

OKLAHOMA WATER RESOURCES BOARD

OFFICIAL MINUTES

November 10, 2009

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudolf J. Herrmann at 9:30 a.m., on November 10, 2009, in the Board Room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The November 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 November 4, 2009, at 5:15 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

Chairman Rudy Herrmann asked for a moment of silence in honor of the victims that lost their lives at Fort Hood, Texas, and to think about their families and loved ones in the aftermath.

B. Roll Call

Board Members Present

Rudy Herrmann, Chairman
Mark Nichols, Vice Chairman
Linda Lambert, Secretary
Ford Drummond
Ed Fite
Kenneth Knowles
Richard Sevenoaks
Joe Taron

Board Members Absent

Jack Keeley

Staff Members Present

Duane A. Smith, Executive Director
David Dillon, Assistant 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
Mike Melton, Executive Administration Division
Kyle Arthur, Director of Planning

Others Present

Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK
Gail Morris, Tulsa City-County Library, Tulsa, OK
Janet Stewart, Oklahoma Conservation Commission, Oklahoma City, OK
Patty Thompson, Department of Environmental Quality, Oklahoma City, OK
Nate Ellis, Public Financing Law Group, Oklahoma City, OK
Leslie Smith, Department of Environmental Quality, Oklahoma City, OK
Sara Tangen, McCall Parkhurst & Horton, Dallas, TX
Mark Selvidge, Kutak Rock, Oklahoma City, OK
Jeff Leuschel, McCall Parkhurst & Horton, Dallas, TX
Ed Beckham, Hulbert Public Works Authority, Hulbert, OK
Ricky Lee, Hulbert Public Works Authority, Hulbert, OK
Doug Stinson, Allen Public Works Authority, Allen, OK
Al Jung, Cotton County Rural Water District #2, Lawton, OK
Jerry Phillips, Cotton County Rural Water District #2, Walters, OK
Ben Oglesby, Municipal Finance Services, Inc., Edmond, OK
Randy Worden, Central Oklahoma Master Conservancy District, Norman, OK
Kenny Lovett, Jefferson County Rural Water District #1, Hastings, Ok
Meredith Morgan, PFLG
Bill Baker, City of Sallisaw, OK
Shannon Vann, City of Sallisaw, OK
Brett D. Peters, City of Sallisaw, OK
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK
Julie Ferguson, City of Sallisaw, OK
Barbara Bailey, Bank of Oklahoma, Oklahoma City, OK
Brenda Batchelor, Bank of Oklahoma, Oklahoma City, OK
Chris Hall, City of Perry, OK
Tom Hendrix, City of Broken Arrow, OK
Tom Cook, City of Broken Arrow, OK
Mike Leitch, Tulsa City-County Library, Tulsa, OK
Charles Swinton, BancFirst, Oklahoma City, OK
Vicki Reed, Department of Environmental Quality, Oklahoma City, OK
Mike Wofford, Tulsa, OK
Jacob Bachelor, Centennial Law, Duncan, OK
Karl Stickley, C.H. Guernsey & Co., Oklahoma City, OK
Amy Ford, Citizens for the Protection of the Arbuckle Simpson Aquifer, Duncan, OK

C. APPROVAL OF MINUTES

Chairman Herrmann stated the draft minutes of the October 13, 2009, Regular Meeting had been distributed. He stated he would accept a motion to approve the minutes. Mr. Fite moved to approve the minutes, and Mr. Drummond seconded.

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

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, greeted the members and said that he had attended this morning Senator Paddock's Hard Rock Mining Interim Study meeting. Senator Bingman chaired the meeting; he spoke about the issues with the Arbuckle Simpson Aquifer with mining. He outlined the OWRB positions as he did at the Water Conference, and as a matter of fairness, for the mining companies to come under the same guidelines as every other user in that aquifer-- there should not be free use of water from the pits and potentially discharge while landowners and cities and rural water districts have to restrict their usage to protect the streams and springs. He said he had a number of discussions with the mining industry representatives who have said they do not want to impact streams and springs so with that agreement, we can move forward with negotiation on how that regulatory mechanism happens. He said Governor Anotubby has been exceedingly helpful in the discussion, and he believed their positions are exactly in line -- that we want to have industry, do not want to shut down mining companies, want to have jobs for our people, and at the same time protect streams and springs. He said he will be moving forward with discussions, if that breaks down potentially there could be legislation, but at this time he is cautiously optimistic. He reviewed the case for the members where the OWRB had issued the permit to Martin Marietta for a water well, and in the order said before using water from the pit a permit must be obtained--that was appealed, the District Judge said the OWRB is wrong and that water used from a producing mine is exempt from the groundwater law. The OWRB has appealed the decision. Chairman Herrmann commented that everyone in the aquifer should be prepared to make some changes and no one is exempt, but can work together to make decisions; and, that Mr. Smith expressed to the conference attendees that the people that reside within the bounds of the aquifer should decide what regime they want to live under rather than something imposed upon them by the OWRB. He commended Mr. Smith for his stance at the water conference.

Mr. Smith commented about the Governor's Water Conference, held November 3-5. He said Mike Melton, Brian Vance and others at the OWRB did an outstanding job, and he had received comments that this was the best conference yet with the presentations on the Comprehensive Water Plan and the topics presented by the speakers. He said he has challenged the staff to higher achievement for next year because in order to sell the OCWP, there needs to be more outreach than to 450 people, and will look to other organizations to get their members to attend. Mr. Fite commented that to some people it appeared the plan was being presented as a consumptive plan and he encouraged discussions at the next meeting to include more issues such

as in stream flows. Mr. Smith responded that there has been a huge effort to provide and identify reliable water supplies for communities and has disproportionately put a lot of the work toward public water supply, but that will be filled in and there will be more and more discussions in those areas; also the tribes and different water users, i.e., agriculture use.

The Arkansas-Oklahoma Arkansas River Compact Commission met October 29, 2009, in Grove, Oklahoma. He said that because of the litigation people were concerned about comments said, so not many were made.

Mr. Smith said he had spoken with the Municipal Clerks, Treasurers and Finance Officials Conference, and said he and staff wanted the opportunity to speak to others about the Comprehensive Water Plan, and how to relate to the community citizens about the plan, and now we have pilot communities of Norman, Ardmore, Piedmont and Grove and developing a matrix of what value is put on clean water in those communities--not just a cost/benefit analysis on rates, but about the quality of life in a community that have an adequate drinking water supply. He added he would be speaking to the Shawnee Rotary Club, and he invited others to request him or Kyle Arthur to speak to local groups.

Mr. Smith will be traveling to Philadelphia for the National Drinking Water Advisory Council which reviews rules proposed by the EPA for the Drinking Water program. He said he had been recently appointed to the Climate Ready Utilities Work Group, there will be four meetings over the next year and the group will be looking at incorporating climate change into utilities work; the first meeting is in Washington, D.C.

Mr. Smith concluded his report announcing the departure of OWRB Comptroller Monte Boyce; Mr. Boyce has accepted a position at the Oklahoma Department of Environmental Quality, effective December 1. He thanked Mr. Boyce for his outstanding service to the OWRB.

Chairman Herrmann said, that as the activities regarding the OCWP begin to develop action plans from the ideas that have "bubbled-up" through the public participation process, he asked that the Board begin to impact the process in a constructive manner.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Hulbert Public Works Authority, Cherokee County. Recommended for Approval. Mr. Freeman stated to the members that this item is a \$75,000 emergency grant request from the Hulbert Public Works Authority located in Cherokee County. Hulbert has two river intake structures, one that is inoperable and the second does not provide an adequate quantity of water for the system's demand. In order to meet the communities water needs, Hulbert proposed to replace the existing primary intake structure and rehabilitate the secondary intake. It is estimated the project will cost \$344,200.00; the project will be funded with \$119,245.00 from the Department of Commerce CDB Grant, \$139,955.00 in local funds, and \$75,000 grant requested of the OWRB. Staff recommended approval.

Mr. Ed Beckham, Board member; and Ricky Lee, Water Superintendent, were present in support of the emergency grant request. Chairman Herrmann commended the HPWA on its ability to contribute local funds to the project costs.

Mr. Fite moved to approve the emergency grant to the Hulbert Public Works Authority, and Mr. Knowles seconded.

Mr. Nichols commented that for the population of 397, that is a large local commitment. There being no further comments, Chairman Herrmann called for the vote.

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

B. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Allen Public Works Authority, Pontotoc County. Recommended for Approval. Mr. Freeman said the Allen Public Works Authority has requested \$100,000.00 in emergency grant funds. The Authority is requesting the funds to replace the wastewater line to the treatment facility; the line has failed where it crosses Little Sandy Creek and is discharging into the creek. The Town proposes to replace the creek crossing with a new sewer line with concrete piers designed to withstand future floods and soil erosion. Overall, the project will consist of 220 feet of 10-inch sewer line, three manholes and five concrete piers. It is estimated the project will cost \$117,650.00, to be funded by \$17,650 in local funds and the requested OWRB grant. Staff recommended approval.

Mr. Doug Simpson, Town Administrator, was present in support of the emergency grant application.

Ms. Lambert moved to approve the emergency grant to the Allen Public Works Authority, and Mr. Fite seconded.

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

C. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Perry Municipal Authority, Noble County. Recommended for Approval. Mr. Freeman said this \$640,000.00 funding request from the Perry Municipal Authority will be to enclose the existing flocculation/sedimentation basins, construct a chlorine disinfection system, replace the filter media in four filters, and rehabilitate the media in two other filters. In addition, the loan proceeds will be used to install automated controls. The loan will be funded through the Drinking Water State Revolving Fund loan program, and he noted provisions of the loan agreement. Perry has been a long-time, good loan customer of the Board's and its debt coverage ratio stands at approximately 1.7-times. Staff recommended approval.

Mayor Charles Hall, Counsel Bryce Kennedy, and Rick Smith, Financial Advisor were present in support of the funding request. Chairman Herrmann asked about ARRA funds. Mr. Freeman said the commitment for the Drinking Water program has been met; there are no ARRA funds in this project.

Mr. Nichols moved to approve the DWSRF loan to the Perry MA, and Mr. Drummond seconded.

AYE: Taron, Nichols, Lambert, Sevenoaks, Fite, Drummond, Knowles,
Herrmann

NAY: None
ABSTAIN: None
ABSENT: Keeley

D. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated that this item is \$4 million loan request from the Broken Arrow Municipal Authority to fund the design of a 20 MGD water treatment plant which should be under construction by late next summer or early fall. The loan will be funded through the Drinking Water SRF loan program; Mr. Freeman noted provisions of the loan agreement. Broken Arrow's water and sewer connections have increased by over 25% in the last ten years; Broken Arrow has been a long-time, good customer of the Board and currently has seven loans outstanding loans, the debt-coverage ratio stands at approximately 2.4-times. Staff recommended approval.

Mr. Tom Cook, Accounting Supervisor, and Mr. Tom Hendricks, City Engineer, as well as their financial advisors, were present in support of the loan application.

Mr. Sevenoaks asked if the water supply would replace the supply from the Ordnance Works Authority, and Mr. Hendricks answered that this project would supplement as the needs are exceeding what they have under contract with the OOWA. He said the line will handle gravity flow from the OOWA and he spoke about the future plans for obtaining water from OOWA at a reduced amount. Ms. Lambert asked about capacity and need, and Mr. Hendricks answered that currently total capacity is 27 million (gpd) and total needs are projected to be about 50 million gpd. Mr. Sevenoaks asked if the water was to be blended, and Mr. Hendricks answered that it would be blended. Chairman Herrmann asked the total amount of indebtedness, and Mr. Freeman answered around \$26 million.

Mr. Sevenoaks moved to approve the DWSRF loan application to the Broken Arrow PWA, and Ms. Lambert seconded.

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

E. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Sallisaw Municipal Authority, Sequoyah County. Recommended for Approval. Mr. Freeman stated this \$7,285,000.00 loan request from the Sallisaw Municipal Authority in Sequoyah County. He said Sallisaw is requesting the loan to construct 28,900 feet of raw water line, and a 1.5 million gallon clear well. He said the loan will be funded through the Drinking Water SRF, and he noted provisions of the loan agreement. He said that Sallisaw's connections have increased by over 9% over the last ten years, and the debt coverage ratio stands at approximately 1.53 times. Staff recommended approval.

Mayor Shannon Vann; Mr. Bill Baker, City Manager; Mr. Greg Peters, engineer; and Ms. Julie Perkins were present in support of the loan request.

Mr. Sevenoaks asked the source of the water and Mayor Vann responded it is from a flood control project built in the 1950's called Brushy Lake, and they are working on developing

an additional source. He said they are working with the NRCS on increasing reservoir size of their current supply, as well as an additional supply. Mr. Fite asked if Brushy Creek was under the Oklahoma Conservation Commission's Retrofit program; Mr. Vann responded it is, and it is considered a high hazard dam and eligible for the funding.

Mr. Fite moved to approve the Drinking Water SRF loan to the Sallisaw Municipal Authority, and Mr. Nichols seconded.

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

F. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Tulsa County Industrial Authority in Partnership with Tulsa City-County Library System. Recommended for Approval. Mr. Freeman said this item is a \$278,580.00 Clean Water SRF Green Project by the Tulsa County Industrial Authority/City-County Library System. He described the two different projects which are to be funded with the ARRA funding—the first is at the Central Library at Downtown Tulsa, to convert existing reflecting pools to green roof. This will reduce water runoff and improve discharge quantity, but will also provide an aesthetic benefit. The second project, a rain garden at the Sperry Library, designed to hold rain, create a natural habitat, recharge the water table, and create an educational tool at the facility. The project will be fully funded with green reserve funds, and Clean Water SRF and ARRA funds; and will be in the form of principal forgiveness. Staff recommended approval.

Ms. Gayle Morris, finance and operations director for the library system was present in support of the application. She said the project is three-fold: to address the water runoff problem, beautification, and education benefits.

Ms. Lambert asked about whether the ARRA fund were committed; Chairman Herrmann answered the Drinking Water SRF funds have been committed; this is Clean Water SRF. Mr. Sevenoaks asked if there are green funds still available, and Mr. Freeman said the funds are still available.

Dr. Taron moved to approve the Clean Water SRF funding to the Tulsa City-County Industrial Authority, and Mr. Drummond seconded.

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

G. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Clean Water Funds for Poteau Valley Improvement Authority, LeFlore County. Recommended for Approval. Mr. Freeman said the Board approved the \$582,995.00 funding request for a water quality improvement project at Lake Wister so that the lake can meet water quality standards. An increase of funds in the amount of \$256,106.00 will allow the water quality monitoring component to be added to the project. Additional funds have become

available because one of the originally identified green projects has not developed. The total for the PVIA funding is \$839,101.00. As mentioned in September, the project will be funded with green project funds made available through ARRA, and is in the form of principal forgiveness. Staff recommended approval.

There were no representatives of the PVIA in attendance. Mr. Drummond asked if this would use all of the green funds, and Mr. Freeman answered that there is one more item.

Mr. Fite moved to approve the increase of funds to the PVIA, and Dr. Taron seconded.

AYE: Taron, Nichols, Lambert, Sevenoaks Fite, Drummond, Knowles,
Herrmann

NAY: None

ABSTAIN: None

ABSENT: Keeley

H. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Funds for Central Oklahoma Master Conservancy District, Cleveland County. Recommended for Approval. Mr. Freeman stated to the members that this item is for an increase in the amount of funding for the Clean Water SRF green project for the Central Oklahoma Master Conservancy District. At the September Board meeting, the District was approved for \$692,773.00 for a project consisting of supersaturated dissolved oxygen injection system chamber, a control panel, a programmable control, pumps and motors. A \$411,817.00 increase in funding is necessary for the project in order to increase pipe size, extend the discharge pipe, and add water quality monitoring to the project. As previously approved, the funding will be from green reserve funds from the ARRA CWSRF funds, and in the form of principal forgiveness. Staff recommended approval.

Mr. Randy Worden, District Manager, and Mike Wofford, legal counsel, were present in support of the increased funding request.

Ms. Lambert asked what the COMCD does, and Mr. Worden responded the District is under contract with the Bureau of Reclamation to supply water to Norman, Midwest City and Del City.

Ms. Lambert move to approve the request for an increase in funds, and Mr. Fite seconded.

AYE: Taron, Nichols, Lambert, Sevenoaks, Fite, Drummond Knowles,
Herrmann

NAY: None

ABSTAIN: None

ABSENT: Keeley

I. Consideration of and Possible Action on a Proposed Resolution Authorizing the Issuance of Oklahoma Water Resources Board Revolving Fund Revenue Bonds, Series 2010 in the Aggregate Principal Amount Not to Exceed \$150,000,000.00; Approving and Authorizing Execution of a Bond Indenture Providing for the Issuance of Said Bonds; Providing for the Sale and Delivery of the Bonds and Authorizing a Certificate of Determination; Waiving Competitive Bidding on the Bonds and Authorizing the Sale Thereof by Negotiation Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement with Respect to Said Bonds; Authorizing the Execution of Such Other and Further Instruments,

Certificates, and Documents as May be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of Said Bonds. Mr. Freeman this item is for the consideration of a resolution approving the 2010 State Revolving Fund Bond Issue scheduled for closing the first part of January. The bond issue is for reimbursing cash funds used for SRF loans and funds for the completion of construction. The resolution authorizes the issuance of bonds not to exceed \$150 million dollars, authorizing execution of a bond indenture for the issuance, authorizing the issuance be on a negotiated basis, approving a preliminary official statement, authorizing execution of all other documents necessary for the issuance of the bonds, and directing payment of the cost of issuance. Staff recommended approval.

Ms. Anne Burger-EntriKin, the Board's financial advisor with First Southwest, was present in support of the resolution.

Mr. Sevenoaks asked about the fee structure; Mr. Freeman said the fees were approved when the Board hired the bond counsel and underwriter last summer and is filed with the appropriate paperwork with State Bond Advisor and Bond Oversight Council and received approval on November 19, 2009.

Mr. Drummond moved to approve the resolution authorizing issuance of OWRB Revolving fund revenue bonds, and Dr. Taron seconded.

AYE: Taron, Nichols, Lambert, Sevenoaks, Fite, Drummond, Knowles, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Keeley

Mr. Freeman distributed to the members the report regarding the status of the Clean Water SRF funds and the Drinking Water SRF fund. There is approximately \$4.2 million available under the CWSRF based upon the 20% goal. Chairman Herrmann asked if it looked like contracts will be issued by the 15th of February, and Mr. Freeman answered on the two Supplemental Agendas today there are extensions of time for projects that have a December 31 deadline, and possibly one project that will not be ready in time, but doesn't mean all funds will not be utilized. Mr. Drummond asked if that project falls through, will the funds will be distributed pro rata to other projects, and Mr. Freeman answered that is correct. Mr. Fite asked if there had been problems reported regarding the automated meters such as in other states, and Mr. Freeman answered he had not had a report. Mr. Sevenoaks said the City of Tulsa had some problems with the first generation of the transmission devices, but the second and third generation devices had taken care of most of the bugs.

Chairman Herrmann indicated Dr. Taron would be leaving in order to meet with Governor Henry in Shawnee.

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.

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 Herrmann asked for a motion.

Ms. Lambert moved to approve the Summary Disposition Agenda, and Dr. Taron seconded.

AYE: Taron, Nichols, Lambert, Sevenoaks, Fite, Drummond, Knowles, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Keeley

During the vote, Mr. Sevenoaks asked about the extensions of time; Mr. Freeman responded the extensions under the Summary Disposition Agenda, as well as the additional items on the Supplemental Agenda, are to allow for time to submit engineering plans and specifications approved by the Department of Environmental Quality. There was discussion with Ms. Patty Thompson about the process for project plan approvals, and the receipt of ARRA funds, and the availability of funds throughout the states.

The following items were approved:

C. Consideration of Approval of the Following Financial Assistance Division Proposed Orders Recommended for Approval:

Extension of Time for Obligation of Funds			Amount	
<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Recommended</u>
1.	ORF-07-0014-DW	Frederick Public Works Authority	Tillman	\$4,100,000.00
2.	ORF-09-0031-DW	Sand Springs Municipal Authority	Tulsa	7,000,000.00
3.	ORF-07-0001-DW	Rural Water District No. 3	Washington	17,394,645.00
4.	ORF-08-0002-CW	Moore Public Works Authority	Cleveland	32,000,000.00

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

1. Agreement with the Office of the Secretary of the Environment for the Clean Water Act FY 09 §106 Water Pollution Control Program-Monitoring CA# I-96698301.

2. Letter Agreement with the U.S. Army Corps of Engineers for the Arkansas River Corridor Projects Programmatic Work Plan Design and Integrated Regulatory Activities.
 3. Contract with the Department of Environmental Quality for Public Water Supply Assessments in Support of Comprehensive Water Plan Update
 4. Escrow Agreement with AMEC Earth and Environmental for Source Code for Water Allocation Model.
- E. Applications for Temporary Permits to Use Groundwater:
1. Dolese Bros. Co., Garfield County, #2009-501
 2. Delbert & JoAnn Hladik, Kingfisher County, #2009-539
 3. Jefferson County Consolidated RW&S District #1, Grady County, #2009-548
 4. Jarius L. “Jerry” Gray, Caddo County, #2009-549
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. Carl O. Thrall, Cimarron County, #1973-363
- G. Applications for Regular Permits to Use Groundwater:
1. Cotton Co. RWD #2, Comanche County, #2008-589
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Sheldon W. & Julee D. Meliza, Harper County, #2002-570
- I. Applications to Amend Prior Rights to Use Groundwater:
1. Darin Gregory, Bengi Gregory, Curtis Gregory & Julie Gregory, Major County, #1966-367
- J. Applications for Regular Permits to Use Stream Water:
1. James & Roberta Hale Family Trust, Wagoner County, #2009-019
 2. City of Walters, Cotton County, #2009-023
- K. Forfeitures of Stream Water Rights:
1. John D. Capehart, Tulsa County, #1953-588
 2. Stark Brothers Nurseries & Orchards Co., Muskogee County, #1956-928
 3. John H. Toland & Roy K. Carr, Okmulgee County, #1995-026
- L. Well Driller and Pump Installer Licensing:
1. New Licenses, Accompanying Operator Certificates and Activities:
 - a. Licensee: Fugro Consultants, Inc. DPC-0795
 1. Operator: Steve Butrej OP-1723
 - Activities: Monitoring wells and geotechnical borings
 - b. Licensee: TXI DPC-0797
 1. Operator: Mark Philip Palmquist OP-1724

- Activities: Monitoring wells and geotechnical borings
 - c. Licensee: Terra Firma Earth Technologies, LTD DPC-0799
 - 1. Operator: David Giles OP-1728
 - Activities: Groundwater wells, test holes and observation wells
Monitoring wells and geotechnical borings
 - 2. License Renewal, Accompanying Operator Certificates and Activities
 - a. Licensee: Heartland Water Inc. DPC-0501
 - 1. Operator: Joseph E. Redman OP-0923
 - Activities: Groundwater wells, test holes and observation wells
Heat exchange wells
 - 3. New Activity, Operator for Existing License:
 - a. Licensee: Howell's Pump Sales & Service DPC-0591
 - 1. Operator: Pat W. Howell OP-1567
 - Activities: Groundwater wells, test holes and observation wells
 - b. Licensee: Sunbelt Industrial Service DPC-0701
 - 1. Operator: Darrin S. Stark, Sr. OP-1706
 - Activities; Monitoring wells and geotechnical borings
 - c. Licensee: Don Strawn Drilling DPC-0670
 - 1. Operator: Jon T. Bourlon OP-1411
 - Activities: Groundwater wells, test holes and observation wells
Pump installation

M. Dam and Reservoir Construction:

None

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

None

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the November 10, 2009 packet of Board materials

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

A. Update Report Oklahoma Comprehensive Water Plan Activities. Mr. Kyle Arthur stated to the members that on October 22, 2009, the final planning workshop was held; from the three meetings, approximately 17 strategies have been developed and will be moving forward to the Town Hall. Preparation for the Town Hall meeting will be held on March 29, 2010, and the proposals will be discussed in more detail with those participants of the Town Hall. The meeting will be held at the Moore-Norman Technology Center in Moore. Mr. Smith said this meeting will help the Board members grasp everything that has happened and the direction of the future. Mr. Arthur announced the Town Hall will be held May 23-26, 2010 at the U.S. Postal Service

Training Center. Presentations made at the Governor's Water Conference regarding the OCWP will be available on the agency website, as well as the OCWP strategies. The members discussed the workshop process, the Town Hall process, and the credibility of the State Academy conducting the discussion of the recommendations for the Oklahoma Comprehensive Water Plan, the Board's involvement in the process, the plans for work groups regarding environmental flows, assessment of conservation, navigation interests and tourism and recreation issues by next year's water conference.

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. In the Matter of Stream Water Right No. 1973-184 of Mark Graf, Stream System 1-8-3, Washita County, Oklahoma:

1. Summary – Ms. Julie Cunningham, Chief, Planning and Management Division, explained to the members that this item is for the consideration of the reduction of a water right in the name of Mark Graf in Washita County. The record showed that no water had been used since 1992, and there was opportunity for correction of the water use report, which showed irrigation occurred in 1999, 2001, and 2002. Also, the record showed that flood damage occurred involving the irrigation equipment in 2007 and 2008. The record showed a use of 90 acre-feet of water per year for irrigation, and therefore, staff recommendation is to approve the proposed findings of fact, conclusions of law, and Board order reducing stream water right no. 1973-184 for cause of non-use to 98 acre-feet, with the remainder reverting to the public.

2. Discussion and presentation by parties. Mr. Graf was not 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. Nichols moved to approve the reduction of the stream water right no. 1973-184, and Mr. Fite seconded.

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

B. In the Matter of Application No. DS-09-05 of Pontotoc County Conservation District to Construct Modification to a Dam in Pontotoc County, Oklahoma:

1. Summary – Ms. Julie Cunningham said this application is by the Pontotoc County Conservation District for rehabilitation of a dam and spillway on Upper Clear Boggy Creek Site 35. This is one of 2,105 failing flood control structures in the state. The structures were built between 1950 and 1970, and the Oklahoma Conservation Commission has been able to rebuild 19 of those structures. This project will extend the life of the dam for an additional 100 years; the current hazard and size classification for Site 35 will be unchanged. Ms. Cunningham reviewed the statutes regarding the Board's consideration of such projects. In this case, staff review of the application found the proposed development met the Board's requirements, and the plans and specifications were prepared by the NRCS. The application was protested; however, the protest actually regarded another site, no. 34, and the NRCS has proposed modifications for that site, but that will be considered under separate action; that protest is irrelevant in this matter. Therefore, staff recommended approval of the proposed findings of fact, conclusions of law, and Board order.

2. Discussion and presentation by parties. Ms. Janet Stewart, Oklahoma Conservation Commission, was present in support of the application. There were no protestants in attendance. Ms. Stewart addressed the Board members and stated the OCC met with the protestants and listened to the issues involving sites 34, 35, and 36, and discussed how the rehabilitation of the three sites will work together. The members asked about some of the issues on site 34; however, there were no safety concerns or protests on site 35.

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.

Ms. Lambert moved to approve the proposed findings of fact, conclusions of law and Board order for rehabilitation for site 35, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Taron

C. Items transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda for further consideration.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Monte Boyce, OWRB Comptroller, addressed the members and stated next week the Senate will hold budget hearings and the agency has been asked to present impact of the 5% budget cuts. He said the total for the fiscal year has been \$210,000.00 for agency operations; including \$102,000 for REAP, and \$14,000 for ORWA. The 5% cut is not cumulative, but is out of each monthly allocation. Mr. Boyce said the report ending October 31 indicates a change in the FY2009 carryover, which is \$124,807.00. He said that one-third of the fiscal year has been completed; he said the agency is still on track to receive the allocated amount from the Gross Production Tax collections.

Ms. Lambert asked about the carryover offsetting the budget cut; Mr. Boyce said the agencies are counseled that the carryover can be used to cushion the reductions, but that is one-time Band-Aid, and should not be budgeted annually.

The members complimented Mr. Boyce on his service, and Mr. Boyce assured the members the staff in place will do an excellent job in his absence.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY

Chairman Herrmann stated there is a Supplemental Agenda for the Board's consideration.

A. Contracts and Agreements Recommended for Approval.

1. Amendment of Joint Funding Agreement with U.S. Geological Survey for the project "Garber-Wellington Aquifer Management, Central Oklahoma". Mr. Kyle Arthur said this item is for the consideration of an amendment to a current joint funding agreement to set the maximum annual yield on the Garber Wellington Aquifer--there are approximately 20,000 wells located over the aquifer. This project is an important part of the water plan. This amendment is for an additional \$145,000.00, which will be matched by the OWRB. Staff recommended approval.

Mr. Fite moved to approve the amendment to the agreement, and Ms. Lambert seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Taron

2. Modification to Contract with The Board of Regents of the University of Oklahoma by and through University Outreach/College of Continuing Education's Center for Public Management for Community Case Studies of Benefits of Clean Water State Revolving Fund Program. Mr. Arthur said this item an amendment to the budget with the University of Oklahoma for the community impact studies regarding the SRF/ARRA project. The total amount is not changing; however, the distribution of the dollars is changed. Staff recommended approval.

Mr. Fite moved to approve the contract modification, and Mr. Nichols seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Taron

B. Consideration of Approval of the Following Financial Assistance Division Proposed Orders Recommended for Approval: Mr. Joe Freeman stated this item is for consideration of the two items indicated that were not ready when the initial agenda for the meeting was prepared. He said staff recommended approval of the extension of time in order to complete engineering work.

Extension of Time for Obligation of Funds				Amount
<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Recommended</u>
5.	ORF-09-0014-CW	Piedmont Municipal Authority	Canadian	\$2,655,000.00
6.	ORF-09-0003-CW	Owasso Public Works Authority	Tulsa	12,880,000.00

Mr. Nichols moved to approve the extensions of time, and Mr. Drummond seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Taron

SECOND SUPPLEMENTAL AGENDA:

C. Proposed Order Approving an Increase in Obligation of Funds for Grand Lake Public Works Authority, Recommended for Approval. Mr. Joe Freeman explained this item is for the consideration of an increase of \$5,000.00 to the GLPWA loan. The funds will be used to refinance three FAP loans, pay off an interim loan with the Bank of Oklahoma, and other purchases and costs related to the project. Staff recommended approval.

Mr. Fite moved to approve the increase in obligation of funds, and Ms. Lambert seconded.

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

NAY: None

ABSTAIN: None

ABSENT: Keeley, Taron

8. UPDATE ON OKLAHOMA WATER RESOURCES BOARD ANNUAL

RULEMAKING PROCESS. Mr. Duane Smith said staff wanted talk to the Board members about the proposed rulemaking. He said the process of rulemaking requires notice to the public regarding what the potential rule changes may be, and that is scheduled for next week. Some of the proposals will include fee increases, and while they may be extremely controversial and the Board may or may not follow through, no discussions can take place if notice has not been given. He said he wanted to stop short of saying that staff is proposing fee increases, but fee discussions need to be made between the Board and the public. There is not discussion allowed on the agenda today, but at this time each of the Division Chiefs will present in concept the proposals for discussion, and public comment will be provided as the process moves forward.

Ms. Julie Cunningham discussed the Planning and Management Division's process for development proposals for rule changes including efficiencies in the water rights permitting process, fee structure, and funding levels of the dam safety program, support of the water planning process, and well drillers and pump installers licensing. She distributed a handout outlining some of the rule change concepts.

Mr. Smith commented about the Senate Performance evaluation hearing which asked how the agency was to deal with budget cuts and not to make budget request. Ms. Cunningham outlined the first responsibility is the agency to make sure we are being efficient with our dollars and demonstrate to the legislature the "biggest bang for the buck," then how do we deal with the cuts--one of those ways is proposed fee increases. The decision to make then is whether we

perform certain duties or not, as we are at the point we cannot borrow from one program to fund another.

Mr. Derek Smithee spoke to the process and proposals to Chapters 45 and 46 regarding Water Quality Standards and Implementation. He informed the members of the public notice and informal public hearings that have already taken place; the standards process is on a different schedule than the regular rules process. He noted changes in the notices that are required to be mailed to the public, and the proposals to certain standards regarding enabling language and site specific criteria for Nine Mile Creek.

Mr. Freeman noted proposals to reflect changes required by the Environmental Protection Agency to regulations on the environmental review process, and the additional 20% of new money that will be for green projects.

The members asked brief questions as the presentations were made for the divisions.

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. However, Mr. Sevenoaks asked about the case involving the Illinois River, and Mr. Fite commented about the timeframe for the case. Chairman Herrmann mentioned that the Tarrant case is scheduled for trial in early December, and he noted Mr. Chuck Dumars' presentation at the water conference.

10. ADJOURNMENT

There being no further business, Chairman Herrmann adjourned the meeting of the Oklahoma Water Resources Board at 11:40 a.m. on Tuesday, November 10, 2009.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Rudolf J. Herrmann, Chairman

_____/Absent_____
Jess Mark Nichols, Vice Chairman

_____/s/_____
Edward H. Fite

_____/s/_____
Richard Sevenoaks

_____/s/_____
Jack W. Keeley

_____/s/_____
Kenneth K. Knowles

_____/Absent_____
F. Ford Drummond

_____/s/_____
Joseph E. Taron

ATTEST:

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