

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

September 9, 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 September 9, 2008, in the Board Room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The September 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 September 3, 2008, at 4:15 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

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

B. Roll Call

Board Members Present

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

Board Members Absent

None

Staff Members Present

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

Others Present

Rick Mitchell, Mayor, City of Beggs, OK
Bryan Smith, eCapitol News, Oklahoma City, OK
Josh McClintock, McClintock Associates, Oklahoma City, OK
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK
Brian Mitchell, CDM, Norman, OK
Lia Tepker, Office of State Finance, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Nichols stated the draft minutes of the August 12, 2008, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Mr. Herrmann moved to approve the minutes of the August 12, 2008, Regular Meeting, and Mr. Fite seconded.

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

(Mr. Farmer joined the meeting at 9:45 a.m.)

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, addressed the members and said that the state's reservoir and soil conditions are in great shape. He said that he would be making two presentations during the meeting concerning the Comprehensive Water Plan and he will discuss those issues at that time; however, he had met with the Oklahoma Municipal League, in particular Diane Pedicord, Carolyn Stager, and Cheryl Dorrance and it was a very good meeting about concerns the organization has with OCWP technical work plan. He said that basically the concerns regard a different reading of words that were in mind when the technical plan was written and what some people fear in terms of changes in policy that might occur as a result, and he will expound on that in his later presentation. He will also be meeting with OG&E later in the afternoon about particular issues. He said he and staff are making a concerted attempt to go to some of the major water users and make sure the OWRB/OCWP story is out, because it is a good, transparent story about managing water and making a better quality of life in Oklahoma, and making permits more reliable.

Mr. Smith said that he would be traveling to Washington, D.C. on September 15-17 to meet with Oklahoma's Congressional Delegation to discuss the Water Plan, and there is a breakfast with Steve Stockton, top civilian with the USCOE. On September 17-19, he will be traveling to New York City to meet with OWRB rating agencies about how the OWRB does business, and is a good opportunity as the OWRB has not visited with the rating agencies in some time.

The Legislative Interim Committee on Water Quality met and he will also present that material to the Board later in the meeting agenda.

The Oklahoma Rural Water Association will meet at Western Hills, and the next Regional Input Meeting will be held in Beaver on September 11; he said the meetings are going very well managed by a good facilitator and attended by actively engaged members of the groups. He said there is still misinformation and confusion about what the laws are and what policy is and ought to be, but he remained positive about the citizens involved in the process and that through the process they will be coming up with policy that is reasonable and appropriate.

The Red River Compact Commissioners will meet September 29-30 in Dallas, Texas. He said the Corps of Engineers has conducted a reallocation study on Lake Texoma to reallocate 300,000 acre-feet from the hydropower pool to water supply -- 150,000 a.f. to Oklahoma, 150,000 a.f. to Texas. Oklahoma expressed concerns about the allocation to Oklahoma and Texas out of Lake Texoma and the Red River years before and as part of the reallocation study process. He said that the USCOE is about to finish the study, he had contacted Steve Stockton about Oklahoma's concerns, and he wrote suggesting the states meet with the Compact Commission to resolve the issue. He complimented the COE for listening to issues and allowing the Compact to get together and talk about rules of engagement on Lake Texoma and the main stem of the Red River. He said the goal is not to stand in the way of water supply development at Lake Texoma, but to ensure Oklahoma's interests are protected. Chairman Nichols asked if it were possible to come to an agreement at this meeting or would the full Commission need to meet next spring; Mr. Smith said he believed it is possible to come to an agreement at this meeting.

Mr. Smith said the Western States Water Council would meet in Oklahoma City on October 15-17, with a tour at the National Weather Center and Oklahoma City Memorial on October 15. The Governor's Water Conference will be held October 28-30 at the Reed Conference Center in Midwest City this year. He said all of the participants for the Regional Input Meetings are invited and their registration will be paid from the Water Plan funding as another educational opportunity for the volunteers participants to gain information and interact with people in attendance; a large attendance is expected.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Extension of Time for Obligation of Funds and Increase in Obligation of Funds for Beggs Public Works Authority, Okmulgee County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this request by the Beggs Public Works Authority is for an increase in loan funds and additional time to close the loan. He said the increase requested is from \$2,170,000.00 to \$4,220,000.00 plus a six-month extension of time to close the loan. He said the additional funds requested is the result of construction bids coming in higher than the engineers' estimates--five bids were received ranging from \$3,648,000.00 to \$4,395,000.00. The loan proceeds will go along with \$150,000.00 Rural Economic Action Plan Grant to replace the existing flow-through lagoon with a sequential batch reactor treatment system. Despite the increase in loan funds, Mr. Freeman said all other conditions of the loan remains the same. Mr. Freeman noted provisions of the loan agreement; and said the Beggs PWA has one other debt that matures in 2010 and has approximately a \$200,000.00 balance. As a result of the increased

cost of the project, debt per connection will increase to \$7,000, and during construction the PWA will pay interest only on the loan and will begin principal payments in 2011 with the loan beginning full amortization in 2014, allowing for annual phased rate increases through 2014. The annual debt payment per connection will increase from \$8.96 to \$41.64 by 2014, a 4.5-times increase in six years. Mr. Freeman said this is a large undertaking for the community, but one in which it does not have any options. The OWRB will be assisting Beggs in obtaining approval from EPA for extended 30-year financing for the Clean Water SRF program that will ease the annual debt service requirements for such large rate increases. Mr. Freeman said that upon reviewing all of Beggs' options, staff recommended approval of the request.

Mr. Rick Mitchell, Mayor of Beggs, and Financial Advisor Rick Smith, were present in support of the request.

Ms. Lambert asked about the range in bid amounts received; Mr. Freeman said the five bids ranged from \$3,648,000 to \$4,395,000; the PWA did accept the lower bid, and the total including all fees and expenses totaled the amount of the request. Mr. Herrmann asked the debt coverage ratio; Mr. Freeman responded that when the rate increase comes into effect, the debt coverage would be 3.85-times and by the time the loan is totally amortizing and expenses are held steady, it would be 1.61-times. Mr. Sevenoaks expressed concern about the city's budget being flexible enough to handle fire or police or other services. Mr. Rick Smith responded that many small towns are trying to respond to the Department of Environmental Quality band aids and the city council recognizes this is one that will strap them for awhile, but in this particular case, DEQ has said the PWA has to build a wastewater treatment plant and get out of the flow-through lagoon scenario they are in.

Mayor Mitchell said that the city sales tax supports the fire and police and other city services, and the water and sewer revenues will support the loan; the city sales tax is pledged as collateral but not spent. Mr. Smith said what gives him comfort is that the city has debt it will pay off in about a year and a half, and principal payments on this loan will begin about that time. Also, the city will work with the OWRB for a twenty-year repayment -- the longest repayment term available now -- but the EPA is working to establish a 30-year repayment term for wastewater and in Beggs' case that would be a tremendous benefit, and could then "scale back" some of the rate increases. Mr. Drummond asked if there was a high likelihood of success and Mr. Freeman responded that he believed so.

Ms. Lambert moved to approve the request for extension of time and increase in obligation of funds, and Mr. Herrmann seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

Mr. Freeman complimented Mayor Mitchell and commented he believed the city understood the huge undertaking for such a small town. Mr. Herrmann commended the city for its tenacity in working through the process and accepting the challenge to do the right thing. Other members commented about the difficulty to small towns, especially with the bids coming in at double the estimated costs.

Mr. Drummond asked if Mr. Freeman anticipated any changes in the Board's bond rating, and Mr. Freeman said he did not anticipate a change in the rating, it concerns the analysis. Mr.

Fite said some recent articles express cities' concerns to repay loans; Mr. Freeman said for example, Guymon's engineer has scaled back the project and they will not be looking at additional funds and cash funds on hand will pay for the difference in the cost of the project; and DEQ is working with them. It will be tough on communities; Mr. Fite quoted an official from Wagoner as saying they were concerned about repayment. Mr. Freeman said that is a good project and Mr. Rick Smith said chemical costs were unexpected and after review of their process, those costs were reduced substantially. Mr. Fite expressed his concern about cities not having flexibility. Mr. Freeman said the projects are all DEQ mandated; and Mr. Duane Smith said he has made his pitch to the Legislature and said more money needs to be put into the program. He said it was not that they couldn't repay their OWRB loan, but that they cannot take on more debt. The communities came to the Legislative Committee and with all the costs associated with the projects the Legislature asked what should be done first, and everyone agreed the financial program should be "shored up" so there is more funding available to the communities i.e., grant programs.

Chairman Nichols introduced newly-appointed Secretary J.D. Strong, Cabinet Secretary for the Environment for Governor Henry. Secretary Strong addressed the members and stated he appreciated the opportunity to continue to work with the OWRB in this capacity. He said that water is at the top of the Governor's list, and that he is supportive of the Water Plan and "bullish" that Oklahoma's water needs are taken care of well into the future.

Chairman Nichols reminded the Board's Audit Committee would meet immediately following the Board meeting today.

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 from the Summary Disposition Agenda to the Special Consideration Agenda.

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 3.D.4. regarding standby bond purchasing agreement series 1999 with Bank of America. He asked about the triple rate; Mr. Freeman responded the way the market is today, it goes up 27.5 basis points. He said the rates, based on the variable rate bonds that are outstanding in the State Loan Program, about \$32 million will amount to about \$3,000.00. Mr. Herrmann asked about the stream water right forfeitures, and where are we in that process. Ms. Cunningham responded the review started in the southeast part of the state and

is moving west along the Red River; she illustrated the stream systems that have been reviewed on a map. Mr. Drummond said these are people that had some type of permit but there was no use, and there are no domestic use permits; Ms. Cunningham answered, yes, and a hearing was conducted and not challenged.

There being no further questions or discussion regarding items on the Summary Disposition Agenda, Chairman Nichols asked for a motion.

Mr. Drummond moved to approve the Summary Disposition Agenda, and Ms. Lambert seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

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:

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. Extension and Amendment Agreement with The University of Oklahoma Department of Engineering.
2. Amendment of Joint Funding Agreement with the U.S. Geological survey for the project "Streamflow Monitoring of Seven Streamflow Sites and one Lake in the Upper Washita River Basin".
3. Amendment No. 1 to Specific Cooperative Agreement with the USDA, Agriculture Research Services, No. 58-6218-8-063 entitled "Monitoring and Evaluating Water Resources in central Oklahoma Watersheds".
4. Amendment to Standby Bond Purchase Agreement Series 1999 with Bank of America.
5. Amendment to Standby Bond Purchase Agreement Series 2003 A with Bank of America.
6. Consideration of Professional Services Contract with Emily Meazell.

- E. Applications for Temporary Permits to Use Groundwater:
None

- F. Applications to Amend Temporary Permits to Use Groundwater:
None

- G. Applications for Regular Permits to Use Groundwater:
1. Opal Jean James, Opal Jean James Revocable Living Trust and Mark & Diane Wilds, Canadian County, #2007-582
 2. David & Paula Harman, Canadian County, #2008-504
 3. Steve Long, David P. Long and Mary M. Gordon, Texas County, #2008-518
 4. Nathan & Tamra Crabtree, Cimarron County, #2008-547
- H. Applications to Amend Regular Permits to Use Groundwater:
None
- I. Applications for Regular Permits to Use Stream Water:
None
- J. Applications to Amend Regular Permits to Use Stream Water:
None
- K. Forfeitures of Stream Water rights Due to Nonuse Recommended for Informal-Default Disposition:
1. Howard Penz, Bryan County, #1972-154
 2. J. Phillip White, Bryan County, #1974-379
 3. Roy D. Davis, Johnston County, #1977-043
 4. Council Holt, Johnston County, #1979-088
 5. Claud Edwards, Jr., Bryan County, #1980-130
 6. Walter Weger, Bryan County, #1966-212
 7. Mack Haddock, Bryan County, #1967-757
 8. Thomas Potter, Bryan County, #1973-488
 9. Otto A. Conditt, Bryan County, #1974-042
 10. Dyle Carman, Bryan County, #1978-016
 11. Dyle Carman, Bryan County, #1980-043
 12. Gary McIntire, Bryan County, #1978-107
 13. Beryl K. Kemp, Bryan County, #1967-727
 14. Timothy or Edith Burr, Garvin County, #1949-002
 15. W. R. Goddard, Johnston County, #1952-060
 16. R. C. Wigley, Garvin County, #1957-203
 17. Joe T. Davis, Grady County, #1967-867
 18. E. W. Caveny, Grady County, #1969-425
 19. Willard Carter, Bryan County, #1977-118
 20. Bill Copeland, Johnston County, #1977-122
 21. Charley & Kitty Beavers, Stephens County, #1949-074
 22. Charley & Kitty Beavers, Stephens County, #1949-081
 23. Joseph C. Patton, Garvin County, #1982-045
 24. Rafter Cross Ranch/Daube Ranch, Carter County, #1982-057
 25. Rafter Cross Ranch/Daube Ranch, Carter County, #1982-058
 26. William D. Stotts, Grady County, #1982-128
 27. Janis Earlene Converse Family Revocable Trust, Johnston County, #1983-031
 28. L. W. Easterwood, Carter County, #1984-066
 29. Murray State College, Johnston County, #1987-001
 30. Alberta Creek Resort, Inc. Marshall County, #1986-009
 31. Mobil Exploration & Producing, Carter County, #1988-040
 32. Mary Sue Duncan, Garvin County, #1990-030
 33. Jerry & Sharon Sublette, Garvin County, #1996-027

34. Vernon & Maxine Whitlow, Hughes County, #1967-772

L. Well Driller and Pump Installer Licensing:

1. New Operators for Existing Licenses:

- | | | |
|--------------|---|----------|
| a. Licensee: | Dolese Brothers Company | DPC-0740 |
| Operator: | Ricky D. St. John | OP-1637 |
| Activities: | Monitoring wells and geotechnical borings | |
| b. Licensee: | Stewart Brothers Drilling Company | DPC-0185 |
| Operator: | Dallas D. Spencer | OP-1638 |
| Activities: | Groundwater wells, test holes and observation wells | |
| | Monitoring wells and geotechnical borings | |
| | Pump installation | |

M. Dam and Reservoir Construction:

1. Don Anderson Properties, L.L.C., Canadian County, #DS-08-07

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

1. Oklahoma Department of Wildlife Conservation, Creek County, #FP-08-14
2. Oklahoma Department of Transportation, LeFlore County, #FP-08-15

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the September 9, 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. Duane Smith, Executive Director, addressed the members and said he would be making the presentation given to the Legislative Interim Study on Water Quality by he and Steve Thompson, Executive Director of the Oklahoma Department of Environmental Quality. And he will also present the reliability of reservoir storage as a part of the Comprehensive Water Plan, and discuss these concepts with the Board.

Mr. Smith said the presentation to the Interim Study Committee focused on the uses of a watershed, using the Lake Eufaula watershed as an example, in an attempt to impress upon everyone the magnitude of what we are dealing with. He said Eufaula is the 15th largest lake in the United States, that some people think recreation should be a higher priority, water supply, hydropower, navigation are uses, and all the way to New Mexico, uses by cities, towns, agricultural and industrial sectors depend upon the watershed. Newspaper headlines and other ways information comes up and the way we try to sort out the noise about what is real and what needs to be addressed is through monitoring.

Mr. Smith said there are 47,000 square miles of watershed, 85,000 miles of stream--Canadian and North Canadian River, and all end up at Lake Eufaula. And, 494 square miles of lakes and ponds, 18,558 miles of shoreline--all of this is what people in the watershed depend upon for water supply. Only .8% of the land is surface water, upon which 1.7 million people depend--including the Oklahoma City metropolitan area--and most land uses are agriculture. He said when people bring an issue to the Board, they need to understand the issue is bigger than their one single issue and the OWRB has to be ready to balance all issues. Mr. Smith described other uses such as community systems regulated the DEQ, the

increase of population projections increasing the dependency on the water supply, economic value and impact to people that live in the watershed such as \$3.2 billion dollars in crop productions, \$3.4 billion economic impact from Tinker Air Force Base -- the largest single employer in the watershed -- including several groundwater aquifers and 49,984 permitted groundwater wells using 1.4 million acre-feet for irrigation and there are water quality issues associated causing communities to look at other sources of water. Mr. Smith described the number of 90-day temporary groundwater permits primarily for oil and gas, permitted surface water diversions primarily for public water supply, permitted surface water diversions primarily for oil and gas, and said using this information the OWRB draws a picture of what is going on in the basin and why is water so important, and people so emotional. There is \$52 billion dollars of personal income in one watershed that depend upon .8% of the water -- and its easy to understand why people are so interested and so concerned.

The DEQ issues pollution discharge permits, so there is economic development and use and now the activities are controlled through water quality activities--one being NPDES system at DEQ. There are a significant number of CAFOs in the watershed -- 1.6 million animals, equivalent to a population of 14-22 million people -- superfund issues, and endangered species issues.

All of these activities overlap into a water monitoring system through real time lakes and stream gages in the basin, 22 active well measurements, and BUMP (beneficial use monitoring) sites to determine what the water quality is and if we are meeting the beneficial uses, and identifying trends in water quality. This data is then used to prioritize state and federal dollars toward implementation to fix problems--a critical piece of the picture of evaluating what the impacts are to all the development in the basin.

Mr. Smith described the BUMP sites for lakes and streams to determine through USAP if the water bodies are impaired and need to be on the 303(d) list and TMDLs are then developed and action strategies determined to restore the watershed through state programs in other agencies; so it is very important the list is accurate. If we miss the mark, he said, there are consequences to determining waters are impaired when they are not, or not listing them when they are impaired. He also mentioned nutrient limited watersheds and regulation by the Department of Agriculture.

Monitoring is the cornerstone piece of water quality programs -- data. Mr. Smith said that data collection is difficult to get funded, but without it you can't do the science, and without the science you can't make the determination, and we end up in crisis management.

Mr. Smith said he is trying to make a compelling argument that we have to have more monitoring. He discussed with the members the importance of collecting data, using it to understand the impacts and get the biggest "bang for the buck" as possible; the data is used by many sectors of the community, but the most important result is that it prioritizes our state and federal resources in problem areas. The DEQ regulates public water supply and wastewater systems, provide technical assistance and NPDES permits, and currently there is enough data to address 22% of the streams and lakes in Oklahoma, and in 78% of the watersheds there is insufficient data to assess whether the water quality standards are being met. A consistent, period of record data of is necessary but the cost of BUMP has doubled even since 1999. New parameters, emerging contaminants from EPA require additional technologies for sampling and laboratory fees are a large piece of the increase. So, without increased funding, the number of sampling is decreased and the analysis is not as extensive.

Mr. Smith said that the benefits of water quality monitoring are sufficient data collection results in prevention of more stringent and costly protection measures. What if the DEQ doesn't have enough data? It will be more protective through the Clean Water Act, causing cities and towns to build more infrastructures; also sufficient data identifies environmental problems, focuses resources and maximizes the use of water resources, a critical component, allowing Oklahoma to grow rather than be an inhibitor.

The current funding is \$1 million; Mr. Smith said the agencies would ask for \$2 million--actually taking the state back to the 1999 funding level--not an increase, but our effort to ask for what we had ten years ago. The request is the OWRB's and DEQ's highest priority for funding from the Legislature for

the next year, and Secretary Strong will work for it to be included in the Governor's budget report. Sound science is the foundation for sound decision making and good public policy.

The members commented about the presentation, the need to change the culture of decision making, the estimated cost for crises management, ways to fund monitoring, and how water quality/quantity issues in other states affecting Oklahoma are evaluated, whether there are areas in Oklahoma that the lack of action would effect a shift in decision making, and estimating the cost of crisis management--paying now and paying later.

Mr. Smith's next presentation regarded the reliability of reservoir storage. He said that there have been comments about the Oklahoma Comprehensive Water Plan (OCWP) Technical Work Plan, and in particular, by the Water Law Group comprised of OG&E, Farm Bureau, Tom Lay, Drew Kershen/OU Law School, Diane Pedicord/Oklahoma Municipal League, Ronn Cupp/State Chamber, Mike Bernard/Oklahoma Mid-Continent Oil and Gas, and Scott Dewald/Oklahoma Cattlemen's Association. He said they felt the programmatic work plan was flawed, and that it addressed some issues they believed should not be addressed, namely, "a change in state policy and law to require conjunctive use regulation of stream water and groundwater resulting in favoring of stream water uses over competing groundwater uses." He said the technical work plan does not favor any policy, it is a technical work plan to evaluate what groundwater/surface water interaction is, and once we understand what it is then the people will make policy based upon technical information and good sound science. He said there is some disagreement from these groups that have organized thinking the OWRB is purposefully going about the [water plan] to change the current water law. The OWRB is evaluating how the current water law is working and put that data and science out for review by the public for decision makers to make appropriate decisions on what the water policy should be.

He said that the group believes the current water law provides a reliable system of water allocation for consumptive uses--a fundamental belief there is plenty of water in Oklahoma for all beneficial uses, and if some area is short, just move water from water-rich areas to water-short areas and that water issue is then resolved. In 1980, that was basically the plan, but we had changed from our current law of a sustainable system of groundwater pumpage (recharge rate) to a mining concept with those people that formed that law having an understanding that would not be the long term future of Oklahoma--you can't over pump the groundwater basin forever--saying that in the short term it will be pumped and in the long term it will moved through infrastructure to the areas in Western Oklahoma that were dependent upon groundwater and over-pumping that groundwater supply to resolve the issue for the future. Now, 30-plus years later, where is the infrastructure? He said now transporting water to those areas--from southeastern Oklahoma to Woodward--to Guymon, where some are predicted to decline in population, is an unrealistic expectation in water transfer.

As a part of this update of the plan, it is appropriate to review the policy and to review the plan, and ignore the science and technology that would support any type of change because we think that's a reliable system. Mr. Smith made a PowerPoint presentation featuring Fort Cobb reservoir as an example from a model developed with assistance from the Bureau of Reclamation. Slides illustrated rainfall and drought conditions from 1895-2006, and he discussed the current process for issuing stream water permits by calculating whether water is available at a proposed diversion point based upon the average annual runoff, and subtracting domestic use and dependable yields of reservoirs. He explained the users contract for water storage from the Fort Cobb reservoir, and he showed the hydrograph of Fort Cobb, indicating

times of significant drought and rainfall, as well as the average annual flow, and on the average because of the rainfall during April, May and June, the entire line is skewed upward for the rest of the year. If someone wants an irrigation permit for August, this annual average flow is used to issue the permit to maximize the use of water for the economic benefit of Oklahoma. The policy thinking was to issue these permits, and then in time of drought take the junior water user and cut them off.

He illustrated the average annual flow for Fort Cobb, determining the amount of water available using data for the worst drought of record to determine the firm yield of the reservoir, which the Bureau then contracts for use. The illustration demonstrated when the reservoir was full, overflowing, various levels, and times of drought, and Mr. Smith demonstrated the highest amount of contracted use during the period of record, and it showed that the reservoir would have been dry most of the time. This is what the current administrative system allows, and he said he is fine with the current policy, if people understand it is the least reliable system--for cities, for industry, for agriculture. Mr. Smith used other entities' use of the reservoir in scenarios of their use and the periods of record of water availability using the allocation formula and even during the longest wettest periods there were still periods when Fort Cobb goes dry and the entities that thought they had a reliable supply, do not.

Mr. Smith said in the Technical Work Plan there is a component for climate change, but there are people that don't believe that should be a part of the Water Plan. If we don't look at periods of record, we are short-changing the communities and giving them false hope that they could potentially have more reliability than they have. Mr. Fite said the focus should be on the reliable inflow to the reservoir.

Mr. Smith said he made this presentation to the Oklahoma Municipal League--and he complimented Diane Pedicord and her knowledge of Oklahoma water law--and she said this is an implementation law within the current statute. He said he does agree implementation does not require change in the appropriate doctrine, but he thought there may be tweaks within the implementation that need to be looked at, and this demonstration portrays that.

Mr. Smith demonstrated a similar story with Okemah Reservoir. The members asked about whether the illustration was a worst-case scenario, whether the reservoir is fully allocated, what happens when there is interference and cutting off of water rights, when a drought occurs and when are users cut off, and that these issues--climate change, conjunctive use, etc.-- are in the Technical Work Plan in order to do some work so there is the best science available to form decisions.

Mr. Smith introduced Bryan Mitchell with CDM who has developed the Technical Work Plan. He also noted Mr. Josh McClintock was present and is developing a Congressional Briefing Document for the Congressional visits, which will be provided to the members.

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 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, said the budget report provided is through the end of August. He said 17% of the budget for FY09 has been spent, 60% has been obligated, and 24% collected. He said the agency may realize an increase in the OSE budgetary limit because of EPA expenditures, which can be approved by the Office of State Finance if up to 20%.

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. Chairman Nichols said the Audit Committee will meet to discuss an audit of the OCWP.

9. ADJOURNMENT

There being no further business, Mr. Fite moved and Ms. Lambert seconded that Chairman Nichols adjourn the regular meeting of the Oklahoma Water Resources Board at 11:25 a.m. on Tuesday, September 9, 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/_____
Richard Sevenoaks

_____/s/_____
F. Ford Drummond

ATTEST:

_____/s/_____
Linda P. Lambert, Secretary
(SEAL)