

**OKLAHOMA WATER RESOURCES BOARD**  
**OFFICIAL MINUTES**  
**January 10, 2012**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Vice Chairman Ford Drummond at 9:35 a.m., on January 10, 2012, at the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma. Vice Chairman Drummond acted as the meeting chairman in the absence of Chairman Linda Lambert.

The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on January 3, 2012, at 4:45 p.m. at the Oklahoma Water Resources Board's offices.

**A. Invocation**

Vice Chairman Drummond asked Mr. Kenny Knowles to provide the invocation.

**B. Roll Call**

**Board Members Present**

Ford Drummond, Vice Chairman  
Joe Taron, Secretary  
Marilyn Feaver  
Rudy Herrmann  
Kenneth Knowles  
Richard Sevenoaks  
Tom Buchanan

**Board Members Absent**

Linda Lambert, Chairman  
Ed Fite

**Staff Members Present**

J.D. Strong, Executive Director  
Dean Couch, General Counsel  
Joe Freeman, Chief, Financial Assistance Division  
Julie Cunningham, Chief, Planning and Management Division  
Derek Smithee, Chief, Water Quality Programs Division  
Amanda Storck, Chief, Administrative Services Division  
Kyle Arthur, Director of Planning  
Josh McClintock, Director of Government and Public Affairs  
Mary Schooley, Executive Secretary

**Others Present**

Viola M. Rizco, Comanche County Rural Water District #2, Elgin, OK  
James McDonald, Comanche County Rural Water District #2, Lawton, OK  
Erin Boeckman, eCapitol, Oklahoma City, OK  
Amy Ford, Citizens for Protection of Arbuckle Simpson Aquifer, Durant, OK  
Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK  
Sue Ann Nicely, Oklahoma Municipal League, Oklahoma City, OK  
Jeff Bigley, City of Broken Arrow, OK  
Ed Thiessen, Comanche County Rural Water District #2, Lawton, OK  
Henry Thiessen, Comanche County Rural Water District #2, Lawton, OK  
Keith McEwen, Office of Governor Fallin, Oklahoma City, OK  
Angela Thompson, Wells Nelson & Associates, Oklahoma City, OK  
Ana Stagg, Meshek & Associates, Tulsa, OK  
Nate Ellis, Public Finance Law Group, Oklahoma City, OK  
Pennie Embry, Oklahomans for Responsible Water Policy, Eufaula, OK

**C. APPROVAL OF MINUTES**

Vice Chairman Drummond stated the draft minutes of the December 13, 2011, Regular Meeting had been distributed. He said he would entertain a motion to approve the minutes unless there were changes. Mr. Sevenoaks moved to approve the minutes, and Mr. Buchanan seconded.

AYE: Feaver, Knowles, Sevenoaks, Herrmann, Taron, Buchanan, Drummond  
NAY: None  
ABSTAIN: None  
ABSENT: Lambert, Fite

**D. EXECUTIVE DIRECTOR’S REPORT**

Executive Director J.D. Strong, prior to his report, asked Mr. Josh McClintock to provide the legislative update. Mr. McClintock noted the prepared written report which was distributed. He said Congress is out of session but the appropriations have been put into one large bill. Regarding the State Legislature, the Session will convene on February 6, and bills are now being filed and published. He noted in particular SB 1030 regarding conjunctive management in determination of a maximum annual yield, and SB 1034 would add two members to the OWRB. He said the remaining bills are shell bills, and the Board will be updated as the deadline of January 19 is reached. He reminded the members that Water Day at the Capitol is Monday, February 13, and staff is working with the Joint Legislative Water on Committee on any special events that may be scheduled.

Mr. Strong said there will be the official "handing over" of the Oklahoma Comprehensive Water Plan to the Governor and the Legislature and hopefully, there will be an event to accomplish that. Senate Bill 1030 by Senator Justice is one of the few water bills that, at this time, have substantive language and he spoke to the matter of the bill. He said, though, all of these bills typically change before the end of the Session. Mr. Herrmann asked about support of

legislation by the Board in regard to supporting the Oklahoma Comprehensive Water Plan. Mr. Strong said he had been speaking with Rep. Richardson, Chairman of the House Committee, who is interested in advancing regional planning groups, addressing the financial assistance need, and water conservation and efficiency; also, several bills will be appropriations such as monitoring, technical studies, and instream flow, and there is interest in water reuse. Several OCWP priority recommendations do not require legislation. He said he had been responsive to legislators and staff, but did not know what the legislation would look like until the January 19 deadline. Mr. Drummond asked about additional activities of the Joint Legislative Committee on Water, and Mr. McClintock answered the Committee had not held any additional meetings, but he anticipated several members would be filing bills, and they were looking at how the JLCW would work with the other standing legislative committees.

Mr. Strong said staff had been involved in mediation on the Choctaw Chickasaw v. Fallin case, but he could not discuss the substance of mediation as they are bound by confidentiality. He said those involved are the Governor's Office, Attorney General's office, Secretary of State, Counsel for the Tribes, and he and Mr. Couch. He added that Hugo filed an appeal to the Supreme Court on the issue of the 10th Circuit Court rule that they didn't have standing (municipality cannot sue a parent state); Tarrant has not filed.

Mr. Strong said he met with the Grand River Dam officials; the Pit Water Group is continuing to work in rulemaking and the technical group has conducted one meeting and will meet this week. He is meeting with OSF officials to discuss transfer of IT staff to the OSF although they will hopefully remain at the OWRB (OWRB will pay for the employees since OWRB received the appropriations for this fiscal year), and staff is working to keep the specialized mapping personnel within the environmental specialist program.

Mr. Strong will speak to the Aggregates Association meeting on Jan. 25, and the Tri-State Team will meet in Kansas City February 15-16.

Mr. Herrmann asked about the rulemaking process and what might be required for the OCWP. Mr. Strong said that had not been fully determined as they were working on legislative needs, but staff is looking at what might or might not need rulemaking. Mr. Herrmann wanted to keep the OCWP work front and center.

Mr. Strong concluded his report.

## **E. Monthly Budget Report**

Ms. Amanda Storck addressed the members and said the prepared budget report is as of December 2011, halfway through the fiscal year, and 67% of the budget is remaining.

Mr. Sevenoaks asked about "professional services" under salary expenses, and Ms. Storck responded that is budgeted in the Water Plan for contracting services, and there are also professional services in Water Quality. He also asked if travel expense was up or down from last year, and Ms. Storck replied that what is expended is down due to travel having remained flat or through lowering travel expense; 72% of the budget is remaining in travel. Mr. Herrmann asked where the agency is expecting to end the year; Ms. Storck said the FY 11 carryover has been budgeted and will go away within the next months, and Planning and Management and Water Quality grants will have to be expended within the next months. Mr. Strong said the agency should be even by the end of the fiscal year. Ms. Storck said staff is conservative and should come out ahead.

There were no further questions by members.

## 2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving FAP Funding for Rural Water District #2, Comanche County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the Comanche County Rural Water District #2 has requested a \$840,000.00 loan request in order to refinance a loan which it obtained from the Board in December 2001. He explained the 2001 loan was a variable rate loan to upgrade the water distribution system in order to reduce water loss resulting in increased volume and pressure. The loan also refinanced the District's outstanding Rural Development debt. Mr. Freeman noted the new loan will have a fixed interest rate, and will shorten the maturity of the borrowing by seven years. He said that the District has been a good loan customer of the Board's, the debt coverage ratio stands at approximately 1.33-times, and staff recommended approval of the loan request.

District Chairman Ed Theissen and Town Clerk Sue Rizco were present in support of the loan application.

Vice Chairman Drummond asked if there were any questions by Board members. There were none, and he called for a motion.

Dr. Taron moved to approve the FAP loan to the Comanche County RWD #2, and Mr. Buchanan seconded.

AYE: Feaver, Knowles, Sevenoaks, Herrmann, Taron, Buchanan, Drummond  
NAY: None  
ABSTAIN: None  
ABSENT: Lambert, Fite

## 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.P.

Vice Chairman Drummond asked if there were any changes to the Summary Disposition Agenda. Ms. Julie Cunningham asked that items G. 6., (#2011-646); I.1. and I.2. (#1964-215 and #1967-736E), and items L.1.b., and L.2.b., (DPC 0836, and DPC 0432) be withdrawn from consideration at this time.

There were no other changes, and Vice Chairman Drummond asked for a motion to approve the Summary Disposition Agenda, or, were there questions. He said he had asked Mr.

Strong about the intergovernmental agreements, which is pass-through money that does not come from the agency's budget. Ms. Cunningham explained that items 3.D.1 and 3.D.3. are projects as a result of new funding through FEMA's Cooperating Technical Partner Partnership Agreement (CTP Program). The funding is matched 3-to-1 with the community to do new mapping of floodplain areas. The City of El Reno and the City of Broken Arrow will be able to provide the funding -- Broken Arrow will receive \$635,000 from FEMA for mapping--and the Board has contracted with Meshek & Associates to be the lead engineering firm which will facilitate most of the work with the community. Mr. Drummond asked if the funding had been approved by FEMA, and Ms. Ana Stagg with Meshek & Associates explained funding of \$1.3 million had been approved and Ms. Cunningham explained Meshek had worked on a very detailed work plan with FEMA. Mr. Buchanan asked if there were questions by the community on the floodplain mapping, is there opportunity for the community to address that. Ms. Stagg answered FEMA has granted funding for two watersheds and within those all of the complaints received from the community either by residents or local government will be incorporated, and solutions will be crafted and then there will be the option for funding solutions. She said as they progress through the State, all of the problem areas will be addressed. She said the watersheds are Polecat Creek (Broken Arrow area in Wagoner and Tulsa Counties), and the Middle North Canadian and issues in that area are being addressed first; Ms. Cunningham added those were prioritized by FEMA. She said there is a large community involvement component as FEMA wanted to assure the public is involved at the beginning rather than after the mapping is completed.

Mr. Strong pointed out the second agreement (DEQ) is not a pass through, but rather an agency contracting with the OWRB for its expertise in bathymetric or contour mapping of the lake bottom, and is part of the TMDL for Fort Gibson Lake. Mr. Sevenoaks asked about the TMDL; Mr. Smithee said it is for dissolved oxygen.

There were no other questions and Vice Chairman Drummond asked for a motion.

Mr. Buchanan moved to approve the Summary Disposition Agenda as amended, Mr. Knowles seconded.

AYE: Feaver, Knowles, Sevenoaks, Herrmann, Taron, Buchanan, Drummond  
 NAY: None  
 ABSTAIN: None  
 ABSENT: Lambert, Fite

The following items were approved:

C. Financial Assistance Division Items:

1. Rural Economic Action Plan (REAP) Grant Applications:

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

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

1. Intergovernmental Agreement with City of Broken Arrow for Cooperating Technical Partners – Broken Arrow Creek Project.
2. Interagency Agreement with Department of Environmental Quality for Bathymetric Mapping of Fort Gibson Lake.

3. Intergovernmental Agreement with the City of El Reno for Cooperating Technical Partners Project.

E. Applications for Temporary Permits to Use Groundwater:

1. Bob Rice, Osage County, #2010-533
2. Billy & Sandra K. Simpson, Cherokee County, #2011-609
3. Ransom Family Trust, dated November 16, 2004, Grant County, #2011-623
4. Alvin & Rita Hawkins, Washita County, #2011-630
5. Albert Seibold, Jr., Custer County, #2011-642
6. Grand Lake Public Works Authority, Delaware County, #2011-660

F. Applications to Amend Temporary Permits to Use Groundwater:

1. Hankins Revocable Living Trust, Custer County, #1983-629B

G. Applications for Regular Permits to Use Groundwater:

1. Joshua William Nine, Beaver County, #2011-577
2. James Mark Kelln, Ellis County, #2011-638
3. James Mark & Mary E. Kelln, Ellis County, #2011-639
4. Jerald Lee & Judy Faye Hudson, Beaver County, #2011-640
5. Sharon Cornelius-Harbeson, Beckham County, #2011-641
6. Amanda Raye Savage, Garvin County, #2011-646 *Item withdrawn*

H. Applications to Amend Regular Permits to Use Groundwater:

None

I. Applications to Amend Prior Rights to Use Groundwater:

1. Ransom Family Trust, Grant County, #1964-215
2. Amanda Raye Savage, Garvin County, #1967-736E *Items withdrawn*

J. Applications for Regular Permits to Use of Stream Water:

None

K. Forfeitures (Reductions) of Stream Water Rights:

None

L. Well Driller and Pump Installer Licensing:

**1. New Licenses, Accompanying Operator Certificates and Activities:**

- a. Licensee: Ozark Water Solutions, LLC DPC-0834
1. Operator: David Hardesty OP-1881
- Activities: Pump installation

b. Licensee: Envirotech Drilling Services, LLC DPC-0836

1. Operator: Jaime Vasquez OP-1882

- Activities: Monitoring wells and geotechnical borings *Item withdrawn*

**2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:**

- a. Licensee: Envirotech Engineering & Consulting, Inc. DPC-0283

1. Operator: Tony M. Horner, Jr. OP- 1883  
Activities: Monitoring wells and geotechnical borings

b. Licensee: Fire and Ice DPC-0432

1. Operator: Jerry Rice OP-1884

Activities: Heat exchange wells Item withdrawn

2. Operator: Corey Pugh OP-1885

Activities: Heat exchange wells

*(Italicized Items added on revised agenda; underlined "items withdrawn" was action at the meeting)*

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:

None

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

A. Presentation and Discussion Regarding Update on the Re-evaluation of the Oklahoma Water Quality Standards Scenic Rivers 0.037 mg/L Total Phosphorus Criterion. Mr. Derek Smithee, Chief of the Water Quality Programs Division, stated to the members that at the December meeting he talked about the .037 review of the phosphorous criteria in the Water Quality Standards. At that time, he had anticipated a more thorough discussion by the technical advisory group comprised of Oklahoma, Arkansas, the Environmental Protection Agency, and Cherokee Tribal representatives. Mr. Smithee said the review has been provided to the workgroup, and Arkansas has requested an additional 30 days to review the report. He said there is time to allow further review, so next month (February) he hoped to present a final recommendation. The draft report has been provided to the OWRB Board members, and he invited their comments.

Mr. Sevenoaks asked who served on the advisory group, and Mr. Smithee answered he (OWRB) chaired the group, and members are the Oklahoma Department of Agriculture, the Oklahoma Conservation Commission, the Department of Environmental Quality, the Cherokee Nation, EPA Region 6, Arkansas Natural Resources Conservation Commission, and the Arkansas Department of Environmental Quality. The actual names and affiliations are listed in the report. He said Arkansas has been involved since the beginning, and the report captures the process of the meetings reviewing the .037, and recommendations of the technical advisory group, but Arkansas has asked for additional review time.

Vice Chairman Drummond asked if the Board would be taking action on the recommendations. Mr. Smithee answered if the technical advisory group finally recommends, as the draft report states, no change to the .037 is required, no action by the Board would be necessary, although the Board could take action to affirm or deny the recommendation. But, if

the group comes back and says that science shows the number could be different, and we want to pursue additional rulemaking in the future, it would require Board action. As it is drafted today, no action would strictly be required.

Mr. Strong added that even if a change to the standard is a result of the final report, the Board can provide guidance and input, but no action until the rulemaking process is initiated and completed. Mr. Smithee added staff is working very hard to obtain a consensus in the report and thought it would be worth taking an extra month, and if not, will work with Arkansas on how they provide unique input. The technical advisory group only received the report this past week.

Mr. Sevenoaks asked about the timing aspect, and Mr. Herrmann asked about the review process going forward. Mr. Smithee responded a review of the criteria is due in 2012 to see what the science tells us after 10 years and whether that is something that would be required by some other agreement going forward in the future, he wasn't aware of it. He said new science is always being reviewed and that number will be looked at in the Standards just as every other number is reviewed every three years. Mr. Strong added the criterion became effective 2003 when it was fully promulgated by the Board and had a ten-year implementation schedule, but was effective then and June 30, 2012, to be fully implemented in the stream. Once the finding from the technical review group is provided in the final report, the Board can deliberate and decide to take action as a result of the re-evaluation process.

Mr. Buchanan asked the impact to Oklahoma Communities. Mr. Strong answered they must comply with standards that are set, as Arkansas communities have to; it applies to everyone that discharges in the Scenic River watersheds, including Tahlequah and Westville. The Department of Environmental Quality is responsible for developing permit limits to comply with Standards, and Mr. Strong said there had been discussions with Tahlequah about moving its discharge from the Illinois River into the Grand River system. Mr. Herrmann asked if the report also addressed nonpoint sources. Mr. Smithee responded the water quality criterion does not look at and distinguish point source or nonpoint source and implementation of that criterion. He said this is about, is the criterion itself -- the .037 -- scientifically in the "strike zone." The report recommendation states that through rigorous review, science could not be found to drive us to revise the criteria. Mr. Buchanan stated that (Oklahoma) has not found any science to refute the .037, and he assumed Arkansas had not found science to refute the .037, and Mr. Smithee answered that is correct.

There were no further questions.

## **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. None.

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

B. Items transferred from Summary Disposition Agenda, if any.

There were no items transferred from the Summary Disposition Agenda.

**6. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY**

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

**7. 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.

**8. ADJOURNMENT**

There being no further business, Vice Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 10:20 a.m. on Tuesday, January 10, 2012.

**OKLAHOMA WATER RESOURCES BOARD**

\_\_\_\_\_/s/\_\_\_\_\_  
Linda P. Lambert, Chairman

\_\_\_\_\_/Absent\_\_\_\_\_  
F. Ford Drummond, Vice Chairman

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

\_\_\_\_\_/Absent\_\_\_\_\_  
Kenneth K. Knowles

\_\_\_\_\_/s/\_\_\_\_\_  
Marilyn Feaver

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Tom Buchanan

*ATTEST:*

\_\_\_\_\_/s/\_\_\_\_\_  
Joseph E. Taron, Secretary  
(SEAL)