

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
November 19, 2013

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:30 a.m., on November 19, 2013, in the Second Floor Board meeting room at 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 November 15, 2013, at 4:30 p.m. at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, and provided on the agency's website.

Chairman Herrmann welcomed everyone to the meeting, and asked for the roll call of members.

A. Roll Call

Board Members Present

Rudy Herrmann, Chairman
Tom Buchanan, Vice Chairman
Linda Lambert, Secretary
Bob Drake
Marilyn Feaver
Ed Fite
Jason Hitch

Board Members Absent

Ford Drummond
Richard Sevenoaks

Staff Members Present

J.D. Strong, Executive Director
Jerry Barnett, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Julie Cunningham, Chief, Planning and Management Division
Derek Smithee, Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

Others Present

John Rehring, Carolla Engineers, Denver, CO
Thomas Lazanski, OG&E, Oklahoma City, OK
Pennie Embry, Save Our Water, Eufaula, OK
Chris Gander, BOSCO, Oklahoma City, OK

LeeAnna Covington, OK Farm Bureau, Oklahoma City, OK
Jim Barnett, Sparks and Baumann, Oklahoma City, OK
Dean Couch, Oklahoma City, OK
Krystina Phillips, Citizens for Protection of the Arbuckle Simpson Aquifer (CPASA)
Chris Phillips, The Chickasaw Nation, Ada, OK
Mike Mathis, Oklahoma City, OK
Charlie Swinton, BancFirst, Oklahoma City, OK
Tony Rivera, City of El Reno, OK
J.C. Moser, Town of Beaver, OK
Jeff Baumann, Walters, OK
Mike Wofford, TXI, Oklahoma City, OK
Josh McClintock, CPASA, Edmond, OK
Amy Ford, CPASA, Durant, OK
John Collison, OK Farm Bureau, Oklahoma City, OK
Luke Martin, Ada, OK
Alan Woodard, Department of Interior, Tulsa, OK
Eric Swanson, The Ada News, Ada, OK
Carolyn & John Sparks, Sulphur, OK
Michael Taylor, DEQ/DWSRF, Oklahoma City, OK
Lisa Impson, CNDC, Ada, OK
Scott A. Butcher, OKAA, OFBLF, Pontotoc County, OFB, Cattlemens' Association
Henry A. Meyer, Oklahoma City, OK
Charlette Hearne, Oklahomans for Responsible Water Policy, Broken Bow, OK
Russell Doughty, Oklahomans for Responsible Water Policy, Broken Bow, OK

B. APPROVAL OF MINUTES

Chairman Herrmann said the draft minutes of the October 23, 2013 Regular Meeting had been distributed.

Ms. Lambert moved to approve the minutes of the October 23, 2013, meeting and Mr. Drake seconded.

Chairman Herrmann called for the vote unless there were questions or corrections; there were none.

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

C. EXECUTIVE DIRECTOR'S REPORT

Mr. Strong began his report congratulating OWRB Vice Chairman Tom Buchanan on his election as Oklahoma Farm Bureau President. Legislatively, Mr. Strong reported there is not much activity at the State Capitol; however, an interim study on employee pay is being held this morning, and Ms. Amanda Storck is attending representing the OWRB. He said the OWRB's new External Affairs Director is Lauren Sturgeon, taking Josh McClintock's place. Ms. Sturgeon comes from Washington, D.C., working with Congressman Lucas and the House Agriculture staff, bringing Congressional experience. He said the WRDA bill is still moving and there is a House version and there is a Senate version, which is not the same sending the

measures to conference committee--Senator Inhofe and Congressman Mullin have been appointed to that committee.

Mr. Strong said that mediation and technical committee meetings continue regarding the Chickasaw/Choctaw litigation and there is opportunity for an executive session later in the meeting today. The Emergency Drought Commission, created during the Legislative Session, has now met three times and has received several applications from southwest Oklahoma for the emergency drought grant funding. The Commission authorized \$900,000.00 for the OWRB for assistance to these entities. He explained the legislature appropriated \$3 million, and that the Governor declared a drought emergency a few months ago in five counties to be eligible for the grant funding. The Commission accepted applications totaling \$8 million, demonstrating there is more need than there is funding. The Oklahoma Conservation Commission has been working with the Conservation Districts in those counties to evaluate projects for drought relief for producers and landowners, and the OWRB staff will be looking at applications by public water suppliers.

Mr. Strong said the Scenic Rivers Joint Study Committee, on which Mr. Derek Smithee serves, met in Tulsa on October 29 with a second meeting scheduled December 2 to implement the Second Statement of Joint Principles and Actions signed by the States of Oklahoma and Arkansas. He spoke at the Rural Economic Outlook Conference at Oklahoma State University on November 1, and spoke to the Council on Infrastructure Financing Agencies conference in Minneapolis. The OWRB Financial Assistance Program has received Standard and Poor's rating back to AAA—the programs were at AA rating due to financing capacity issues but State Question 764, along with other factors, addressed those issues getting the program back to AAA. An upgrade in rating translates to lower interest rates and savings to water providers and ultimately citizens across the state.

Mr. Strong continued his report complimenting the OWRB staff on reaching its goal of \$9,000 in the State Charitable Contributions Campaign; OWRB GIS Specialist Mike Sughru left the agency for employment at Devon Energy; Water for 2060 Council meets following the Board meeting today focusing on municipal and rural water providers and water conservation and efficiency incentives; he noted the proposed OWRB 2014 meeting schedule which will be the third Tuesday of each month; Water Day at the Capitol is scheduled for May 6, however.

Mr. Strong concluded his report noting the next meeting of the Board will be Tuesday, December 17, 2013.

Chairman Herrmann noted at 9:35 a.m. that Mr. Hitch had joined the meeting.

D. Monthly Budget Report

Mr. Strong presented the budget report on behalf of Ms. Amanda Storck who was attending a legislative committee meeting at the State Capitol. He said a FY 2013 year-end report will be presented at the next month's meeting. He referred to the written report provided stating there is 67% of fiscal year remaining, with 80% of funding available as budgeted.

There were no questions by the members, and Mr. Strong concluded the report.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Owasso Public Works Authority, Tulsa County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is a \$3,990,000.00 loan request by the Owasso Public Works Authority to install 12,000 feet of 30” wastewater line. Mr. Freeman stated the loan will be funded through the Board’s Clean Water State Revolving Fund Loan Program, and he noted provisions of the loan agreement. He said Owasso had been a long time loan customer of the Board’s, and currently has 13 loans outstanding for an approximate balance of \$23.6 million. He said that over the last ten years the water connections have increased in excess of 30 percent, and the debt coverage ratio stands at 2.04-times. Staff recommended approval of the loan request.

Owasso Assistant City Manager Sherry Bishop was present in support of the loan application. Mr. Hitch asked about the relationship between the Bailey Ranch Golf Course and the city, and Ms. Bishop explained the debt on the Bailey Ranch Golf Course was refinanced about 15 years ago and as an obligation of the Owasso PWA, combined the finances of the two entities; the golf course is owned and operated by the City of Owasso.

There were no other questions.

Mr. Fite moved to approve the Clean Water SRF loan application to the Owasso Public Works Authority, and Mr. Hitch seconded.

AYE: Feaver, Buchanan, Fite, Drake, Lambert, Hitch, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Drummond, Sevenoaks

B. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for El Reno Municipal Authority, Canadian County. Recommended for Approval. Mr. Freeman stated to the members this item is a \$16,500,000.00 loan request by the El Reno Municipal Authority in Canadian County. The Authority has requested the loan to construct a new, 2-MGD, SBR sewer treatment plant, and the loan will be funded through the Clean Water State Revolving Fund program. Mr. Freeman noted provisions of the loan agreement. He said El Reno has been a long-time loan customer of the Board’s and has six loans outstanding with a combined principal balance of \$3.8 million dollars. El Reno’s sewer connections have increased by 7% over the past 10 years, and its debt coverage ratio is approximately 2.4-times. Staff recommended approval of the loan request.

Mr. Tony Rivera, City Manager, was present in support of the loan application.

There were no questions, and Mr. Drake moved approval of the loan application of the El Reno Municipal Authority, and Ms. Feaver seconded. Chairman Herrmann called for the vote.

AYE: Feaver, Buchanan, Fite, Drake, Lambert, Hitch, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Drummond, Sevenoaks

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board’s staff, or any other person attending this meeting, may be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion

and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items.

There were no requests to transfer items to the Special Consideration Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items and Approval of Items listed.

Chairman Herrmann asked if there are amendments to the Summary Disposition Agenda. There were no changes to the Summary Disposition Agenda, and no questions by the members.

Ms. Lambert moved to approve the Summary Disposition agenda, and Mr. Hitch seconded. Chairman Herrmann called for the vote.

AYE: Feaver, Buchanan, Fite, Drake, Lambert, Hitch, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Drummond, Sevenoaks

The following items were approved:

C. Consideration of and Possible Action on 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.

None.

E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:

1. Bates Bros. Farms, Jackson County, #2013-544
2. United Farm Properties, Inc., Muskogee County, #2013-611
3. Love's Travel Stops & Country Stores, Oklahoma County, #2013-613
4. Great Plains Technology Center, Comanche County, #2013-618
5. J. B. & Jane Rippetoe, Beckham County, #2013-622

F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:

None

G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:

1. Clear Creek Ranch Partnership, Beaver County, #2013-575
2. Jackie & Melba Cowley, Greer County, #2013-576
3. Kevin O'Neal, Tillman County, #2013-598
4. Town of Beaver, Beaver County, #2013-604
5. Teryl & Donna Rorabaugh, Beaver County, #2013-629

H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:

1. V & R Fischer Farms, L.L.C., Tillman County, #1980-699

- I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
None

- J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
 - 1. Hauani Creek Ranch, L.L.C., Marshall County, #2013-030
 - 2. Tulsa County Parks – South Lakes Golf Course and Board of County Commissioners of Tulsa County, Oklahoma, Tulsa County, #2013-031
 - 3. Stephen & Tammy Durham, Grady County, #2013-032

- K. Consideration of and Possible Action on Dam and Reservoir Construction:
 - 1. Beecher Dam, Kingfisher County, #OK30459

- L. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:
 - 1. New Operators to Existing Permits
 - a. Licensee: York’s Pump Service DPC-0428
 - 1. Operator: Alvis J. York, Sr. OP-0898
 - b. Licensee: Able Environmental Drilling, LLC DPC-0746
 - 1. Operator: Roy Sylvester OP-2013
 - c. Licensee: Bobby C. Karlin DPC-0256
 - 1. Operator: Bernard Marshall OP-2016
 - d. License: Layne Christensen DPC-0123
 - 1. Operator: Todd List OP-2017
 - e. License: Oklahoma Environmental Services DPC-0363
 - 1. Operator: Douglas Wilson OP-2018

- M. Consideration of and Possible Action on Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:
 - 1. Oklahoma Department of Transportation, Sequoyah County, #FP-13-27
 - 2. Oklahoma Department of Transportation, Washington County, #FP-13-28
 - 3. Oklahoma Department of Transportation, Washington County, #FP-13-29
 - 4. Oklahoma Department of Transportation, Carter County, #FP-13-30
 - 5. Oklahoma Department of Transportation, Carter County, #FP-13-31
 - 6. Oklahoma Department of Transportation, Carter County, #FP-13-32

- N. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators: Names of floodplain administrators to be accredited and their associated communities are individually set out in the November 19, 2013 packet of Board materials.

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

- A. No items. There were no questions or items of discussion by the members.

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. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Application for Regular Groundwater Permit No. 2013-542, C. Jeff & Shelly D. Baumann, Cotton County, Recommended for Approval:

1. Summary – Ms. Julie Cunningham, Chief, Planning and Management Division, stated to the members that this item is an application for a regular groundwater permit by Jeff and Shelly Baumann in Cotton County. She said the application requests to withdraw 795 acre-feet of groundwater for use for irrigation and public water supply from four existing wells located on 795 acres of land in Cotton County. She said the protestants did not attend the meeting today, but had concerns about potential effects to the water beneath their land. However, she said the proposed order acknowledges the protestant’s understandable concerns that water beneath their land could be affected by other uses of water from the same basin, but evidence did not support a finding this proposed use would interfere, or impermissibly or unlawfully draw down the basin. Ms. Cunningham stated the record showed the Baumann’s complied with the Oklahoma Groundwater Law, and staff recommended approval of the proposed finding of fact, conclusions of law, and Board order.

2. Discussion and presentation by parties. Mr. Jim Barnett, representing the applicant, stated he is well satisfied with staff recommendation and asked the Board to approve.

There were no representatives of the protestants in attendance.

3. Possible Executive Session; and 4. Return to open meeting and possible vote or action on any matter discussed in the Executive Session, if authorized. The Board did not vote to enter an executive session.

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

There were no questions by members and Chairman Herrmann stated he would entertain a motion. Mr. Buchanan moved to approve regular groundwater permit #2013-542, and Ms. Lambert seconded.

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

B. Consideration of and Possible Action on Application by Carolyn and John Sparks for Reconsideration of Board Order establishing final determination of maximum annual yield for the Arbuckle-Simpson Groundwater Basin underlying parts of Murray, Pontotoc, Johnston, Garvin, Coal and Carter Counties, Recommended for Denial:

1. Summary – Mr. Jerry Barnett, OWRB General Counsel, stated to the members that this is an application for reconsideration by Carolyn and John Sparks and regards the Board order approved by the Board at the October Board meeting determining the maximum annual yield

(MAY) for the Arbuckle Simpson Groundwater Basin. He said that these applications for reconsideration are somewhat unusual but is allowed to the parties in a proceeding under the Administrative Procedures Act (APA), and provides an option to any party that is aggrieved by a final decision of the agency to ask the agency to reconsider, rehear, or reopen that matter upon certain grounds that are set out in the statute. Mr. Jerry Barnett stated that the Sparks were parties to the MAY, and the application was filed within the time required. A prepared memorandum to the members was provided earlier and included in the meeting materials which summarize the application (which was also included in the packet). Mr. Barnett said that staff has evaluated the application and while several of the grounds in the statute are set forth, it is staff's view that these grounds are not satisfied in this case and there is not good reason to reconsider the matter, and staff recommended the application for reconsideration be denied.

Chairman Herrmann instructed that he would accept questions by members, followed by comments by the applicant and then comments by the protestants, allowing five minutes each.

Ms. Lambert asked Mr. Barnett to explain Senate Bill 288 in regard to the takings issue, and he responded the 2003 legislation provided additional requirements for the Board to consider in determining the MAY for a sensitive sole source groundwater basin. Among other things, those requirements are that the Board in determining any MAY does not reduce the flow of springs and streams emanating from a sole source sensitive groundwater basin; and, any regular permit that is issued later will not degrade or interfere with springs or streams emanating from the basin. Mr. Barnett stated staff believed the order approved last month satisfies those requirements, carries out the law, and makes a good decision under all the factors that are imposed by the law on the Board's decision. The statute does not expressly address the takings argument, but when the law was challenged which resulted in a Supreme Court (SC) ruling – Jacobs Ranch case in 2006 – the SC ruled that the law itself does not constitute an impermissible or unconstitutional taking. He said that in the proceeding for this MAY, there were several protestants who raised that argument claiming the law being implemented will result in a takings; the hearing examiner considered that argument and rejected the argument in the proposed order the Board approved. Mr. Barnett stated that staff views that is the correct decision and believes the law does not result in taking and are prepared to defend that result on appeal, in part because the Court has held that administrative agencies cannot determine constitutionality of statute. Staff does believe the implementation of the law is satisfactory and is constitutional, and does not see the argument that the result will be in takings as valid, and submit that reconsideration should be denied.

Chairman Herrmann invited those who wished to speak on behalf of the application for reconsideration to address the Board.

2. Discussion and presentation by parties – Mr. Jim Barnett, representing John and Carolyn Sparks who are landowners over the Arbuckle Simpson Aquifer (ASA) said this is the last chance to put a face on the folks that are the true losers in the Arbuckle Simpson matter, which is the landowners; and, it's the last opportunity for the Board to appreciate the plight of the landowners and what has been taken from them. He said the Sparks own 1,596 acres overlying the ASA and has been in Carolyn Sparks' family since statehood. He explained the Sparks had for some time planned to have a pecan orchard and before the passing of SB 288, in 2002 had made application for a groundwater permit to irrigate the crop applying for the full two-acre feet per acre. After a long and serious hearing in 2004 the Board approved a permit for 1,800 a.f. rather than the 3,100 a.f. Chairman Herrmann noted the permit was a temporary permit, and Mr. Jim Barnett responded that is correct, but even the two acre-foot number is arbitrary as the reality is that under Title 60, Section 60, the landowner is entitled to all of the water under their land. He explained the original application for 3,100 a.f. was anticipated to irrigate 800 acres of pecan trees, the approved 1,800 a.f. permit would irrigate about 400 acres, and by the time SB 288 was

passed, it was clear it would be foolish to go forward with the orchard, which proved wise since the permit has been reduced to 319 a.f. which would irrigate 80 acres of pecans, rendering 1,510 acres of land unusable because it could not be used because of inadequate water. This is the practical result of what the Board has approved regarding the MAY, at least as it pertains to the Sparks.

Mr. Jim Barnett continued that the rationale that the hearing examiner and staff have relied on for determining it can ignore the literal language of the statute that the “black letter of the law” is that you can’t issue a permit that will reduce the natural flow; the hearing examiner acknowledged that using any water out of the aquifer is going to reduce that flow, and the pretext for saying that we don’t have to abide by the “black letter of the law” is that it is only reasonable to do it differently if the groundwater law is based on reasonableness. He argued the order actually turned the reasonableness argument on its head; there is nothing reasonable about taking 90% of the Sparks’s water and give it to the downstream users. He said the record will reflect the US Fish and Wildlife Service (USFWS) has a pending permit on Pennington Creek for all the water, so in effect what the order accomplishes takes the water out of the private property of the Sparks’s, transfers back to the state into the public domain where it is available for a permit for the USFWS to take out of the stream without any restrictions—basically taking water from his clients and giving it to someone else, and that is the essence of takings; a physical taking which is not what he believed the Supreme Court to consider in the Jacob Ranch case.

Chairman Herrmann indicated Mr. Barnett’s time was up, and he asked for additional time to complete his remarks. Chairman Herrmann allowed one additional minute.

Mr. Jim Barnett cited the law of SB 288 (codified 82 O.S. 1020.9a. and 9.b. regarding that the MAY has to ensure it will not reduce the natural of water from springs and streams and he suggested the Board abide by what the Legislature has told it to do, don’t give any permits for any amounts that will reduce flow. He said that under those circumstances, there is no question but that his clients will have to be compensated for the taking of their water; the idea that it is reasonable to take away most of their water but not all so that there is no claim for takings is not fair and not appropriate.

There were no questions by members.

Chairman Herrmann allowed seven minutes for persons wishing to speak against the application for reconsideration.

Ms. Krystina Phillips, representing the Citizens for the Protection of the Arbuckle Simpson Aquifer (CPASA), stated to members that they supported the denial of the application for reconsideration. She stated she would add one other point, SB 288 directed the OWRB to conduct the hydrologic study of the aquifer so you (the Board) could know how much water could be taken out without interfering with the springs and streams, and that in itself points to the fact that the Legislature contemplated continued groundwater withdrawals from the aquifer, rather than the strict interpretation mentioned by Mr. Barnett.

There were no other comments by the public. There were no questions by members.

3. Possible Executive Session; and 4. Return to open meeting and possible vote or action on any matter discussed in the Executive Session, if authorized. The Board did not vote to enter an executive session.

5. Vote on whether to approve or deny the Application for Reconsideration, or vote on any other action or decision relating to the Application for Reconsideration. Chairman Herrmann stated the staff recommendation is that the application for reconsideration be denied.

Ms. Lambert stated there is no new information, and she would move that the reconsideration be denied. Ms. Feaver seconded. Chairman Herrmann stated a vote to deny

would be a yes vote. There were no other questions or comments, and Chairman Herrmann called for the vote.

AYE: Feaver, Fite, Lambert, Herrmann
NAY: Hitch
ABSTAIN: Buchanan, Drake
ABSENT: Drummond, Sevenoaks

Chairman Herrmann stated the application for reconsideration has been denied.

C. 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.

6. PROPOSED EXECUTIVE SESSION

Chairman Herrmann

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., and Oklahoma Water Resources Board v. United States on behalf of the Choctaw Nation et al.

Chairman Herrmann stated there is an agenda item for a proposed Executive Session; however, Mr. Patrick Wyrick is unable to attend and the Chairman recommended the Board meet in Executive Session at next month's meeting.

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 an Executive Session.

B. Designation of person to keep written minutes of Executive Session, if authorized.
No designation necessary.

C. Executive Session, if authorized.

There was no Executive Session authorized, and no vote or action.

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

There were no matters for discussion or action as a result of no Executive Session being conducted.

8. NEW BUSINESS

Chairman Herrmann

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.

9. ADJOURNMENT

Chairman Herrmann

There being no further business, Chairman Herrmann adjourned the meeting of the Oklahoma Water Resources Board at 10:15 a.m. on Tuesday, November 19, 2013.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Rudolf J. Herrmann, Chairman

_____/Absent_____
Tom Buchanan, Vice Chairman

_____/s/_____
Edward H. Fite

_____/Absent_____
F. Ford Drummond

_____/s/_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Bob Drake

_____/s/_____
Jason W. Hitch

ATTEST:

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