

OKLAHOMA WATER RESOURCES BOARD

OFFICIAL MINUTES

April 8, 2008

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Mark Nichols at 9:30 a.m., on April 8, 2008, in the meeting room of the Oklahoma Water Resources Board, at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The March 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 April 1, 2008, at 4:45 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

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

B. Roll Call

Board Members Present

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

Board Members Absent

Rudy Herrmann, Vice Chairman

Staff Members Present

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

Others Present

- Gary J. Montig, Fittstown, OK
- Jeanie Norman, Town of Langley, OK
- Josh McClintock, McClintock Associates, Oklahoma City, OK
- Cheryl Dorrance, Oklahoma Municipal League/Oklahoma Municipal Utility Providers, Oklahoma City, OK
- Amy Ford, Citizens for the Protection of the Arbuckle Simpson Aquifer, Ada, OK
- Steve Fox, Town of Hinton, Ardmore, OK
- Angie Burckhalter, Oklahoma Independence Petroleum Association, Oklahoma City, OK
- Keith McDonald, Wells Nelson, Oklahoma City, OK
- Vicki Reed, Drinking Water State Revolving Fund/Department of Environmental Quality, Oklahoma City, OK
- Mike Mathis, C.H. Guernsey, Oklahoma City, OK
- Bryan Mitchell, Camp Dresser McKee, Norman, OK
- Candice Adson, eCapitol News, Oklahoma City, OK
- Charles Jaques, Town of Hinton, OK
- Ervin Thomas, Chevron, Houston, TX
- Janie Frances-Smith, The Journal Record, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Nichols stated the draft minutes of the March 11, 2008, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Mr. Farmer moved to approve the minutes of the March 11, 2008, Regular Meeting, and Mr. Drummond seconded.

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

D. EXECUTIVE DIRECTOR’S REPORT

Mr. Duane A. Smith, Executive Director, addressed the members and asked Mr. Mike Melton to present the Legislative Report. Mr. Melton distributed a written report, and reviewed the pertinent environmental measures under consideration at the legislature, and he concluded his report saying the appropriations measures would be considered soon. Mr. Smith added that on a budget standpoint, he did not see any additional money coming to the Board, but regarding the fee increase approved by the Board, he said the Legislature has 30 days to act, or the rules are approved, then the Governor must approve. The Legislature has passed a resolution in previous years to deny the fees. The Legislature has until April 16 to act; but the Governor signed the fees approving them. He said the Farm Bureau has opposed the fees and is the only entity that opposed the application fees; the Environmental Federation of Oklahoma opposed some of the groundwater fees regarding a maximum cap. He said Representative Dennis Johnson is handling the OWRB fees through the Rules Committee. Mr. Smith explained the costs associated with processing water rights permits, and the non-protested case fees were set at one-half the cost of that permit, which doubled the fee (from \$200 to \$400), and OFB said that doubling the fee is

incredible and shouldn't be done. The OFB has supported an appropriation to the Board to administer that program, but are opposed to the fees. He said there are ways to reduce costs in the permitting program, i.e., eliminating local hearings on protested matters which will cost the applicants more, mediation efforts would be reduced, an applicant could defend the application in court rather than the OWRB, stream gages could be reduced, as well as public participation, notice via mail certification and Internet. He said he felt the increased fees are justified and appreciated the Governor's support. Ms. Lambert asked if the OFB understood his rationale, and Mr. Smith further explained the OFB is interested in keeping costs down to the agriculture industry, but that the OWRB has not raised fees since 1994, and only in 1982 before that so the OWRB has tried very hard to keep costs down; however, additional demands, technology, etc., coupled with inflation makes an increase necessary now. He said that comments received during the OCWP local input meetings were about protection of the water, and a reliable system, but no comments said the OWRB ought to do less. Mr. Smith added that there are groups that have written letters in support of the fee increase: CPASA and the Chickasaw Nation.

Mr. Smith informed the members of meetings he has and would be attending: Tri-State Meeting with the U.S. Army Corps of Engineers (funding issues with states), U.S. Army Corps of Engineers with cities on WRDA project list, the Water Research Advisory Board, the Red River Compact Commission, the Lake Texoma Advisory Committee, Central Oklahoma Landmen Association, the Beef Industry Conference, and Congressional meetings in Washington, D.C.

Mr. Smith concluded his report announcing the May Board meeting will be held on May 14 at 1:30 p.m., at the Capitol in conjunction with Water Day at the Capitol, filing of Financial Disclosure Statements are due May 15, and OWRB Apparel sale for support of Employee of the Quarter Award Program. He also provided the members with an article by J.P. Morgan entitled, "Watching Water: A Guide to Evaluating Corporate Risks in a Thirsty World." He said the article looks at risks of the corporate world in terms of financing and how hydropower or an industry looks at risk in terms of funding and how they evaluate water, i.e., manufacturing, insurance, semi-conductors, leisure, and food processing. The report says there is not enough evaluation regarding the risk of water in the marketplace, but it will be an emerging factor that will determine the value of that company and its ability to move and locate. The OWRB needs to be understanding about how can the Water Plan be put together that helps the risk analysis for companies that may want to move to Oklahoma.

Chairman Nichols encouraged the Board members to contact their legislators regarding the OWRB rules.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Lawton Water Authority, Comanche County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the Lawton Water Authority has requested a Drinking Water State Revolving Fund Loan in the amount of \$10,845,000.00. He said Lawton has requested the loan in order to replace all existing water meters by installing 31,376 automated water meters and a fixed base transmission system. The loan will be funded through the DWSRF program at a fixed rate of interest plus .5% administrative fee. Mr. Freeman noted provisions of the loan, and said that Lawton has been a long-time, excellent loan customer of the Board's. Lawton has ten outstanding loans with the Board, with a total principal balance of \$29.6 million; one loan is pending closing for \$10,420,000; its water and sewer connections remain stable but will be increasing with the additions that are occurring at Fort Sill. The debt coverage stands at 1.6-times, and it is estimated Lawton will save approximately \$3.6 million in interest expense by borrowing from the Board. Staff recommended approval.

Mr. Keith McDonald, Lawton financial advisor, was present in support of the loan application. Mr. Sevenoaks commented about the benefits of AMR meters, and Chairman Nichols said the BRAC announcement last year has caused tremendous growth in the area.

Ms. Lambert moved to approve the Drinking Water SRF loan to the Lawton Water Authority, and Mr. Drummond seconded.

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

B. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Funds for Langley Public Works Authority, Mayes County. Recommended for Approval. Mr. Freeman said the Langley PWA is requesting a \$55,000 increase in the loan amount approved by the Board as a result of the bids coming in higher than the engineer's estimate. With the requested increase, the total loan amount will be \$1,840,000.00; the loan is for construction of a two-cell, wet weather flow-equalization basin, replacing sludge pumps, and aerator drums. The loan proceeds will be used for refinancing the communities' six Rural Development loans. The loan will be funded through the State Loan Program, and he noted provisions of the loan agreement. Debt coverage is 1.75-times, and estimated savings is \$500,000.00. Staff recommended approval.

Ms. Jenny Norman was present in support of the loan increase request.

Mr. Fite moved to approve the increase in loan amount to the Langley PWA, and Mr. Keeley seconded.

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

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board's staff, or any other person attending this meeting, may be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items.

There were no requests to transfer items to the Special Consideration Agenda. However, Mr. Robert Sandbo asked that item F.1., Stephens County RWS & SWMD #3, permit #1982-752, be withdrawn from the Board's consideration due to a notice problem.

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 discussion regarding items on the Summary Disposition Agenda, Chairman Nichols asked for a motion.

Ms. Lambert moved to approve the Summary Disposition Agenda as amended, and Mr. Keeley seconded.

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

The following items were approved:

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

REAP				Amount
<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. Letter Agreement with U.S. Army Corps of Engineers for the dependable yield analysis of Grand, Hudson and Fort Gibson Lakes.
2. Joint Funding Agreement with the U.S. Geological Survey for the project "Streamflow Duration Statistics Web Application for Oklahoma".
3. Intergovernmental Subagreement with The Board of Regents of the University of Oklahoma for the Arbuckle-Simpson Aquifer Study. Under the supervision of Dr. Roger Young, OU graduate students will interpret seismic reflection data from the Hunton Dome.
4. Intergovernmental Subagreement with The Board of Regents of the University of Oklahoma for the Arbuckle-Simpson Aquifer Study. Under the supervision of Aondover Tarhule, with the Department of Geography at OU, historical and reconstructed droughts will be analyzed based on precipitation and stream flow for the Arbuckle-Simpson aquifer in order to determine the frequency, durations and severity of drought common in the study area.
5. Contract with The Oklahoma Ground Water Association to provide continuing education and specialized training for well drillers and pump installers who are licensed by the OWRB.
6. Cooperative Agreement with The U.S. Geological Survey for airborne geophysical interpretations of the Hunton Anticline in south-central Oklahoma.
7. Contract with Oklahoma Rural Water Association for surveying member rural water districts and public water suppliers for information on water needs and projections for Water Plan.
8. Contract with Oklahoma Municipal League for surveying member municipalities and public water suppliers for information on water needs and projections for Water Plan.

- E. Applications for Temporary Permits to Use Groundwater:
 - 1. Triple S Farms, Custer County, #2007-524
 - 2. M & M Sand Company, L.L.C., Kingfisher County, #2007-571

- F. Applications to Amend Temporary Permits to Use Groundwater:
 - 1. Stephens County RWS & SWMD #3, Stephens County, #1982-752
 - 2. Triple S Farms, Custer County, #1998-556

- G. Applications for Regular Permits to Use Groundwater:
 - 1. Michael D. & Mary M. Wright, Canadian County, #2007-549
 - 2. Veldon K. & Linda R. Gunsaulis, Major County, #2007-569

- H. Applications to Amend Regular Permits to Use Groundwater:
None

- I. Applications for Regular Permits to Use Stream Water:
 - 1. Noel & Tina Hamm, Nowata County, #2007-045
 - 2. MMHF, L.L.C., LeFlore County, #2007-047
 - 3. Gary J. Montin, Johnston County, #2007-048
 - 4. Maher Farms, L.L.C., Carter County, #2007-051

- J. Applications to Amend Regular Permits to Use Stream Water:
None

- K. Proposed Resolution Appointing Persons to Serve as Members of the Water Well Drillers and Pump Installers Advisory Council:
Names of persons to serve as members are individually set out in the April 8, 2008 packet of Board materials

- L. Well Driller and Pump Installer Licensing:
New Operators for Existing Licenses:

A.	Licensee:	Crouch Drilling	DPC-0045
	1. Operator:	Donald R. Crouch	OP-1606
		Activities: Groundwater wells, test holes and observation wells	
		Pump installation	
		Heat exchange wells	
	2. Operator:	Tony Bowen	OP-1607
		Activities: Groundwater wells, test holes and observation wells	
		Pump installation	
		Heat exchange wells	DPC-9006
	B. Licensee:	Oklahoma Corporation Commission, Oil & Gas Division	
	1. Operator:	Shawn Coslett	OP-1590
		Activities: Monitoring wells and geotechnical borings	
	2. Operator:	Ronald K. Smith	OP-1591
		Activities: Monitoring wells and geotechnical borings	
	3. Operator:	C. Don Frazier	OP-1596
		Activities: Monitoring wells and geotechnical borings	
	4. Operator:	Tommy K. Searcy	OP-1608
		Activities: Monitoring wells and geotechnical borings	

5. Operator: Jay F. Christian
Activities: Monitoring wells and geotechnical borings

OP-1609

M. Dam and Reservoir Modifications and Rehabilitation:

1. Town of Hinton, Canadian County, DS-08-01

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

1. Oklahoma Department of Transportation, Garvin County, #FP-08-03
2. Oklahoma Department of Transportation, Pottawatomie County, #FP-08-0
3. Oklahoma Department of Transportation, Sequoyah County, #FP-08-07

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the April 8, 2008 packet of Board materials.

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

A. Update Report on Oklahoma Comprehensive Water Plan Activities. Mr. Kyle Arthur addressed the members and stated all of the applications for the eleven regional meetings that will be held have been received, and the Regional Input Meetings (RIM) have been scheduled. He encouraged the members to attend as many of the meetings as they desired. There were 656 applications mailed for nominations, and 330 that are needed; the OWRRRI will be reviewing the list to assure each area is well represented. The deadline to submit completed applications is Friday, April 11; the nominations will then be reviewed by the Water Plan Advisory Board consisting of Secretary Miles Tolbert, Secretary Terry Peach, and the members of OWRB's Ad Hoc Committee on the Water Planning.

Mr. Arthur provided information on the OCWP budget and prioritization of activities. The general budget information chart illustrated the projected income from known sources of funding for fiscal years FY2007 through FY2011 and the 5-year total. Project income was indicated as well as expenses. He said the agency intends to take the \$6.5 million appropriated by the Legislature and use as much as possible with matching opportunities particularly through the federal government. Mr. Arthur said the estimated figures (other than funding through the Gross Production tax) are very conservative and can go up or down depending upon funding; he said the process is complicated, but will provide a better plan.

Ms. Lambert asked if the income projections track with the priorities? Mr. Arthur responded yes, and distributed a spreadsheet tracking the Programmatic Work Plan for Technical Components of the Plan. The priorities are listed in "A, B and C" categories, with A projects being the "meat and potatoes" elements that must be included in the Comprehensive Water Plan, and the B and C projects being less absolutely necessary-to-those project that would be really nice to include if possible. He said he fully expected that the A projects will be completed, and some of the B projects. He said the work that will be done on these tasks will be done through the U.S. Army corps of Engineers as they receive appropriations for the projects listed, the OWRB will match with cash from the Gross Production Tax revenues.

The members continued to discuss the process whereby the funding sources will be matched in order to complete the plan. Mr. Smith said the plan is on time and in budget, and he anticipated the process would finish on time.

B. Update Report on Probabilistic Water Quality Monitoring. Mr. Derek Smithee addressed the members and introduced Mr. Bill Cauthron, Section Head for the OWRB Monitoring Program within the agency's Water Quality Programs Division. Mr. Cauthron introduced the OWRB personnel that comprise the streams monitoring program staff: Mr. Monty Porter, Mr. Jason Childress, Mr. Chris Nickel, and Mr. Josh Bailey. Mr. Cauthron explained how the Probabilistic Monitoring program fits into the Beneficial Use Monitoring Program (BUMP) that determines whether streams are meeting water quality standards. The monitoring is also used as part of the National Rivers and Streams survey.

Mr. Porter reviewed with the members why the biological monitoring is conducted and why it is important to the program; the Clean Water Act responsibility for fishable/swimmable criteria, associated policy, and the importance of biological organisms as ecological indicators.

Mr. Jason Childress spoke to the members about the suite of parameters monitored and frequency, how monitoring is conducted, fish toxicity collections, statewide probabilistic efforts with sister agencies, sampling results and participation in assessment of regional waters and the nation's waters, that OWRB trains other agencies and states on sampling protocols--also known as "train the trainer"--characteristics of adverse effects and the condition of the fish as indicators, algae sampling and physical habitat assessment, and how the data is used.

Mr. Josh Bailey described to the members the challenges of the logistics of the sampling program such as water chemistry, how samples are taken, diversity of topography and geology, access authorization from private landowners, equipment and adaptation to conditions and staff ingenuity to building and modifying equipment to meet its needs.

There were general questions by the members during the presentation about the information presented. Mr. Porter made closing comments regarding the use of the data from the collections, and the members complimented the staff on their efforts. Mr. Smith concluded the report saying that these presentations are important so that the Board understands the technical underpinnings of the technical recommendations by staff. He said there is a lot of work that comes with a recommendation, and he wanted the Board satisfied that the staff has done the technical work.

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. There were no Special Consideration items for the Board's consideration.

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

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Monte Boyce, OWRB Comptroller, addressed the members and said the budget report covers activities through March 2008. He said the agency had received the last deposit into the OCWP fund, for a total of \$2.6 million, approximately \$200,000.00 more than last year. With this report, the agency has completed three-fourths of the fiscal year, expended and obligated about 82% of the budget, and collected about 80% of the budget. The budget process for FY2010 has begun.

Mr. Drummond asked about the appropriations for this year; Mr. Boyce responded that currently, the budget would be standstill from last year.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY

There were no Supplemental Agenda items for the Board's 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.

There were no New Business items for the Board's consideration. However, Chairman Nichols provided legislative member rules committee information for the Board members and asked that they contact their legislator about the rules approval.

9. ADJOURNMENT

There being no further business, Ms. Lambert moved and Mr. Drummond seconded that Chairman Nichols adjourn the regular meeting of the Oklahoma Water Resources Board at 11:35 a.m. on Tuesday, April 8, 2008.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Jess Mark Nichols, Chairman

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

_____/s/_____
Lonnie Farmer

_____/s/_____
Edward H. Fite

_____/s/_____
Jack W. Keeley

_____/s/_____
Kenneth K. Knowles

_____/s/_____
Linda Lambert

_____/s/_____
Richard Sevenoaks

ATTEST:

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