locations until something further is done such as a variance request, plugged and drilled different wells; at this time the wells are located 25-less than 300-feet of the waste lagoon. Ms. Klaver stated staff recommended approval of the application. Both the applicant and the protestants are represented.

Mr. Sevenoaks said he understood the operational issue of using water to control dust, but asked what the “scrape and remove” process is. Ms. Klaver stated that Wheeler Brothers has in the past operated as most feedlots in the country where once each year the cattle pens are scraped to remove the surface dirt and manure, causing dust, and there is a lot of dust in the meantime. Protestants said sight is limited to 300 feet at this time. The company received a grant from a federal agency and installed a state-of-the-art computerized sprinkler system that will water the

amount of dust in the air and keep it on the ground. Mr. Sevenoaks asked if the airborne particulates are manure and dust, and Ms. Klaver responded that is correct.

Ms. Lambert asked if the five wells the hearing examiner has recommended be deleted, are the same five wells the protestants suggest be deleted? Ms. Klaver stated the five wells have not been used, the twelve additional wells have been drilled. Mr. Smith interjected the wells were not drilled too close, the Board's rule change made them too close, they were originally in compliance. Ms. Klaver said that because the applicant has requested an additional amount, the hearing examiner looked at whether the additional amount can be taken when the well is so close to the lagoon, and found for purposes of the additional amount and considered the proximity to the lagoon. Chairman Nichols asked if the wells were "grandfathered"? Mr. Smith answered the order said the new application is to take more water from those existing wells, and the hearing examiner denied the application to take new water from those wells. He clarified that the Board is not saying these wells were drilled illegally and now allowing them to do something that originally was illegal. Mr. Drummond asked if the same usage will be maintained; and Mr. Smith said this order concerns the new application, the wells can still be used under the original permit. Ms. Klaver said that nine wells were found to be fine; these five well locations are still approved, but will have to do something to show that pollution is not caused. Ms. Lambert asked about the number of wells, and Ms. Klaver said the applicant had nine wells, is deleting five, and are adding twelve wells in a different location.

2. Discussion and presentation by parties. Mr. Jim Barnett, representing the applicant said that both he and Mr. Tom Lay would be representing Wheeler Brothers. Mr. Lay addressed the members and stated that he understood exceptions were filed, and the attachments included a photograph that were not part of the record, which he has asked to be excluded. He said Ms. Klaver presented the case well; the applicant is involved in many things, but what is before the Board today is primarily about the feedlot operation that has been in operations for several years. It is considered a CAFO, which is licensed and under the jurisdiction of the Oklahoma Department of Agriculture. He said the operation is licensed for 27,000-head capacity, and groundwater and wells are essential to the operation of the facility. The permit, which is requested to be amended, was issued 23 years ago and has undergone three amendments. A few years ago the facility expanded and a condition developed and the company wanted to address that concerned fugitive dust. He said that near sundown the cattle become active, stirring dust, and during dry summer months when there is not much moisture, it creates a significant dust situation. He clarified the operation employs scrape and remove, but this is in addition. The planning and design began in 2005; the system was install in late 2006 and is operational today. It is state-of-the-art dust suppression sprinkler system and experts presented at the hearing that it is very elaborate, very efficient and very effective. The system has undergone review and approval by the Department of Environmental Quality, by the Natural Resources Conservation Service—which will assist in construction costs through a EQUIP grant—and also encouraged by the Environmental Protection Agency. He said it is a win-win situation whereby the operation is better managed, and is good for the community by keeping dust from roaming in the air. The application to amend the regular groundwater permit is motivated largely by the sprinkler system. Five amendments are sought: add land, add water, reallocation of certain uses currently authorized, add twelve wells and delete five wells. Mr. Lay said he supported the proposed order, the staff and hearing examiner have done an excellent job conducting the hearing and preparing the order. The order recognizes the relevant issues that the land overlies the basin and the water will be withdrawn from the same source, dust suppression and operation

of the feed yard is beneficial use--not just in a feed yard but for construction and other uses—it was found that waste by depletion would not occur, and that waste by pollution would not occur. He said in 2001 the Legislature amended the waste by pollution statute saying that if use and operation is under the jurisdiction of the DEQ of the ODA, the Board is statutorily precluded from considering waste by pollution. There are still waste by pollution issues for the Board to consider—abandoned wells and well construction—and the Board properly finds, based upon the evidence that waste by pollution will not occur. The Board found there is issue with well spacing. He said while he did not totally agree with everything in the order, he did support the Board’s approval. He introduced representatives of the applicant in attendance.

Mr. Sevenoaks asked if there is pesticide mixed into the water for fly control. The representatives answered there is biological control for flies, but it is not mixed into the water in the sprinkler system. Mr. Knowles asked if this is the first system in Oklahoma. Mr. Lay answered there are other sprinkler systems in use, but this is the most elaborate for an operation of this size.

Mr. Harlan Hentges, representing the protestants, addressed the members and stated his clients all live within a mile of the applicant and have protested the application to amend the permit because they oppose the quadrupling of the quantity of water permitted through the feedlot. He said the amount goes from 250 acre-feet to 750 acre-feet; the change in allocation was originally for irrigation. He said the feedlot is expanding, it was permitted for 20,000 and increased to 45,000, and has been expanded to a capacity of 33,000, and that expansion that caused the wells the hearing examiner found to be violating the rules—the building of the pens around the well that cause it to be in violation. Mr. Hentges said the manure from the operation fowls his clients’ land, the air, the surface water, and most importantly the groundwater. He asked the Board to find that the use of groundwater to settle manure dust is not a beneficial use, particularly when the surface of the water is 20 feet beneath the soil, and is sandy soil.

Mr. Hentges said the important thing about this case is a legal, jurisdictional issue that’s been pending since 2001, since the decision in Messer-Bowers when the Supreme Court said (82. O.S. 1020.9) that no permit is to be issued unless there is a determination that waste by pollution will not occur. The Legislature, in response, says we don’t want the OWRB making that determination, and has no authority, but the Department of Agriculture will make the determination. He argued the Legislature did not say a determination did not have to be made, but that there does have to be a determination but the ODA will make that determination. He said if there is no determination there is no waste by pollution and there can be no permit. He likened the situation to obtaining a driver’s license by taking both the written and driving tests to obtain the license, and the fact that the written test has been taken, but not the driving test, therefore no license is issued. The ODA is the agency with jurisdiction to address waste by pollution and they have begun the administrative proceeding, and the order attached to the exceptions is the order from the Administrative Law Judge at the ODA that proceeding has begun and that process is not complete. Mr. Hentges mentioned an article written by a law student following the 2001 decision about the OWRB addressed the situation and the problems with the administrative law judge’s proposal, to grant the permit and not worry about what the legislature has taken away. That determination still has to be made, and has been pending since 2001. A law review article written in 2002 on this case presents the issue that has been pending for these years. He asked the Board to consider that there is some probability that no matter what the agency does the decision will be reviewed. For his clients that means they will have to defend on appeal or prosecute on appeal, and consider they are right about the pollution of the

groundwater, if the permit is granted, they will be doing it with four times the groundwater. He suggested the Board did not have to deny the permit, just wait until the jurisdictional agency makes the determination the Messer-Bowers case says has to be made before a permit can be issued. He encouraged the Board to deny or defer acting on the permit until the appropriate jurisdictional agency has acted.

Mr. Jim Barnett addressed the members in response to Mr. Hentges' presentation. He said it is clear that what his clients would really like is for the feedlot not to be there, and for the Board to substitute its judgment for that of the Department of Agriculture that is the agency in the State of Oklahoma charged with licensing CAFOs. He said the Legislature clearly stated it is not the Board's role, but its job is to issue permits for the beneficial use of groundwater and streamwater. As regards the jurisdictional issue, Mr. Barnett stated he believed the staff has provided the Board sound legal advice; this is not the first time the Board has wrestled with this specific issues, as there have been a number of issues that have come before the Board since the 2002, and the Board has correctly decided to do its job and let the other agencies do their job. He said that Mr. Hentges has wrapped waste by pollution in one ball, the reality is that it is a concept that has different components, the Board still has a role to play—only one section of 82 O.S. 1020.15—applies to referring over to the other agencies; the Board has the responsibility for the other components. Nowhere in the statutes, he said, is there any authority for the Board holding up any water right to wait for action by another agency to act on something. He said there is not something going on at the DOA that the Board should wait on or is required to wait on. He said it is his belief his clients presented all the evidence, all the testimony; everything required to justify the amendment to the permit. He said this is a regular permit, a studied basin where each landowners' equal proportionate share has been determined. The Board has acted to quantify how much water Wheeler Brothers owns, there is no dispute as to whether dust suppression is a beneficial use; the Board has ruled on that in the past. The improvement to the feedlot operation is going to make everyone's life better, including the protestant's. He asked the Board to approve the order.

Ms. Lambert asked what the Department of Agriculture is reviewing. Mr. Barnett said he is not the attorney representing Wheeler Brothers at the Department of Agriculture, but he can say the protestants have filed an application objecting to the renewal of the CAFO license. He said he didn't believe the DOA had ruled as yet. Mr. Hentges stated the DEQ had referred the matter to the DOA, the EPA has on ongoing investigation, and the facts related to that are part of an ongoing proceeding at the DOA. He said he had "gone the distance" to know what agency to be at and every agency has referred them to DOA, and there is an ongoing process there.

Mr. Keeley asked about the EPA investigation. Mr. Hentges began an answer; however, Mr. Couch reminded the Board is restricted to review of those documents and testimony presented in the administrative hearing, as reflected by the hearing examiner's proposed findings. These matters—what's going on at other agencies—is not part of that record, and he would be concerned about taking statements of those facts into the record today. Mr. Hentges said he made an offer of proof to the administrative law judge that contained examples of the evidence he had pertaining to contamination of the groundwater. Mr. Couch said that information was not allowed into the record.

Mr. Smith asked the Board to look at page 5023, item 7., and quoted the statute stating the Board is precluded from determining whether waste by pollution will occur if the activity for which the applicant or water user intends to or has used water as specified under Section 1020.9 is required to comply with rules and requirements of or is within the jurisdictional areas of

environment responsibility of the DEQ or ODAFF. He said CAFOs is within the environmental jurisdiction of the DOA, that statute says the Board is precluded from making that determination. The statute could have said the Board must make the determination and wait for the agency with jurisdiction to rule before you make that, but the statute, Mr. Smith said, does not say that, but that we are precluded from reviewing waste by pollution if it under the environmental area of the DEQ or ODA. This is what the hearing examiner did. All of the issues about pollution of the groundwater with respect to the CAFO will be reviewed. He said what the Legislature did not want to happen is people to go to the DOA, or DEQ and protest and get a permit, and then go to another agency and have the same issue reviewed a second time and have a different decision made by another agency—that's the purpose of the statute, and that's why the hearing examiner recommended as he did. The hearing examiner did rule that waste by pollution under the OWRB would not occur, and that regards well plugging and distance requirements. Mr. Couch added that the seemingly narrow legal issue is the preclusion language, should it be interpreted to be mandatory deferral language. He said the Legislature could have written that had they wanted that, and the Board has addressed the very question on appeal—does this agency have to wait until the DOA or DEQ does whatever it will do and report back to the OWRB, and that determination was rejected. The Board went forward with the consideration of the application and approval of the permit.

Mr. Herrmann inquired on page 5020 referencing the hydrological work by the permittee's consultants; did the Board's staff concur? Ms. Klaver responded the hearing examiner concurred with the expert in that the wells that were closer than 1320 feet to the neighbors would not cause adverse impact. He looked at the Board's rules and took that into consideration with regard to duration of pumping and the extent of the drawdown, as well as considering on his own the taking of additional water from the wells that are close to the pollution sources. Mr. Herrmann said that the protestant did not take issue with the expert's conclusion. He also asked about whether wells referenced in 8.a. of the findings of fact were wells that had been used without a permit? Ms. Klaver stated they were under 1984 water rights and were permitted, and with developing and expanding and changes since 1984. He questioned whether the lack of drilling records indicated there was no permit, or just had to do with the changes in the permitting process that occurred. Ms. Klaver answered it is her understanding the nine wells are all permitted, and the twelve wells were drilled in compliance with the revision.

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. Drummond moved to approve the application, and Mr. Knowles seconded.

Mr. Herrmann said he wasn't clear on the answer about whether the wells were permitted, and the other issues discussed are matters beyond the jurisdiction of this body, but that the applicant is really trying to solve the problem and be a good neighbor. Ms. Klaver said she was not certain when they were included, but are being requested now. Mr. Hentges responded that some of the new wells were inspected by OWRB staff, before the application was prepared, and were found not to have sufficient surface casings at the top of the well, and they (applicant) had to repair the wells to meet the OWRB requirements, a subsequent inspection determined the wells met the requirements, and some of the wells were approved as they were modified. Some of the existing wells were plugged and abandoned before there was an opportunity to find out about the situation with those wells, some of them too close to the lagoons and too close to the pens. Obviously, he said they had the potential to cause waste by pollution that is within this

agency's jurisdiction, but all evidence of waste by pollution and contamination of groundwater was excluded from the hearing.

Mr. Smith asked if the question is whether there were wells that were not permitted that were used previously? Mr. Herrmann answered, yes. Mr. Barnett answered it is a long and involved story, but yes, some of the wells that are historic wells that were discussed when Mr. Smith was Groundwater Division Chief as to whether they were subject of prior right, these wells were drilled in the 1960s, and the OWRB rules have changed and become more stringent, and the OWRB considers a well not to be properly permitted if its not in the 10-acre tract it is supposed to be in—these wells were drilled before GPS, before well drillers cared about how accurate the legal descriptions were so yes, some of these wells were drilled and used prior to appearing on any permit. He said part of his job when hired by Wheeler Brothers was to make sure all of the wells were brought into conformance, and this application does that.

Mr. Smith said this is an effort by the applicant to bring things into compliance; some things were out of compliance, and distances, pens built around wells, all this is being addressed in one order, which has been very complicated.

Chairman Nichols repeated there is a motion and a second. There being no further question, he called for the vote.

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

C. Application for Regular Permit to Use Stream Water No. 2006-044, Wesley Dean & Sherrie S. Matteson, Major County.

1. Summary – Ms. Lou Klaver stated to the members that this application has been considered by the Board previously and remanded it to the hearing examiner for further collection of evidence. The is application was filed by Wesley and Sherrie Matteson who own 88 acres in Major County where there is a dam on a creek runs through their property from the north to south, called Main Creek. The Matteson's proposed to irrigate 88 acres, and thought they had a water right from the father, but it is actually on a separate piece of property. The applicant began irrigating in July of 2006 under what they believed to be an appropriate water right, and at that time, the protestants who live downstream informed the OWRB of low flow and even zero flow because of irrigation upstream. Staff inspected, took photographs, determined there was enough flow to support a provisional temporary permit for the Matteson's to irrigate, which was issued for 15-acre feet for 90 days.

The Matteson's proposed two diversion points on Main Creek to divert 168 acre-feet per year at 500 gallons per minute. In this case, the hearing examiner found in the proposed order there is unappropriated water available on an annual basis, there is more than 168 acre-feet flowing past the two diversion points on an annual basis. The hearing examiner determined the applicant has a present and future need to irrigate alfalfa, and that irrigation is a beneficial use. One problem the application encountered was that interference of domestic use was found, which occurred under the provisional-temporary permit when only 7 acre-feet had been used, and the Board could not find that interference would not occur with the domestic or existing appropriation downstream. Ms. Klaver stated the protestants provided photographs that showed

a dry creek bed at times, July through August, and the hearing examiner found that interference would occur if the permit were issued for 168 acre-feet.

2. Discussion and presentation by parties. Mr. Scott Law, representing the applicant addressed the members and said when the matter was before the Board there were some issues regarding the field investigation, and a second hearing was held to address those issues. The second hearing occurred in June 2007, and information was provided but the field representation was not available. He said though the attorney for the protestants stated it was an opportunity to come up with an amicable solution, and some weeks later he contacted Mr. Cue and discussed two issues to resolve: allow the Matteson's to irrigate, and protect the downstream users from interference on a daily basis. He said he had attempted to get that on paper and before the Board, and he subsequently contacted Mr. Bob Kellog who suggested as a solution to use a v-notch weir which consists of a low-water dam where the water can be pooled and measured, and he explained how the weir operates to measure the water flow. He said since that time, he received the second proposed order as a result of the second hearing, which recommended denial of the permit. He said there is enough water in the stream to satisfy everyone and this is an opportunity to reach an agreement, and the Matteson's are willing to install the weir and that at any point in time if the flow goes below the minimum amount required for the downstream users, they would stop irrigation. He said he has spoken with OWRB staff, but its unfortunate now to have the proposed order to deny the permit. He said he is asking the Board for additional time to work with the protestants and reach a consent order or alternate by the Board. He said otherwise the client will have to go to District Court, which will serve no one, and he asked the Board to table the matter until the next agreeable date for the protestants.

Mr. McCue, representing the protestants, addressed the members and stated that as an attorney he appreciated the opportunity to settle a case. He said the presentation by Mr. Law regarding the weir is interesting and has potential, and he had presented it to him on Friday and he would present that to his clients. He said he had not been involved in any hearing in which one of the parties asked the Board to table something that might be settled at a later time, when the other side does not agree, and they do not. He asked the Board to accept the report as it has been presented to the Board and to deny the application. If later they can agree on something that will benefit all the parties, and makes sure his clients are not going to lose water, he said the application can be re-submitted. He said to come back a third time to the Board at some indeterminate time he didn't believe would serve anyone, and he asked the Board to accept the hearing examiner's recommendation.

Ms. Lambert said Mr. Law said x-number of protestants were in agreement, and now Mr. McCue says no. Mr. McCue said he told Mr. Law he is interested in settling and he will look into the weir system, but none of his clients have indicated a support for it. Mr. Law said it is his understanding that they are in support of solving the matter amicably, and he had spoken with Mr. Cue a few weeks earlier and was trying to find a way to do that. He mentioned a protestant who approached his client to work out something, but now the order has been proposed and changes everything and they don't necessarily want to now.

Mr. McCue said he understood Mr. Law's position, who is asking the Board to force him into settlement negotiations which may result in nothing if we don't agree with the process Mr. Law has put forward, and if they don't agree with it, there's no way it can be forced upon them. Mr. John Hibbs stated about who he had spoken with who are all in favor or denial.

Mr. Smith stated that denying the application does not keep the Matteson's from taking water from the creek. They can apply for a new application or a provisional temporary permit

that the Executive Director can approve without a hearing, none of which has monitoring on the whether there is an impact downstream to domestic use. By denying the application will only prolong the conflict, and there are ways such as offstream storage, and monitoring. What the statute requires is that they don't interfere with domestic use, doesn't mean water has to be as it was before, but not interfere. The evidence in the record, based upon what the applicant was going to do with no gage was that interference would occur. So if the applicant says they would put a gage up and do something that they would stop so interference won't occur, then if a new application is filed and there is new evidence in the record that the protestants want it denied and to start over, will just prolong the legal issue and haggling between parties. If there is something that can be done, table and refer back to hearing examiner or deny, but this is not the end of the issue.

Mr. Herrmann asked what is the most cost effective for staff and all parties for a possible resolution. Mr. Smith said the parties could get together and work it out. If it can't be worked out, then so be it. Mr. Fite commented about the weir and the ease to calculate measurements. Mr. Smith said let the parties get together, the staff can provide technical expertise on evaluation of what would be the best method if they are willing to do that, and if they are not, staff can report that to the Board there is no possibility of anyone getting along. He said to both parties, that if they are going to force the OWRB to take action, no one will be happy, and they are much better off dealing with it themselves.

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. Herrmann moved to table the matter and challenge the parties to work it out and involve the OWRB staff in the process. Chairman Nichols encouraged it be done quickly.

There was no second to the motion.

Mr. Sevenoaks asked if there is no compromise will staff's recommendation still be to deny; the protestant's still have the hammer, they've won and want the permit denied. There was discussion about whether to deny, whether to table, and whether to remand to the hearing examiner to take evidence and the hearing examiner can change the recommendation.

After discussion with Mr. Couch about language, Mr. Sevenoaks moved to remand the matter to the hearing examiner to reopen the hearing to provide the opportunity for new evidence and bring back to the Board a conclusion. Ms. Lambert seconded the motion.

Mr. Drummond asked for clarification if the Matteson's can take water as long as it doesn't interfere with domestic use. Mr. Smith said whatever comes back, they cannot interfere at anytime. Ms. Lambert said it appeared the weir system is potentially the difference between what was before and what we have now, measuring the flow of water to assure the applicant and the protestants have water, and a new opportunity for resolution, while no assurance the resolution will come to reality. She said she would rather have a new opportunity explored, and if not the parties can come back.

Chairman Nichols stated there is a motion and a second, and he asked for any further questions. Being none, he called for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: None

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

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 to the members that things are going well. He said he is particularly excited because he has been able to get into some of the technical issues. Regarding the public policy side, the 42 public meetings will conclude in the Fall; 22 meetings have been held to date and 5 meetings since the last Board meeting. He said several Board members have attended, and a broad array of comments has been received. Regarding the technical side, the Board approved an agreement on the summary disposition agenda with the Bureau of Reclamation that allows the Board to use “turn back” money for additional planning effort (\$20,000 at 50/50 match). He has met with the lead engineering firm and others to continue planning effort on technical study, and is outlining goals and a schedule and method to achieve the goals that will be taken to a broad workshop with the technical partners, as well as the Board’s committee, approximately the third week of October. Mr. Dillon concluded his report.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Monte Boyce addressed the members and presented the August budget report for 2007. He said 17% of the budget year has been completed, and have expended and obligated 61% of the budget, and collected 26% of the budget. He said the agency had planned for a 25% increase on insurance, but received news the largest increase will only be 7%. There were general questions about the insurance plans. Mr. Boyce concluded his report.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

A. Contracts and Agreement Recommended for Approval. Consideration of Cooperator Agreement Amendment No. 4. With the U.S. Department of Agriculture, Agricultural Research Service, for Monitoring and Evaluating Streamflow in the Little Washita River Experimental Watershed.

Mr. Couch stated this contract was received after the time of the regular mailout for the agenda.

Mr. Herrmann moved to approve the cooperator agreement, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

8. An Update on Oklahoma Water Resources Board Lakes Work through Water Quality Programs Division. This presentation was delayed to a future meeting.

9. PROPOSED EXECUTIVE SESSION

Chairman Nichols

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(4) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of confidential communications between a 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 a pending investigation, litigation or proceeding in the public interest.

Pursuant to this provision, the Board proposes to hold an executive session for the purpose of discussing City of Tishomingo v. OWRB (Meridian Aggregates)

A. Vote on whether to hold Executive Session - before it can be held, the Executive Session must be authorized by a majority vote of a quorum of members present and such vote must be recorded.

Chairman Nichols stated the Board needed to hold a brief executive session in order to discuss the City of Tishomingo v. the OWRB (Meridian Aggregates.)

Mr. Fite moved the Board enter executive session, and Mr. Knowles seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

B. Designation of person to keep written minutes of Executive Session, if authorized.
Chairman Nichols designated Mary Schooley, Executive Secretary to keep written minutes.

C. Executive Session, if authorized.

The members entered an executive session at 11:40 a.m.

Mr. Sevenoaks moved to return to regular session and Mr. Herrmann seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

10. VOTE(S) ON POSSIBLE ACTION(S), IF ANY, RELATING TO MATTERS DISCUSSED IN EXECUTIVE SESSION IF AUTHORIZED.

Return to open meeting and possible vote or action on any matter discussed in the Executive Session.

Upon return to open session, Mr. Fite moved that the Board appeal the decision related to the case, City of Tishomingo v. OWRB (Meridian Aggregates), and Mr. Keeley seconded.

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

11. NEW BUSINESS

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

Mr. Sevenoaks informed the Board members that the City of Tulsa is going back to the judicial process for clarification on the poultry suit against the chicken integrators. There are a couple of key issues, one being the phosphorous standard which has never been clearly defined or agreed upon as the University of Arkansas and Oklahoma State University refuse to share information, the Attorney General is looking for a phosphorous standard, and the City is hoping that judicially it can reach a phosphorous standard. The settlement agreement ends in October, and the City wants to get approval from the judge to continue with the master in the field and to continue with best management practices and to get a united standard; Arkansas measures the amount of phosphorous to be land-applied with a different level than Oklahoma.

Mr. Sevenoaks also asked if the Governor has signed rulemaking on the poultry regulations. Mr. Smith said he wasn't aware.

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

12. ADJOURNMENT

There being no further business, Chairman Nichols adjourned the regular meeting of the Oklahoma Water Resources Board at 12:10 p.m. on Tuesday, September 11, 2007.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Jess Mark Nichols, Chairman

_____/s/_____
Rudolf J. Herrmann, Vice Chairman

_____/Absent_____
Lonnie Farmer

_____/s/_____
Edward H. Fite

_____/s/_____
Jack W. Keeley

_____/s/_____
Kenneth K. Knowles

_____/s/_____
Linda Lambert

_____/s/_____
Richard Sevenoaks

ATTEST:

_____/s/_____
F. Ford Drummond, Secretary
(SEAL)