

**OKLAHOMA WATER RESOURCES BOARD  
OFFICIAL MINUTES**

**November 13, 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 November 13, 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 November 6, 2007, at 3:30 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  
Kenneth Knowles  
Linda Lambert

**Board Members Absent**

Jack Keeley  
Richard Sevenoaks

**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**

David Lincoln, City of Konawa, OK  
Keith McDonald, Wells Nelson, Oklahoma City, OK  
Charles Swinton, BancFirst, Oklahoma City, OK  
Josh McClintock, McClintock Associates, Oklahoma City, OK  
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK  
Mike Mathis, C.H. Guernsey, Oklahoma City, OK  
Bob Kellogg, Oklahoma City, OK  
Cecil R. Bearden, Meshek and Associates, Oklahoma City, OK  
Jane Edmondson, The Journal Record, Oklahoma City, OK  
David Hale, Lawton Constitution, Lawton, OK

**C. APPROVAL OF MINUTES**

Chairman Nichols stated the draft minutes of the October 9, 2007, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Mr. Herrmann moved to approve the minutes of the October 9, 2007, Regular Meeting, and Ms. Lambert seconded.

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

**D. EXECUTIVE DIRECTOR'S REPORT**

Mr. Duane Smith, Executive Director, addressed the members and said the Governor's Water Conference, by all accounts, was a great success. Reviews of the conference as well as the Water Atlas have been very positive. The participation of the Commissioner of Reclamation was very important, and following the conference he toured the Lugert-Altus Irrigation District, the first visit by a Commissioner of Reclamation to the District since the project was first authorized and built. He said the banquet, looking over the past 50 years of the Board, and presentations by Governor Nigh, Governor Walters, and Lt. Governor Askins was outstanding.

Mr. Smith said he had an opportunity to meet with the new city manager for the City of Norman, Mr. Steve Lewis. They discussed water planning and the central Oklahoma water coalition group that is looking at moving water from southeast Oklahoma. He added the group is trying to organize and find a stable, reliable, long-term source of water; one of which is Sardis Lake from southeast Oklahoma. Right now, the OWRB is not involved in those discussion meetings, but providing information.

The Water Plan effort is moving forward well, and is nearing the end of the public meetings; Idabel will be the last meeting on November 15. Mr. Smith said that Mr. Fite had attended many meetings and done an outstanding job standing up for state employees in Oklahoma, as has Chairman Nichols, and other members.

There has been a lot of publication about consolidation of state government, and Speaker Cargill is conducting a meeting the afternoon of November 13 although not specifically about the

OWRB, the committee is looking at how to make government more efficient, with guest speakers from other states. Mr. Smith said the agency's position is that it is willing to look at anything that makes water and water management more important and more emphasized than it is today. Mr. Herrmann stated the purpose of the boards and commissions is to have public oversight of government activities, and while he did not disagree with the sentiment of making government more efficient, the number of boards at 500 may seem large, but that number times the number of people on the board, such as 9 for the OWRB, representing the view of Oklahomans provide meaningful input into that deliberation process. He asked about how to engage the legislature at this point. Mr. Smith encouraged the members and all citizens to contact their legislators about their views. Chairman Nichols mentioned and Mr. Smith responded that Representative DeWitt had conducted a meeting on the consolidation of the OWRB and DEQ where the directors explained the differences of how the agencies are set-up. The citizen Board of the OWRB functions much differently than the citizen board of the DEQ, and he described those differences in regard to approving loans and issuing permits, for example. To simply combine the structures would have a dramatic impact on the programs.

Ms. Lambert asked if the emphasis is to de-emphasize water, and Mr. Smith said that – putting on a legislative hat – looking at the environmental agencies that come before the legislature with a legislative agenda represented by different boards and commissions all dealing with water, the DEQ, OWRB, Conservation Commission, etc., and then to have to decide which is the priority. He said he didn't believe there would be a savings of money. Chairman Nichols stated what he got from the meeting is the cumbersome paperwork the agencies have to do and how streamlining those processes would be a cost savings, as well as time and effort, that many agencies would support. Mr. Smith said the other committee meeting he attended discussed CAFO setbacks, and in particular regarding the OWRB cannot issue a water permit within a certain distance from CAFO, located within three miles of a recreation site. Discussion at the legislative meeting focused on whether the OWRB should be in the deciding of the CAFO or rather just the approval of the water right.

The Academy for State Goals was held at Quartz Mountain and focused on tribal issues and about the advantages and disadvantages of tribal influence in the state. He said in talking about sovereignty, there is apt to be more legal claims to be litigated, so discussions should be about how to get water to communities in the tribal areas, not who owns the water, then progress can be made. Likewise regarding setting water quality standards, the discussions should be "what should the standard be" rather than who sets the standard; have the discussion on a technical basis, not on the legal basis of ownership.

Mr. Smith announced the agency raised over \$9,400, for the State Employee's Charitable Contributions Campaign, surpassing last year's total and this year's goal.

Mr. Smith stated he would be attending the Western States Water Council 155<sup>th</sup> Council meeting in Phoenix, Arizona. The Council has been working with the Western Governor's Association on a project, and also a couple of bills in Congress through Senator Bingaman regarding the Farm Bill and \$3 million to the Ogallala states for groundwater and surface water conservation through the EQUIP program.

Mr. Smith will be meeting with Secretary of Finance and State Treasurer Scott Meacham about the agency budget, and the format later in the agenda today is to talk about the agency's strategic plan including discussion of the agency's high priority programs, and then the budget request, and he said the Board's input is welcomed during the discussion.

Also on the agenda is an executive session, which the Attorney General may attend.

Chairman Nichols asked about the WRDA bill, and Mr. Smith said the President had vetoed the bill and the override was a landslide in both houses, and the bill is now law. Work for appropriations will now begin.

Mr. Smith concluded his report.

## 2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Consenting to Amendment of Collateral Securing Loan for Lawton Water Authority, Comanche County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that at the June Board meeting, the Board approved a \$10,420,000.00 Clean Water SRF loan to the Authority. The loan is for work in five subbasins and upgrades in two separate areas of town. The June Board order stated the loan would be secured by a lien on Lawton's water, sewer, and garbage system revenues. The Authority has requested that an optional security for the loan be pledged of ad valorem tax revenues. If the loan is closed as originally approved the system revenues is the collateral, but if the loan is closed with ad valorem tax revenues, the collateral is the equivalent of a general obligation. This would be the first loan to close with ad valorem tax as security. All other terms of the loan as approved in June will remain the same. Mr. Freeman noted provisions of the loan agreement, and said Lawton is a long-time, good loan customer of the Board's and currently has 10 outstanding loans for both water and sewer system improvements, which total an original principal balance in excess of \$61 million. Staff recommended approval.

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

Mr. Drummond asked about the use of ad valorem as security, and Mr. Freeman explained it is more secure and consistent revenue. He said it would be operated differently in that the loan would be bid, as a general obligation, but he was confident the Board would win because of the competitive interest rate. Mr. Freeman and Mr. McDonald addressed questions by the members explaining this is another source of revenue, the bid will be let like any other general obligation; it is a unique opportunity, as it is backed by the full faith and credit of the community of Lawton's taxing powers which is the most secure, and there didn't seem to be a downside to this type of collateral. Mr. Drummond asked why cities have not done this before, and Mr. McDonald answered he wasn't sure, he had spoken many times with cities explaining it is a good vehicle to use, but use of the ad valorem goes to a vote of the people, and the city council approves water and sewer rates. Ms. Lambert asked if this would set a precedent, and Mr. Freeman answered he believed that it would, for Lawton with the BRAC expansion and increased construction it is a good thing for this to go to a vote of the people, and Mr. McDonald added that looking at the entire structure, the cities try to balance rates and state and federal taxes, and that as the system grows, so do the revenues in a similar fashion.

Mr. Drummond moved to approve the amendment of collateral securing loan for Lawton Water Authority, and Ms. Lambert seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Sevenoaks

B. Consideration of and Possible Action on a Proposed Resolution Expressing Official Intent to Reimburse Costs of Loans for Clean Water SRF Projects. Recommended for Approval.

Mr. Freeman stated that as a result of Congress enacting the Tax Increase Prevention and Reconciliation Act of 2005, the OWRB has had to change its SRF loan financing strategy. He said the Board has adjusted from a pure blind pool nature to a process of closing loans with cash, and once 30% of the loan amounts are drawn, bonds are issued to reimburse the cash funds, keeping the Board in compliance with the first hurdle of meeting the Act requirements, and avoiding having to issue bonds with call provisions which have very high premiums associated with them. As a result of the reimbursement nature of the issuance process, Mr. Freeman stated U.S. Treasury regulations require that governing bodies and bond issuers declare reimbursement intentions in a form such as the resolution before the Board. He said that exhibit A of the resolution notes the 30 potential Clean Water State Revolving Fund Loan borrowers who may have loans closed with the Board passed the time of bond debt issuance and would have drawn 30% of loan proceeds and would be eligible for reimbursement. As noted in the resolution and exhibit, he said, these 30 CWSRF loans total \$230,466,160.00. Staff recommended approval of the resolution.

Mr. Drummond asked if the full amount of the issuance had been utilized; Mr. Freeman said that of the bond issue in 2004, some money is available that is being drawn from, and future loans being closed now are using cash. He said as a result of the Tax Act, the Board reviewed options to a blind pool issuance, the Board agreed to pursue a strategy where the borrower would see no change, and can still at any time borrow from the Board and not know the Board has changed financing. Mr. Freeman said he is preparing a presentation for the Board for a future meeting, but while he didn't agree with the Tax Act, it has presented the Board an opportunity regarding debt issuance. The staff has had to watch where is the Board's risk factor, and here it is interest rate, and when closing these loans there is no debt behind them and currently the cash flow analysis is that interest rates derives 25% before there would be a problem.

There being no further discussion, Mr. Knowles moved to approve the resolution, and Mr. Drummond seconded.

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

C. Consideration of and Possible Action on a Proposed Resolution Expressing Official Intent to Reimburse Costs of Loans for Drinking Water SRF Projects. Recommended for Approval.

Mr. Freeman explained this resolution is identical to the previous resolution, except for the Drinking Water SRF Program. The resolution regards to same parameters that identifies the Drinking Water loans, and exhibit A to this resolution identifies 36 potential Drinking Water SRF borrowers who may have loans closed with the Board at the time of bond debt issuance and would have drawn 30% of loan proceeds which would be eligible for reimbursement. These 36 DWSRF loans total \$319,625,500.00. Staff recommended approval of the resolution.

Mr. Herrmann moved to approve the resolution and Ms. Lambert seconded.

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

### 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.

There were no requests to transfer items to the Summary Disposition Agenda. However, Ms. Klaver requested that agenda item 3.E.2., application for temporary groundwater permit number #2007-542 be withdrawn from the Board's consideration.

Mr. Drummond asked the price per square foot for the Oklahoma City office space. Mr. Smith answered the Board pays an average of \$9 per square foot, which is governed by the Department of Central Services.

Mr. Herrmann asked about item 3.D.2., Interagency agreement with ODAFF relative to monitoring wells at CAFOs. He asked for the statistical review of the data gathered. Mr. Smith said he would provide the information collected by the OWRB, which is the sample analysis.

#### 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.N.

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. Drummond seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Sevenoaks

The following items were approved:

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

<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>Recommended</u></b>
None			

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

1. Renewal Agreement with IDK Investors, LLC for renewal of lease for OWRB Oklahoma City office located at 3800 North Classen Blvd.

2. Interagency Agreement with the Oklahoma Department of Agriculture, Food and Forestry for the purpose of collecting groundwater samples at monitoring wells of licensed managed feeding operations (LMFOs) and providing statistical review of the analyzed data from LMFO samples.
  3. Grant Contract with The Kerr Foundation, Inc. for assistance in updating the Oklahoma Water Atlas.
  4. Grant Contract with The Kerr Foundation, Inc. for Support of the Governor's Water Conference.
- E. Applications for Temporary Permits to Use Groundwater:
1. Woodruff G. L. & L. D. Family L.L.C., Washita County, #2006-546
  2. *F. D. Boyer & Patricia Boyer Loving Trusts, McClain County, #2007-542 withdrawn*
  3. Roger Mills RWS & SWM District No. 2, Roger Mills County, #2007-550
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. Lavonne Kroeker, Major County, #1999-586
- G. Applications for Regular Permits to Use Groundwater:  
None
- H. Applications to Amend Regular Permits to Use Groundwater:  
None
- I. Applications for Regular Permits to Use Stream Water:
1. Arcadia Farm, L.L.C., Oklahoma County, #2007-028
  2. The White Family Trust, Bryan County, #2007-036
- 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
    - a. Shaddon Laverty, DPC-0717
    - b. Teets Drilling, DPC-0725\
  2. New Operators, Activities for Existing Licenses:
    - a. Lewis Environmental Drilling, Inc., DPC-0388
    - b. Cherokee America Drilling, DPC-0060
- M. Dam and Reservoir Plans and Specifications:
1. Pete Kourtis, CABO Development, L.L.C., Rogers County, #DS-07-02
  2. Oklahoma Centennial Botanical Garden, Osage County, #DS-07-04

N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

1. Oklahoma Department of Transportation, Oklahoma County, #FP-07-34
2. Oklahoma Department of Transportation, Oklahoma County, #FP-07-35
3. Oklahoma Department of Transportation, Oklahoma County, #FP-07-39
4. Oklahoma Department of Transportation, Comanche County, #FP-07-42
5. Oklahoma Department of Transportation, Grady County, #FP-07-44
6. Oklahoma Department of Transportation, Logan County, #FP-07-46

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the November 13, 2007 packet of Board materials.

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

A. Update on Comprehensive Water Plan Activities. Mr. Kyle Arthur presented the update in the absence of Dave Dillon. Mr. Arthur began his report complimenting the staff that put together the Water Atlas and then continued saying the two tracts of the Oklahoma Comprehensive Water Plan—technical studies and public participation—are on a parallel track and concurrently ongoing. Of the 42 public meetings, 41 meetings have been held with the final meeting to be held on November 15 at Idabel. Next step is to conduct the regional meetings that will begin in the late spring or early summer. Dr. Focht will attend the December Board meeting to update the members on all those activities.

Regarding the technical studies, Mr. Arthur said this effort was kicked-off with the engagement by the Corps of Engineers with Camp Dresser McKee (CDM) Engineering firm. Development of the programmatic work plan has been done, and meetings held with the partners—Oklahoma Municipal League, Oklahoma Rural Water, Department of Agriculture, Food, and Forestry, Environmental Federation of Oklahoma, City of Oklahoma City—with other meetings scheduled in the future with Mid-Continent Oil and Gas, Oklahoma Independent Petroleum Association, the City of Tulsa and others. He said it is the staff's intent to make the plan the very best it can be, and to that end, it is believed that maximizing the money received to proceed with the plan is the best approach. In addition to the funding from the legislature, a Bureau of Reclamation grant allows the employment of a person to work on the data migration project for the water rights system and data base to update it and improve its user-friendliness, as well as the Corps of Engineers and Planning Assistance to the States programs with the goal being to take each dollar given and make two-three dollars out of it. Mr. Arthur concluded his report stating that the planning process is more than just producing a document and staff is working very hard to include the public, to have good science, good data and good implementation.

Mr. Drummond asked when the regional meetings would begin, and Ms. Lambert asked if the regions had been identified. Mr. Arthur responded the eleven regional districts are the same as the 11 Substate Planning Districts, and the meeting will begin in late spring or early summer. In the interim, the Water Resources Research Institute staff will be compiling the 2,000



comments received statewide through the public meetings into a report that will then be distributed to the persons nominated.

B. Update on Oklahoma Water Resources Board's 2008-2012 Strategic Plan. Mr. Smith explained that Ms. JaNeal Beougher will talk about the strategic plan and following that presentation there will be discussion about the budget.

Ms. Beougher said that each year the Executive Director, Section Heads and Supervisors meet to update the strategic plan, and this year the session was held on June 8 at the Lake Thunderbird Boat House. This year, a guest speaker was invited for the first time, Dr. Ken Crawford of the Oklahoma Climatological Survey. He spoke about the potential for climate change in Oklahoma, and encouraged the staff to consider a mitigation strategy, which is important to the strategic planning process to ensure supplies of and access to fresh water for Oklahoma citizens.

Ms. Beougher explained the typical process is for the team to enumerate the successes of the prior fiscal year, and then review assumptions --trends, factors and conditions that influence the way the Board does business. These assumptions included: (1) the collection, use and management of water resources data is crucial to making reasonable, feasible, and justifiable water management decisions; (2) the projected impact of climate change on water availability and management in Oklahoma could very well be substantial and it is the OWRB's responsibility to find more creative and innovative ways to manage the state's water resources; (3) changes in demographics and water use could result in more water rights conflicts and water quality issues; (4) cultural and social values change over time and water availability now includes that man maintain natural ecosystems as well as economic activities; and finally, (5) the Board should be aware of emerging water issues, increased awareness that groundwater and surface water have a hydrologic connection and how that should be managed to protect Oklahoma's water resources.

Based on these discussions, the team then identified the high priority opportunities (HPO) for the next year (FY'08), and concluded the Comprehensive Water Plan is the HPO, and the over-arching program would be supported by all other agency-wide action plans which for FY'08 include Special Projects Program and the Outreach and Education Program to increase the awareness of importance and the need for the protection of Oklahoma's surface and groundwater resources.

Ms. Beougher concluded the report with the distribution of the plan to the members.

C. Summary and Discussion of FY 2009 Budget Request. Mr. Duane Smith said now the strategic plan will be taken forward with the budget request. Regarding public outreach, Mr. Smith said the Oklahoma Water Atlas would educate the public and be more informative than any single document published by the Board. Additionally, there are discussions about sponsoring a legal symposium in late winter and have speakers discuss water law. As a result of the public input meetings on the OCWP, it has become apparent that it would be beneficial to put together some forum, prior to the regional meetings, and educate people on the law, and as recommendations to change the law are presented, what the impact of those changes might be.

The budget for the technical aspects of the OCWP is somewhat of a moving target, Mr. Smith said. The legislature appropriated \$1.2 million for a period of five years for the OCWP, and another \$1.2 million for the Financial Assistance Program, but the statute reads that as much of that as is necessary to complete the plan [is authorized]. There is a total of \$12 million coming to the OWRB over the next five years and as much as necessary can be used to update the OCWP. There is \$6.5 million identified in the Water Resources Development Act, and a

25% cost share match to the state, and removes the cap to the Planning Assistance to the States Program with the Corps of Engineers, previously capped at \$500,000 per state per year. No additional money is directed to the program, but the cap is lifted and Mr. Smith expressed concern that the larger states will be able to obtain more of that money. The Bureau of Reclamation has prioritized in its next three-year budget cycle the OCWP, after having given left over funds of \$120,000.00 to the OWRB this past year for the Arbuckle-Simpson Study, \$20,000.00 for a data migration project, and the USGS is matching streamgaging and study money. He said staff is examining how to maximize the dollars coming into Oklahoma, and he believed it reasonable to have \$20 million come to Oklahoma and the OCWP through state and federal matching dollars, and that is the goal. Mr. Smith reviewed a budget document prepared by CDM for the Programmatic Plan for Technical Components of the OCWP outlining the demand projections (consumptive and non-consumptive water use), supply and gap, develop and evaluate supply alternatives, public/policy interaction, implementation and coordination. Mr. Smith commented during the presentation that the supply and demand analysis would take some time, the agency needed to update the permitting system as it is currently operated more like a registration than a water management system. The new data migration system will run allocation models that will be able to look at existing permits, determine downstream interference, reservoir management, instream flow and that is estimated to cost \$350,000.00 including the BuRec grant of \$20,000. This system will be the foundation of any decision making in the future and staff intends to move forward with that effort. He noted the time frames in the document are estimated and can change depending upon funding.

Ms. Lambert said funding rarely comes in a lump sum, and she asked if the cash flow of the monies coming in managed with the time frame is an issue. Mr. Smith responded it is a major issue. For example, the \$6.5 million funding in the WRDA bill, was vetoed, then overridden and now must seek appropriation but we may not receive it, so how is that “plugged in?” He said staff is putting a base figure (\$12 million) on the money that is certain, and everything else will be applied to get things done quicker, or pieces of the plan we’d like to do. As an example, Mr. Smith said that staff believes a map of all the water lines in Oklahoma would be beneficial. In determining supply and demand and possible regionalization of systems, the location of system lines and boundaries lines is necessary. If the \$20 million is realized, it will be possible to do the mapping, which will make a much better water plan, and the analysis of alternatives will be much better. Mr. Smith explained the appropriation of state dollars and how that is received and utilized and said the agency’s legislative agenda is to remove the cap from the fund and pay the end date on the fund, then federal dollars can be maximized. The plan will not be shortened nor ever really ended, Mr. Smith said because other states such as Texas are not putting \$16 million per year into their water plan, and Kansas appropriated \$22 million to implement provisions of the statewide water plan. He said one of the big issues is data gap in streamgaging, and groundwater level measurements, particularly quality and quantity. The emphasis at the legislature this year will be the pyramid approach to management: science, data and implementation, and to connect with other agencies and organizations and build a technical and data base foundation to support the decisions for water use management through technical studies, (a need of \$385,000 i.e. Arbuckle-Simpson, Garber Wellington, stream water availability models, water allocation model), for a total need of approximately \$600,000 and 6 employees. A proposal to raise fees is needed with an additional \$100,000 appropriation, and \$300,000 for streamgaging. The \$385,000 for the technical studies will be used through the OCWP matching funds.

Mr. Smith said that staff's desire is to integrate and coordinate other opportunities i.e., with the USGS streamgaging program, FEMA's dam safety and floodplain management, the US Fish and Wildlife Service and Oklahoma Department of Wildlife Conservation, the Climatological Survey, and MESONET program, to obtain a basic foundation of data and science. All of these issues will be going into a budget packet, and a meeting with Scott Meacham is scheduled later in the month. A request for Sardis Lake will also be included as it is each year.

There were questions and discussion by the members with Mr. Smith regarding the formation by central Oklahoma communities to use Sardis water, that once the OCWP is done, that is only the beginning, long-term funding equates to the quality of the product, copies and distribution of the water atlas, process of the OCWP and discussion of changes of water law.

Mr. Boyce distributed information and noted the request in the budget regarding an increase in insurance and retirement costs. He said one-third of the staff is eligible to retire or will be eligible in five years, and for each employee that has 960 hours of sick leave that is paid to OPERS to fund the additional year, which historically has been costing about \$20-40,000 per employee. Insurance is another area has increased, and the agency will be asking \$192,000 to cover the increase in FY'08-09. It has been covered in the past through infrastructure savings by placing on hold the vehicle replacement program, and replacement of the phone system.

## **5. SPECIAL CONSIDERATION**

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

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

### **A. Application for Regular Permit to Use Groundwater No. 2007-517, City of Konawa, Seminole County.**

1. **Summary** – Ms. Lou Klaver, Chief, Planning and Management Division, stated to the members that this application by the City of Konawa is to use 77.66 acre-feet of groundwater for municipal use from four wells located on 38.83 acres of land in Seminole County. There were numerous protests to the applications; however, there was only one major issue and that was in dispute. The Applicant owns the land, it overlies the Ada-Vamoosa Groundwater Basin that has been studied authorizing two acre-feet per acre per year, municipal use is a beneficial

use, and waste by pollution will not occur. The disputed issue is whether waste by depletion will occur by the applicant's proposed use.

Ms. Klaver explained the City of Konawa has been using two southern wells for decades and are now coming into compliance with the groundwater law. The city is proposing to add two wells to the north of the property, and there is currently an OWRB loan for the City to drill one well. The issues involved are that the south wells are pumped to fill an underground concrete storage tank that leaks, so much so that there is water on the surface. Additionally, the underground pipelines are leaking, and water is seeping into the street. The protestant, Mr. Lincoln, raised this issue and provided the information at the hearing. Ms. Klaver said the hearing examiner has recommended the permit be issued for the 77.66 acre-feet, but that the permit is conditioned that the concrete underground storage tank where most of the losses occur be repaired, or no longer used. The north well, which will become the major production well, is not connected to the storage tank; however, there is still the problem of lines leaking and the City contends it is seeking to resolve the leaks. Ms. Klaver added that well spacing was also an issue, but the new well will be sealed to 250 feet so that the 60-foot domestic wells will not be impacted.

Ms. Klaver stated that staff recommended approval of the order with the conditions in place.

2. Presentation by parties. Mr. Bill Huser, city attorney, and Interim City Manager Rita Lopesto addressed the members. Mr. Huser said they appreciated the order and do not have objections to the recommendation. He wanted to assure the Board that Konawa would cooperate and do its best to comply with the requirements. He and Ms. Lopesto informed the Board that the leaks in the water lines are repaired. He said because of the age of the lines there might be other leaks, but it is the City's intention to maintain the lines. He explained the reservoir tank (underground concrete storage tank) is a manual system and will overflow at times, but the city staff is now monitoring the situation closely and are looking to find a way to stop the overflow but now that has to be done manually.

Ms. Lambert asked the financing options, and Ms. Lopesto responded there is a pending OWRB grant that will fund approximately one-third of the expense for the well, and she noted other possible pending funding sources that she is working to obtain. Mr. Drummond asked if the north well has been drilled, and Ms. Lopesto answered it has not, but the other wells are in operation and once the north well is in place, there will not be a need for the reservoir tank and it will be disconnected. She described the tank's age and position and said the point of overflow cannot be seen so the pressure is monitored every two hours and if needed, staff travels 2.5 miles to the south well to shut it off.

Mr. Lincoln addressed the Board and said there have been some serious questions about monitoring of the wells, the leaks and water losses. Mr. Lincoln owns ranch land around the city's water treatment facility that has had some damage repair to erosion due to the reservoir overflow. He had concerns about the monitoring by staff and also concerns about the leaks in the distribution lines, and the previous city manager expressed several reasons why the problems existed and the city's problem is not a lack of water but a lack of infrastructure. He also asked if the current system is abandoned, what happens to the people using that system? Mr. Drummond asked if Mr. Lincoln objected to the new well, and he answered only if it cuts down on his current service, and he described his use. He encouraged a study or way to monitor the new well.

Mr. Herrmann asked about other storage facilities, and Mr. Lincoln said there are multiple storage facilities, a five-acre tract with three above ground and one underground. Mr. Fite asked about the well that only pumps two gallons per minute, and the other that is 35 gpm, and Mr. Lincoln said those two wells are located on the five acres, but he questioned the report of the two gallons per minute.

Mr. Huser responded that Mr. Lincoln's comments are well taken, and that the City is looking for ways to put in new water lines and improve the infrastructure. Ms. Lopesto said that the city is working with Myers Engineering for a full report of what is necessary in order to re-do the system and she reassured the Board the situation is monitored and leaks will be repaired.

Chairman Nichols read from the order that "the permittee would act with due diligence to repair or replace leaking water line..." and he asked how that is being monitored. Ms. Klaver responded that the city is required to submit a water use report; however, the Board cannot require monitoring. She had spoken with the city engineer about priority of repairs to the system and that no customers will be dropped from service, which Ms. Lopesto confirmed. Chairman Nichols asked how the Board would know, and there was discussion about how to report and who to report to, and Mr. Couch interjected the Department of Environmental Quality's comprehensive requirements govern the system, but what is "excessive" given the system condition? And, therefore it is the nature of the language to be flexible both regarding "due diligence" – a month, week, or year—relating to costs and obtaining funding, etc. There was discussion about the language in the order and its intent, and amendments to the language in the order to ensure compliance.

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

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

Mr. Farmer moved to amend the proposed order adding language that the permittee submit a report by a date certain in six months, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Sevenoaks

Chairman Nichols called for a motion to approve the proposed order as amended.

Mr. Farmer moved to approve the proposed order as amended for groundwater permit #2007-517, and Mr. Drummond seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Sevenoaks

B. 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.

Discussion of the agency budget was presented under item 4.C.

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

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

8. **Discussion of 2008 Rulemaking Process and Possible Amendments and Proposed New Rules.** The Rules Committee did not meet, and Mr. Couch provided copies of the Notice of Rulemaking Intent.

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 the Tarrant Regional Water District v. Herrmann

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.**

Mr. Farmer moved the Board enter executive session, and Ms. Lambert seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Sevenoaks

B. **Designation of person to keep written minutes of Executive Session, if authorized.**

Chairman Nichols appointed Mary Schooley, Executive Secretary, to keep written minutes of the session.

C. **Executive Session, if authorized.**

The Board entered Executive Session as authorized at 11:37 a.m.

Mr. Drummond moved and Ms. Lambert seconded that the Board adjourn the Executive Session and return to regular session at 12:07 p.m.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Sevenoaks

**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 regular session, Mr. Fite moved that the Board recommend to the Office of the Attorney General that the State appeal the decision recently rendered by the Court in the Tarrant County v. Herrmann case. Mr. Knowles seconded the motion.

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

**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.

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

**12. ADJOURNMENT**

There being no further business, Chairman Nichols asked for a vote to adjourned the regular meeting of the Oklahoma Water Resources Board. Ms. Lambert moved and Mr. Herrmann seconded that the Board adjourn at 12:15 p.m. on Wednesday, November 13, 2007.

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

**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

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

ATTEST:

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