

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

January 17, 2017

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Linda Lambert at 9:30 a.m., on January 17, 2017, at 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 January 11, 2017, at 4:45 p.m. at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, and provided on the agency's website.

Chairman Lambert welcomed everyone to the regular meeting of the Oklahoma Water Resources Board, and asked for the roll call of members.

A. Roll Call

Board Members Present

Linda Lambert, Chairman
Ford Drummond, Vice Chairman
Jason Hitch, Secretary
Stephen Allen
Bob Drake
Marilyn Feaver
Ed Fite

Board Members Absent

Richard Sevenoaks
Tom Buchanan

Staff Members Present

Julie Cunningham, Interim Executive Director
Robert Singletary, General Counsel
Cleve Pierce, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Kent Wilkins, Interim Chief, Planning and Management Division
Bill Cauthron, Interim Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

Others Present

Micah Isaacs, CPN
Chris Chandler, District 9, Broken Bow, OK
Jonathan Fisher, US Fish and Wildlife Service, Tulsa, OK

Anthony Francisca, Norman, OK
 Chris Mattingly, Norman, OK
 Ken Komiske, Norman, OK
 Becky and Randy Castor, Vici, OK
 Brian Meier, Burns & McDonnell, Wichita, KS
 Jim Rodriguez, Oklahoma Aggregates Association, Oklahoma City, OK
 Chris and Jan Wolff
 Kathryn (illegible) International Paper
 Sharon Robbins, CF Industries, Claremore, OK
 Matt Outhier, Delaware County Rural Water District #3, Jay, OK
 Gregg Gardner, Delaware County Rural Water District #3, Jay, OK
 DeeDee Hensley, Cherokee County/Dewey County, Tahlequah, OK
 Christie Southern, eCapitol, Oklahoma City, OK
 Randy Jacox, City of Choctaw, OK
 Bernie Nauheimer, City of Choctaw, OK
 Ben Oglesby, Municipal Finance Services, Inc./Choctaw, OK
 Bud Ground, Environmental Federation of Oklahoma, Oklahoma City, OK
 Derek Hardberger, Hall Estill, EOG Resources
 Derek Blackshare, Blackshare Environmental/EOG Resources
 Amber Wooten, Carollo Engineers, Oklahoma City, OK
 Jean Lemmon, Oklahoma Corporation Commission, Oklahoma City, OK
 Bryce Calles, Oklahoma Department of Environmental Quality, Oklahoma City, OK
 Oscar Esparsa, Oklahoma Department of Environmental Quality, Oklahoma City, OK
 Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK
 Carlos E. Johnson, BKA, LLP, Oklahoma City, OK
 Karla Spinner, Oklahoma Corporation Commission, Oklahoma City, OK
 Sue Ann Nicely, Oklahoma City, OK
 G. Caldwell, CCO
 Bodie Bachelor, Centennial Law
 Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
 Saba Tahmassebi, Oklahoma Department of Environmental Quality, Oklahoma City, OK

Prior to continuing with the agenda items, Chairman Lambert stated there are two sign-in sheets at the door and she asked those who wished to comment during the rules hearing to indicate such on the appropriate sheet.

B. Discussion, Amendments, and Vote to Approve Official Minutes of the December 20, 2016, Regular Meeting.

Chairman Lambert asked if there were any corrections to the minutes of the December 20, 2016, regular meeting. There were no changes, and Mr. Hitch moved to approve the minutes. Mr. Drummond seconded.

Chairman Lambert called for the vote.

AYE: Hitch, Allen, Feaver, Fite, Drake, Drummond, Lambert
 NAY: None
 ABSTAIN: None
 ABSENT: Buchanan, Sevenoaks

C. Interim Executive Director's Report

Ms. Julie Cunningham, OWRB Interim Executive Director, began her report with an update concerning activities of the State Legislature, which will convene on February 6, 2017, and she noted the deadline for filing bills is January 19. The agency anticipated measures regarding the ownership of produced water and discharge permitting regarding produced water in Oklahoma as the Produced Water Working Group moves forward with its recommendation. On January 25, the agency will meet with the Joint Senate/House Appropriations Energy and Environment Subcommittee to present the agency budget. Secretary Teague is represented by Carly Cordell today and is working with the Governor's office for three appointments to the Board and confirmation by the Senate. Chairman Lambert added the goal is for the new appointments to be able to participate in the selection of a new executive director.

Regarding activities by the Congress, Ms. Cunningham noted the federal report provided in the meeting packet by Brittnee Preston. The 115th Congress convened on January 3, and President-elect Trump will be inaugurated on January 20; the report includes the Cabinet appointments. Staff will be watching for changes in regulatory matters with federal agencies and particularly the WOTUS rules currently under judicial review. Legislative actions include the unanimous approval by the House of H.R. 353 by Oklahoma Congressmen Lucas and Bridenstine directing NOAA to focus resources on weather-related research and forecast modeling. The EPA announced \$1 billion in credit assistance for water infrastructure projects under the WIFIA program which will complement the State's SRF programs, and the OWRB has applied for a research grant through the Department of Interior for research opportunities regarding produced water transfer and evaporation technologies.

Ms. Cunningham updated the members regarding the US Corps of Engineers' published notice for a water supply rule which claims to clarify and interpret the Flood Control Act of 1944 and the Water Supply Act of 1958 for implementation. The States – through the Western States Water Council, the Interstate Council on Water Policy, and the National Water Supply Alliance—are concerned with the rule's potential overreach because of the blurry line of state's control and water rights allocation versus what the COE proposes. The States want clarification the COE owns the bowl, state/entities pay for maintenance of the reservoirs, but the state is ultimately responsible for water rights appropriation. Staff have been participating in meetings and providing comments and there will be a request for an extension.

Other activities of the agency include hosting a Water for 2060 workshop on water reuse technologies and involvement in the National Drought Resiliency Partnership. The NDRP is a Presidential initiative for agencies to engage in projects benefitting an entire area and includes the Oklahoma planning group, Southwest Water Action Plan, which will meet with the Western States Water Council in April.

There were no questions, and Ms. Cunningham concluded her report.

D. Monthly Budget Report.

Mr. Cleve Pierce addressed the members and stated the budget report regards financial information for the month ending December 2016. During this reporting period, the agency has expended 43% of general revenue appropriation, with 57% remaining; has expended 28% of the revolving fund budget, with 72% remaining, and expended 32% of federal dollars with 68% remaining. Overall, the total budget remaining is 68%, with 50% of the fiscal year remaining. He said at this time last year, the agency had spent 66%, therefore, the agency is on target.

Chairman Lambert asked that Mr. Pierce report on item 21, clarifying "Payment to Local Governments" category. Mr. Pierce responded this fund regards the internal transfer of funds from the

other divisions for the operation of administration services to agency's other main program areas, and is an internal line item in order for the Administrative Services Division to operate. The Divisions have not been billed and will not be billed until one-half the year is past. Staff is working to better clarify the item.

There were no questions by the members, and Mr. Pierce concluded his report.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water District No. 3, Delaware County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is for a \$1,175,000.00 loan request from Delaware County Rural Water District No. 3 that is requesting the loan to refinance five Rural Development loans which were for various improvements to the District's water treatment plant and system. He said the loan will be funded through the Board's new FAP State Revenue Bond Loan Program, and he noted provisions of the loan agreement. He said the District's water connections have increased 15% over the past ten years and the debt coverage stands at 1.98-times. Staff recommended approval of the loan application.

Mr. Craig Gardner, District Chairman, and Max Outhier, District Manager, were present in support of the loan request.

Mr. Drummond asked about the source of funding of \$69,620, and Mr. Freeman answered that is reserve funds on the Rural Development loans that will go toward payoff of those loans.

Mr. Fite moved to approve the FAP State Loan Program loan to Delaware County Rural Water District No. 3, and Ms. Feaver seconded.

AYE: Hitch, Allen, Feaver, Fite, Drake, Drummond, Lambert

NAY: None

ABSTAIN: None

ABSENT: Buchanan, Sevenoaks

B. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Choctaw Utilities Authority, Oklahoma County. Recommended for Approval. Mr. Freeman stated this item is a \$1,440,000.00 loan request from the Choctaw Utilities Authority. He said the Authority is requesting the loan for designing construction upgrades to the wastewater treatment plant as well as refinancing an interim bank note for the rotary press and wastewater treatment plant design work. Mr. Freeman stated the loan will be funded through the FAP State Revenue Bond Loan Program, and he noted provisions of the loan agreement. He said that over the past seven years, Choctaw's water connections have increased by 16% and from 2000-2010, the population increased by approximately 19%; the debt coverage ratio stands at approximately 2.18-times. Staff recommended approval of the loan application.

Representing Choctaw were Bernie Nauheimer, Interim City Manager, and Randy Jacox, Public Works Director. Mr. Freeman stated that the Chairman has asked about the next agenda item regarding an SRF loan to Choctaw. He said the rotary press and other items were purchased and the interim bank loan used to finance that which is totally eligible for an FAP loan. However, parts of the project have not been in compliance with some SRF regulations and are financed with the FAP loan. The remaining is funded through the SRF.

Mr. Hitch asked if the Board is taking a parity position, and Mr. Freeman answered, yes. Mr. Allen asked if the debt coverage ratio contemplated both loans, and Mr. Freeman answered, yes. Mr. Nauheimer addressed the members regarding both agenda items. He said the city has been working on the project for several years and is currently under a DEQ consent order and the \$4 million loan is part

of a sludge handling facility that has been started. The City had to change engineering companies during the process and it reconsidered funding for the projects which will allow the city to start construction under the consent order 18 months earlier. Mr. Hitch asked if the project would meet DEQ compliance, and Mr. Nauheimer answered that it would.

There were no other questions, and Chairman Lambert stated she would entertain a motion. Mr. Hitch moved to approve the FAP State Loan Program Revenue Bond loan to the Choctaw Utilities Authority, and Mr. Allen seconded. Chairman Lambert called for the vote.

AYE: Hitch, Allen, Feaver, Fite, Drake, Drummond, Lambert
NAY: None
ABSTAIN: None
ABSENT: Buchanan, Sevenoaks

C. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Choctaw Utilities Authority, Oklahoma County. Recommended for Approval. Mr. Freeman stated this item is for consideration of the \$9,775,000.00 loan requested by the Choctaw Utilities Authority. He said the Authority is requesting the loan for numerous upgrades for the wastewater treatment plant for refinancing a bank loan for costs of the wastewater treatment plant design. The loan will be funded through the Clean Water State Revolving Loan Program, and he noted provisions of the loan agreement. Choctaw has been a previous borrower of the Board's and has handled its loans in a satisfactory manner. He said the debt coverage ratio stands at 2.18-times. Staff recommended approval of the loan application.

Chairman Lambert asked if there were comments or questions on the proposal. Mr. Drummond stated one loan is 20 years, and the other is 30 years. Mr. Freeman explained the length of the finance relates to the life expectancy of the project; the rotary press is 20 years, and the treatment plant is 30 years.

There were no other comments or questions, and Chairman Lambert stated she would entertain a motion.

Mr. Drummond moved to approve the Clean Water SRF loan to the Choctaw Utilities Authority, and Mr. Allen seconded. Chairman Lambert called for the vote.

AYE: Hitch, Allen, Feaver, Fite, Drake, Drummond, Lambert
NAY: None
ABSTAIN: None
ABSENT: Buchanan, Sevenoaks

D. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Norman Utilities Authority, Cleveland County. Recommended for Approval. Mr. Freeman stated this item is for the consideration of a request by the Norman Utilities Authority for a \$31,000,000.00 Drinking Water SRF loan. Norman is requesting the loan for numerous improvements to its 17 MGD water treatment plant which includes a pump station, new ozone system, ultraviolet disinfection system, replacement of existing pumps, new and modified chemical feed equipment and facilities, for improvements to the existing filtration building, and new maintenance and administration buildings. Mr. Freeman noted provisions of the loan agreement. He said Norman's water connections have increased 18% and sewer connections have increased by 22% over the past 10 years. Norman currently has three loans with the Board with an outstanding balance of approximately 28.6 million dollars, and the debt coverage ratio is approximately 1.94-times. Staff recommended approval of the loan application.

Mr. Ken Komiske, Utilities Director; Anthony Francisco, Finance Director; and Chris Mattingly, Capitol Projects Engineer, were present representing Norman in support of the loan request.

Mr. Komiske said this is Phase 2 of the project as the Board financed Phase 1 in 2006. Part of the project is a requirement by the Department of Environmental Quality for a stronger disinfectant, and he explained implementing ultraviolet light and making safer chlorine, as well as other improvements.

Mr. Drake asked if the \$31 million included fees for bond counsel, financial advisors, and other service providers. Mr. Komiske noted those services, and Mr. Freeman said Norman is paying separately, so it is not listed. Mr. Drummond asked about the Board's capacity with this loan, and Mr. Freeman answered when the Board closed the last DWSRF loan in October the capacity was in great shape. He estimated it would be another one-and-a-half years before it will be necessary to do another bond issue.

Chairman Lambert asked if there were other comments or questions. There were no questions. Mr. Drake moved to approve the Drinking Water SRF loan to the Norman Utilities Authority, and Mr. Drummond seconded.

AYE: Hitch, Allen, Feaver, Fite, Drake, Drummond, Lambert
NAY: None
ABSTAIN: None
ABSENT: Buchanan, 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.

Chairman Lambert stated there were four items to be deferred. First, at the recommendation of the Chairman, item 3.D. 2., Agreement with the Office of Management and Enterprise Services is deferred for further review; and secondly, items J. 1.,2.,and 3., applications for regular permits to use stream water applications, withdrawn. The items, SBK Properties and two applications by Wooderson Farms, are being removed due to notice issues. There were no other changes to the agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items Listed.

Chairman Lambert stated she would entertain a motion to approve the Summary Disposition Agenda as amended, if there were no questions. There were no comments or questions.

Ms. Feaver moved to approve the Summary Disposition Agenda, and Mr. Fite seconded. There were no other questions or comments and Chairman Lambert called for the vote.

AYE: Hitch, Allen, Feaver, Fite, Drake, Drummond, Lambert
NAY: None
ABSTAIN: None
ABSENT: Buchanan, Sevenoaks

The following items were approved:

C. Consideration of and Possible Action on Financial Assistance Division Items:

1. Rural Economic Action Plan (REAP) Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
	None			
D.	<u>Consideration of and Possible Action on Contracts and Agreements:</u>			
	1. Amended contract between OWRB and the City of Norman for the implementation of the Lake Thunderbird TMDL Monitoring Plan through stormwater sampling, analysis and monitoring.			
	•2. Agreement between OWRB and the Oklahoma Office of Management and Enterprise Services to share services to provide OWRB with information technological services. <i>Item withdrawn</i>			
E.	<u>Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:</u>			
	1. Ronald D. Davis Living Trust, Oklahoma County, #2016-533			
F.	<u>Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:</u>			
	1. Paul D. & Tammy L. Bates, Caddo County, #1976-596B			
	2. Don Muegge, Grant County, #2012-511			
G.	<u>Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:</u>			
	1. Windmill Ranch, L.L.C., Osage County, #2015-534			
	2. Faith Christian Outreach, Pottawatomie County, #2016-503			
H.	<u>Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:</u>			
	None			
I.	<u>Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:</u>			
	None			
J.	<u>Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:</u>			
	•1. SBK Properties, L.L.C., Rogers County, #2011-027			<i>Item withdrawn</i>
	•2. Wooderson Farms, Kay County, #2014-059			<i>Item withdrawn</i>
	•3. Wooderson Farms, Kay County, #2014-061			<i>Item withdrawn</i>
K.	<u>Consideration of and Possible Action on Applications to Amend Permits to Use Stream Water:</u>			
	None			
L.	<u>Consideration of and Possible Action on Dam and Reservoir Construction:</u>			
	None			
M.	<u>Consideration of and Possible Action on Well Driller and Pump Installer Licensing:</u>			
	None			
N.	<u>Consideration of and Possible Action on Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:</u>			
	1. Oklahoma Department of Transportation, Garfield County, #FP-16-57			
	2. Oklahoma Department of Transportation, Washita County, #FP-16-62			
	3. Oklahoma Department of Transportation, Kingfisher County, #FP-16-63			
O.	<u>Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:</u>			
	None			

4. PUBLIC HEARING ON PROPOSED NEW AND AMENDED PERMANENT RULES OF THE BOARD
Chairman Lambert

A. Staff Presentations and Public Comment on Amendments to Permanent Rules Proposed for Adoption During 2017.

This public hearing is an opportunity for interested persons to present oral or written argument, data, and views on the new and amended rules of the Board which are being proposed for Title 785 of the Oklahoma Administrative Code specified below.

Other than this public hearing, no action will be taken by the Board on the proposed rules at the January 17, 2017 meeting. The comment period for these proposed amendments is currently ongoing and will expire before 12:00 P.M., or at the conclusion of the Board meeting, whichever is the latter, on January 17, 2017. The proposed amended rules are expected to be scheduled for consideration and possible adoption or any other action by the Board at its February 21, 2017 meeting.

Subchapter 1. General Provisions

785:45-1-2. Definitions [AMENDED]

Subchapter 7. Groundwater Quality Standards [AMENDED]

785:45-7-1. Scope and Applicability; Purpose [AMENDED]

785:45-7-2. ~~Criteria for Groundwater Protection and Corrective Actions~~ Groundwater Quality Antidegradation Policy [AMENDED]

785:45-7-3. Groundwater Classifications, beneficial uses and vulnerability levels [AMENDED]

785:45-7-4. Criteria for groundwater quality protection [NEW]

785:45-7-5. Corrective Action [NEW]

Chairman Lambert opened the public hearing at 10:40 a.m., and asked that Mr. Bill Cauthron and Mr. Monty Porter provide a background summary of the proposed rules, why we are here, the process that has been engaged, and the stakeholders involved. The Chairman instructed staff will entertain comments from the Board followed by comments by members of the public. She said that each person that wished to speak is allowed three minutes, and Mr. Cleve Pierce would be the time keeper. In the interest of time and efficiency, Chairman Lambert asked that if a person wished to comment the same as a previous participant had expressed about a rule, that person should state their name and that their comments are the same as another's, and their case will be included in the permanent record of this meeting.

1. a. Summary of Proposed Amendments to Chapter 45 – Oklahoma's Water Quality Standards – Mr. Bill Cauthron, Interim Chief, Water Quality Program Division, presented a PowerPoint presentation (attached) and said that what precipitated the groundwater rule change was a lack of precipitation. Drought conditions a number of years ago created the desire to alleviate drought through augmenting water supply. He said that as we are coming out of the drought, now is the time to look at what can be done to mitigate the effects of drought in Oklahoma, and one tool that can be implemented is Aquifer Storage and Recovery, or ASR, and Aquifer Recovery, or AR. A workgroup was formed in 2015 to look at the entire ASR arena and determined there would need to be changes in Oklahoma to allow ASR to occur. Additionally, during the 2016 Legislative Session, Senate Bill 1219 was approved, charging the Oklahoma Water Resources Board to develop water permitting rules for ASR.

Mr. Cauthron described the process by which the proposed rules were developed, including the formation of an ASR workgroup that includes state, federal, local entities as well as environmental firm members and others, convened by the Oklahoma Department of Environmental Quality, and meeting monthly to develop the rules as a group, a departure from the normal rulemaking process. The workgroup met for approximately two years, conducted three informal stakeholder meetings and two informal public meetings for any final comments or change, and the process fully vetted the proposed rules. The formal comment period began December 15, 2016, and Mr. Cauthron described the approval and implementation process, discussions at the meetings and a comparison of existing language and new language. (See presentation attached.)

Mr. Monty Porter, continued with the presentation and spoke about what ASR is – the reuse of groundwater, treated drinking water at the point of injection, the intermixing of water, recovery of water through irrigation, municipal drinking water treatment plant, and artificial recharge. He discussed the current groundwater protection policy—protection of all uses—existing water quality, existing narrative criteria, and the fact that currently many citizens drink untreated water (private drinking well), and that the real-world impact of the policy is “just say no.” Mr. Porter explained the goal of the rule revision which is the protection and utilization of groundwater, protection of existing water quality protects beneficial uses, and establishing the flexibility to lower water quality in some groundwater but still within the beneficial use protections. He addressed the existing narrative criteria and proposed new narrative: protecting all beneficial uses and applying to any activity; and the numeric criteria: protecting only drinking water—and most only apply to ASR and AR projects; while including the consideration for naturally occurring constituents. (See presentation attached.)

In conclusion, Mr. Porter shared with the members frequently asked questions:

Do these rules create new regulatory responsibilities for existing programs? No new regulatory responsibilities are created; however, new regulatory programs for ASR and AR will be created.

Do these rules create new regulations for natural waterbodies (e.g. farm ponds) or sub-surface structures (e.g. septic tanks)? The natural hydrologic connection to surficial groundwater is not regulated by the current GWQS and will not be regulated by the proposed revisions.

Why are numeric criteria necessary, where do they apply, how were they developed? Numeric criteria provide clarity and certainty in the regulatory process while protecting drinking water beneficial uses, while allowing utilization and recharge of groundwater. Numeric criteria only apply to groundwater with a drinking water beneficial use, and most only apply to ASR and AR project.

How will the new revision be implemented? Specifically for ASR and AR, the ASR Workgroup is turning its attention to focus on implementation. Early discussions regarding implementation approaches have begun. The ASR Workgroup welcomes continued and additional stakeholder participation. OWRB discussed the proposed revision with sister agencies and substantive changes to current programs are not expected.

Mr. Cauthron and Mr. Porter concluded their presentation.

b. Questions and Discussion by Board Members. Chairman Lambert invited questions by the members.

Ms. Feaver asked how well attended were the public meetings, and Mr. Cauthron stated the meetings were well attended and there was good input which was implemented. Mr. Porter said changes resulted following the first meeting that there should be separate criteria sections for ASR and AR. She also asked about the presentation slide, “just say no” and “lack of clear target.” Mr. Porter explained, for example, if a municipality wanted to inject water into the ground, there is no numeric criteria for injecting treated wastewater in the ground and clear targets are needed in order to regulate that process; currently it is left up to the implementer.

Mr. Hitch, referring to the Ogallala Aquifer, asked about the protection from human degradation if drawdown is a beneficial use. Mr. Porter said the current water quality standards do not speak specifically to that as regards groundwater and affecting a beneficial use, and this revision does not consider that.

Mr. Drummond asked what has been learned or borrowed from other states that work. Mr. Porter answered the workgroup through DEQ staff circulated a questionnaire to other states and conducted independent research about what other states are doing, and produced a comprehensive document which was presented to the Groundwater Protection Council. Mr. Cauthron said it was difficult to find commonality as other states' structures are all somewhat different.

Mr. Drake asked if a pilot program was planned. Saba Tahmassebi, DEQ, responded there has been a project in the Blaine Aquifer in southwest Oklahoma since the 1980s between DEQ, EPA and the local interest. He said it is necessary to have a pilot for lessons learned, but the question is how to accommodate a pilot from a regulatory perspective, and the first step is to open the door in the standards language to allow the pilot, which is the purpose of the rule, then in implementation it can be discussed what the pilot would be. Ms. Cunningham clarified a pilot would be under the implementation rules by DEQ, and Saba said a pilot could not be done until there are water quality standards but open the door for discussion if it is something the state would benefit from, under certain circumstances. Mr. Drummond asked if the OWRB or DEQ would permit the pilot. Mr. Porter said the SB 1219 requires a water use permit which is not approved until there is a water quality certification from DEQ. OWRB General Counsel Singletary interjected that one of the components under review is whether there is DEQ-issued authorization for the water that was stored in the aquifer, and that is when the groundwater quality standards and DEQ's implementing rules will come into play. Ms. Cunningham said that was included in the statutory language to make sure the state conscientiously assesses each potential project. Mr. Cauthron added this is the first step; there will be further rulemaking that will occur, this just sets the framework.

Mr. Hitch asked about the Board's mandate to licensed withdrawal for beneficial use, and is the licensing of a deposit allowed. Mr. Singletary said that is the subject of SB 1219 and Mr. Hitch asked how that relates to the Corporation Commission and injection of saltwater. Mr. Singletary said that regards disposal versus storage and recovery. Ms. Cunningham said the distinction is here we are talking about fresh water versus a waste product. Mr. Hitch asked if discharge from a waste treatment plant is a waste product, and Ms. Cunningham said that would typically go to a stream, and would have to meet the beneficial use standards criteria for that stream segment. This (proposed rules) is the same and would have to be treated to a certain level and meet existing water quality in the aquifer. Mr. Singletary said there will be a requirement of a surface water permit to have a right to store the water, and then have a permit to ensure the amount of water you want to withdraw is still there. Ms. Cunningham said those rules are targeted to be promulgated next year. They discussed a scenario with the City of Guymon withdrawing water, used, cleaned, and then discharged to a stream or lagoon, and potentially would need permits from OWRB and DEQ for storage of injected water, having to demonstrate the water that is stored is the same quantity of water available when withdrawn. Mr. Drake said he noted the City of Ada had attended the meetings, and that it withdraws water from the Arbuckle Simpson, and he thought it could be a possible pilot program. The staff and members discussed potential pilot projects but that a pilot has not yet been discussed until the rules are in place.

c. Public Comment. Chairman Lambert invited interested parties to speak to the proposed rules, noting the three-minute time frame allowed.

1. Mr. Saba Tahmassebi, DEQ Chief Engineer, said about two years ago he had conversations with former OWRB Director Strong about how to mitigate drought and one of the ideas was to develop a tool to help entities that want to regionalize their water resources, find out what their neighbors are

doing, and what the what the groundwater resources. He said the Northwest Water Action Plan group has begun using the tool. He said an expert workgroup was formed to address ASR in Oklahoma which members are the cream of the crop both in state and nationally who together came up with ideas about ASR. The first thing decided is that the water rights issue needs to be addressed, as well as groundwater standards, which preclude any ASR in drinking water. Saba concluded his remarks due to the time limit and said the rules make sure that groundwater is protected.

2. Mr. Bud Ground, President, Environmental Federation of Oklahoma, stated to the Board members the organization represents all industry across the state, and he was involved in the entire process, including passage of Senate Bill 1219 during 2016 Legislative Session. He said EFO believed the intention of the process is very good, but is concerned about unintended consequences. While changes during the process has made it better, the interpretation and application can vary among people and be different than what is intended. He said EFO will be involved with the implementation by agencies and there are questions which he is confident the Board will listen to. He emphasized the rules only needed to apply to ASR and AR projects, and not unintended areas i.e., storm water holding ponds. Industry uses different types of storage ponds and treatment facilities and they do not want the current status of regulations and legislation impacted.

3. Derek Hardberger, representing EOG Resources, thanked the members for the opportunity to speak. He said he echoed Mr. Ground in that the rule is a good intention and that much of what has been presented regarding criteria and standards for the protection of water. He said the rule is vague in terms of what it covers, for example, regarding impoundments. He said specifically point sources are in the Board's Rules in Chapter 45, and he said his organization believed – and the matter is being litigated across the country – an impoundment is not a point source. In regulating ASR, a finer point should be to specifically recognize impoundments are not a point source in the rule, definition, and the actual text.

4. Derek Blackshare, representing EOG Resources, spoke to the members stating EOG supports the rule, and believes the intent is a good rule and they firmly support groundwater protection. He expressed the concerns of the unintended consequences; more specifically, the narrative criteria which he believes impose additional restrictions on activities and are unintended consequences. He said it contradicts what is referred to as Senate Bill 597 or Title 82, 1020.2 rule regarding stream and groundwater augmentation, and he requested clarification in the rule to resolve the conflict. He said there is also a related consequence on the economic impact if that does affect groundwater augmentation through mining operations and he asked that be considered. He said some of the proposed changes that could accomplish Mr. Hardberger's or Mr. Ground's comments would satisfy his comments.

5. Marla Peek, representing the Oklahoma Farm Bureau, stated there are more than 9,000 OFB members with many different types and sizes of livestock operations and thousands of groundwater permits, so this is a big issue. She said OFB has long supported ASR because drought has cost rural communities and agriculture \$2 billion dollars. She said when there has been rain, over 65 billion acre-feet of water has left Oklahoma through the Arkansas and Red Rivers, and ASR is needed to augment water supply. Oklahoma has not experienced water wars pitting municipal and agriculture against one another, as well as other issues such as infrastructure, environmental, and endangered species other states have. The OFB believes ASR is a start and is acknowledged by the Oklahoma Comprehensive Water. She said after speaking with the state agencies, OFB is very concerned about the DEQ permitting process, and questioned statutory jurisdiction where agriculture has a wide authority. The OFB wants to ensure agriculture stays in the forefront and requests to observe the technical workgroup.

6. Brian Meier, Burns & McDonnell, applauded the state and agencies for taking the action to develop a tool to support water supply sustainability during drought times when it is really needed.

There were no other members of the public that spoke regarding the proposed rules. Chairman Lambert stated that at the February meeting the Board will vote on the rules. At noon today the comment period closes, both verbally and written.

There were no comments or questions by Board members. Mr. Hitch thanked the public for comments.

Chairman Lambert asked Mr. Freeman to speak to Chapter 50 proposed rules.

2. a. Summary of Proposed Amendments to Chapter 50 – Financial Assistance –

Subchapter 7. Water and Sewer Program (Bond Proceed Loans and Emergency Grants) Requirements and Procedures

785:50-7-7. Disbursement of funds [AMENDED]

Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures

785:50-8-6. Disbursement of funds [AMENDED]

Subchapter 9. Clean Water State Revolving Fund Regulations

Part 3. General Program Requirements

785:50-9-23. Clean Water SRF Project Priority System [AMENDED]

785:50-9-33. Application for financial assistance [AMENDED]

Mr. Joe Freeman stated to the members that the Financial Assistance Division has proposed four changes regarding the operation of the grant and loan program. The first proposal regards requiring projects under \$50,000 to provide a maintenance bond, a letter of credit, or the equivalent, one year following construction. The change follows the guidelines for projects over \$50,000, except for the competitive bidding law, and will help small entities have assurance those problems that occur within the year following completion of a project will be fixed.

The next proposal regarded the completion of projects following bid tabulation. This amendment stipulates grant projects under one-half million dollars must have construction completed within 180 days of receipt of construction bidding tabulations, and projects costing greater than one-half million dollars must be completed within one year of receipt of bid tabulations. An extension would be allowed if grant recipients document a longer time period is needed if the delay is outside of their control.

Regarding the addition of new projects to the Clean Water Project Priority List, Mr. Freeman stated a change is proposed that an L1 application, or preliminary application, is no longer required. The application was required by borrowers who had not previously been borrowers. Since the program has been in existence for over 30 years, the language requiring an L1 application is not needed since most entities have already become borrowers.

The last proposal regarded loan applicants submitting documents, i.e., engineering reports and technical memos rather than complete final plans and specifications prior to submitting a loan to the Board for approval. Plans and specifications are required by the DEQ as the projects are permitted by DEQ.

Mr. Freeman stated there were no comments received on the proposed changes to Chapter 50.

b. Questions and Discussion by Board Members. Mr. Hitch asked about the L1 application requirements and small projects. Mr. Freeman answered the requirement regards the loan program; there is only one application for the grant program. There were no other questions by the Board members.

c. Public Comment. There were no comments by members of the public.

5. SPECIAL CONSIDERATION

A. No items. There were no items for the Board’s consideration.

B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

6. Update and Possible Discussion on the Status of the Search for New Permanent Executive Director of the Oklahoma Water Resources Board. Chairman Lambert informed the members the executive director job was posted on the Oklahoma website on January 3, and will remain open until February 10. On February 20 or 21, the Board’s Search Committee will be reviewing those applications. The applications will be submitted to the Office of Management Enterprise and Services, and then will be provided to the Committee for review.

There were no comments or questions by the Board members.

7. 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.

8. ADJOURNMENT

There being no further business, Chairman Lambert adjourned the meeting of the Oklahoma Water Resources Board at 11:00 a.m. on January 17, 2017.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Linda P. Lambert, Chairman

_____/s/_____
F. Ford Drummond, Vice Chairman

_____/s/_____
Edward H. Fite

_____/s/_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Bob Drake

_____/s/_____
Tom Buchanan


_____/s/_____
Stephen B. Allen

ATTEST:

_____/s/_____
Jason W. Hitch, Secretary (SEAL)


OKLAHOMA WATER QUALITY STANDARDS PRESENTATION OF PROPOSED REVISIONS FORMAL BOARD HEARING

Oklahoma Water Resources Board
January 17, 2017



Background

- **Desire to augment water supplies in response to extreme drought**
- **Aquifer Storage and Recovery (ASR) Workgroup formed in 2015**
- **Necessitated a change to groundwater quality standards**
- **Revision developed through the ASR workgroup**



ASR Workgroup

Oklahoma Department of Environmental Quality
Oklahoma Water Resources Board
Burns & McDonnell
Carollo Engineers
City of Ada
Ground Water Protection Council
Honorable Scott Martin—Oklahoma State Legislature
Oklahoma Department of Agriculture Food and Forestry
Oklahoma Corporation Commission
Oklahoma Geological Survey
Oklahoma Office of the Secretary of Energy and Environment
United States Geological Survey



Rulemaking Stakeholder Participation


- **Three Informal Stakeholder Meetings**
 - Inter-agency WQS Workgroup (September 2016)
 - Informal Public Meeting (October 2016)
 - Informal Public Meeting (November 2016)
- **Many informal conversations with various stakeholders**
- **Formal Comment Period began on December 15**



Water Quality Management


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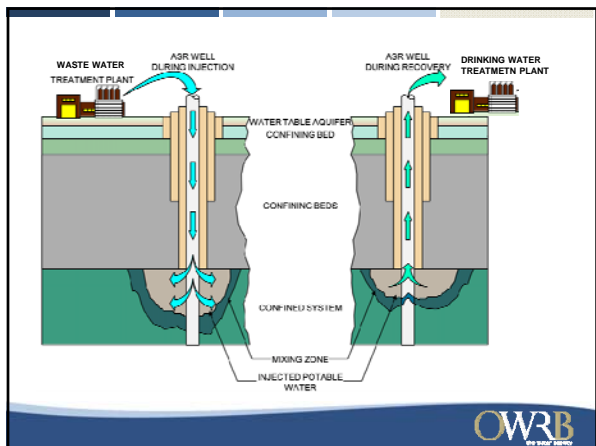
    graph TD
      A[Proposed revisions will reside here] --> B[Oklahoma Water Quality Standards (OWQS)]
      B --> C[Chapter 46 (OWQS Implementation Rules)]
      C --> D[Regulatory Authority (Implement OWQS) (e.g., ODEQ)]
      D --> B
      D --> C
  
```



Organization of Proposed Changes

New or Substantive Change		Existing Language, but Moved	
Antidegradation Policy	45-7-2	Special Source Groundwaters	45-7-2
Classifications	45-7-3	Agency Responsibility	45-7-4
Beneficial Uses	45-7-3	Corrective Action	45-7-5
Criteria	45-7-4		





Current Groundwater Protection Policy

- Protect all beneficial uses—untreated drinking water most sensitive
- Protect existing water quality—Do not degrade
- Protective measures:
 - ✓ Adequate to preserve background
 - ✓ Sufficient to minimize impact of pollutants

OWRB

Current Groundwater Protection Policy

•Protection of Existing Water Quality Protects Beneficial Uses
 •This Becomes the Baseline of Protection

Impairment

OWRB

Existing Narrative Criteria

“The groundwaters of the state shall be maintained to prevent alteration of their chemical properties by harmful substances not naturally found in groundwater.”

“The concentration of any synthetic substances or any substance not naturally occurring in that location shall not exceed the PQL in an unpolluted groundwater sample using laboratory technology.”

OWRB

Real World Impact of This Policy

- An extremely high level of protection
 - Maintain existing water quality
 - No non-natural substances
- Inflexibility—A “Just Say No” Policy
- Lack of clear targets to protect beneficial uses

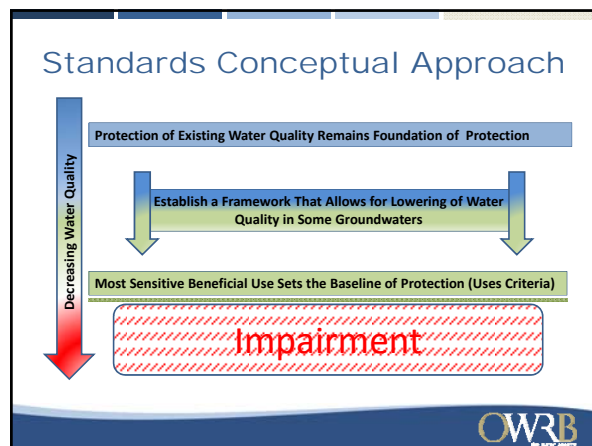
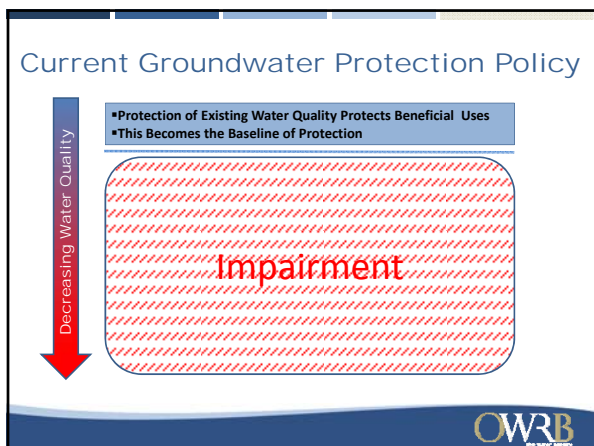
OWRB

Goal of the Chapter 45 Revision...

Protection and Utilization of Groundwater

- Protect Human Health and other Beneficial Uses
- Clarify protection policy; create functionality and flexibility
- Clarify criteria

OWRB



Groundwater Criteria

- Existing narrative criteria
 - "groundwaters shall be maintained to prevent alteration of their chemical properties by harmful substances..."
 - "The concentration of any synthetic substances...shall not exceed the PQL..."
- Proposed New Narrative & Numeric Criteria
 - Group and list the "harmful substances" & "synthetic substances" for clarity and function

OWRB

Groundwater Criteria

- Proposed Narrative Criteria
 - Protect all beneficial uses
 - Applies to any activity
- Proposed Numeric Criteria
 - Protect drinking water beneficial uses
 - Most only apply to ASR & AR Projects

Narrative Criteria	Numeric Criteria
Taste & Odor	Microorganisms (all activities)
Chemical Constituents	Radioactivity (all activities)
Toxicity	Primary & Secondary MCLs
Geochemical & Physical Composition	Human Health Criteria (modified)
Minerals	

- Consideration for naturally occurring constituents

OWRB

Frequently Asked Questions

OWRB

Do these rules create new regulatory responsibilities for existing programs?

- No new regulatory responsibilities are created. The current GWQS are more stringent, but less functional & flexible than the proposed standards.
- New regulatory programs for ASR and AR will be created, as these projects are currently not allowed.

OWRB

Do these rules create new regulations for natural waterbodies (e.g. farm ponds) or sub-surface structures (e.g. septic tanks)?

- **Natural waterbodies, such as ponds or reservoirs, have a natural hydrologic connection to surficial groundwater. This hydrologic connection is not regulated by the current GWQS and will not be regulated by the proposed revisions.**
- **The proposed revision to GWQS will not alter the current regulatory framework for septic tanks.**



Numeric Criteria: Why are they necessary; Where do they apply; How were they developed?

- **Protect drinking water beneficial uses, while allowing utilization and recharge of groundwater. Numeric criteria provide clarity and certainty in the regulatory process.**
- **Only apply to groundwaters with a drinking water beneficial use. Most only apply to ASR & AR projects**
- **Developed or incorporated from existing programs, including the Safe Drinking Water Act maximum contaminant levels (MCLs) and surface water human health criteria.**



How will the new revision be implemented?

- **Specifically for ASR & AR, the ASR Workgroup is turning its attention to focus on implementation. Early discussions regarding implementation approaches have begun. The ASR Workgroup welcomes continued & additional stakeholder participation.**
- **OWRB discussed the proposed revision with sister agencies and substantive changes to current programs are not expected.**



Questions

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