

**OKLAHOMA WATER RESOURCES BOARD  
OFFICIAL MINUTES**

**November 1, 2005**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:30 a.m., on November 1, 2005, in the Board Room of the Oklahoma Water Resources Board offices, 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.

**A. Invocation**

Mr. Currie provided the invocation.

**B. Roll Call**

**Board Members Present**

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

**Board Members Absent**

Kenneth Knowles

**Staff Members Present**

Duane A. Smith, Executive Director  
Mike Melton, Assistant to the Director  
Dean Couch, General Counsel  
Joe Freeman, Financial Assistance Division  
Jim Schuelein, Chief, Administrative Services Division  
Mike Mathis, Chief, Planning and Management Division  
Derek Smithee, Water Quality Programs Division  
Mary Lane Schooley, Executive Secretary

**Others Present**

Mike Spear, Holdenville, OK  
Mike Ray, Oklahoma City, OK  
Jack Barrett, Holdenville, OK  
Allan Brooks, Fagin Firm, Oklahoma City, OK  
Nate Ellis, Fagin Firm, Oklahoma City, OK  
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK  
Tom Lay, Kerr Irvine Rhodes Ables; Seaboard, Oklahoma City, OK  
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK  
Ricky Pearce, Ryan Whatley Coldiron, Oklahoma City, OK  
Keith Siemsen, Seaboard Foods, Guymon, OK

**C. APPROVAL OF MINUTES**

Chairman Herrmann stated the draft minutes of the October 11, 2005, Regular Meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were changes.

Mr. Nichols moved to approve the minutes of the October 11, 2005 Regular Meeting, and Mr. Keeley seconded.

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

**D. EXECUTIVE DIRECTOR'S REPORT**

Mr. Duane Smith, Executive Director, begin his report with the reminder that the Governor's Water Conference would begin that afternoon at 1:30 p.m., with the Groundwater Session, and the program continues through November 2, 2005 at the Cox Convention Center. The Bureau of Reclamation has extended an invitation to the Board members to attend a breakfast at the Sheraton Hotel to meet Mr. Mike Ryan, newly appointed Regional Director, and Mr. Mark Trevino, newly appointed Oklahoma-Texas Area Manager. The OWRB has a number of projects with the Bureau in Oklahoma.

Mr. Smith said the House of Representative and Speaker Hiatt are conducting REDI, or Rural Economic Development Initiative, meetings across the state with listening sessions on various topics. In October, the REDI meeting in Miami and Elk City focused on water. The focus of the REDI meetings is to promote jobs; Tom Daxon is staffing the committee for the House, and in discussions about support for the OWRB initiative to fund the Comprehensive Water Plan and the Statewide Water Development Fund, Mr. Daxon indicated it would be supported if it related to jobs. Clearly, it does relate to jobs and economic development for communities, so staff will be preparing documents addressing how water impacts economic development and jobs in Oklahoma.

Mr. Smith stated he had conducted a number of meetings this month including Representative Susan Winchester and Representative Don Armes, who want to co-author a bill along with Senate authors Senator Ted Fisher and Senator Kenneth Corn to look at prioritizing the Gross Production Tax REAP Account Water Projects Fund to be used for the Comprehensive Water Plan and the Financial Assistance Program. Secretary Tolbert has met

with the Governor's office which has agreed conceptually. Mr. Smith has also spoken with the Oklahoma Rural Water Association and the Oklahoma Municipal League, along with meeting with Rep. Winchester, and all agreed the fund should be prioritized to come to the OWRB for those projects. Mr. Smith has also met with the Oklahoma Conservation Commission and hopes to have support from those groups for support of non-point source implementation, and the goal is to build an alliance with the city groups and farm groups to obtain funding dedicated to those activities. Mr. Secrest mentioned a resolution by the ORWA being sent to their membership asking for local support and to contact legislators.

Mr. Smith stated staff is organizing a "Capitol Water Day" in the Spring of 2006 that would be attended by many organizations and others to be at the Capitol that day and visit legislators. If possible, the Board would conduct its monthly meeting at the Capitol.

Other upcoming meetings mentioned by Mr. Smith are: Nature Conservancy to talk about the CREP (Conservation Reserve Enhancement Program) part of the farm bill that enrolls acres of lands to be used for best management practice activities to reduce phosphorous in priority watersheds i.e., Illinois River---one of the methods to get money to the CREP program is the Financial Assistance Program. An example would be for an entity such as Tulsa to get a small loan for matching dollars to put toward a project to put best management practices in the Spavinaw-Eucha watershed. It is an opportunity for partnering that should be explored, while also protecting the financial assistance programs so communities can receive the best interest rates.

Mr. Smith stated he would be speaking to the Mid-Continent Oil and Gas Association about wetlands activities and the water quality standards that has been a point of concern for many years. Current standards are actually overprotective and concerns communities providing more protection than what a wetland ought to be able to sustain in some cases. But controversy arises in the language to fix such problems. Staff has been working closely with all sectors interested in wetlands. November 14-15, Secretary Tolbert has scheduled a conference in Altus to discuss the Red River Chloride Control program. There are several speakers and a tour of the project scheduled; what is wanted is a study on the Elm Fork of the Red River (a tributary to the North Fork of the Red) to determine the technical feasibility of removing the salt from that area, impacts to Lake Texoma, etc., to see if that is a reasonable source to augment water supplies in southwest Oklahoma. November 15 the House Subcommittee on Appropriations is meeting and reviewing agency budgets and performance measures. One of the questions posed to the agencies is how the agency would address -- in terms of staffing and reducing employees--the percentage of eligible retiring employees in the next five years. Mr. Smith announced that three veteran employees would be retiring by the end of the year--Mike McGaugh, head of purchasing, Jann Hook, head of Information Services/Data Processing, and Jim Schuelein, Chief of Administrative Services. He said he wished them well, but there would be a gap; close to 100 years of service with those three employees. He said, it's an opportunity to take steps forward.

The Oklahoma Municipal League will have a Water Summit 2005 on November 17; he, along with Steve Thompson and Secretary Tolbert and others will be addressing water issues faced by communities.

Mr. Smith concluded his report by introducing the Employee of the Quarter, Laura Oak.

Mr. Sevenoaks asked about monitoring along the Illinois River, and Mr. Currie asked about funding and purpose of the Chloride Control Project.

## 2. FINANCIAL ASSISTANCE DIVISION

Mr. Jacob Bachelor, Financial Assistance Division, presented the division items on behalf of Mr. Freeman, Chief of Financial Assistance Division, who was away attending the Council on Infrastructure Financing Authorities annual meeting.

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Holdenville Public Works Authority, Hughes County. Recommended for Approval. Mr. Bachelor stated to the members that this request by the Holdenville Public Works Authority is for a State Loan Program Revenue Bond loan in the amount of \$750,000.00. The Authority is planning to construct a new dam and canal that will connect the new reservoir to the existing Holdenville Lake, thereby increasing the city's water supply. The Authority is requesting the loan in order to fund the engineering, planning and design, through the bidding and contracting phase along with all incidental and geotechnical surveys. The loan will also be used to establish a debt service reserve fund and to pay cost of issuance. This loan is not for construction of the dam and reservoir, but for the engineering studies and preparing for construction. Mr. Bachelor described provisions of the loan agreement and stated the debt-coverage ratio is approximately 2.32-times. It is estimate the Authority will save upwards of \$96,000 over the life of the loan by borrowing from the Board. Staff recommended approval.

Mayor Jack Barrett and Financial Advisor Rick Smith were present in support of the loan application.

Mr. Nichols moved to approve the loan to the Holdenville Public Works Authority, and Mr. Currie seconded.

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

B. Consideration of and Possible Action on a Proposed Order Approving Modification of Loan Terms for Enid Municipal Authority, Garfield County. Recommended for Approval. Mr. Bachelor said this item is for the modification of loan term for a pending loan to the Enid Municipal Authority in Garfield County. He provided an anecdote about the naming of the town of Enid before explaining the Board had originally approved the \$2.7 million loan in June of 2003, granted an extension of time to close the loan in June of 2004, and added a further extension of time and modification of loan terms in May 2005. Originally, the loan was planned to be for only three years and since that time the Board's loan structure has changed where a loan for interim construction is now a long-term loan. The sole purpose of the modification today is to amend the approved loan term as it was in the previous Board orders to provide for a maturity within twenty years of completion of construction, rather than maturity within three years from when the loan is made.

Mr. Bachelor explained the purpose of the loan previously approved was for the rehabilitation and modification of the wastewater treatment plant. A delay in the project was necessitated by a redesign of the original plan. A permit to construct has been issued by the Department of Environmental Quality; bids were opened and the contract has been awarded and the loan is tentatively scheduled to close on November 17, 2005. Based on the Authority's last audit and financial statements, it has a debt-coverage ratio of approximately 2.1-times. Staff recommended approval of the loan modification.

Mr. Rick Smith, financial advisor, was present in support of the request. Chairman Herrmann asked if the modification is driven by the Financial Assistance Division needs, or by the needs of the City of Enid? Mr. Bachelor responded that the original structure

as presented and changed was necessitated because of delays in the project and need to redesign the rehabilitation. The FA Division itself – separate from the project – changed the way the loans are funded; it was not requested by the City of Enid.

Mr. Sevenoaks asked if there were entities that borrowed money from the Board but never started the project and is there a “sunset” provision that construction must be started within a certain time frame? Mr. Bachelor responded there is a deadline for completion of construction that is included in the loan agreement and if that deadline is not met, the borrower must start repayment of the principal at that time; if construction is never begun, there is no need of course to repay a loan and it simply relapses. He said the loan is funded as the construction progresses and funds are released as invoices are submitted. The new feature now is that once the construction is completed the full amortization schedule can be calculated and then principal is begun over the long term, so there is not two separate loans.

Mr. Sevenoaks moved to approve the modification of the loan terms for the Enid Municipal Authority, and Mr. Currie seconded.

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

Mr. Smith commented that Mr. Freeman is at the CIFA conference working on a very important issue, and that is a taxation issue that will affect the way that the Board operates its program. If the EPA proposals are adopted, it would drastically change the blind pool financing. Senator Jim Inhofe has been active and is working to allow the Board to keep its program as it is. Mr. Smith highlighted the issue saying the Internal Revenue Service is trying to eliminate blind pool financing. That is the type of financing where the Board borrows money without having to designate projects for the funding. The new regulations put very tight restrictions on how soon the Board would have to issue bonds and when loans would have to be made from those bonds, and when construction would have to begin, almost making it an identified pool program which would put large delays in working with the communities to get the projects lined up and then starting the financing. It is a major timing issue and also a point of having ratable and non-ratable communities in the mix of the bond package, and possibly creating a situation where the Board would not be able to loan to some of the non-ratable communities as it does now. The IRS restrictions would basically reduce the Board’s flexibility to be responsive to the needs of municipalities and rural water districts across the state.

### **3. SUMMARY DISPOSITION AGENDA**

Chairman Herrmann stated that any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board’s staff, or any other person attending this meeting, 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 for the transfer of items; however, Mr. Mathis requested that items 3.G.1. regular

groundwater permit #2004-570 be withdrawn from the Board's consideration due to publication errors.

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

Mr. Sevenoaks asked about item 3.H.2. regarding an amendment to a regular groundwater permit in Texas County for Seaboard Foods. He said there are several new members on the Board since the hog issues (several years ago) and he was interested in a brief discussion about the issues involved to inform the newer members. Mr. Mathis described the application for this particular action, saying the applicant performed the required notice but no protests were filed. He brought the members up to date about the issues in the Panhandle area of the state and Seaboard Farms' development of concentrated animal feeding operations. He said the controversy arose in regard to the Board's review of issues of pollution, statutory changes followed determining portions of that law fell under the Department of Agriculture's review and narrowed the OWRB focus for such permits for land application, locations, setbacks from recreation areas, etc. Mr. Sevenoaks noted corporate farming was not allowed in the state until the law was changed, which resulted in environmental impacts and economic impacts there were not anticipated. He recalled the enormous controversy between the Board, the public, and the industry, and because this matter on the Summary Agenda, rather than the protested agenda, shows how the issues are now reviewed. Mr. Currie asked about the monitoring around those projects; Mr. Mathis responded that is under the Water Quality Division, but he was not aware of any problems. Mr. Smith noted the OWRB collects the data to the Department of Agriculture, who conducts analysis and enforcement, if necessary.

Mr. Tom Lay, representing Seaboard Foods, addressed the members to note that this application is not for the operation of swine farm, but for water for a feed mill.

Mr. Smith noted item 3.E.1., Chickasaw Enterprises, and recognized Mr. Mathis for his work with the Chickasaw Nation which resulted in the application for a permit.

There being no further discussion, Mr. Sevenoaks moved to approve the Summary Disposition Agenda as amended, and Mr. Keeley seconded.

AYE: Currie, Farmer, Fite, Keeley, Nichols, Secrest, Sevenoaks, Herrmann  
NAY: None  
ABSTAIN: Fite on item 3.D.4.  
ABSENT: Knowles

**The following items were approved:**

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

<u>REAP</u>				<u>Amount</u>
<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Recommended</u>
None				

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

1. Consideration of Contract with Jann P. Hook for Records Management and Imaging Services.
2. Consideration of Amendment to Contract with the Texas Department of Licensing and Regulation for Evaluation of Weather Modification Activities.

3. Consideration of Amended Agreement with the U. S. Army Corps of Engineers, Tulsa District, for Floodplain Map Modernization.
  4. Consideration of Water Quality Cooperative Agreement with the Office of the Secretary of Environment for Work Related to Probabilistic Monitoring of the Illinois River Basin.
  5. Consideration of Agreement with the Office of the Secretary of Environment for Work Related to a Regional Monitoring and Assessment Program.
  6. Consideration of Amendment to a Joint Funding Agreement with the U. S. Geological Survey for Work Related to the Arbuckle-Simpson Aquifer Study.
- E. Applications for Temporary Permits to Use Groundwater:
1. Chickasaw Enterprises, Commerce Division of the Chickasaw Nation, Love County, #2005-520
- F. Applications to Amend Temporary Permits to Use Groundwater:  
None
- G. Applications for Regular Permits to Use Groundwater:
1. *Robert A. Williams & Andrea Mendoza-Williams, Tillman County, #2004-570 withdrawn*
  2. George F. & Clara Huebsch, Marshall County, #2005-551
  3. Kenneth & Bonnie Hahn, Greer County, #2005-552
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Garvin County Rural Water District No. 6, Garvin County, #1984-570B
  2. Seaboard Foods, L.L.C., Texas County, #1994-542
- I. Applications to Amend Prior Rights to Use Groundwater:  
None
- J. Applications for Regular Permits to Use Stream Water:
1. Edwards Trust dba Stagestand Ranch, Stephens County, #2005-018
- K. Applications to Amend Regular Permits to Use Stream Water:  
None
- L. Well Driller and Pump Installer Licensing:
1. New Licenses, Accompanying Operator Certificates and Activities:
 

a.	Licensee: H & H Water Well Drilling	DPC-0663
	Operator: Dennis Hilburn	OP-1463
	Activities: Groundwater wells, test holes and observation wells	
	Pump installation	
b.	Licensee: JDI Sales	DPC-0665
	Operator: Russ Dewberry	OP-1464
	Activities: Pump installation	
- M. Dam and Reservoir Plans and Specifications:  
None

- N. Permit Application for Proposed Development on State Owned or Operated Property within Floodplain Areas:  
None

- 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 1, 2005 packet of Board materials.

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

There were no presentations of items of discussion for the Board's consideration; however, the letter from Mr. Smith to Senator Jim Inhofe on the matter of the IRS regulations regarding blind pool bond issues was distributed, as was Senator Inhofe's letter forwarding the correspondence to the Joint Tax Committee chairman in support of the Board's position. Mr. Bachelor and Mr. Smith discussed with the members the impact to the OWRB financial assistance program. The position is supported by the nationwide group Council on Infrastructure Financing Agencies.

#### **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. No items
- B. Consideration of items transferred from the Summary Disposition Agenda, if any.  
There were no items transferred from the Summary Disposition agenda.



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

Mr. Jim Schuelein, Chief, Administrative Services Division, stated to the members the budget report reflects agency operations one-third through the fiscal year with the agency operating well within the limitations set by the Governor and Legislature. The agency is operating within the budgetary limits as established by the Legislature and the Governor. There were some discussion about a potential impact to the agency's budget due to federal reductions because of the hurricane efforts and other federal matters. Mr. Smith added the Board's Ad Hoc Rules committee discussed fees for the next session that would be used to fund the permitting section, and that will be included in the 2007 budget request along with funding for the water plan and financial assistance program.

Mr. Sevenoaks asked Mr. Schuelein to comment about things he would change in response to his impending retirement, and Mr. Smith talked about the necessary personnel needed to replace Mr. Schuelein and Mr. McGaugh.

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

There were no Supplemental Agenda items for the Board consideration.

## **8. NEW BUSINESS**

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

Chairman Herrmann mentioned that the Board had expressed a desire to conduct more meetings out of the Oklahoma City area, and would be looking to do so on perhaps a quarterly basis beginning the first quarter of the year.

Mr. Smith also brought to the members' attention that some persons from the Lake Eufaula citizens' group would be present at the Water Conference to ask questions about the permit granted to the Rural Development Foundation for public water supply. He said they had legitimate questions that deserved legitimate answers, and suggested that Mr. Mathis would be able to respond to questions; or he would be glad to meet with them. However, the permit has not been put to use, no water has been withdrawn although the lake levels are down because of drought and hydropower releases. Mr. Couch cautioned the members to not get involved in the event of further adjudication, but to refer those questions to Mr. Mathis or Mr. Smith. For perspective, Mr. Mathis stated that the conservation pool has over 1.4 million acre-feet of water, and if the permit were actually being used, it would constitute about 8.7 inches of the lake level per year.

**9. ADJOURNMENT**

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 10:50 a.m. on Tuesday, November 1, 2005.

**OKLAHOMA WATER RESOURCES BOARD**

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

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

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Harry Currie

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

\_\_\_\_\_/Absent\_\_\_\_\_  
Edward H. Fite

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

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Bill Secrest, Secretary

(SEAL)