

**OKLAHOMA WATER RESOURCES BOARD  
OFFICIAL MINUTES**

**June 20, 2006**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:00 a.m., on June 20, 2006, in the Parkview East meeting room of the DoubleTree Hotel at Warren Place, 6110 South Yale Avenue, in Tulsa, 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 June 13, 2006, at 4:30 p.m. at the Oklahoma Water Resources Board's offices.

**A. Invocation**

Chairman Herrmann asked Mr. Kenny Knowles to provide the invocation.

**B. Roll Call**

**Board Members Present**

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

**Board Members Absent**

Bill Secrest, Secretary

**Staff Members Present**

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

**Others Present**

Representative Jeannie McDaniel, Tulsa, OK  
David H. Wooden, Broken Arrow Municipal Authority, Broken Arrow, OK  
Bruce Arnold, Broken Arrow Municipal Authority, Broken Arrow, Ok  
Jeff Westfall, Broken Arrow Municipal Authority, Broken Arrow, OK  
Paul Zachary, City of Tulsa, OK  
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK  
Trevor Hammons, Office of the Attorney General, Oklahoma City, OK  
Tammy Pitts, City of Tulsa, OK  
Charles Hardt, City of Tulsa, OK  
Mike Kyser, City of Coweta, OK  
Steve Whitlock, City of Coweta, OK  
George Tipton, Community Resource Group-Copan, Pryor, OK  
Robert Shelton, City of Tulsa, OK  
Mike Buchert, City of Tulsa, OK  
Ron Cooke, Save Our Water Lake Eufaula, Oklahoma City, OK  
Tom Caldwell, Broken Arrow, OK  
Jacob Bachelor, Oklahoma Water Resources Board, Oklahoma City, OK  
R.L. Reynolds, Tulsa Metropolitan Utility Authority, Tulsa, OK  
Marrien Neilson, Bank of Oklahoma, Tulsa, OK  
Cyndi Wilkinson, Bank of Oklahoma, Tulsa, OK  
Marilyn Baldwin, City of Tulsa, OK

**C. APPROVAL OF MINUTES**

Chairman Herrmann stated the draft minutes of the May 9, 2006, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. There were no amendments to the minutes as proposed, and Mr. Nichols moved to approve the minutes of the May 9, 2006, Regular Meeting, and Mr. Fite seconded.

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

**D. EXECUTIVE DIRECTOR’S REPORT**

Mr. Duane Smith, Executive Director, addressed the members and began his report saying it is great to be in Tulsa, and he welcomed the Tulsa guests, Representative Jeannie McDaniel, Tulsa City staff members, TMUA members, and he expressed special appreciation to Mr. and Mrs. Sevenoaks for their hospitality.

On behalf of the board and staff, Mr. Smith presented to Mr. Lou Reynolds, Chairman of the Tulsa Metropolitan Utility Authority, a “OWRB Valued Customer” certificate of appreciation. Mr. Reynolds complimented the Tulsa staff members for their efforts over the years to improve the city’s water and wastewater system, and added his thanks to the OWRB as a partner and friend in assistance in financing the \$490 million in projects. He also gave credit to those involved in the planning, and to the citizens of Tulsa as well, to ensure Tulsa’s future success.

Chairman Herrmann summed up the presentation with the statement, “Success has many fathers; failure is an orphan” noting that many people have played a role in the Tulsa

projects, and it's a great case study of good government at work with the partnership and commitment on behalf of both the Tulsa Metropolitan Utility Board and the Oklahoma Water Resources Board, ultimately working together to meet the needs of the citizens of Tulsa.

Mr. Smith announced Mr. Ford Drummond, the Board's newest member, was confirmed by the Senate, and by way of introduction, he read a brief biography.

Mr. Smith stated the Legislature is working on the OWRB appropriations bill today and will finish the session this week. He said he is optimistic the Gross Production REAP account is proposed to be split into thirds between the OWRB, Conservation Commission and the Tourism Department. Other dollars will be directed to the Arbuckle-Simpson study, and several other projects the in which the OWRB is involved.

Regarding Sardis Lake, a judgment had been made by the federal court that the contract is valid, but there is also a \$60 million price tag. He said avenues on appeal are being explored as the State's contention has been that Legislative appropriation is not required and the lake should be paid for when the water from the lake is sold. The U.S. Corps of Engineers takes a different position and the U.S. Judge did not specifically address that issue. He said the State disputes how much is actually owed, and the costs could possibly be reduced. Ultimately, if the State is to pay and the Legislature does not appropriate, then the federal government could take federal funds from the state. Chairman Herrmann asked who holds title to the lake; Mr. Smith responded the Corps of Engineers actually owns the land, lake, and dam, and the OWRB/State of Oklahoma has a contract for the storage. The only user of the lake is the Sardis Lake Water Authority that uses five hundred acre-feet of water of the 155,000 acre-feet of storage.

Mr. Smith stated he had traveled to Sedona, Arizona, to present a paper to the Western Governor's Association on behalf of the Western States Water Council, "Six Points for Sustainable Growth in the West." He said the WGA accepted the WSWC proposal and now the task is to implement the 60 tasks to obtain additional water supply, endangered species, climate variability and a number of activities. In Breckenridge, Colorado, at the WSWC quarterly meeting, Mr. Smith will assume Chairmanship of the organization.

Secretary of Environment Miles Tolbert, DEQ director Steve Thompson, and Mr. Smith will travel to Tahlequah to visit with the Cherokee Nation about water issues. The Tribe wants to do what they believe is their sovereign right to achieve "Treatment as a State" to set their own water quality standards. A federal law restricts their ability to do that outside of a cooperative agreement with the state.

Mr. Smith will be speaking to the annual Navigation Conference at the Port of Catoosa on June 27 about drought effects on navigation. The Corps of Engineers will host a coordination meeting on July 6 with state agencies to meet with the Corps about on-going projects. One issue is the Water Resources Development Act (WRDA) bill that is now moving through Congress and a number of items in the measure will change the way the COE does business with the states that are very positive. The OWRB works closely with Senator Inhofe on this legislation, which also includes language regarding Sardis Lake.

Mr. Smith concluded his report with an invitation to the OWRB annual employees picnic.

Mr. Drummond asked about the next step in the Sardis case; Mr. Smith responded the State is deciding whether to appeal especially for clarification and discussion of dollar amounts. There is 45 days to respond and the Attorney General's office is representing the State in this case. He said the final decision to appeal has not been made, and will be made by the OWRB and the Attorney General, and the Governor's office. He said there are many issues regarding Oklahoma City as a user, local entities, but that while \$60 million is a large amount of money, if built today would cost \$350 million, so it is worth much more. He said it was a great decision by OWRB predecessors to build the lake, because it is tomorrow's water at yesterday's cost. Mr. Fite asked about the original agreement; Mr. Smith said the agreement was not to bind future legislatures, but the state's perspective was that as there were users that would pay, the federal

government would be made whole. A few payments were made early on which were stopped with budget problems and while it is the OWRB's contract the agency has no method to pay unless money is appropriated.

Chairman Herrmann noted Bill Secrest was absent, and asked Mr. Sevenoaks to sign documents as Acting Secretary.

## 2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Coweta Public Works Authority, Wagoner County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this request for a \$5.7 million dollar Drinking Water State Revolving Fund loan by the Coweta Public Works Authority is to construct 11,100 feet of water line, a one-half million-gallon clear well, three service pumps a backwash pump and other associated items. Mr. Freeman noted provisions of the loan agreement, and said that the PWA's water and sewer connections had increased by approximately 25% over the past ten years, and the population had increased by well over 50% since 1980. The PWA's debt coverage ration stands at over 2.3-times, and it is estimated Coweta will save approximately \$1.4 million dollars by borrowing through the Board. Staff recommended approval.

Mr. Steve Whitlock, City Manager; Mike Kiser, engineer; and Rick Smith, financial advisor were present in support of the loan application.

Mr. Fite moved to approve the loan to the Coweta Public Works Authority, and Mr. Farmer seconded.

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

B. Consideration of Possible Action on a Proposed Order Approving Loan for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated that the Broken Arrow Municipal Authority requested a \$15 million dollar Clean Water State Revolving Fund loan. The loan request will go along with an \$836,500.00 in local funds for major improvements to the Lynn Lane Wastewater Treatment Plant. This major expansion and renovation will allow Broken Arrow to increase the plant from 1.5-million gallons per day to 8-million gallons per day. Mr. Freeman noted provisions of the loan agreement, and added Broken Arrow's water and sewer connections have increased in excess of 30% over the past ten years, and the population has increased by over 100% over the last 25 years. Broken Arrow has been a long-time, excellent customer of the OWRB with currently six outstanding loans with the Board totaling approximately \$19.5 million. Even with the addition of this loan, Broken Arrow will have a strong 2.89-times debt coverage ratio. It is estimated that Broken Arrow will save approximately \$4.5 million by borrowing through the Board. Staff recommended approval.

Mr. Dave Wooden, Assistant City Manager; Tom Caldwell, Jeff Westfall, Bruce Arnold and Rick Smith were present in support of the loan application.

Mr. Farmer moved to approve the loan to the Broken Arrow Public Works Authority, and Mr. Nichols seconded.

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

NAY: None  
ABSTAIN: None  
ABSENT: Secret

Mr. Freeman said the Chairman requested the Supplemental Agenda, item 7.A., be moved for discussion now.

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

A. Presentation and Discussion of Standard & Poor's rating on the State Loan Program Revenue Bonds, Series 2006B, and the ratings on the other outstanding series of State Loan Program Revenue Bonds. Mr. Freeman distributed bulletins issued by Standard & Poor's in regard to the AAA rating on the State Loan Program Revenue Bonds, Series 2006B, and the upgraded rating on the Variable Rate State Loan Program Revenue Bonds various series, and Outstanding State Loan Program Revenue Bonds, various series. There were also news articles from the Bond Buyer and Daily Oklahoman. Mr. Freeman said the marketing of the latest bond issue began Monday, June 19 for \$51 million in bonds and over \$27 million in the retail market, which is very strong, and the rest of the bonds will be sold in the institutional market June 20. He said that with this rating upgrade, all three of the Board's revenue bond loan programs with a rating of AAA, the highest rating of any public entity in the State of Oklahoma, continues to exceed the State of Oklahoma's general obligation bond rating. The Board's bonds are totally revenue bonds, and the State's G.O. bonds are AA.

Mr. Freeman said that in the S&P report and news articles, S&P noted the rationale for the rating upgrade is the result of the Board's reserves comprised of \$16.43 million, \$16 million in cash and \$28.5 million in surety insurance policies. He said the Board needed to be aware of the maturity dates on the surety bonds, between 2024-2034. He said the last time the Board issued a variable rate bond issue the rating agencies felt the Board had adequate insurance and cash at the time to continue to issue debt.

Other items noted by S&P in their rating rationale was the Board's repayment track record from the borrowers, the Board's underwriting standards and loan requirements of the borrowers.

Chairman Herrmann stated the rating increase speaks volumes to the capability and professionalism of staff over many years, and also speaks to the fulfillment of trust the OWRB has acted on relative to the initial capitalization of the Financial Assistance Program and by the same token, he said to continue to help meet the needs of municipalities in the State of Oklahoma requires the Financial Assistance program to continued to be funded. He specifically addressed Representative McDaniel that she take the message to the Legislature it is critically important as the federal government funding becomes more at risk and the burden becomes increasingly upon the State to support these bond issues and the financial assistance program.

Mr. Smith added it is a tremendous accomplishment to receive the AAA. He said the Board's bond counsel, Don Kiser, has been involved in every single issue and much of the success belongs to him. Mr. Kiser responded he felt clearly the OWRB loan and financial assistance program has been one of the most successful programs in the nation. At the beginning there were many issues and we could not sell bonds without purchasing municipal bond insurance and for the last 20 years that has gone away, as well as the limit of number of bonds by S&P for small non-ratable communities. He said for the rating to go from not being ratable on its own, to a AAA rating speaks to the foresight and wisdom that the Board's predecessors had when initiating the program, and the successive Board has taken the program and made it even better over years, in concert with the director and excellent staff. He said the

National Association of Bond Lawyers continues to point to the OWRB program as one of the most successful pooled programs. He said the Tax Reconciliation Act will effect changes to move away from the total blind pool program and 30% of borrowers will have to be identified and the loans will have to be funded within one-year period of time and 100% within three years, which has not been required in the past. To this point, he said he has been delighted with the extremely successful program.

Chairman Herrmann stated the program represents a partnership between large municipalities in Oklahoma and small rural water districts and communities, for example, the financial strength of the City of Tulsa benefits every single smaller borrower of the program as well, and is an important characteristic.

Mr. Smith added that Mr. Jim Barnett, director of the OWRB at the time of the inception of the program deserves much of the foundational credit. It was his idea, and he worked with Governor Nigh and certain legislators and state leaders that the program could work and there were many obstacles in the early days getting the program off the ground. He thanked Mr. Barnett, as well as Rick Smith who was Chief of the Planning Division at the time.

Regarding upcoming changes to the program as a result of the Tax Reconciliation Act, Mr. Freeman said he will participate in a conference call with all the service providers on the Drinking Water State Revolving Fund bond issue which originally was intended to be closed in conjunction with the August Board meeting but is now changed. Different options are being explored, and Mr. Freeman stated his goal is to come up with a financing plan where the borrowers will see no difference, which he believed is achievable. Mr. Drummond asked about the interest rate on the new issue because of the AAA rating, and Mr. Freeman responded he believed it would be approximately 4.8%. He said another benefit of this rating to the borrower is that many of the “mom and pop” buyers will only purchase AAA paper, and also because of a better rate with the insurance company of the buyer. Mr. Rick Smith added there is a difference between “Pure” AAA, and an AAA insure, with the pure AAA the best, and the AA+ realizing a difference of 10-20 basis points, which is sizeable over twenty years.

Chairman Herrmann concluded the discussion with an expression of congratulations to Mr. Freeman and the OWRB financial team.

### **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 to transfer items to the Special Consideration Agenda. However, Mr. Mathis asked to withdraw the following items: E.1, #2005-538, Healdton Golf Course; F1. #1980-677, Dean and Howard Reimer and 2. #2005-504, City of Norman; and I.3, #1970-337 Dean and Howard Reimer, and #1970-357, Thomas Public Works Authority.

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

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

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

**The following items were approved.**

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

<b>REAP</b>				<b>Amount</b>
<b><u>Item No.</u></b>	<b><u>Application No.</u></b>	<b><u>Entity Name</u></b>	<b><u>County</u></b>	<b><u>Recommended</u></b>
ASCOG				
1.	FAP-04-0051-R	Medicine Park Public Works Authority	Comanche	\$99,760.00
COEDD				
2.	FAP-05-0016-R	Lone Chimney Water Association	Pawnee	99,990.00
GGEDA				
3.	FAP-04-0074-R	Copan Public Works Authority	Washington	74,500.00
NODA				
4.	FAP-00-0076-R	Jet Utilities Authority	Alfalfa	72,285.00
OEDA				
5.	FAP-04-0076-R	Town of Beaver	Beaver	69,235.00
6.	FAP-04-0070-R	Town of Goodwell	Texas	110,000.00
SODA				
7.	FAP-05-0036-R	Mill Creek Public Works Authority	Johnston	99,000.00

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

1. Memorandum Agreement with Office of the Attorney General for Participation in Federal-State Cooperative Program with the U.S. Geological Survey for Water Quality Monitoring
2. Joint Funding Agreement with the U.S. Geological Survey for the Attorney General Participation in the Federal-State Cooperative Program
3. Memorandum Agreement(s) with Cooperators in the Federal-State Cooperative Program with the U.S. Geological Survey
  - a) City of Ada
  - b) Applied Energy Services, Shady Point, Inc.
  - c) City of Altus
  - d) Central Oklahoma Master Conservancy District

- e) Fort Cobb Reservoir Master Conservancy District
- f) Foss Master Conservancy District
- g) Grand River Dam Authority
- h) Hardage Steering Committee
- i) City of Lawton
- j) Lugert-Altus Irrigation District
- k) *City of Norman Item withdrawn*

4. Professional Services Contract with Records Solutions, Inc.
5. Second Modification to Subagreement with the University of North Texas for Additional Funding and Extension of Time for Services in Support of Grand Lake Revegetation Project
6. Interagency Agreement with the Grand River Dam Authority for Hydrographic Survey of Hudson Lake
7. Interagency Agreement with the Board of Regents of the University of Oklahoma for and on behalf of the Oklahoma Climatological Survey for Equipment Maintenance to Support the Arbuckle-Simpson Study
8. Intergovernmental Agreement with the Central Oklahoma Master Conservancy District to Monitor Water Quality in Lake Thunderbird
9. Interagency Agreement with Oklahoma Department of Wildlife Conservation for Compilation and Analysis of Data on Golden Alga in Oklahoma
10. Intergovernmental Agreement for Shared Services with the Office of the Governor for the Office of the Secretary of Environment
11. Lease Agreement with State Department of Central Services for Office Space in Tulsa
12. Third Subagreement with Oklahoma Department of Wildlife Conservation for Work in Support of Revegetation Project at Grand Lake
13. Contract with the Oklahoma Floodplain Management Association to Assist in Educating the Floodplain Management Profession
14. Agreement with American Municipal Tax-Exempt Compliance Corp. for Arbitrage Services in Connection with the Issuance of State Governmental Entity Obligations and Indebtedness for OWRB Loan Programs, Revolving Fund Loan Programs and Drinking Water Revolving Loan Program
15. Consideration of Engagement Letters with John M. Arledge and Associates for Auditing Services

E. Applications for Temporary Permits to Use Groundwater:

1. *Healdton Golf Course, Inc., Carter County, #2005-538 Item withdrawn*
2. Lugene Ethel Jones and Kenneth K. Jones Revocable Trust, Blaine County,



- #2006-509
  - 3. Anthony Wayne & Deanna Lynn Barger, Caddo County, #2006-512
  - 4. Stutzman Farms, Custer County, #2006-513
  - 5. C. Wayne Falkenstein, Kingfisher County, #2006-514
  - 6. Ryan Patrick & Dacia L. Redgate, Woods County, #2006-523
  - 7. Ryan Patrick & Dacia L. Redgate, Woods County, #2006-525
  - 8. McClain County Rural Water District No. 8, McClain County, #2006-527
  - 9. Bryan Kroeker, Garfield County, #2006-528
  - 10. Bryan & Lavonne Kroeker, Kingfisher County, #2006-530
  - 11. Steven V. & Connie S. Redgate, Woods County, #2006-531
- F. Applications to Amend Temporary Permits to Use Groundwater:
- 1. *Dean & Howard Reimer, Major County, #1980-677 Item withdrawn*
  - 2. *City of Norman – Utilities Department, Cleveland County, #2005-504 Item withdrawn*
- G. Applications for Regular Permits to Use Groundwater:
- 1. Allen Tim Meyer & Nancy Jane Meyer Revocable Trusts, Texas County, #2006-510
  - 2. Albert E. & Judith Bouse, Woodward County, #2006-515
  - 3. James & Sheila Brockriede, Tillman County, #2006-533
- H. Applications to Amend Regular Permits to Use Groundwater:
- 1. Five Rivers Ranch Cattle Feeding, L.L.C., Cimarron County, #1991-594
- I. Applications to Amend Prior Rights to Use Groundwater:
- 1. Grandfield Public Works Authority, Tillman County, #1949-005
  - 2. McClain County Rural Water District No. 8, McClain County, #1965-478B
  - 3. *Dean & Howard Reimer, Major County, #1970-247B Item withdrawn*
  - 4. Bryan & Lavonne Kroeker, Kingfisher County, #1970-337
  - 5. *Thomas Public Works Authority, Custer County, #1970-357 Item withdrawn*
- J. Applications for Regular Permits to Use Stream Water:
- 1. Joe E. Altic, Jr., Love County, #2006-018
- K. Applications to Amend Regular Permits to Use Stream Water:
- 1. Oklahoma Military Department, Muskogee County, #1988-041
- L. Well Driller and Pump Installer Licensing:
- 1. New Licenses, Accompanying Operator Certificates and Activities:
    - a. Licensee: S & S Well Service DPC-0726
    - Operator: Steve Sullivan OP-1495
    - Activities: Pump installation
  - 2. New Operators and/or Activities for Existing Licenses:
    - a. Licensee: Musgrove Drilling, Inc. DPC-0142
    - Operator: Gary Musgrove OP-1496
    - Activities: Groundwater wells, test holes and observation wells
    - Pump installation
    - b. Licensee: Jay Erkenbrack Well Service DPC-0279
    - Operator: Jay Erkenbrack OP-0502
    - Activities: Pump installation

- M. Dam and Reservoir Plans and Specifications:
  - 1. City of Sapulpa, DS-06-04, Creek County
  
- N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:
  - 1. Oklahoma Department of Transportation, Wagoner County, FP-06-03
  - 2. Oklahoma Department of Transportation, Grady County, FP-06-04
  
- O. Applications for Accreditation of Floodplain Administrators:  
Names of floodplain administrators to be accredited and their associated communities are individually set out in the June 20, 2006 packet of Board materials

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

There were no items of discussion by the Board.

**5. SPECIAL CONSIDERATION**

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

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

A. Application for Regular Permit to Use Stream Water No. 2005-020, Elizabeth E. Rives and Sharon M. Garner, Seminole County.

1. Summary – Mr. Mike Mathis, Chief, Planning and Management Division, stated to the member that the applicant, Elizabeth Rives and Sharon Garner, request a permit to use 187 acre-feet of stream water per year for irrigation and non-consumptive recreation, fish and wildlife purposes to be taken from two diversion points located on Natural Resources Conservation Site #33 in the Big Wewoka Creek watershed. Staff recommended approval of the permit application.

2. Discussion and presentation by parties. There were no representatives of the applicant or protestant in attendance.

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

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

Mr. Fite moved to approve the findings of fact and proposed order for regular streamwater permit #2005-020, and Mr. Drummond seconded.

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

B. Application to Amend Temporary Permit to Use Groundwater No. 1984-649, Bryan L. Kugel, Kay County;

C. Application for Temporary Permit to Use Groundwater No. 2005-567, Patricia Blubaugh, Kay County; and

D. Application for Temporary Permit to Use Groundwater No. 2005-571, Betty M. Edgley, Kay County.

1. Summary – Mr. Mathis stated these three applications in Kay County are inter-related and are neighbors. He said the situation involved applications and cross-protests, and it would make sense for the Board to consider them together.

He said the application by Brian Kugel, temporary groundwater permit #1984-649, currently authorizes 295 acre-feet of groundwater per year for irrigation, recreation, fish and wildlife, and drilling oil and gas wells and supplying water to a housing development. The applicant is requesting an amendment to the permit to add a small amount of land and adding nine acre-feet of water to the irrigation use and deleting three of the authorized well locations, and adding six new well locations. Mr. Mathis noted the map distributed to the members that show the locations of all the applications. He said all of the applications are from the Salt Fork Alluvium and Terrace groundwater basin; however, no hydrological study has been conducted therefore applicants are entitled to two-acre feet of water per acre of land dedicated to the permit. Mr. Mathis stated that historically wells in this area generally average around 50 feet from the surface.

Regarding the application by Patricia Blubaugh, temporary groundwater permit #2005-567, Mr. Mathis stated the requested amount is a total of 210 acre-feet of groundwater for irrigation, commercial sale for drilling of oil and gas wells, and recreation fish and wildlife. The water is proposed to be withdrawn from four wells located in 105 acres of dedicated land.

Regarding the application by Betty Edgley, temporary groundwater permit #2005-571, Mr. Mathis stated the requested amount is 80 acre-feet of groundwater per year for irrigation, commercial sale for drilling oil and gas well, and recreation, fish and wildlife, to be withdrawn from two wells located on 40 acres of dedicated land.

Mr. Mathis described the situation stating essentially each party was concerned about the other's adjacent wells and the impact on their groundwater. In an unstudied basin, there are no well-spacing requirements and in analysis of the applications, staff believes there is reasonableness in usage while there will be some impacts to the wells, but ultimately the neighbors will need to work together long-term. He said that in weighing the facts and the testimony during both the application process and the protest process the information provided indicated all three applications are suitable for approval, and what has been requested is consistent with the Oklahoma Groundwater Law. He said once a study is conducted in this area, there may be additional requirements. Staff recommended approval of the three applications.

2. Discussion and presentation by parties. Mr. Jim Barnett was present representing the Kugel application, and the Kugel protest to the other two applications. There were no other representatives of either the applicants or protestants.

Mr. Barnett addressed the members and stated his client, Mr. Kugel, filed his application several months before the protestants made application, and (he only protested) because of his concern their applications may come to the Board before Mr. Kugel's would be considered by the Board. He said staff has recommended approval, and he would accept that recommendation. Regarding the protests on the other application, Mr. Barnett said his concern was the neighbors indicated they would drill their wells across the road that would be a problem for Mr. Kugel. He said though it became clear at the hearing that if the wells are drilled the expert counseled it would not be prudent to drill so closely.

Mr. Sevenoaks referred to the map and said it looked like the wells are next to one another and did not seem logical from any perspective. Since there is no well spacing available, will the landowners be able to work together? Mr. Barnett said he wasn't certain the neighbors would ever put in irrigation systems, but that his client's wells are in, noting the permit dates from 1984. Mr. Drummond asked if changes would be made once a study is conducted, and Mr. Mathis responded existing wells would not have to be relocated, but new wells applied for after the study would be subject to the well spacing requirement. Mr. Fite asked if Mr. Kugel had used the water since 1984, and Mr. Barnett responded the use had been off and on.

Chairman Herrmann asked Mr. Couch for guidance, and Mr. Couch responded the Board's records and the minutes will reflect all three applications are mentioned and the vote could be consolidated.

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.

There being no further discussion, Chairman Herrmann asked for a motion to approve the three applications in a consolidated vote. Mr. Drummond moved to approve temporary groundwater permits #1984-649, #2005-567, and #2005-571, and Mr. Nichols.

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

Chairman Herrmann commented that the OWRB cannot enforce being good neighbors, and in this situation that may be what is needed, Secondly, he said regarding water studies and fees in the permitting area, to the extent good hydrological information is not available, staff is in a position to "fly blindly" and he posed the thought whether that is good policy for the state. The members asked if policy regarding well spacing could be done without a study; and Mr. Mathis stated that from a technical standpoint it does not make sense not to have some "default" well-spacing until a study would be completed and that perhaps spacing could be adjusted somewhat in order to be protective in the area. He said there had been an effort in the past to see that in legislation.

Mr. Couch responded the Attorney General issued an opinion not long after the 1972 law was passed and the general idea of the opinion was that until a maximum annual yield is completed the provision in the Oklahoma Groundwater Law about well-spacing cannot be imposed by the Board, and that remains the law.

Mr. Smith added in this particular case the evidence in the record was somewhat different and well spacing here is not the issue; the issue here is neighbors. The evidence in the record indicated the better quantities of water are located closer to the Salt Fork River, and the protestants are putting their wells closer to Mr. Kugels', whose well is located at the south end as near the river as possible on his property because that's the best water on the property. The protestants located their wells near the property line, not seeking the best water, but

seeking the protest. He said generally speaking well spacing in alluvium deposits is different than in bedrock deposits, there is less impact, quicker recovery, different types of irrigation, etc. He said staff does look at the applications and if there were truly going to be irrigation and this was the only place to get water, restrictions on pumpage could be employed. Staff is not “blind” and does review but language could help. Mr. Nichols asked about how staff ensures pumping restrictions, and Mr. Smith stated staff does not conduct a field investigation without a complaint. He said if there were restrictions and a complaint filed and if the order was not complied with, the Board could then take action. Chairman Herrmann said additional funding for the program could assist. Mr. Smith directed the Board’s attention to the aerial photo and mapping of the wells that is available with the Board’s WIMS program on the website.

- E. 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. Monte Boyce, OWRB Comptroller, addressed the members and presented the budget report reflecting agency operations through the end of May 2006. He said the agency has completed 92% of the fiscal year, spent and obligated 84% of the actual budget, and have collected 86%. Mr. Sevenoaks asked if there would be a carryover of funds; and Mr. Boyce responded there would be a small carryover from FY’06. Mr. Nichols asked the amount allowed to be carried over, and Mr. Boyce responded there is no limit to what can be carried over from year to year, but a limitation on what can be spent in a fiscal year. There were no other questions or discussion.

**7. Supplemental Agenda—moved to follow items 2.B.**

**8. Election of Officers**

Chairman Herrmann stated he would open the floor for discussion of the election of officers.

Mr. Farmer said he would like to make a motion that the Board continue with the present officers of Mr. Rudy Herrmann as Chairman, Mr. Mark Nichols as Vice Chairman, and Mr. Bill Secrest as secretary. Mr. Keeley seconded the motion.

Chairman Herrmann stated he would be willing to serve as would Mr. Nichols and Mr. Secrest. There being no further discussion, he called for the vote.

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

Chairman Herrmann thanked the members for their support and said it had been an eventful year, and he looked forward to the important year ahead. Mr. Farmer stated he felt the present officers had done a very good job this past year. Chairman Herrmann said again that “Success has many fathers...” and all the members of the Board brought different expertise to the Board whom he believed to be committed to the general well-being of the State.

**9. NEW BUSINESS**

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

There were no new business items for the Board's consideration.

**10. ADJOURNMENT**

There being no further business, Chairman Herrmann adjourned the regular meeting of the Oklahoma Water Resources Board at 10:15 a.m. on Tuesday, June 20, 2006.

**OKLAHOMA WATER RESOURCES BOARD**

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

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

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

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

\_\_\_\_\_/Absent\_\_\_\_\_  
F. Ford Drummond

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

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

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

ATTEST:

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

(SEAL)