

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
March 13, 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 9:30 a.m., on March 13, 2012, at the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on March 9, 2012, at 10:15 a.m., at the Oklahoma Water Resources Board's offices.

A. Invocation

Vice Chairman Drummond called the meeting to order, stating there is a different order of business today. He asked Mr. Ed Fite to provide the invocation.

B. Roll Call

Board Members Present

Linda Lambert, Chairman
Ford Drummond, Vice Chairman
Tom Buchanan, Secretary
Bob Drake
Marilyn Feaver
Ed Fite
Rudy Herrmann
Kenneth Knowles
Richard Sevenoaks

Board Members Absent

None

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
Josh McClintock, Director of Government and Public Affairs
Mary Schooley, Executive Secretary

Others Present

Jason Aamodt, Citizens for the Protection of Arbuckle Simpson Aquifer, Tulsa, OK

Emily Dolina, Chickasaw Nation

Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK

Paul Warren

Kevin Blackwood, Citizens for the Protection of Arbuckle Simpson Aquifer

Floy Parkhill, Citizens for the Protection of Arbuckle Simpson Aquifer

Shannon Shirley

Brad Sewell, City of Pawnee, OK

Barbara Bailey, Bank of Oklahoma Finance Corp, Oklahoma City, OK

Cami Kennedy, Bank of Oklahoma Finance Corp, Oklahoma City, OK

Rebecca Poole, Department of Environmental Quality, Oklahoma City, OK

Pennie Embry, Oklahomans for Responsible Water Policy, Eufaula, OK

Jeremy Stealey, Myers Engineering

Cathy Cullen, Cherokee County Rural Water District #13

Alan Woold, Department of Interior

Chris Phillips, Chickasaw Nation, Ada

Bodie Bachelor, Centennial Law, Duncan, OK

Krystina Hollarn, Citizens for the Protection of Arbuckle Simpson Aquifer

Marla Peek, OK Farm Bureau, Oklahoma City, OK

Robert Shelton, City of Tulsa, OK

Britt Vance, City of Tulsa, OK

Lewis Parkhill, City of Tishomingo, OK

Dick Scalf, City of Ada, OK

Ed Wells, Wells Nelson & Associates, Oklahoma City, OK

Marilyn Baldwin, City of Tulsa, OK

Zack Robinson, BOSC, Inc.

Angela Thompson, Wells Nelson & Associates, Oklahoma City, OK

Kim Winton, US Geological Survey, Oklahoma City, OK

Noel Osborn, US Geological Survey, Oklahoma City, OK

Mike Langston, Oklahoma State University OWRRI, Stillwater, OK

Bob Kiefer, Westville Utility Authority, Westville, OK

Barbara Rose, Westville Utility Authority, Westville, OK

Terry Hale, LeFlore County Rural Water District #14, Spiro, OK

Buddy Thompson, Logan County Rural Water District #1

Marilyn Barron, Logan County Rural Water District #1

Joey Morrow, Roll, OK

Charles Morrow

Charles Roos, Roff, OK

Wayne Hafner, Logan County Rural Water District #3, Orlando, OK

Amy Ford, Citizens for the Protection of Arbuckle Simpson Aquifer, Durant, OK

Charlie Swinton, BancFirst, Oklahoma City, OK

1. Election of Officers.

Vice Chairman Drummond said there is a quorum of members present, and the first order of business is the election of officers. He said this item is out of the ordinary as the election of officers normally occurs annually at each June meeting. He said, however, Linda Lambert was appointed to replace Dr. Taron, and there is a vacancy on the Board in the office of Secretary. He said that Ms. Lambert had resigned her position to be immediately reappointed in Dr. Taron's Fifth Congressional District position. Technically, staff believed the Chairman position became vacant with Ms. Lambert's resignation, even though she was immediately reappointed. Because her reappointment was subject to Senate confirmation, Mr. Drummond announced, Ms. Lambert was confirmed by the Senate last week.

In order that the Board officer positions are duly and properly filed, Vice Chairman Drummond stated he would entertain nominations for position of Chairman and position of Secretary. The interim election will be for a term to start immediately through the end of the fiscal year, June 30.

Mr. Herrmann nominated Ms. Linda Lambert to serve a Chair, and Mr. Tom Buchanan to serve as Secretary, with the understanding they will serve through the next elections in June this year. Mr. Knowles seconded the nomination.

There were no other nominations.

There being no other nominations, Vice Chairman Drummond called for the vote on both positions together, unless there is objection: Linda Lambert, Chair and Tom Buchanan, Secretary, to serve immediately until the next election in June.

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

Chairman Lambert assumed the Chair, and welcomed the Board's new member, Mr. Bob Drake from Davis, Oklahoma. She said that Mr. Strong will speak more about Mr. Drake during his Executive Director's report.

2. Discussion and Possible Action to Revise Schedule of Regular Meetings.

Chairman Lambert stated that this item is for the consideration of revising the schedule of regular meetings. She said that after many phone calls to find a revised date for the Board, there is a determination to change the Board meetings from the second Tuesday of each month to the third Tuesday of each month, 9:30 a.m. She said she would entertain discussion, or a motion to move the regularly scheduled meeting to the third Tuesday of each month, at 9:30 a.m., beginning with the July meeting.

Mr. Knowles stated he would make that motion, and Ms. Feaver seconded. There was no discussion. Chairman Lambert called for the vote.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert
NAY: None

ABSTAIN: None
ABSENT: None

C. APPROVAL OF MINUTES

Chairman Lambert stated she would entertain a motion to approve the minutes of the February 13, 2012, Regular Meeting. She asked if there were corrections; there were none.

Mr. Fite moved to approve the minutes of the February 13, 2012 meeting, and Mr. Herrmann seconded.

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

D. EXECUTIVE DIRECTOR'S REPORT

Executive Director J.D. Strong began his report stating the Board wished to recognize outgoing Board member Dr. Joe Taron. He invited Mr. Joe Freeman to make a presentation to Dr. Joe Taron. Mr. Freeman stated that the Financial Assistance Division has appreciated Dr. Taron's availability to sign loan documents, and the Division presented him with a ceremonial pen.

Mr. Strong said that Dr. Taron had been a great Board member representing Congressional District 5 from Shawnee, and also a close friend of Congressman James Lankford and Speaker Kris Steele. He embodies rural water and helped to develop the Pottawatomie County Rural Water District, helping rural water in his area and also statewide, and he is largely responsible for the development of Wes Watkins Lake. Mr. Strong read the Resolution of Appreciation to Dr. Taron. A photo was taken of the Board members and Dr. Taron.

Dr. Taron addressed the members and expressed his appreciation to the Board members, and to the capable, dedicated, professional staff--he said, if anyone were to ask, the Oklahoma Water Resources is in good hands.

Mr. Strong continued his report introducing the Board's new member, Mr. Bob Drake of Davis, Oklahoma. He said Mr. Drake co-owns and operates Drake Farms, a purebred and commercial Angus operation with his brother, Tom Drake from 1964-2002. He has served on many agriculture and cattle-related organizations, including Secretary-Treasurer of the Murray County Farm Bureau since 1964; National Cattlemen's Association and charter member of the National Cattlemen's Beef Association, Oklahoma Cattlemen's Association and founding member of the Oklahoma Rural Ag Council, as well as member of the National Grazing Lands Conservation Initiative 1997-present. Mr. Drake has been on the Board of the First National Bank and Trust Company of Ardmore since 1990, and most recently has served on the Department of Environmental Quality Board, representing rural water since 1999. Mr. Strong said he has worked with Mr. Drake on DEQ and Farm Bureau matters, and he welcomed him to the Oklahoma Water Resources Board.

Mr. Drake said he looked forward to working with the Board and staff, and appreciated the opportunity to serve.

Mr. Strong continued the Executive Director's report inviting Mr. Josh McClintock to present the legislative report. Mr. McClintock referred to the written report, which he said is much shorter since the committee deadline two weeks ago, and this week is the deadline for bills to be passed out of both Chambers, so the list may become shorter. He highlighted several measures including the House Bills that passed which were: HB 2835 regarding gray water, HB 2914 regarding regional planning and setting up nine regional councils, HB 3055--Speaker Steele's "Water for 2060," and HJR 1085 sending to the vote of the people a ballot question dealing with bonding/leveraging capacity to address \$82 billion on the next 50 years. Senate Bills that passed included SB 1325 regarding a water infrastructure task force, SB 1327 directing the OWRB to look at water conservation methods and make recommendations, SB 1328 calls for annual appropriation to establish statewide water quantity and quality (no specific amount included). He said other bills are still moving through, and the house bills are those the Speaker indentified as the key water bills for the House agenda this session.

Chairman Lambert asked if SB 1328 funding would remain as originally recommended, and Mr. McClintock answered he would be surprised, but it is positive that it is moving and hopefully that will weigh-in with the appropriators and staff has been in discussion with House and Senate staff. Mr. Strong added that bill was amended in committee to remove the dollar amount; it was a surprise the original bill had an amount as typically there is no amount initially and added later after the appropriation process. He said it is one of the Speaker's priorities to have the joint resolution for financing referendum, the gray water, the regional planning groups, and increasing appropriations for monitoring which was all part of the announcement on Water Day. All these issues are still alive, and track the OCWP priority recommendations.

Mr. McClintock said that federally, he did not expect any earmarks, and is watching the agency budgets. He and Mr. Strong have meetings scheduled this week in Washington, D.C. Mr. Herrmann asked about SB 1030, disallowing the OWRB from contemplating conjunctive management. He said during the public input process and Town Hall, etc., it was agreed that further study was needed before coming to any conclusion, but this would disallow even that further study. Mr. Strong answered that it would disallow a maximum annual yield be established that included conjunctive management. He said he believed the bill would not be moved any further in the process, but would know more after the next deadline on Thursday.

Mr. Strong noted HB 3045 by Rep. Osborne regarding replacement of governing Board members as soon as a new Governor comes in; he said it has changed. He said most of staff's efforts have been at the Capitol with all the legislation. He noted several other meetings, however, that staff and he have participated in: Oklahoma Association of Conservation Districts, Canadian River Compact Commission in Santa Fe on March 6, Oklahoma Law Review Symposium, and Pit Water Technical Group. The Board's Audit Committee and bond signing follows the Board meeting today, and he and Mr. McClintock will be traveling to Washington, D.C. He concluded his remarks announcing the Academy for Water Summit scheduled for April 11 at the OCU Meinders School of Business, and he will be participating as a speaker.

Mr. Buchanan asked about the similarities in the House and Senate regional planning bills. Mr. Strong said they are not identical, the Senate version has 10 planning regions (one recognizing the three counties of the Panhandle), the House bill has nine, and there are differences on how the appointments are made and some other different specificity in the Senate Bill. The House bill has passed the floor, the Senate bill has not and if it does Thursday, the bills will go to the opposite house. Ms. Feaver asked about the number of regions in the OCWP, and Mr. Strong said there are 13 because they were organized by watershed and how the data are

collected. However, staff realized early on that it is not just a technical exercise but also a political one. Both versions keep the Arbuckle Simpson area and the Ogallala intact as one region, and not split between planning regions.

There were no other comments or questions.

E. Monthly Budget Report

Ms. Amanda Storck addressed the members and said the Administrative Services Division continues to work with the Office of State Finance with the IT consolidation, and they are meeting weekly. She said staff is preparing the budget work planning for next fiscal year. The budget report is as of February 2012; there is 53% of funding available with 33% of the fiscal year remaining.

Chairman Lambert asked if the integration with the OSF is still budget-neutral, and Ms. Storck responded we have not received a bill and it is her understanding it is. Mr. Strong added that is the contractual agreement to the end of the fiscal year, then it's up for discussion after July.

Mr. Herrmann asked about an update on the financial report on the Comprehensive Water Plan. Ms. Storck responded that the Auditor's Office has been contacted to conduct an audit, it had a backlog of audits and hoped to begin in March; no contact has been made by the Auditor's Office but it is still expected. He asked for an overview subject to the final audit, i.e., how were funds spent in relation to commitments made; he understood there were still some bills outstanding. Mr. Strong said we are still printing the final 3-4 regional reports, and ongoing costs are planned for the rest of this fiscal year. He said staff could provide a report at the next meeting.

There were no further questions by members.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Consolidated Rural Water District No. 1, Nowata and Rogers Counties. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this first item is a \$575,000.00 loan request from the Nowata and Rogers Counties Consolidated Rural Water District No. 1. He said the District is requesting the loan to refinance an outstanding variable rate OWRB loan which was for constructing two pump stations and water line work, and to refinance two Rural Development loans which were for installing water lines and constructing a water tower. In addition, loan funds will be used to rehabilitate an existing standpipe. He said the loan will be funded through the Board's State Revenue Bond Loan Program at a fixed interest rate, and he noted provisions of the loan agreement. He said the District has been a borrower of the Board's since the late 1990s, and the debt coverage ratio stands at approximately 1.86-times. Staff recommended approval.

Mr. Ricky Hart, District Chairman, was present in support of the loan application.

Mr. Buchanan asked the terms of the original R&D loans, and Mr. Freeman answered the term was 40 years.

Mr. Buchanan moved to approve the loan to the Consolidated Rural Water District No. 1, Nowata and Rogers Rogers Counties, and Ms. Feaver seconded.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

B. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for The Owasso Public Works Authority, Tulsa County. Recommended for Approval. Mr. Freeman said this item is a \$1,095,000.00 dollar request from The Owasso Public Works Authority. It is requesting the loan to refinance a OWRB loan obtained approximately ten years ago for wastewater treatment plant improvements. The loan will be funded through the Board's State Revenue Bond Program at a fixed interest rate, and he noted provisions of the loan agreement. Owasso has been a loan customer of the Board's for several years, and has 12 outstanding loans with the Board. The debt coverage ratio stands at approximately 1.98-times. Staff recommended approval.

Ms. Sherry Bishop, Assistant City Manager, was present in support of the loan agreement.

Mr. Herrmann asked the amount of the original loan and Mr. Rick Smith answered about \$1.5 million. Chairman Lambert asked about the Bailey Ranch Golf Club and its relationship to Owasso. Ms. Bishop explained the Owasso Public Works Authority refinanced the debt for the Bailey Ranch Golf Club almost twenty years ago. She said there is not a significant revenue contribution from the golf club, but the pledge of the revenues has been combined in other debt so that has continued with the loans with the OWRB.

There were no other questions or comments, and Mr. Drummond moved to approve the loan to The Owasso Public Works Authority. Mr. Sevenoaks seconded the motion.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

C. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Rural Water, Sewer and Solid Waste Management District No. 1, Logan County. Recommended for Approval. Mr. Freeman stated that this item is a \$1,250,000.00 loan request by the Logan County Rural Water, Sewer and Solid Waste Management District No. 1. He said the District is requesting the loan to go along with approximately \$550,000.00 in District funds to construct a 200,000 gallon storage tank on the east side of I-35 to improve water pressure. The loan funds will also be used to install automated meter reading system. The loan will be funded through the Drinking Water State Revolving Loan Fund with a fixed interest rate, and he noted provisions of the loan agreement. The District currently has one outstanding loan with the Board, and over the last ten years the water connections have doubled in excess of 2,400. The District has a strong debt coverage ratio of approximately 3.12-times. Staff recommended approval.

Representing the District was Marilyn Barton, President of the Board of Directors; Robert Thompson, District Manager; and David Wyatt, Engineer.

Mr. Herrmann stated that is the highest down payment ever made, and he commended the District on its financial management, and the debt coverage ratio, added Chairman Lambert. Mr. Drummond noted the bond counsel and local counsel fees are lower as a percentage than other loans today, and he asked if refinancing typically required more work and Mr. Freeman said it did not. Mr. Drummond commended the District for negotiating the 1.4% fee, noting other loan fees ranging from 7.4% to Tulsa counsel work performed in-house. He realized this is negotiated between the counsel and the borrower, and determined by the size of the denominator, and complimented the District for keeping costs down.

Mr. Herrmann moved to approve the Drinking Water SRF loan to the Logan County Rural Water, Sewer, and Solid Waste Management District #1, and Mr. Knowles seconded.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

D. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water, Sewer, Gas and Solid Waste Management District No. 3, Logan County. Recommended for Approval. Mr. Freeman stated this item is a \$1,250,000.00 loan request from Logan County Rural Water, Sewer, Gas and Solid Waste Management District No.3. The District is requesting the loan to refinance a variable rate loan it has with the Board, which was obtained for water system improvements, to a fixed rate loan as a result of current market conditions. He said the loan will be funded through the State Loan Program Revenue Bond loan program at a fixed interest rate, and he noted provisions of the loan agreement. The District has been a loan customer of the Board's for twenty years, and its debt coverage ratio stands at approximately 1.45-times. Staff recommended approval.

Representing the District was Mr. Wayne Hafner, Secretary Treasurer.

Mr. Drummond moved to approve the loan to the Logan County RWSGSMD #3, and Mr. Herrmann seconded.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

E. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water District No. 14, LeFlore County. Recommended for Approval. Mr. Freeman stated that this item is a \$1,450,000.00 loan request from LeFlore County Rural Water District No. 14. The District is requesting the loan to refinance two Rural Development loans which were for expansion and upgrading the District's water system. He said the loan will be funded through the State Revenue Bond Loan Program at a fixed interest rate, and he noted provisions of the loan agreement. LeFlore RWD #14 has been a loan customer of the Board's for approximately 19 years, and with the refinancing, all of its

debt will be with the Board. The District's debt coverage ratio stands at approximately 1.4-times. Staff recommended approval.

Mr. Terry Hale, District Manager, was present in support of the loan application.

Mr. Drake said, following up on Mr. Drummond's questions (about fees) he assumed the Board is not involved in the negotiations for the fee amount for bond counsel and financial advisors. He said the fees are disparate among the borrowers and he thought there would be at least be a range. Mr. Freeman responded that it is between the borrower and the firm that is providing the services. He said though that with some of the complexity of some of the loans versus other, he will look at what needs to be done and watch, but although the OWRB does not have a percentage guideline, Rural Development does and which he will look at. Mr. Drummond said the Board has looked at this a few times, it is between the borrower and firm, but he believed it is worth bringing up so people are aware. Mr. Drake said he had noticed the fees being disparate. Mr. Strong added that is to be expected because some of the loans are very complex and require a lot of additional legal review and some do not. He said if the Board felt the fees were getting too high or unfair the Board has the ability to set some standard. Mr. Freeman said that historically, fees on state issues are dramatically lower than they used to be, and Mr. Strong said it is free market negotiation, and the Board does not get involved. Mr. Sevenoaks added that if someone is borrowing money from the Board, it can come up with guidelines on what it would like to have them do, but the Board has not chosen to do that at this point.

There were no further questions or comments. Chairman Lambert said she would entertain a motion.

Mr. Fite moved to approve the loan to the LeFlore County Rural Water District #14, and Mr. Drummond seconded.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

F. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Westville Utility Authority, Adair County. Recommended for Approval. Mr. Freeman stated that this agenda item is for the consideration of a \$1,500,000.00 loan request by the Westville Utility Authority, Adair County. The request is to refinance two Rural Development loans which were for installing new water lines and upgrading the existing wastewater treatment plant. The loan will be funded through the Board's State Revenue Bond Loan Program at a fixed interest rate, and he noted provisions of the loan agreement. He said that Westville has been a loan customer of the Board's for about 10 years, and with the recently passed rate increase, the debt coverage ratio stands at approximately 1.45-times. Staff recommended approval.

Ms. Barbara Rose, Chairperson of the Authority, was present in support of the loan request.

Mr. Fite moved to approve the loan to the Westville Utility Authority, and Mr. Sevenoaks seconded.

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

Mr. Sevenoaks commented to Mr. Drake that the Board has probably refinanced its entire portfolio of bonds in the last five years because of the low interest rates, and have probably seen a billion dollars refinanced. Mr. Drake said that he would applaud the refinancing, but he will have questions about the fees because he felt they are steep.

Mr. Herrmann asked for an update on the loan program and how much has been refinanced, to be assured we are not double counting when talking about the number of loans, but that the real work was done on some of these projects 8 years ago, although there is impact from the refinancing. Mr. Freeman answered the Board has refinanced about \$517 million, and actual total new construction is approaching \$2.2 billion.

G. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Skiatook Public Works Authority, Tulsa County. Recommended for Approval. Mr. Freeman said that this item is a \$1,600,000.00 loan request by the Skiatook Public Works Authority. He said that the Authority is requesting the loan to construct approximately 3,857 feet of 12-inch gravity sewer main, and a new life station with a backup generator. The loan will be funded through the State Revenue Bond Loan Program at a fixed rate, and he noted provisions of the loan agreement. Mr. Freeman said that Skiatook's water and sewer connections have increased approximately 20% over the past 10 years. He said Skiatook has been a loan customer of the Board's since 1992, and its debt coverage ratio stands at approximately 1.4-times. Staff recommended approval.

Mr. Brad White, Public Works Director, was present in support of the loan application.

There were no comments or questions, and Chairman Lambert stated she would entertain a motion.

Mr. Drummond moved to approve the loan to the Skiatook Public Works Authority, and Mr. Herrmann seconded.

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

H. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water District No. 13, Cherokee County. Recommended for Approval. Mr. Freeman said that this item is a \$1,750,000.00 loan request by the Cherokee County Rural Water District No. 13. He said the District is requesting the loan to refinance two loans with the Board, and one lease purchase agreement. The original OWRB loans were for construction of a standpipe, upgrades to the water plant, to install a 6-inch water line and to install a microfiltration treatment plant. The lease purchase was for an upgrade of the filtration system at the water plant. The refinancing will allow the District to fix its one variable loan, lower the interest rate on the other OWRB loan, and the lease purchase.

The loan will be funded through the State Revenue Bond Loan Program at a fixed interest rate, and he noted provisions of the loan agreement. The District has been a loan customer of the Board's for over 15 years, and its debt coverage ratio stands at approximately 1.3-times. Staff recommended approval.

Ms. Cathy Cullen, District Manager was present representing the District.

Chairman Lambert asked how much saving the District will realize due to the refinancing, and Mr. Freeman answered the lease purchase loan was 6.1%, the variable rate loan was 4.29%, and the low interest loan was \$1.23%; the new loan rate will be approximately 2.5%, Chris Cochran stated.

There were no other questions or comments.

Mr. Herrmann moved to approve the loan to the Cherokee County Rural Water District No. 13, and Mr. Fite seconded.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan, Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

I. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Pawnee Public Works Authority, Pawnee County. Recommended for Approval. Mr. Freeman stated this item is a \$2,130,000.00 Drinking Water State Revolving Fund loan request by the Pawnee Public Works Authority. He said the District is requesting the loan to construct two solid contact clarifiers, chemical storage tanks with feed systems, yard piping with connections, and replacement of two high service pumps, refurbish existing intake structure, and two filters. Mr. Freeman noted provisions of the loan agreement. Pawnee currently has two outstanding loans with the Board, and its debt coverage ratio stands at approximately 1.5-times. Staff recommended approval.

Mr. Brad Sewell, Mayor, and Ms. Anita Franks, City Clerk, were present in support of the loan application.

Mr. Drummond asked the town's water source, and asked if it is in good shape. Mayor Sewell answered the source is Pawnee Lake, and said the lake is in good shape for now.

There being no further questions or comments, Chairman Lambert called for a motion.

Mr. Drummond moved to approve the loan to the Pawnee Public Works Authority, and Mr. Herrmann seconded.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan, Drake, Lambert

NAY: None

ABSTAIN: None

ABSENT: None

J. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Lone Chimney Water Association, Pawnee County. Recommended for Approval. Mr. Freeman stated that this item is a \$2,900,000.00 loan request by the Lone Chimney Water Association in Pawnee County. The Association is requesting the loan to refinance two OWRB loans and two Rural Development loans. He said the refinancing will lower the interest rates on the three fixed rate loans, and

change the variable rate loan to fixed rate. The loan will be funded through the State Revenue Bond Loan Program at a fixed interest rate, and he noted provisions of the loan agreement. Lone Chimney has been a borrower of the Board's for 14 years, and the refinancing will consolidate all of the Association's debt with the Board; the debt coverage ratio stands at 1.34-times. Staff recommended approval.

Mr. Darryl Clark, Association Chairman, was present in support of the loan application. Mr. Clark mentioned the lake is nine feet down and the Association wants to bring water from Stillwater; they serve 16,000 people. Mr. Herrmann said this loan is for the refinancing, and he asked if the savings from the refinancing will allow the additional project. Mr. Freeman said staff would be bringing another loan to the Board at a later time.

Mr. Fite asked if they would be able to get the line installed before summer, and Mr. Clark responded it would probably be the first of next year, and they were hoping for enough rain until then.

There were no other questions, and Mr. Sevenoaks moved to approve the loan to the Lone Chimney Water Association, and Mr. Knowles seconded.

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

Mr. Drake commented that assuming his concerns will be met at a future date, he would vote, yes.

K. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Ponca City Utility Authority, Kay County. Recommended for Approval. Mr. Freeman said this item is for an \$8,590,000.00 loan for the Ponca City Utility Authority located in Kay County. He said the Authority is requesting the loan to refinance an OWRB loan that was for wastewater system improvements, and a utility system refunding revenue bond that was issued for water system improvements. The loan will be funded through the Board's State Revenue Bond Loan Program at a fixed interest rate, and he noted provisions of the loan agreement. Ponca City has been an excellent loan customer of the Board's since 1991, and its debt coverage ratio stands at approximately 1.93-times. Staff recommended approval.

Mr. Homer Nicholson, Mayor and Mr. Craig Stevenson, City Manager, were present in support of the loan application.

There were no questions by the Board and Mr. Fite moved to approve the loan to the Ponca City Utility Authority, and Mr. Knowles seconded.

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

L. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Tulsa Metropolitan Utility Authority, Tulsa County. Recommended for Approval. Mr. Freeman said this final item is a \$12,000,000.00 loan request by the Tulsa Metropolitan Utility Authority. He said Tulsa is requesting the loan for sanitary sewer rehabilitation at Coal Creek, Central Park/Midtown, Crow Creek, Upper Joe Creek and the Jones-Douglas area. He said the loan would be funded through the State Revenue Bond Loan Program at a fixed rate, and he noted provisions of the loan agreement. Mr. Freeman said the Board is aware that Tulsa has been a loan customer of the since 1990, and the debt coverage ratio stands at 1.51-times. Staff recommended approval.

Representing the TMUA was Marilyn Baldwin, Financial Services Manager, and Bob Shelton, Engineer. Ms. Baldwin introduced new engineer, Bret Vance.

Mr. Sevenoaks asked if this is the last of the consent order projects, and Mr. Shelton responded.

There were no other questions or comments about the loan, and Mr. Herrmann moved to approve the loan to the Tulsa Metropolitan Utility Authority. Mr. Buchanan seconded.

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

Mr. Freeman reminded the members of the Finance Committee meeting and bond signing following the meeting.

Mr. Buchanan asked about the debt coverage ratio limit, and Mr. Freeman said it is 1.25-times. He also asked about the mortgage on certain properties and the language "may" used in the order. Mr. Freeman answered that the Board will take mortgages on smaller systems, and put the language in the Board order, but depending upon the size of the community--because of title work--there would be large fees. On smaller systems, communities of less than 7,000, the Board will take a mortgage on the water and sewer system. Mr. Buchanan asked if the Board is covered, and Mr. Freeman said that he believed so, and in discussions with attorneys and bond counsels if the Board had to ever take legal action, it has the town's revenue and is covered.

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 listed.

Chairman Lambert noted there were no other changes to the posted agenda. Mr. Sevenoaks suggested explaining the Summary Disposition Agenda for Mr. Drake. Mr. Strong said these are administrative items that don't require discussion. If any of the Board members want to pull any item and act on it or discuss it separately, there is the opportunity to do that. Otherwise, all items listed are voted on with one vote.

There were no requests, comments, or questions about items on the Summary Disposition Agenda.

Chairman Lambert asked for a motion to approve the Summary Disposition Agenda, and Mr. Herrmann so moved. Mr. Drummond seconded the motion.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: Feaver on item G.1.

ABSENT: None

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>
EODD				
a.	FAP-03-0003-R	Rural Water Sewer & Solid Waste Management District #4	Sequoyah	\$ 99,950.00
GGEDA				
b.	FAP-11-0011-R	Crowder Public Works Authority	Pittsburg	99,999.00

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

1. Amendment of Agreement with the Oklahoma Department of Environmental Quality to amend the OWRB/DEQ Woodward Office Space Lease Agreement.
2. No-Cost Time Extension Agreement with CDM Smith, Inc. for agreement in support of the Oklahoma Comprehensive Water Plan which provides for CDM Smith, Inc. to develop a cost estimate that reflects the statewide and regional wastewater infrastructure needs for planning period in Oklahoma.
3. No-Cost Time Extension Agreement with CDM Smith, Inc. for agreement in support of the Oklahoma Comprehensive Water Plan which provides for CDM Smith, Inc. to develop a long-term wastewater utility planning guide specifically with a focus on small systems.

4. Agreement Amendment with the Office of the Secretary of the Environment for the Clean Water Act FY 2011 §106 Water Pollution Control Program – Monitoring, to increase funding available for Project 3 of the program, 2012 National Lakes Assessment- Oklahoma.
 5. Planning Assistance to States Supplemental Agreement No. 6 with the U.S. Army Corps of Engineers, Tulsa District, Programmatic Planning Support for the Oklahoma Comprehensive Water Plan.
 6. Agreement Modification with Oklahoma Conservation Commission for the “Oxbow System Assessment and Protocol Development – Phase 2” to extend the term of the contract and reduce the available funds.
 7. No-Cost Time Extension Agreement with Oklahoma State University Department of Natural Resource Ecology and Management regarding assessing oxbow wetlands and lakes in Oklahoma.
- E. Applications for Temporary Permits to Use Groundwater:
1. Goldsby Water Authority, McClain County, #2011-607
 2. Allen Dale & Cindy Lou Stover, Canadian County, #2011-643
 3. Price Farms, L.L.C., Beckham & Washita Counties, #2011-673
 - 4. *Fredrick J. & Mary Kathryn Lorenz, Major County, #2011-674 Item withdrawn*
 5. Bill & Neaoma Barnes, Creek County, #2012-502
 6. Titus & Grace A. Stutzman, Custer County, #2012-506
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. Berny Sander & Linda Sue Sander Revocable Trusts and Monty Sander, Dewey County, #1982-577
 2. Delbert & JoAnn Hladik and Tim & Tonia Hladik, Kingfisher & Garfield Counties, #2009-539
- G. Applications for Regular Permits to Use Groundwater:
1. University of Science & Arts of Oklahoma, Grady County, #2011-559
 2. Richard E. & Rebecca Sally Claggett, Texas County, #2011-568
 - 3. *Michael & Kathy Lee Martin, Greer County, #2011-582 Item withdrawn*
 4. Amanda Raye Savage, Garvin County, #2011-646
 5. Curtis & Brenda Schulz, Choctaw County, #2011-666
 6. Jerry & Beth Wiebe, Texas County, #2011-671
 7. O. Dale & Cynthia Eagon and Michael Eagon, Beckham County, #2011-676
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Hitch Pork Producers, Inc., Texas County, #1993-580
 2. Mike & April Meinert, Kiowa County, #1999-530
- I. Applications to Amend Prior Rights to Use Groundwater:
1. Amanda Raye Savage, Garvin County, #1967-736E

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

1. City of Broken Arrow, Tulsa County, #2011-036
2. Mike's Place, L.L.C., Lincoln County, #2011-044
3. Friends of Lake McMurtry Association, Noble County, #2011-059
- 4. *Tommy Jason Dowd, Bryan County, #2011-062 Item withdrawn*
5. Sloan Farms, Inc., Sequoyah County, #2011-068
6. David Yonce, Okmulgee County, #2011-073
7. Eugene Meeks, Muskogee County, #2011-074
8. Chafen Pettit, Caddo County, #2011-075

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: Razek Environmental, LLC DPC-0846
 1. Operator: Anthony J. Poulter OP-1893
 - Activities: Groundwater wells, test holes and observation wells
Monitoring wells and geotechnical borings
 2. Operator: Scott Ferris OP-1894
 - Activities: Groundwater wells, test holes and observation wells.
 - b. Licensee: Michael Tolle DPC-0850
 - Operator: Michael Tolle OP-1900
 - Activities: Heat exchange wells
 3. Licensee: Jeff Bradford DP-0848
 - Operator: Jeff Bradford OP-1895
 - Activities: Pump Installation
2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:
 - a. Licensee: Thomas Water Well Service DPC-0453
 1. Operator: Homer Thomas OP-0946
 - Activities: Plugging of certain water wells
 - b. Licensee: Pump & Supply, LLC DPC-0337
 1. Operator: Jason Stephens OP-1896
 - Activities: Pump installation
 2. Operator: Kevin Yell OP-1897
 - Activities: Pump installation
 3. Operator: Steve Madison OP-1898
 - Activities: Pump installation
 4. Operator: Doyle Yell OP-1901
 - Activities: Pump installation
 - c. Licensee: Sahara Water Services DPC-0781
 - Operator: Bradley W. Cells OP-1899
 - 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 March 13, 2012 packet of Board materials

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

There were no items of agency matters for presentation to the Board.

5. SPECIAL CONSIDERATION

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

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

Chairman Lambert read the stated agenda item, and reiterated for the record the statement below the item regarding Oklahoma Statutes and ex parte communications, and the Board's determination not to accept public comment at this time. She also asked that the record of this regular meeting reflect there are some who object to this interpretation.

A. Consideration of and Possible Action on Proposed Tentative Determination of the Maximum Annual Yield for the Arbuckle-Simpson Groundwater Basin underlying parts of Murray, Pontotoc, Johnston, Coal and Carter Counties:

NOTE: As provided by the Oklahoma Groundwater Law in Sections 1020.4 and 1020.6 of Title 82 of the Oklahoma Statutes and the Administrative Procedures Act in Section 313 of Title 75 of the Oklahoma Statutes, "ex parte communications", including comments from the public, may not be made to the Board at this time. Interested parties will have the opportunity to present evidence, legal argument and comments in support or

opposition at a public hearing on the Tentative Determination which is tentatively scheduled for May 22, 2012 in the Murray County Exposition Center in Sulphur, Oklahoma. Details of the public hearing, including confirmation of the date, time and place of the hearing, will be prescribed in the public notice of the hearing which will be provided as required in Section 1020.6 of Title 82 of the Oklahoma Statutes.

1. Summary of Staff Proposal – Ms. Julie Cunningham, Chief, Planning and Management Division, stated the members had seen the presentation the past two months, and at the February Board meeting consideration was tabled to allow the Board additional time to review the proposal and so that newer Board members could gain additional understanding on the background of Senate Bill 288 and the process thus far, as well as the study. She said she was working in the Financial Assistance Division during this time, and it was a good refresher for her; she thanked the staff for their work. She said this is the largest and most complex study ever conducted by the Board and she complimented staff and partners.

Ms. Cunningham said in the interim staff met with USGS staff, along with OSU, OU, and Bureau of Reclamation. She said they met with USGS to further refine the proposed order for clarification and accuracy, terminology, citations, etc., deleted unnecessary text and other clean up. She said the Order and Directives (pages 5012-5013) as presented last month remains the same. She began the presentation detailing the MAY process which started in early 2000, and completed and published past fall (September 2011). She said the OWRB makes the determination, a hearing will be held within the basin with notification to all water right holders, and the final determination will come back to the Board for discussion and consideration and the Board will then hear argument by the public. She reviewed the statutory criteria as outlined by the Oklahoma Legislature; Senate Bill 288 prescribes additional requirements: in the macro scale the MAY will ensure any permit "will not reduce the natural flow" of water from area springs or streams, and in the micro scale, that before issuing a permit the OWRB will determine whether the proposed use "is likely to degrade or interfere" with basin area springs or streams. The charge was to determine how to calculate this as SB 288 did not define nor does not state how to determine what is a reduction in natural flow, or what is natural flow protection. As discussed last month, she said zero doesn't seem to support the utilization and reasonable regulation for reasonable use--staff did not feel that was appropriate. Staff wanted to consider a MAY that is protective and considers the private property right. Current MAYs range from .5 to 2.1.

Ms. Cunningham reviewed the proposed order and directives (same as February presentation), (1) naming the counties underlying the boundaries of the aquifer and the statement, "is hereby designated the Arbuckle-Simpson Groundwater Basin, with the outcrop and subcrop boundaries generally depicted on the map set forth as Appendix 1;" (2) the basin is hereby declared to be a major groundwater basin under the provisions of the Oklahoma Groundwater Law; (3) the basin is also declared to be a sensitive sole source groundwater basin under the provisions of the Oklahoma Groundwater Law as amended by Senate Bill 288 enacted in 2003; and she showed a map of the proposed boundaries encompassing an area of 392,019 acres. Continuing with the order directive: (4) the tentative determination of the MAY is 78,404, acre-feet; (5) the EPP (equal proportionate part) of the yield to be allocated to each acre of land overlying the basin, based MAY and total overlying land area is tentatively determined to be 0.20 acre-feet per acre per year (or 2.4 inches per acre per year); and (6) for reasonable implementation, before regular permits for the EPP are issued to replace existing valid temporary

permit...such temporary permits shall remain in effect (subject to revalidation) for a period of five (5) years from the effective date of the final order determining the MAY, unless an extension of time is granted for good cause shown. Ms. Cunningham said there has been a lot of discussion at public meetings and letters from landowners who want this to go into effect immediately and others that want time to implement; there are financing and infrastructure issues that take time and are costly. Staff believed a 5-year phase-in period would be reasonable.

Ms. Cunningham showed a slide of current permits and use: there are 41 entities with average reported use between the time period of 2004-2008 (study period) of about 5,600 acre-feet; total current water rights including prior rights total -- at the .2 level -- about 14,885 acre-feet, making a surplus of allocated water rights of 9,200 acre-feet.

Mr. Herrmann said then the existing permits applying the .2 level equal 14,885 acre-feet and reported withdrawals--including municipalities and others--is 5,600 acre-feet; Ms. Cunningham said that is correct, that is an average annual use. She said right now there is surplus water and some of these communities will have additional water rights to "grow" into if the .2 goes into effect. She said there are some that are definitely in need -- four entities will need a total of approximately 1,000 acre-feet, assuming the reported totals are correct, on average. Staff has talked to two water districts and two private entities and one has additional land to dedicate, but a water use permit would have to be amended to add water rights. One of the districts has obtained additional land and is looking at other land; staff looked at stream water availability and groundwater availability in the area; many communities use groundwater which does not require elaborate treatment which is an incentive to stay on groundwater in the isolated areas that don't have access or financial capability to build a treatment plant. Each has a unique situation and staff proposes to assist in assessing implementation needs.

Ms. Cunningham stated staff looked at 2020 projections, and three entities show a shortage of approximately 3,000 acre-feet, with the .2 MAY; there are proposals to move to surface water and Arbuckle Lake, which will take time. She discussed possible options for the entities that will have shortages: increase existing or require additional new groundwater rights, purchase water, address system losses, and implement conservation measures.

Mr. Buchanan said then he understands there is 9,200 surplus acre-feet today (if current water rights are moved to .2) so today there is 1,000 a.f. is needed (at .2), and in 2020 3,000 a.f. (totaling 4,000 a.f.) will be needed, and subtract that from 9,200 so there is still 5,000 a.f. available? Mr. Strong responded that on the aggregate, that is correct. However, on an entity-specific basis there are some that don't have a surplus; they have a shortage or water rights. He said the three that show shortages in 2020 are probably the same that have shortages now; unless the surplus water rights belong to you, they are not yours to use so you may have a problem, and four (of 41) of the entities have a problem right now. He said initially he thought the majority of entities would have problems right away, but this information show that the overwhelming majority do not have problems based on their reported water use, not water rights, and often people are not using what they are allocated in water rights. Four entities will, and those are the four the Board needs to focus on assisting regardless what the number is in the final analysis. Ms. Cunningham added staff took the reported water use data and compiled that into an average 5-year, and during that average, the study period of 2004 and 2008 included a very wet and very dry year. She said in drought years, people will need to use more existing water rights.

Mr. Buchanan asked if the Board was confident in the reported uses. Ms. Cunningham said the communities have metering, but there are no requirements for a mining company or irrigator but instructions for reporting are provided. Mr. Herrmann wanted to clarify that staff is

using the same data set looked at the same way as the USGS on the entire Arbuckle-Simpson study. Mr. Strong said it was the same period of record, and Ms. Cunningham answered staff pulled all the data -- which USGS used -- pulled all water right holders, their equal proportionate share which not all are set as 2.0 acre-feet per acre some are set at .2 or 1.0 now. She said prior rights were also looked at and are treated differently in setting MAYs. Mr. Drummond clarified that none of the 9,200 acre-feet addressed stream water rights, and Ms. Cunningham stated that is correct, this is groundwater allocated presently, versus what it would be allocated with .2 with existing water right holders. She said the 2020 projected demand is total water. Mr. Drake said that the 9,200 in many cases are worthless because the water is not there and some of the acres have a large part of the water, but all is treated the same. Ms. Cunningham responded the 9,200 acre-feet surplus is of existing water rights that are held -- are not being used based on use. Total proposed basin MAY is 78,000 acre-feet of water with the MAY we quantify the total amount of water available across the basin and divide by land acres over the basin.

Mr. Drake said the individuals that own these water rights are being contacted by the entities or others to purchase the rights, and they are waiting on the Board to make a decision to know what those rights may be worth. He asked if the hearing is going to be held in May, and Ms. Cunningham said that the hearing will be held in May as part of the Maximum Annual Yield process, which the law requires to be held as a "show cause" hearing so that all the public may enter their comments. After the hearing, the hearing examiner will take all comments into account and come back with a final proposed order which then the Board votes on, in addition to taking additional public comments. She said there are also implementation proposals within this proposed order that can be addressed through the rulemaking process. Mr. Drake asked if the hearing examiner would be from outside (the agency) and will there only be one meeting. Mr. Strong stated that is correct the hearing examiner will be from outside, and one hearing date is tentatively scheduled, and it will be held as many days as necessary to get everyone's evidence and testimony.

Mr. Herrmann said, looking at the "Big Picture," there are 78,000 acre-feet (of groundwater) available in the basin, allocated at .2 (a.f. per acre); total needs is about 10,000 a.f. projected through 2020. Ms. Cunningham clarified the 2020 projection included both groundwater and streamwater. He said that is not uniformly spread across the watershed. Mr. Sevenoaks asked the three entities that will need water, and Mr. Strong said they are water suppliers only because they were the only ones that participated in that survey in the Comprehensive Water Plan--rural water districts, towns, cities. Mr. Sevenoaks asked about the moratorium, and Mr. Strong says that goes away when the MAY is finalized. Mr. Drake asked if the SB 288 gave provisions regarding time or the amount of water to be taken out, and Mr. Strong said it does not give the number for the MAY, only states there could be no impact to the natural flow and streams and springs, and did not provide statutory language for a phase in, so that current law regarding MAY process has been reviewed. There is no statutory language in the process that provides for a phased-in, step down process. He said it states that once the MAY is established, the Board shall issue permits, and the only provision is to provide a reasonable amount of time to convert the temporary permits to a regular permit.

Continuing with the review of the "order and directives," Ms. Cunningham stated that it is ordered that a hearing will be held, input will be solicited from interested persons on criteria or standards that can be considered as "good cause" for an extension of time beyond the five years that is recommended. Chairman Lambert stated that will be in the rulemaking process, following the hearing process. Lastly, the order states that staff shall seek input concerning a

potential modification of the well spacing provisions set forth in the current rules relating to distances of proposed wells to other wells, and a proposal to adopt and establishes spacing distance between new proposed wells and springs and streams in the Arbuckle-Simpson Groundwater Basin, and a methodology for assessing and determining the effect of proposed pumping of specifically proposed wells on specific springs and streams--the micro/macro scale issue of providing for a stream protection through some assessment of the potential impact by a proposed well to streams and springs in the area. Mr. Drummond asked if that would be on the same timeline as the rest of the rules, and Mr. Strong said yes, that staff is soliciting input on those things during the hearing process and would be embodied in all other rulemaking this fall. Mr. Herrmann said that could be substantially different from the existing well spacing guidelines in existing water law, specifically limited to Arbuckle Simpson. Mr. Strong said that it could, unless the final determination is that the existing ones are fine. Mr. Drummond asked if there is a specific recommendation regarding well spacing other than to seek input, and Mr. Strong said there is an attachment to the proposed tentative order of some well spacing calculations based on a study which is available for public comment. Ms. Cunningham stated staff is looking at ways that the agency is impacted in implementation of well spacing comments, so staff is seeking input.

2. Discussion by Board Members - Chairman Lambert reminded the Board members that approval today either as presented or amended is a tentative order that will be enlightened and informed by the hearing process. What is being recommended today is tentative; the final order will come only after a full hearing of all parties and all different perspectives. She said the Board will have an opportunity to get into the "weeds" when the final order comes. She asked if there were any comments or amendments to the tentative maximum annual yield order by the Board at this time.

Mr. Sevenoaks commented the 5-year implementation seemed like a long time, and Ms. Cunningham stated there had been comments from zero to 20 years; and Mr. Strong said staff proposal of five years seemed reasonable because it would take more than a few months. He said the Board can propose something else. Mr. Sevenoaks said he assumed the staff will help with financial assistance or whatever is needed. Mr. Fite said that considering the sensitivity of the Arbuckle Simpson, would this be a time to require metering for all water use? Mr. Strong responded there is law on the books that the Board cannot establish metering unless the majority of the landowners overlying the basin approve of it. Mr. Fite said this is a volatile area and he wondered if it should be considered, and Mr. Herrmann said that is not inconsistent with seeking input on well spacing provisions and other impacts. He said if the landowners in the area are supportive this is an opportunity, it would clear the uncertainty about water usage. Mr. Fite said he is interested in protecting the landowners that want to protect the Arbuckle Simpson. Chairman Lambert said that this could certainly be an issue and if the landowners want it, the law allows them to decide, and Mr. Couch said that is on an applicant-by-applicant basis. He said the majority of the landowners residing in the basin vote on applicant-by-applicant, which he explained, and said the Board could receive input. Mr. Fite expressed his concern about coming back in ten years to revisit this, after all the energy that's been put to this (study). Mr. Strong said the majority of the water use in the area is public water providers and they are required by the Safe Drinking Water Act to meter and report. The Ogallala is different.

Mr. Fite said that this is a jewel and it has had buy-in from all the stakeholders of the aquifer area, everyone is concerned about it, and he'd like to see the Board fix it.

Mr. Herrmann asked about the status of the tabled item. Chairman Lambert explained that the motion of the last meeting was to table (consideration) to this meeting; there is not yet a motion to approve the tentative maximum annual yield. Mr. Strong reminded there is an amended draft order before the Board today, so the Board would need to action on that order. No substantive changes were made; after meeting with the USGS changes were made to be technically accurate. Chairman Lambert said each of the Board members has the revised copy of the order, but it does not change the percentage, the year, or showing good cause which are the three primary issues of substance in the order. Mr. Fite asked if the five years would be sufficient and Mr. Couch said that part of the hearing process is to get input on that point.

3. Vote on whether to approve the Proposed Tentative Determination as presented or as may be amended, or vote on any other action or decision relating to the Proposed Tentative Determination.

Chairman Lambert stated this is a temporary order, and she wanted to be sure that anything is heard that needed to be heard, but not more than needed to be heard prior to the hearing. She asked if there were any further comments or comments.

Mr. Fite moved to approve the revised tentative determination of the maximum annual yield order for the Arbuckle-Simpson Groundwater Basin. Mr. Sevenoaks seconded the motion.

Chairman Lambert asked if there were any further discussion.

Mr. Herrmann proposed an amendment that would add the following language, "and a methodology for assessing and determining the effects of proposed pumping on specifically proposed wells on specific springs and streams which may include metering..."

Chairman Lambert repeated the motion is to add after "and streams, " "which may include metering" (and before, "as set forth..." in the last paragraph). Mr. Sevenoaks seconded the motion.

Chairman Lambert asked if there was any discussion on the amendment, which she repeated. Mr. Herrmann said he just wanted the idea out there for the people of the area to discuss. Mr. Drake asked why anything else should be added, it's controversial as it is, and he saw no reason to add metering.

Chairman Lambert said there is a motion and second as an amendment to add, "which may include metering" and she asked for any further discussion on the recommended amendment to the motion to approve the tentative order.

There was no further comment, and Chairman Lambert called for the vote.

AYE: Herrmann, Fite, Sevenoaks

NAY: Drummond, Feaver, Knowles, Buchanan, Drake, Lambert

ABSTAIN: None

ABSENT: None

Chairman Lambert stated the amendment failed. She said the motion on the floor now is to approve the revised tentative maximum annual yield order as proposed. She asked for any further comment or questions; there was none. Chairman Lambert called for the vote.

AYE: Drummond, Herrmann, Feaver, Fite, Sevenoaks, Knowles, Buchanan,
Drake, Lambert

NAY: None

ABSTAIN: None
ABSENT: None

During the vote, Ms. Feaver thanked the members for their patience at the last meeting, and to the staff for providing information so that she would be better educated on the matter.

Chairman Lambert stated the revised tentative maximum annual yield order is approved and the next step will be to publish the notice of the hearing. Mr. Strong said the hearing date has not been confirmed until the Board approved the order; staff believed it would be at the location on those dates. The order is tentative and the hearing dates and location are tentative as stated on the agenda.

Mr. Drake asked whether Board members could attend. Mr. Couch advised the members may attend a hearing where evidence is presented and comments to be made, but not make comments and not be approached individually by anyone intending to present evidence.

Chairman Lambert asked Mr. Couch to advise the Board about ex parte communication and the process going forward from today. Mr. Couch said the MAY as set forth in the 1973 groundwater law, initially it was understood the MAY was rulemaking, and rulemaking goes to the legislature. He said that after significant effort and complexity (of the process) the Legislature made a change to the statute to confirm that instead of being a rule, this kind of proceeding for the determination of the MAY, a hearing is to be conducted, the order presented pursuant to Article 2 of the APA, which makes it equivalent to an individual proceeding and an individual application and permit consideration. He noted that some have said that language about Article 2 is for the hearing and the final determination of the MAY, and at this stage it should make no difference and the public should have presentations to the Board, but with the understood intention to change the Board's mind. The Board in this case is the final decision maker, which is equivalent to someone being able to discuss with the Board what ultimately will be a final decision. The APA separately prohibits that members or employees assigned to render a decision (make findings of fact and conclusions of law) shall not communicate directly or indirectly in connection with any fact, with any person or party, or in connection with any issue of law with any party or his representative except on notice or opportunity for all parties. He said that in this case, "all parties" could mean all landowners overlying 392,000+-plus acres, and to give notice to all that some want to talk to you; that preclusion applies during the whole process, and at the hearing it still applies as to communicating with any party with the facts of law. Attending is not communicating; staff will present what is in the tentative order and public will as required and authorized by the law present evidence in support and opposition, comments for however many days as is necessary. That will be assembled by the hearing examiner and come back to the Board as proposed findings.

Chairman Lambert asked Mr. Couch to explain what might possibly be a consequence with ex parte communication. He responded that a violation of the APA would probably be understood to be a procedural error, a due process of law error, and the APA. Certainly these MAY proceedings are subject to judicial review and if there was improper, unauthorized ex parte communication, which could be a legal technicality and the judge could send it back to start over, as the violation of a person's right. Mr. Strong said the Board needs to do whatever possible to keep the process on track and minimize opportunities for legal challenges--this would include any form of communication. He also added that the comments, letters, draft orders that

have been received up to this point will be included in the public record of the hearing and will be considered along with everything brought into the public process.

Chairman Lambert asked if there were any further clarification needed and Mr. Drake said the member from that area, he was clear. There were no other comments or questions about exparte communication.

Mr. Buchanan asked about the information provided about pumping that was dated 1963 and he asked if that is still valid. Mr. Couch answered that is part of the methodology background but yes that is a standardized understanding of the cone of depression impact of pumping a well.

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. **PROPOSED EXECUTIVE SESSION**

Chairman Lambert

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(4) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of confidential communications between a 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 a pending investigation, litigation or proceeding in the public interest.

Pursuant to this provision, the Board proposes to hold an executive session for the purpose of discussing *Chickasaw Nation and Choctaw Nation v. Fallin, et al., Association for the Protection of Oklahoma Water v. OWRB, and OWRB v. United States (on behalf of the Choctaw Nation and Chickasaw Nation et al).* • ***Bolded italics added***

The Board has been advised by legal counsel that disclosure of the discussion of the litigation will seriously impair the Board and State to conduct the present and proposed litigation in the public interest.

Chairman Lambert read the agenda item statement including Chickasaw Nation and Choctaw Nation v. Fallin, et al, Association for the Protection of Oklahoma Water v. OWRB, and Mr. Herrmann stated the item also included OWRB v. United States. Chairman Lambert re-read the item as it appeared on the revised agenda.

- A. Vote on whether to hold Executive Session - before it can be held, the Executive Session must be authorized by a majority vote of a quorum of members present and such vote must be recorded.

Mr. Herrmann moved that the Board enter Executive Session, and Mr. Knowles seconded.

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

- B. Designation of person to keep written minutes of Executive Session, if authorized.

Chairman Lambert asked Executive Secretary Mary Schooley to keep written minutes of the Executive Session.

- C. Executive Session, if authorized.

The Board voted to enter Executive Session at 11:40 a.m. on March 13, 2012. Following a 5-minute break, the Board entered the Executive session at 11:45 a.m.

8. VOTE(S) ON POSSIBLE ACTION(S), IF ANY, RELATING TO MATTERS DISCUSSED IN EXECUTIVE SESSION IF AUTHORIZED.

Return to open meeting and possible vote or action on any matter discussed in the Executive Session. (The meeting room doors were opened and the public was allowed to enter the meeting room.)

Chairman Lambert asked for a motion to come out of Executive Session. Mr. Drake moved to return from Executive Session to Open Session, and Mr. Drummond seconded.

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

The Board returned to Regular Session at 12:25 p.m. There was no action taken by the Board relating to items discussed in Executive Session.

9. NEW BUSINESS

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

There were no New Business items for the Board's consideration.

10. ADJOURNMENT

There being no further business, Chairman Lambert adjourned the meeting of the Oklahoma Water Resources Board at 12:25 p.m. on Tuesday, March 13, 2012.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Linda P. Lambert, Chairman

_____/s/_____
F. Ford Drummond, Vice Chairman

_____/s/_____
Edward H. Fite

_____/s/_____
Kenneth K. Knowles

_____/s/_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Rudolf J. Herrmann

_____/s/_____
Absent
Bob Drake

ATTEST:

_____/s/_____
Tom Buchanan
(SEAL)