

**OKLAHOMA WATER RESOURCES BOARD**  
**OFFICIAL MINUTES**  
**April 16, 2013**

**1. Call to Order**

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Ford Drummond at 9:35 a.m., on April 16, 2013, in the Second Floor Board Room of the Oklahoma Water Resources Board Offices, located at 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 April 12, 2013, at 3:00 p.m., at the Oklahoma Water Resources Board's offices.

**A. Roll Call**

Following Roll Call and recognizing a quorum of member present, Chairman Drummond asked for a moment of silence honoring the victims of the Boston Marathon, and the Oklahoma City Murrah Building bombing of 18 years ago on April 19, 1995.

**Board Members Present**

Ford Drummond, Chairman  
Linda Lambert, Vice Chairman  
Bob Drake  
Marilyn Feaver  
Ed Fite  
Rudy Herrmann  
Richard Sevenoaks

**Board Members Absent**

Tom Buchanan, Secretary  
Jason Hitch

**Staff Members Present**

J.D. Strong, Executive Director  
Jerry Barnett, Acting 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**

Tom Liu, Bank of America Merrill Lynch, New York, NY  
Anne Burger Entekin, First Southwest, San Antonio, TX  
Patty Thompson, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Vicki Reed, Oklahoma Department of Environmental Quality, Oklahoma City, OK  
Pennie Embry, Oklahomans for Responsible Water Policy, Eufaula, OK  
Jim Barnett, Doerner, Saunders, Daniel & Anderson, Oklahoma City, OK  
Chris Cochran, BOSC, Dallas, TX  
Brian Woodard, Oklahoma Independent Petroleum Association, Oklahoma City, OK  
Deena Sundeth, BancFirst, Oklahoma City, OK  
Charlie Swinton, BancFirst, Oklahoma City, OK  
Chris Willis, Chickasaw Nation  
Robert Shelton, City of Tulsa, OK  
Bodie Bachelor, Centennial Law Group, Duncan, OK

### **B. APPROVAL OF MINUTES**

Chairman Drummond said the draft minutes of the March 19, 2013 Regular Meeting had been distributed, and asked if there were corrections to the minutes. There were none, and Mr. Drummond stated he would entertain a motion to approve the minutes.

Ms. Lambert moved to approve the minutes of the March 19, 2013, meeting and Mr. Herrmann seconded.

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

### **C. EXECUTIVE DIRECTOR'S REPORT**

Mr. Strong began his report stating the Mr. Josh McClintock was currently in Washington, D.C. attending the Interstate Council on Water Policy annual roundtable, and therefore, Mr. Strong reviewed the recent state and federal legislative activity. He said the President's budget is out but it will be several months before anything is finalized; the Senate Environment and Public Works Committee has reported out a WRDA (Water Resources Development Act) bill but it will also be months before that is through the process but staff will be working with the Oklahoma Delegation to obtain some of the proposals that are important to Oklahoma. He mentioned the Tri-State effort between Oklahoma, Kansas and Texas concerning reservoir management—flood control and navigation, and water supply, for instance—the effort is for the Corps of Engineers to prioritize water supply problems. He said it is a very lengthy bill and he would be spending time while in Washington next week visiting with the Oklahoma Delegation, in particular, Senator Inhofe's office. He said that 2007 was the last passed and authorized WRDA bill; there have been several drafts since that time trying to deal without including earmarks in the bill.

On the state level, Mr. Strong said this week is the deadline for measures to be out of the opposite house; there are only a few water bills remaining: HB 1923 - emergency drought relief; HB 2193-language to implement State Question 764 (scheduled for the Senate); and SB 965-reconstituting the Board membership.

Mr. Herrmann asked about HB 2193 and Mr. Strong said basically the language regards that the issuance of bonds will be the same as the other financial assistance programs. Mr. Sevenoaks asked about SB 965 regarding the Board membership and Mr. Strong said it uses the 1995 water plan planning regions and transitions as the sitting Board's terms expire implementing the new system which eliminates at-large positions, and members are spread geographically across the state. Ms. Feaver asked if there was any regional planning language in the measure, and Mr. Strong said not as envisioned under the water plan, but there were measures at the beginning of the session regarding regional water plans, but none of them moved forward. This measure takes the nine planning regions that were established in the 1995 water plan report (using county boundaries) and added the Panhandle as well as adding an oil and gas interest.

Mr. Strong continued his report stating he gave a drought presentation on April 9 in the House Chamber with Gary McManus, with the State Climatological Survey. Although the State has received some good rains in some areas, there are still conditions of exceptional-to-extreme drought across half of the state; some areas of eastern Oklahoma are out of the drought category but are still dry, and those areas will bounce back to where they were if rains do not continue. Many more months of runoff rain is needed to get reservoir levels back to acceptable levels. He said the mediation talks continue and as all are aware--and some will attend--there will be oral argument before the U.S. Supreme Court on the Tarrant Case on April 23; both will be covered in the executive session. On the same day is the annual Red River Compact Commission meeting where Julie Cunningham and Jerry Barnett will be representing the OWRB. He said there is no decision from the State Supreme Court on the Arbuckle-Simpson matter.

Mr. Strong noted the public speaking engagements he had participated in recently, including the Oklahoma Wildlife Management Association, and the Cherokee Nation Water Conference. He attended the Western States Water County in Denver, April 3-5; Mr. Smithee attended the Lake Texoma Advisory Committee, April 5; and staff participated in the ORWA meetings in Tulsa, April 10-11. He had participated in several interviews with the Oklahoma OETA and The Gazette regarding drought conditions across the state, and the Bureau of Reclamation will demonstrate a drought planning tool at the Department of Emergency Management. The annual ScienceFest will be held at the Zoo (OWRB sponsors several water education booths), April 18, and Friday, April 19 is the 18<sup>th</sup> Anniversary of the Murrah Building Bombing. He will be speaking to the Agriculture Leadership Class on April 19, the Oklahoma Water & Environment Association meeting on May 1 (focusing on water conservation measures), and the Water Law Symposium on May 10. Mr. Strong noted Public Service Week is May 6, and reminded members that Financial Disclosure Statements are due May 15. The next Board meeting is May 21, at 9:30 a.m. in Oklahoma City.

Mr. Drake asked if the Water for 2060 Council had been appointed; Mr. Strong answered there are two appointments yet to be made. Mr. Herrmann asked if after the legislative session if the Board could be updated on what is happening in regard to implementation as it is the Board's responsibility to make sure it stays on track. He also asked for an update on the financing of the water plan; and Mr. Strong responded the auditor is just about finished and ready to release the report very soon. Mr. Drake added there is no water running in the Chickasaw National Recreation Area so this area is still in exceptional drought conditions. Chairman Drummond asked about the shoreline management plan for Lake Eufaula put out by the Corps of Engineers, and Mr. Strong stated that staff is aware of the plan, although it does not have any responsibility in it.

Mr. Strong concluded his report.

Chairman Drummond stated that Secretary Tom Buchanan was absent today, and he asked Mr. Ed Fite to act as Assistant Secretary.

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

Ms. Amanda Storck presented the budget report as prepared and distributed, stating there is 53% of the total expenditures available with 33% of the fiscal year remaining. She updated the members on the status of resolving the agency's grant and contracts billing project. She said collections are on schedule and she anticipated completing FY 2012 contracts by the second week of May, and then move to FY 2013, which could not be done until the FY 12 components were completed. Mr. Sevenoaks commented about asking for assistance and accountability and Mr. Strong explained that the agency had been in communication with the Office of Management and Enterprise Services staff and director, as well as Secretary of Environment Gary Sherrer, in order to resolve the complexity of the issue. The members were concerned about the agency's ability to financially support the other OWRB programs with 20% less cash flow. Ms. Storck and Mr. Strong responded the agency cash flow is coming from all available funds which are then paid back once the contracts funds become available; staff is only able to bill the contracts when told by OMES, it is not something they can work overtime to get done. Ms. Storck said there has been some time issues with grants closing out and having to have them re-opened, causing extra paperwork, but these issues are getting resolved but not in a timely fashion. There are \$3.6 million in federal funds for 2013, with only months of the fiscal year remaining. Staff has begun budgeting for fiscal year 2014.

Mr. Drake said that OWRB staff is doing an excellent job under very difficult circumstances. Ms. Lambert asked when the matter will be resolved, and Ms. Storck said she had been adamant that both fiscal years be resolved by the end of June 2013. Mr. Herrmann asked about the gap in funds as noted in the report and Ms. Storck answered the gap between the \$3.6 million budgeted and the \$184,000 expended is for FY2013; the carry forward is from FY2012, which was about one million; those funds have been billed but not yet received. Mr. Sevenoaks asked if the agency is able to follow the rules and Ms. Storck said she was also concerned but had received an email there would not be a violation. The members were concerned about whether the billing problems had affected the bond issue, and Mr. Strong answer the bond program had not been affected. Mr. Fite asked if there was a possibility the agency would lose any grants, and Ms. Storck said there is a possibility and she had worked with the divisions to be aware of which grants were at most risk and process those first in a priority order.

Ms. Storck concluded her report. Chairman Drummond commented this is a situation not of staff's doing, he complimented their work to resolve the issues, and requested that the Board be kept updated on the situation. Mr. Sevenoaks asked Mr. Freeman for assurance no bond agreements were being violated, and Mr. Freeman responded no bond agreements were being violated.

## **2. FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Tulsa Metropolitan Utility Authority, Tulsa County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this first item today is a \$9,850,000.00 Clean Water State Revolving Fund Loan request by the Tulsa Metropolitan Utility Authority. They are requesting the loan for nitrification

improvements at the Northside Wastewater Treatment Plant, odor control improvements at the Southside Wastewater Treatment Plant, aeration basin study and improvements at the Haikey Creek Wastewater Treatment Plant, and rehabilitation of Mingo, Coal and Flatrock flow equalization basin facilities. Mr. Freeman noted provisions of the loan agreement; he said Tulsa has been an excellent loan customer of the Board's for 23 years, and was the first borrower from the Clean Water SRF program. Tulsa MUA has 25 outstanding loans with the OWRB for a total balance of \$172 million. The TMUA debt-coverage ratio stands at 1.45-times. Staff recommended approval of the loan application.

Mr. Bob Shelton was present representing the Tulsa Metropolitan Utility Authority.

Mr. Herrmann moved to approve the Clean Water SRF loan application to the Tulsa Metropolitan Utility Authority, and Ms. Lambert seconded.

AYE: Fite, Feaver, Herrmann, Drake, Lambert, Drummond

NAY: None

ABSTAIN: Sevenoaks

ABSENT: Buchanan, Hitch

B. Report on Recent Presentations and Discussions with the Board Finance Committee, Regarding Proposed 2013 Drinking Water State Revolving Fund Bond Issue, Proposed Refunding of Series 2003 Drinking Water State Revolving Fund Bonds and Other Bonds Issued by the Board. Mr. Freeman stated that he and Ms. Anne Burger Entrekin, the Board's Financial Advisor with First Southwest, will present an update to the Board regarding the new money Drinking Water State Revolving Fund Bond Issue, and Proposed Refunding 2003 Drinking Water State Revolving Fund Bond Issue.

Mr. Freeman said following the report, the next two agenda items regard the resolution to issue new money, and the resolution to issue refunding bonds. He explained that under the State Revolving Fund Program, virtually all of the funds that are available have been drawn by borrowers. Usually, it is at this time the staff would approach the Board to execute a new bond issuance and the resolution on the agenda is for an issue of up to \$75 million dollars; the issue itself will probably be in the \$40 million dollar range, however, staff prefers to have a resolution that allows it to be added onto if able to do so. He said after the Tax Act of 2005 (further consideration will be in the report) several reimbursements have occurred to be in compliance with the Tax Act. Mr. Freeman detailed the timeline stating if the Board approved the \$75 million issue today, the Oklahoma Bond Oversight Council will review the issue on next Thursday (April 23), and that he and Ms. Entrekin have met with the State Bond Advisor's office about these transactions. The week of April 29 will be the rating agencies calls—Moody's, Fitch, and Standard & Poor's--to go through the rating models, and staff will then schedule the proposed sale of the bonds May 13-14, with the transaction closed by the end of May. He assumed a AAA rating will be maintained by all three agencies.

Mr. Freeman stated that regarding the refinancing of the 2003 DWSRF bond issue, staff will visit today about bond indenture requirements, TIPRA requirements which are affecting how the issue will be executed (from taxable and tax exempt points of view), and to visit about the continuing varying interest rate and underlying borrower considerations because out of the 2003 bond issue. There are approximately 48 borrowers who are either funded, partially funded, or are pledged to that bond issue and should be taken into account. He said the original 2003 bond issue was a new money bond issue done under the reserve fund model (utilized by the Board at that time) versus the cash flow model (used by the Board now), and was originally an issue of \$122.9 million dollars. He said in structuring that bond issue, the first call date is October 1, 2013, and it also makes sense to look at refunding those bonds. There is a remaining

callable amount of \$81.9 million with the original coupons at 3.9%-5.25% and today's interest rates are dramatically better. Mr. Freeman mentioned that bond issue was done under a reserve model and in 2003 the investment made with AEGON earned 4.8%, and he will visit about the implications that need to be taken into account when looking at refunding the bond issue both from a cash flow point of view as well as breaking the investment, as it cannot remain with AEGON.

Mr. Freeman continued that the bond indenture specifically stated the amount of the reserve fund requirement be equal to a defined percent of the bonds outstanding: 2003 DWSRF account reserve requirement is 36.61%, which is required because the agency subsidizes the interest rate on the SRF programs by 30%, which comes from interest earnings from the reserve account. Therefore, refunding the principal amount of the bonds causes an automatic reduction to the reserve fund and the corresponding guaranteed investment agreement, and then cash flow comes back in to make new loans.

Regarding TIPRA (Tax Increase Prevention and Reconciliation Act) requirements that went into effect in 2006, Mr. Freeman said that unfortunately those requirements are retroactive and effected what the Board did in 2003 meaning the spend-down requirements would have had to have been met in 2003 -- the Board could not have predicted what the law would be in 2006 but has now complied. The 2006 laws are more stringent which is why staff will propose a refunding with a taxable bond issue and then will not have the TIPRA problems but will still be able to provide significant savings, which will be demonstrated.

Mr. Herrmann interjected that the TIPRA requirements apply to the loans made in 2003 (bond issue) and if the Board did not meet the spend-down requirements, it cannot issue tax-exempt bonds. Mr. Sevenoaks asked if those loans cannot be "grandfathered" and Mr. Freeman responded, no, it is an "unintended consequence," but with the interest environment today, it makes sense to make a refunding on a taxable basis. Mr. Herrmann reminded the members that staff made a presentation a few months ago about this idea so that if it became necessary, it would not be a surprise.

Ms. Anne Burger Entrekin addressed the members and responded to Mr. Sevenoaks' question that the Board's tax counsel, Hal Flanagan, who reviewed the language in 2006 and indicated there was a retroactive impact and contacted the Service (IRS) which confirmed that it was unintended, but is a requirement; and this was identified at the time TIPRA went into effect. She said other pooled programs, because of the retroactive impact, have utilized taxable bond issues in order to affect refunding.

Mr. Herrmann stated, though, that this strictly applies to the refunding question; there was nothing non-compliant relative to the bonds issued in 2003, the only question is the extent to which you can refinance using new issue bonds. Ms. Entrekin answered that is correct, regarding the bond issue of 2003, the Board met all the requirements of state and federal tax laws at that time, the only reason this is an impact at this point is because the Board is looking to go back and refinance the 2003 bonds.

Ms. Entrekin presented the interest rate environment impact stating there are many factors that will influence the analysis related to the refunding. Right now, it is an historically low environment and a compressed yield curve relating to various credit spreads and the tax exempt and taxable markets. She highlighted what staff had calculated the difference to be between the tax exempt and taxable rate at approximately 17 basis points, and she referred to the chart on page 8 of the distributed report. She discussed with the members about projecting interest rates to 2043 and explained that the longer the Board waits, the more opportunity for changes in the interest rate environment and the spreads between the markets. She said the call date on the bonds is October 1, 2013, and if the bonds are refunded prior to that date, the Board must fund an escrow to pay principal and interest on the refunded bonds until that date; so, the

longer the escrow is funded, the Board accumulates negative arbitrage (which she defined) saying that if the Board closes the transaction on July 1—before the call date of October 1—the negative arbitrage for the transaction would be \$380,000. Mr. Sevenoaks asked if there is positive arbitrage at some point, and Ms. Entrekin answered there could be opportunity to negate the impact to the negative arbitrage; there is a point between July 1 and October 1 and the interest rate environment remains the same, when every dollar of negative arbitrage shifts to a dollar of savings so staff will need to be very mindful when looking at the timing; also, the interest rate on the GIC earnings will be a significantly lower interest rate than the 4.8% earned at AEGON. Therefore, regarding the timing considerations, Ms. Entrekin stated staff recommended a refunding of the 2003 bonds to begin the spring of 2013, which is on the agenda for consideration today, and closing the bond issue on or about July 1, 2013. By waiting until the call date of October 1, 2013, the savings will have a lower negative arbitrage and lower reserve fund loss by keeping the investment with AEGON an additional three months.

Mr. Sevenoaks asked about the call date, and Ms. Entrekin said the Board has sole discretion as to whether the bonds are called; however, after October 1 there is potential for greater interest rate risk which can affect potential savings. She detailed the difference between a July 1 closing and an October 1 closing which effectively is a present value savings of \$830,000.00; however, she stated the Board can affect the refunding any time between the two dates. She recommended the Board move forward with a timetable of events and be prepared to close July 1, but as the date approaches, watch the market and interest rates, and to the extent there appears to be relative stability, actually wait until closer to October to do the transaction. Ms. Entrekin discussed the comparisons as shown on page ten of the report noting the net present value savings of \$6,730,000 by July 1 and \$7,560,000 on October 1 for a difference of \$830,000.00, assuming the market remains stable during that time. She also discussed the project debt service saving on the front end versus the back end considering the interest earnings from the existing GIC and once the GIC is terminated and replaced with treasuries.

There was discussion with the members and Ms. Entrekin about the reserve fund model versus the cash flow model, that rating agencies will look at the Board's program as an overall hybrid program, that most of the Board's loans have a 20-year maturity, the size of the reserve in order to subsidize the rates, and that most programs have migrated from a reserve to a cash flow structure. They discussed that it is the Board's policy decision as to how to apply the savings from the refunding – keep the debt service savings when refunding the bonds impacts the borrowers by creating additional loan capacity for future borrowers, and shared savings with the borrowers could net a 3% saving.

Ms. Entrekin continued with a discussion of the historical spreads between tax exempt bonds and taxable bonds and that staff must be mindful as they evaluate the timing of the refunding, of the absolute rates as well as the ratio between tax-exempt and taxable bonds; the interest rates could stay the same but if the ratio changes, the amount of savings to the Board could be significantly impacted. Mr. Sevenoaks asked if it is difficult to sell taxable bonds and Ms. Entrekin answered there is interest in taxable buyers in municipal bonds, there are investors with an interest in taxable bonds, and that most municipal bonds are tax-free. Mr. Herrmann mentioned "Build America Bonds" have been available for some time. Ms. Lambert asked what happened if the Board does not call the bonds, and Ms. Entrekin said it will continue to keep the bond purchase agreement with AEGON and keep the same interest rate on the bonds, but it cannot be predicted what the interest rate will be between now and July 1, and not between now and October 1. If the bonds are kept outstanding, the Board will forgo between \$6.7 and \$7.5 million in present value savings. Ms. Entrekin said that net present value savings on the refunding bonds is over 16% and that gets reduced when taking the next step in the analysis when reducing the reserve fund earning down to 8-9% -- after the effect of the reduction on the

interest earnings on the reserve fund and net of the costs, and the cost of amortizing 48 loans, Mr. Strong added. Mr. Sevenoaks stated that if the loans are not redone, there will be more funds available to loan, and Ms. Entrekin said this is the total net present savings and it would be the Board's policy to make a determination if the total net present value savings would remain with the OWRB, or if the Board makes a decision to share those savings. This number does not show savings allocation.

Mr. Freeman summarized stating that staff believed it prudent, depending upon the interest rate environment, to close by July 1, or if the interest rate market has not changed, or moves away and to close earlier, or stays about the same and hold off until October. He said this transaction is much more complicated than other bond issue transactions and will take longer and staff needs to get started as early as possible in order to take advantage of the market. Mr. Sevenoaks said if the market goes away, the Board won't realize the same savings, so is there a point when it would decide not to do it. Staff responded, yes there is a point, it would have to be a dramatic change, but everything needed to be in place. Ms. Entrekin said if the net present value were at 2.5-3% they would recommend delaying—if the cost of issuance is greater than the savings then it won't be done. Ms. Lambert asked for an update during the timeframe, and Mr. Freeman said staff will be looking at it on a weekly basis and will be ready to close by July 1. The staff and members talked about when to be ready, the Board's discussion about the savings, that the Finance Committee will review and to be ready when the Board decides to "go" looking at the net present value savings. Mr. Strong noted the resolution on the agenda today does not ask the Board to make that decision, but authorizes the refunding. Mr. Drake added that there is probably a penalty to go before July 1, but what staff is asking is very reasonable--the Board should be ready July 1 and hopefully, be able to wait until October 1.

Mr. Freeman said the action today would be to authorize the issuance of under item 2.D., it will then go to the Bond Oversight Council, and staff will look at the market at the May Board meeting. Item 2.C. is the authorization of issuance of new revenue bonds, and item 2.D. is the authorization of revenue refunding bonds.

C. Resolution Authorizing the Issuance of Oklahoma Water Resources Board Revolving Fund Revenue Bonds, Series 2013A in the Aggregate Principal Amount not to Exceed \$75,000,000; Approving and Authorizing Execution of a Bond Indenture Providing for the Issuance of the Bonds; Providing for the Sale and Delivery of the Bonds and Authorizing a Certificate of Determination; Waiving Competitive Bidding on the Bonds and Authorizing the Sale Thereof by Negotiation Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement With Respect to the Bonds; as may be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval.

Chairman Drummond asked if there were any questions by members regarding agenda item 2.C. Mr. Herrmann said the resolution authorizes \$75,000,000 but asked if only \$40 million will be used. He said considering the backlog of work, is that amount too small, and Mr. Freeman stated the amount is based upon what the Board is able to repay, so it is based upon capacity not demand. Mr. Strong added the Drinking Water SRF is the fund that the Board has reached the capacity on, and Mr. Freeman said staff would only be able to work through about \$37 million with the Department of Environmental Staff.

Mr. Herrmann moved approval of agenda item 2.C. authorizing issuance of new money revenue bonds up to \$75 million. Mr. Fite seconded. There were no other questions or comments, and Chairman Drummond called for the vote.

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

ABSTAIN: None  
ABSENT: Buchanan, Hitch

D. Resolution Authorizing the Issuance of Oklahoma Water Resources Board Revolving Fund Revenue Refunding Bonds, Series 2013B in the Aggregate Principal Amount not to Exceed \$100,000,000; Approving and Authorizing Execution of a Bond Indenture Providing for the Issuance of the Bonds; Providing for the Sale and Delivery of the Bonds and Authorizing a Certificate of Determination; Waiving Competitive Bidding on the Bonds and Authorizing the Sale Thereof by Negotiation Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement With Respect to the Bonds; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as may be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval.

Mr. Drake thanked the staff for their work and moved approval of the resolution authorizing revenue refunding bonds not to exceed \$100,000,000. Ms. Lambert seconded.

Mr. Herrmann suggested an amendment the sharing of savings between the OWRB and the borrower would be responded to separately in May.

The members and Mr. Strong discussed that issue is separate from the resolution; and for clarification all agreed there is an understanding the matter will be addressed separately.

Mr. Drake said he would accept a clarification, and not an amendment.

There being no further questions or clarifications, Chairman Drummond called for the vote.

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

### 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.

Chairman Drummond stated no items were requested to be transferred 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 if there were no amendments or questions he would entertain a motion on the Summary Disposition Agenda, as presented. There were no amendments.

Ms. Lambert moved to approve the Summary Disposition items, and Mr. Drake seconded.

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

(\*Mr. Sevenoaks stepped out of the meeting room during the vote on the Summary Disposition Agenda items. He returned prior to considering item 6.A.)

The following items were approved:

C. Financial Assistance Division Items:

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

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

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

1. Intergovernmental Agreement with Oklahoma State University Department of Zoology for Probabilistic Monitoring of Select Oklahoma Waterbodies.
2. Professional Services Engagement Letter with John M. Arledge & Associates, P.C. to provide auditing services related to the Board's financial assistance programs.
3. Third Agreement Amendment with the Office of the Secretary of the Environment for the Clean Water Act FY 2011 §106 Water Pollution Control Program - Monitoring, CA # I-00F43201.

E. Applications for Temporary Permits to Use Groundwater:

1. Don Muegge, Grant County, #2012-511
2. Robbie Reimer, Major County, #2012-689

F. Applications to Amend Temporary Permits to Use Groundwater:

1. Bryan & Lavonne Kroeker, Garfield County, #1996-545
2. Jerry Harvey, Todd Harvey and Scott Harvey, Caddo County, #2005-511

G. Applications for Regular Permits to Use Groundwater:

1. Michael J. & Kathy Lee Martin, Greer County, #2011-583
2. Bryan Kroeker Revocable Trust, Garfield County, #2012-549
3. Jeff & Billie Terrell, Canadian County, #2013-501
4. Thomas W. Bergner, Texas County, #2013-512
5. Bryan County RWS&SWMD No. 2, Bryan County, #2013-515
6. Allen R. England, Major County, #2013-518
7. T V Arnold, LP, Texas County, #2013-523

H. Applications to Amend Regular Permits to Use Groundwater:

None

- I. Applications for Regular Permits to Use Stream Water:  
 1. Arcadia Farm, LLC c/o Commercial Law Group, Oklahoma County, #2012-042
- J. Applications to Amend Regular Permits to Use Stream Water:  
 None
- K. Well Driller and Pump Installer Licensing:  
 1. New Licenses, Accompanying Operator Certificates and Activities:  
 a. Licensee: West OK Water Systems DPC-0873  
 Operator: Bryan Andrew Bowers OP-1970  
 Activities: Water well pumps  
 b. Licensee: JW's Water Well Service DPC-0875  
 Operator: James Wesley Eldridge OP-1972  
 Activities: Pump installation  
 2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:  
 a. Licensee: Leonard Water Services. DPC-0710  
 Operator: Taylor E. Mobley OP-1969  
 Activities: Groundwater wells, groundwater test holes and observation wells  
 Water well pumps  
 b. Licensee: Bingham Resources, Inc. DPC-0567  
 Operator: Brandon J. Parks OP-1971  
 Activities: Monitoring wells and geotechnical borings
- L. Dam and Reservoir Construction:  
 None
- M. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:  
 1. Oklahoma Department of Transportation, Bryan County, #FP-13-05  
 2. Oklahoma Department of Transportation, Bryan County, #FP-13-06  
 3. Northeastern Oklahoma A & M College (NEO), Ottawa County, #FP-13-09
- N. Applications for Accreditation of Floodplain Administrators:  
 Names of floodplain administrators to be accredited and their associated communities are individually set out in the April 16, 2013 packet of Board materials.

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

- A. No items. There were no items for the Board's consideration.

**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 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 to the Special Consideration Agenda for the Board's consideration.

**Chairman Drummond called for a break at 11:07 a.m.**

## **6. 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.*

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.

Chairman Drummond called the meeting back to order at 11:17 p.m. and read the statement above regarding the purpose of the Board's proposed executive session.

Acting General Counsel Jerry Barnett stated that it is his advice that disclosure of the discussion of the litigation as listed on the agenda will seriously impair the ability of the Board and State to conduct the litigation in the present and proposed litigation in the public interest.

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.

Mr. Fite moved the Board enter into Executive Session, and Mr. Sevenoaks seconded.  
AYE: Fite, Feaver, Sevenoaks, Herrmann, Drake, Lambert, Drummond  
NAY: None  
ABSTAIN: None  
ABSENT: Buchanan, Hitch

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

Chairman Drummond designated Executive Secretary Mary Schooley to keep written minutes of the Executive Session.

C. Executive Session, if authorized.

The Board entered Executive Session at 11:20 a.m. on Tuesday, April 16, 2013.

Return to open meeting and possible vote or action on any matter discussed in the Executive Session.

Mr. Fite moved to return to Regular Session, and Ms. Lambert seconded.

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

The Board returned to Regular Session at 11:50 a.m. on Tuesday, April 16, 2013.

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

The Board did not vote on any matter discussed in Executive Session.

**8. NEW BUSINESS**

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

There were no New Business items for consideration.

**9. ADJOURNMENT**

There being no further business, Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 11:51 a.m. on Tuesday, April 16, 2013.

**OKLAHOMA WATER RESOURCES BOARD**

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

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

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

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

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

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

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

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

***ATTEST:***

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