

**OKLAHOMA WATER RESOURCES BOARD**  
**OFFICIAL MINUTES**  
**October 16, 2012**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman F. Ford Drummond at 9:30 a.m., on October 16, 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 October 9, 2012, at 5:05 p.m, at the Oklahoma Water Resources Board's offices.

**A. Roll Call**

**Board Members Present**

Ford Drummond, Chairman  
Tom Buchanan, Secretary  
Marilyn Feaver  
Ed Fite  
Rudy Herrmann  
Jason Hitch  
Richard Sevenoaks

**Board Members Absent**

Linda Lambert, Vice Chairman  
Bob Drake

**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  
Mary Schooley, Executive Secretary

**Others Present**

Paul Hodge, Longtown Rural Water District #1, Eufaula, OK  
Ken Hicks, Wagoner Public Works Authority, Wagoner, OK

Duane O'Dell, Wagoner Public Works Authority, Wagoner, OK  
Camille Dowers, Newcastle, OK  
Tawanna Chapman, Lincoln County Rural Water Sewer District #4, Agra, OK  
Kevin Self, Newcastle, OK  
Jerome Ewen, Lincoln County Rural Water Sewer District #4, Cushing, OK  
Susan Davis, Town of Laverne, OK  
Jeff Howard, Town of Laverne, OK  
Charlie Swinton, BancFirst, Oklahoma City, OK  
Jim Anderson, Grand Lake Public Works Authority, Ochelata, OK  
James Miller, Osage County Rural Water District #21, Newkirk, OK  
Don Russell, Unimin, Roff, OK  
Eddie Rhandour, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Vicki Reed, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Glenn Glover, Longtown Rural Water District #1, Eufaula, OK  
Michael Taylor, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Jared Davidson, Public Law Finance Group, Oklahoma City, OK  
Sara Tangen, McCall, Parkhurst & Horn, Dallas, TX  
Justin Hodge, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Leslie Smith, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Barbara Albritton, Osage County Rural Water District #21, Tulsa, OK  
Angela Thompson, Wells Nelson & Associates, Oklahoma City, OK  
Brian Woodard, Oklahoma Independent Petroleum Association, Oklahoma City, OK

**B. APPROVAL OF MINUTES**

Chairman Drummond said the draft minutes of the September 18, 2012, Regular Meeting had been distributed, and he asked if there were corrections to the minutes. There were none, and he stated he would entertain a motion to approve the minutes.

Mr. Hitch moved to approve the minutes of the September 18, 2012 meeting, and Mr. Buchanan seconded.

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

**C. EXECUTIVE DIRECTOR'S REPORT**

Mr. Strong began his report stating there would not be a legislative report because there is not much activity at this time, and Mr. McClintock was participating in the Academy Town Hall this week. He said an executive session had been listed on the agenda to cover any discussion about developments in the litigation; however, there has not been any news since the last update at the last Board meeting, therefore there is no need for an executive session today. He said he is still awaiting news on the Tarrant Case whether the Supreme Court will review an appeal in that

case, but nothing has happened there as yet. He did say that mediation is continuing in the Choctaw/Chickasaw case but nothing to report since the last executive session in that regard.

Mr. Strong noted the distributed “Third Quarter WaterNews” and highlighted the Governor’s Water Conference agenda being held November 13-14 at the Tulsa Marriott Southern Hills, and the prominent speakers that have agreed to participate including Mr. Dayton Duncan’s preview of the “Dust Bowl” documentary by Ken Burns; presentations on the first day regarding water conservation efficiency and reuse technologies employed by municipalities and companies; roundtable discussions on regional water planning and instream/environmental flows; and presentations on water monitoring and infrastructure financing, following the vote on State Question 764. The November meeting of the OWRB will be following the adjournment of the conference at 3:30 p.m., Wednesday afternoon. The Water Resources Research Institute will once again be conducting its symposium in concert with Conference. All information is available on the OWRB website.

Mr. Strong reported regarding the Arbuckle Simpson that the USGS and other requested information has been delivered to the hearing examiner who is now preparing the final proposed order, and as soon as that information is available, he will work with the chairman for presentation to the Board for consideration.

Mr. Strong attended the Southern States Energy Board meeting September 23-24 hosted by Governor Fallin; on September 25 he participated by conference phone in the National Integrated Drought Information System Workshop being held in San Diego; he attended the annual meeting of the Arkansas-Oklahoma Arkansas River Compact Commission in Rogers, AR, September 26-27; and he traveled to San Antonio October 10-12 for the Western States Water Council. Mr. Strong will be speaking to the Eufaula Save Our Water group about the OCWP and water priorities on Thursday, October 18; and he will be speaking at the Ag Expo on Thursday, October 31.

Mr. Strong concluded his report announcing the retirement of long-time OWRB employee Bob Fabian, invited the members to attend the annual OWRB Chili Cook Off as part of the State Charitable Contributions Campaign, and said the Board’s Budget Committee will meet following today’s meeting.

Chairman Drummond added there was a strongly favorable editorial in today’s Tulsa World on State Question 764, and Mr. Strong reminded the members the Board’s \$85 million bond issue received AAA rating from Standard and Poor’s and Moody’s last week, and yesterday Fitch also reconfirmed a AAA rating. He congratulated the Financial Assistance Division and Team for the packaging of the successful, highly rated bond issue.

#### **D. Monthly Budget Report**

Ms. Amanda Storck addressed the members and referred to the distributed report for September 2012, noting 85% of funding available and 75% of the fiscal year remaining. She said staff continues to work with the Office of State Finance on the Project Phase 2 issues. She announced the agency HR director has resigned to accept another position.

Ms. Storck concluded her report, and there were no questions by the Board members. The Budget Committee will meet following the meeting.

## 2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Longtown Rural Water and Sewer District No. 1, Pittsburg County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is a \$675,000.00 loan request from the Longtown Rural Water and Sewer District No. 1, located in Pittsburg County. The District is requesting the loan to install an automated meter reading system which will consist of approximately 2,100 meters. He said the loan will be funded from the Drinking Water State Revolving Fund Loan, and he noted provisions of the loan agreement. He said the District currently has one loan outstanding with Rural Development, but the District is a previous customer of the Board's. He said the District is growing and the numbers have been increasing by approximately 20% over the past ten years. The debt coverage ratio stands at approximately 2.36-times. Staff recommended approval of the loan application.

Representing the District was Mr. Paul Hodge, Chairman, and Mr. Glenn Glover, Board Member.

There were no questions by the members.

Mr. Fite moved to approve the DWSRF loan to the Longtown RWSD #1, and Mr. Sevenoaks seconded.

AYE: Fite, Feaver, Hitch, Sevenoaks, Herrmann, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Drake, Lambert

B. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Rural Water and Sewer District #4, Lincoln County. Recommended for Approval. Mr. Freeman stated this item is a \$1,000,000.00 Drinking Water State Revolving Fund loan request from the Lincoln County Rural Water and Sewer District #4. He said they are requesting the loan to construct a 400,000 gallon standpipe, and install 5,094 linear feet of six inch PVC waterline. He noted provisions of the loan agreement; the District's water connections have increased by 10% over the past ten years. The District has been a long time customer of the Board's and currently has one outstanding loan with the Board; the debt coverage ratio stands at approximately 1.55-times. Staff recommends approval of the loan application.

Representing Lincoln County RWSD #4 was Chairman Jerome Ewen, and District Manager Tawanna Chapman.

There were no questions by the Board members.

Mr. Herrmann moved to approve the DWSRF loan application to Lincoln RWSD #4, and Mr. Sevenoaks seconded.

AYE: Fite, Feaver, Hitch, Sevenoaks, Herrmann, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Drake, Lambert

C. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Newcastle Public Works Authority, McClain County. Recommended for Approval. Mr. Freeman stated to the members that this item is a \$1,389,455.00 Drinking

Water SRF loan request from the Newcastle Public Works Authority. Newcastle is requesting the loan to construct a 600,000 gallon water storage tank, rehabilitate two existing water standpipes, and to install 500 automated meters. Mr. Freeman noted provisions of the loan agreement. Newcastle currently has one loan outstanding with the Board closed in 2009 for waterline work. In the last ten years, Newcastle's population has increased over 40% and its debt coverage ratio stands at 3.0-times. Staff recommended approval.

Mr. Kevin Self, Ms. Camille Dowers, Secretary of the NPWA, and Mr. Kenny Sullivan, Engineer, were present in support of the loan application.

Mr. Hitch asked how many days supply is the 600,000 gallons, and Mr. Sullivan answered the 600,000 gallon storage would bring Newcastle to a storage supply for 24 hours. Mr. Herrmann asked what is driving the growth in the area, and Ms. Dowers said Newcastle is located just across the river from Oklahoma City and is part of the metro area expansion.

Mr. Buchanan moved to approve the DWSRF loan to the Newcastle PWA, and Mr. Herrmann seconded.

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

D. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Rural Water District No. 21, Osage County. Recommended for Approval. Mr. Freeman said this item is for the consideration of a \$1,600,000.00 Drinking Water State Revolving Loan Fund application by Osage County Rural Water District No 21. He said the District is requesting the loan to construct a new water treatment plant consisting of two 150 GPM microfiltration units, two pressure filters, two backwash lagoons, a 10,000 gallon surge tank, two transfer pumps, and a decant pump station. He said that in addition to the loan proceeds, the project will be funded through a \$320,000.00 Community Development Block Grant and \$40,000.00 from INCOG. He noted provisions of the loan agreement, and said that Osage #21 has been a long-time loan customer of the Board's and currently has one loan outstanding with the Board. The debt coverage ratio stands at approximately 1.33-times. Staff recommended approval.

Mr. James Miller, District Board Member, was present in support of the loan application.

Mr. Herrmann asked the source of the water, and Mr. Miller answered groundwater wells along the Arkansas River at Kaw Lake. He said they will be using new wells that were drilled a few years ago.

Mr. Hitch moved to approve the DWSRF loan to Osage County RWD #21, and Mr. Fite seconded.

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

(Chairman Drummond initially voted "aye," but later in the meeting changed his vote to "abstain.")

E. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Laverne Public Works Authority, Harper County. Recommended for Approval. Mr. Freeman stated this item is a \$3,700,000.00 Drinking Water SRF loan request by the Laverne Public Works Authority located in Harper County. The loan is requested to fund rehabilitation of the existing 200,000 gallon water storage tank, construct a 530,000 gallon standpipe, construct 41,695 feet of PVC water line, and to install 700 automated meters. Mr. Freeman noted provisions of the loan agreement. The Authority has no other outstanding debt, and its debt coverage ratio stands at 1.56-times. Staff recommended approval.

Mayor Susan Davis, and Jeff Howard, Town Superintendent, were present in support of the loan agreement.

Mr. Hitch asked the length of time for storage for 530,000 gallons. Mr. Howard responded that is close to the town's 24-hour demand, about 1,000 gallons per household, which he hoped will decrease once the meters are installed. Mr. Buchanan asked if the new pipe is replacing old pipe, or for expansion, and Mayor Davis answered that is to replace old pipe and should help to eliminate water loss.

Mr. Hitch moved to approve the DWSRF loan to the Laverne Public Works Authority, and Mr. Buchanan seconded.

AYE: Fite, Feaver, Hitch, Sevenoaks, Herrmann, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Drake, Lambert

F. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Drinking Water Funds for Grand Lake Public Works Authority, Delaware County. Recommended for Approval. Mr. Freeman said this item is for the consideration of a request by the Grand Lake Public Works Authority for an increase in loan amount. He said at the Board's July meeting, it approved a \$4 million DWSRF loan for water wells, two raw water storage tanks, 1.5 MGD water treatment plant, chemical feed system, pumps and a control system. Mr. Freeman explained prior to the Board meeting, the engineers received bids for the two raw water tanks which ranged from approximately \$475,000 to \$580,000 and received 7 bids for the treatment plants and associated items ranging from \$4.8 million to \$5.4 million and as a result the Authority is requesting an increase in loan amount to \$5.5 million. All other aspects of the loan agreement remain the same, and the debt coverage ratio stands at approximately 1.39-times. Staff recommended approval.

Mr. Jim Anderson, Authority Manager, was present in support of the application for the increase of funds.

Mr. Sevenoaks asked how the engineers missed the bid by 20%, and Mr. Anderson said a filter was added later for taste and odor, and the Davis Bacon Act for labor expense had been overlooked, which was about an \$800,000.00 increase. Mr. Anderson complimented the OWRB staff for timely response.

Mr. Fite moved to approve the increase in obligation of funds for the DWSRF loan to the Grand Lake Public Works Authority, and Ms. Feaver seconded.

Mr. Herrmann asked about the cost impact because of the increase due to the Davis Bacon Act compliance, and Mr. Anderson said he was informed that the numbers changed in July, making labor 30% of the costs. Mr. Herrmann said the Davis Bacon Act had been in place for awhile, and Mr. Anderson said the numbers changed in July. Mr. Taylor from DEQ and Mr.

Freeman added that some of the Davis Bacon rates changes, but historically since the Act came back into effect in 2009, the changes tract with the market between the old rates the contractor would pay, but that David Bacon did not make that much of a change. Mr. Freeman said between the Drinking Water and Clean Water funds, there are four other projects that are coming in with higher bids due to the Davis Bacon Act implementation because the engineers' estimates were based on old numbers and not updated numbers.

There were no further questions, and Chairman Drummond called for the vote.  
AYE: Fite, Feaver, Hitch, Sevenoaks, Herrmann, Buchanan, Drummond  
NAY: None  
ABSTAIN: None  
ABSENT: Drake, Lambert

G. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Drinking Water Funds for Wagoner Public Works Authority, Wagoner County. Recommended for Approval. (Item added). Mr. Freeman said that this last item is a request for an increase in funds by the Wagoner Public Works Authority. He said at the September Board meeting, the Board approved a \$1 million dollar Drinking Water SRF loan to the Authority for an automated meter reading system throughout the city. He said subsequent to approval, Wagoner solicited bids and received five bids ranging between \$1,150,000.00 to \$1,659,000.00. As a result, Wagoner is requesting a \$200,000.00 increase in Drinking Water SRF funds for a total loan amount of \$1.2 million. All other aspects of the loan agreement remain the same and with the new loan amount the debt coverage ratio stands at approximately 3.37-times. Staff recommended approval.

Mr. Ken Hicks, Wagoner City Attorney, and Mr. Duane O'Dell were present in support of the requested increase.

Mr. Buchanan asked how many meters in the system, and Mr. Hicks answered about 3,500.

Mr. Fite moved to approve the increase in obligation of DWSRF funds to the Wagoner Public Works Authority, and Mr. Hitch seconded.

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

Prior to continuing with the meeting agenda, Chairman Drummond, by advice of the Board's counsel, amended his vote on item 2.D. from "aye" to "abstain" as he is a customer of Osage County RWD #21.

### **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 Drummond stated there are three items on the Supplemental Agenda that would have otherwise been on the Summary Disposition Agenda, and he proposed those items be considered along with the Summary Disposition Agenda.

There were no changes to the Summary Disposition Agenda. Chairman Drummond asked if there were any questions regarding the Summary Disposition Agenda items.

Mr. Sevenoaks asked about item 3.D.3., professional services contract with Tarigma Corporation. Mr. Freeman said this regards the Financial Assistance Division loan and grant tracking computer software program. He said the program has been developed in Ohio and is used by several states; previously the agency was using Word, and this system is more secure considering the volume of dollars. Tarigma recently acquired a portion of a firm called Ashe which was the supporting firm the past several years. Mr. Sevenoaks asked if it went through the State (OSF), and Mr. Strong answered that the agency was granted an exemption because the software is so specialized. The appropriate paperwork will be completed and approved by the State; the agency has complied with the Office of State Finance requirements regarding outside contracting. Mr. Hitch asked about Section 8. of the contract regarding “work product” and Mr. Freeman responded the software was developed by the Ohio Development Authority, and the agency acquired rights to that. Mr. Sevenoaks asked the status of the (IS) transition, and Mr. Strong said the consolidation had been delayed to February.

There were no other requests, comments, or questions about items on the Summary Disposition Agenda or Supplemental Agenda items. Being none, Chairman Drummond said he would entertain a motion to approve the Summary Disposition Agenda items and Supplemental Agenda items.

Mr. Herrmann moved to approve the Summary Disposition and Supplemental Agenda items, and Mr. Buchanan seconded.

AYE: Fite, Feaver, Hitch, Sevenoaks, Herrmann, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Drake, Lambert

Mr. Sevenoaks asked if there were any other software the agency needed but was unable to obtain because of state approval and Mr. Strong replied that had not yet been encountered.

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. Fourth Amended and Restated Intergovernmental Agreement with Oklahoma State University Water Resources Research Institute to hold the Governor's Water Conference and Symposium in November 2012.
  2. Renewal Agreement with Meshek & Associates, PLC for professional engineering services related to maintaining up-to-date flood hazard data for OWRB or communities served in Oklahoma.
  3. *Professional Service Agreement with the Tarigma Corporation for support service for the computer loan and grant tracking software used by the Financial Assistance Division. Item added.*
- E. Applications for Temporary Permits to Use Groundwater:
1. David & Theresa Nault, Caddo County, #2012-606
  2. M & J Farms, Inc., Custer County, #2012-627
  3. Dustin & Sonya Donley, Woodward County, #2012-635
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. Chad Blevins Revocable Trust, Beckham County, #1981-670
  2. Green Country Farms, Adair County, #1986-533
- G. Applications for Regular Permits to Use Groundwater:
1. Grewell Land, L.L.C., Texas County, #2012-624
  2. Kenneth P. Haley, Canadian County, #2012-628
  3. Stephens Land & Cattle Company, Inc., Texas County, #2012-643
  4. Stephens Land & Cattle Company, Inc., Texas County, #2012-644
  5. Thomas A. & Phyllis Stephens Trust #1, Thomas A. Stephens & Phyllis Stephens, Thomas Stephens, and Stephens Land & Cattle Company, Inc., Texas County, #2012-645
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Murphy Family Farms, Ellis County, #1996-664
- I. Applications for Term Permits to Use Stream Water:
1. Daniel Prater, McIntosh County, #2012-041
  2. TransCanada Keystone Pipeline, L.P., Creek County, #2012-051
  3. TransCanada Keystone Pipeline, L.P., Atoka County, #2012-052
- J. Applications for Regular Permits to Use Stream Water:  
None
- K. Proposed Resolution Appointing Persons to Serve as Members of the Well Driller and Pump Installers Advisory Council:

Names of persons to serve as members are individually set out in the October 16, 2012 packet of Board materials

L. Well Driller and Pump Installer Licensing:

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

- a. Licensee: Layne Christensen DPC-0123
- 1. Operator: Doug Assenmacher OP-1937  
Activities: Pump installation
- b. Licensee: Oklahoma Environmental Services DPC-0363
- 1. Operator: Kyle Blankenship OP-1936  
Activities: Monitoring wells and geotechnical borings
- c. Licensee: S & M Drilling DPC-0759
- 1. Operator: Kirk F. Stephenson, II OP-1938  
Activities: Groundwater wells, groundwater 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:

- 1. Northeastern Oklahoma A & M College, Ottawa County, #FP-12-32
- 2. Northeastern Oklahoma A & M College, Ottawa County, #FP-12-33

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the October 16, 2012 packet of Board materials

6. Supplemental Agenda items approved:

A. Contracts and Agreements Recommended for Approval.

- 1. Easement and Agreement for Groundwater Level Monitoring with Richard W. Wilkerson and Melissa J. Wilkerson relating to monitoring and maintenance of observation well associated with Fittstown Mesonet Station.
- 2. Consideration of Logo License Agreement with Bank of America.
- 3. Interagency Agreement with Office of State Finance Relating to Information Technology Personnel Transfer.

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

A. Update and Discussion on the upcoming Triennial Revision of the Oklahoma Water Quality Standards. Mr. Derek Smithee, Chief, Water Quality Programs Division, addressed the members and said it is rulemaking time for the Water Quality Standards (WQS) program and he had prepared a PowerPoint presentation which will give a quick overview of what WQS are, touch briefly on the issues associated with this rulemaking, and go over the process, and he introduced the OWRB Water Quality Standards Team. Mr. Strong interjected that Mr. Phil Moershel and Mr. Bill Cauthron had hired him for a summer temporary job in the standards program.

Mr. Smithee reviewed the Statutes and Administrative Rules affecting Water Quality Standards, noting they are Federal Law and a component of the Clean Water Act (Federal Regulation CFR Title 40 Part 131), but WQS are a state primacy program and is found in State Law, Title 82 Title 27 (A) State Regulation OAC 785:45, OAC 785:46—general implementation policy. In response to a question by Mr. Hitch on how the Clean Water Act and Safe Drinking Water Act blend, Mr. Smithee said the DEQ administers the Safe Drinking Water Act as a “finished water” or tap program, and this Clean Water Act program is designed to prevent pollution to lakes and streams, rivers and groundwater; where the pipe starts is where the OWRB responsibility ends and DEQ’s begins. He added the criteria is different: Clean Water Act water quality criteria is for streams and rivers and Safe Drinking Water Act criteria is for finished water.

Mr. Smithee said Oklahoma promulgated the first WQS in 1959, having standards in place over 50 years, prior to the Clean Water and Safe Drinking Water Acts. The standards are a set of rules and regulations whose primary function is to maintain fishable, swimmable uses, or “*Maintain and improve the chemical, physical and biological integrity of the nation’s waters,*” he said there had been much litigation over the past 20 years as to what the Nation’s waters are, where they begin and end, but it is a continuum. He also added that § 303(a) of the CWA grants states (or federally recognized tribes) the authority to set water quality standards for contaminants in surface waters.

Chairman Drummond said that Tribes can set water quality standards, and he asked if there were any in Oklahoma. Mr. Smithee responded that it is complicated, Tribes have the authority to be delegated that authority and can promulgate their own set of WQS. Tribal authority in Oklahoma and Alaska are unique and there are not fences delineating the boundaries of the Tribal areas. Oklahoma Tribes in theory have authority, and must obtain dispensation from EPA as well as recognition from the State of Oklahoma, but as of today, there are no federally approved Tribal water quality standards in Oklahoma.

Mr. Smithee reviewed the WQS three basic components:

- Beneficial uses (Fishery Uses, Body Contact Uses, Aesthetics, etc.)
- Criteria to protect beneficial uses (Numeric and Narrative)
- Anti-degradation policies (Maintain Beneficial Uses, HQWs and ORWs)
- And Implementation - How the WQS are actually used in water quality management

Under the Federal Clean Water Act, 303(c)(1), all States and Tribes are required to periodically conduct a comprehensive review of their surface water quality standards and modify, if appropriate, known as “Triennial Review” because States must conduct a review at least once every three years. Traditionally, Oklahoma has conducted review more frequently, but without opening every component for review as is being done now. Mr. Smithee said that proposed changes came from the OWRB, the DEQ, the EPA and others, and said there is a

justification document for every single issue, a paper record of every proposed change to the WQS, which is a part of the permanent record and which is also available on the OWRB website. Mr. Strong added that whatever comes from the revision process, will ultimately come to the Board through the rulemaking process, along with the other rules revisions.

Mr. Smithee reviewed the proposed topics of revision (**9 PowerPoint slides**):

(1) **Human Health Criteria Updates** - OWRB is proposing to revise &/or add criteria for 25 pollutants to protect human health based on EPA recommendations: Last comprehensive update in 1990; New information on exposure necessitates revisions; Oklahoma's existing criteria are based on the old fish consumption rate (6.5 g/day); which is below EPA's national minimum of 17.5 g/day; New science on BCFs and cancer potency slope factors. (2) **Beneficial Use Designation Updates** - A CWA review of all waterbodies that are designated less than "fishable or swimmable" (112 reviewed, 14 had good data, 3 indicated a change); Canadian River from SBCR to PBCR; Rush Creek from HLAC to WWAC; Wewoka Creek from HLAC to WWAC (see map). (3) **Appendix A Updates** - Editorial changes to the naming of some lakes; Part of an effort of OWRB GIS staff to standardize waterbody naming among all OWRB publications; Follows recognized federal system; Updates to Waterbody Identification (WBID) numbers; Have worked closely with the ODEQ; and Updated based on new and better information. (4) **Removal of Numeric Criteria for Color** - In the 2009 OWQS revision, the applicability of the color numerical criterion was limited to only permit development; Not a valid or useful criteria for ambient waters; Originally adopted in 1959; EPA responded that this was not appropriate; and Propose to completely remove numeric criteria. (5) **Regulatory Flows for the Agricultural Beneficial Use** - Based on the 1997-1998 revisions, there are limited circumstances where implementation of the criteria for the Agricultural beneficial use is more stringent than that for toxics and dissolved oxygen; Propose to restore the 1.0 cfs default flow for the Agriculture beneficial use. (6) **Establishing the Applicability of the Fish Consumption Beneficial Use** - In 2005, the OWQS were revised to remove outdated fish tissue criteria; Previously, the Fish Consumption B.U. was applicable to fully fishable waters with the following language: *shall apply to surface water designated as Warm Water Aquatic Community, Cool Water Aquatic Community, or Trout Fishery*; Proposing that this language be restored; This proposal will effectively make the Human Health Criteria not applicable to HLAC waterbodies. (7) **Various Misc. Edits** - Revisions to clarify applicability of seasonal temperatures prescribed in Table 1 of Appendix G of OAC 785:45; Revision to OAC 785:45 Table 1 to restore note "1"; Revision to the USAP for language consistency; Revisions to methods for determination of regulatory low flow. (8) **Appendix H Listings** - Corporation Commission: West Edmond Oil Field; ODEQ: Boone (Tar Creek) Area; North-Central OK (Former Farmland Fee Mill Site, Enid); Vannoss Group (Hudson Refinery Site, Cushing); North-Central OK (Blackwell Zinc Co. Site, Blackwell); GES on behalf of ExxonMobil; and Putnam-Oswego Former Gas Plant, Dewey Co. (These listings only provide well completion requirements. Beneficial Uses and Class remain the same.) (9) **Arbuckle Simpson Designation**- Request from CPASA to make the Arbuckle-Simpson a Class I aquifer; Groundwater Quality Standards define the Class I aquifers as: *Class I (Special Source Groundwater): Special source groundwaters are defined as groundwaters where exceptional water quality exists, where there is an irreplaceable source of water, where it is necessary to maintain an outstanding resource or where the groundwater is ecologically important. Special source groundwaters are considered to be very vulnerable to contamination. This classification shall include:*

- (A) All groundwater located underneath the watersheds of waterbodies designated "Scenic River" in Appendix A of this Chapter;
- (B) Special source groundwater located underneath lands located within the boundaries of the areas described in Appendix B of this Chapter; and
- (C) All groundwater located underneath lands located within the boundaries of a State approved wellhead or source water protection area for public water supply.

Mr. Smithee concluded his presentation discussing the WQS Revision timeline and role of other governmental officials (see attached slide). He reviewed the informal meetings that have been held, formal meetings that will be held, the hearing process, and consideration by the Board (January 2013), Legislature, Attorney General and Governor (July 2013) and final approval by EPA (November 2013).

During the presentation, the members asked questions about EPA's change in standards for concentrations and fish consumption; factors for improvements of discharges in the three identified water bodies under beneficial use designation (fishable/swimmable) and the possibility of better data as well as reduced oilfield impact; regulatory relief/protective beneficial use for the agriculture community for use on the river; Class 1 aquifers of the state and their high vulnerability and the Arbuckle Simpson request would make it the only Sole Source Aquifer classified as Class 1(at this time there is no additional regulation); and the expectation of comments, particularly regarding the Arbuckle Simpson.

## **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. No items. 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**

The Supplemental Agenda items were considered under the Summary Disposition Agenda.

**7. PROPOSED EXECUTIVE SESSION**

**Chairman Drummond**

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., Oklahoma Water Resources Board v. United States on behalf of the Choctaw Nation et al.* and *Tarrant Regional Water District v. Herrmann, et al.*

Chairman Drummond stated there is no need for the Board to hold an Executive Session.

Statement by legal counsel advising on whether disclosure of the discussion of the litigation will seriously impair the ability of the Board and State to conduct the present and proposed litigation in the public interest.

There was no statement by legal counsel.

A. Vote on whether to hold Executive Session upon determination that disclosure of the discussion of the litigation will seriously impair the ability of the Board and State to conduct the present and proposed litigation in the public interest. 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.

The Board did not vote to enter Executive Session.

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

C. Executive Session, if authorized.

There was no Executive Session.

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

There was no action by the Board.

**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; however, Secretary Tom Buchanan needed to depart the meeting and Chairman Drummond appointed Mr. Jason Hitch to act as Assistant Secretary in Mr. Buchanan's absence.

**10. ADJOURNMENT**

There being no further business, Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 10:51 a.m. on Tuesday, October 16, 2012.

**OKLAHOMA WATER RESOURCES BOARD**

\_\_\_\_\_/s/\_\_\_\_\_  
F. Ford Drummond, Chairman

\_\_\_\_\_/Absent\_\_\_\_\_  
Linda P. Lambert, Vice Chairman

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

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

\_\_\_\_\_/Absent\_\_\_\_\_  
Marilyn Feaver

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

\_\_\_\_\_/s/\_\_\_\_\_  
Bob Drake

\_\_\_\_\_/s/\_\_\_\_\_  
Jason W. Hitch

***ATTEST:***

\_\_\_\_\_/s/\_\_\_\_\_  
Tom Buchanan  
(SEAL)