

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
JANUARY 20, 2015**

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Vice Chairman Linda P. Lambert at 9:35 a.m., on January 20, 2015, in the second floor meeting room of the Oklahoma Water Resources Board, 3800 North 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 January 15, 2015, at 5:00 p.m., at the Oklahoma Water Resources Board's offices at 3800 North Classen Boulevard, and provided on the agency's website.

In the absence of Chairman Rudy Herrmann, Vice Chairman Lambert welcomed everyone to the meeting, and asked for the roll call of members.

Board Members Present

Linda Lambert, Vice Chairman
Tom Buchanan, Secretary
Bob Drake
Ford Drummond
Marilyn Feaver
Ed Fite

Board Members Absent

Rudy Herrmann, Chairman
Jason Hitch
Richard Sevenoaks

Staff Members Present

J.D. Strong, Executive Director
Rob Singletary, General Counsel
Amanda Storck, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Julie Cunningham, Chief, Planning and Management Division
Derek Smithee, Water Quality Programs Division
Joyce Coleman, Legal Secretary

Others Present

Vernon Seaman of Tulsa representing Indian Nations Council of Governments
Vice-Mayor Mark Cochell of Nicoma Park, representing Nicoma Park
Shawn Howard of Shawnee, representing Citizens of Potawatomi Nation
Mike Mathis of Oklahoma City, representing Continental Resources

Norma Aldridge of Oklahoma City, representing Oklahoma Dept., of Agriculture
Jim Rodriguez Executive Director, of Oklahoma City, representing the Oklahoma Aggregates Association
Sharon Robbins of Claremore, representing Terra Nitrogen, LP
Bud Ground, of Oklahoma City, President, representing the Environmental Federation of Oklahoma and its member companies
LeeAnna McNally of Oklahoma City, representing Oklahoma Farm Bureau
Michael Moe of Oklahoma City, representing Oklahoma Dept., of Environmental Quality
Bryce Cahres of Oklahoma City, representing Oklahoma Dept., of Environmental Quality
A.J. Fereate of Oklahoma City, Vice President, representing Oklahoma Independent Petroleum Association
Tom Liu of New York City, representing Merrill Lynch
Vickie Pieratt of Broken Bow, OK
Ron Enoch of Oklahoma City representing Nicoma Park
Jason Seneker of Tulsa, representing Tracy Consulting Engineers
Ronald Tracy of Tulsa, representing Tracy Consulting Engineers
RV Nascimento of Oklahoma City, representing OWRB
Patty Thompson of Oklahoma City, representing Oklahoma Dept., of Environmental Quality
Leslie Smith of Oklahoma City, representing Oklahoma Dept., of Environmental Quality
Vanessa Aguilar of Oklahoma City, representing Oklahoma City Water Utilities Trust
Billy Little of Oklahoma City, representing Oklahoma City Water Utilities Trust
Martha Slaughter, General Manager, representing Oklahoma City Water Utilities Trust, Oklahoma City
Kyle Renfrow of Oklahoma City, representing Journal Record Legislative Report
Steven Jolly of Davis, representing Arbuckle Master Conservancy District
Russ Doughty of Antlers, representing Oklahomans for Responsible Water Policy
Will Archer of Mountain Park, representing Mountain Park Master Conservancy District
Arnella Karges V. P., of Oklahoma City, representing State Chamber of Oklahoma
Jim Barnett of Oklahoma City, representing Doerner Saunders Daniel & Anderson
Bob Thompson of Oklahoma City, representing Nicoma Park
Marla Peek of Oklahoma City, representing Oklahoma Farm Bureau
Beverly McManus City Clerk of Nicoma Park, representing Nicoma Park
Jeff Everett of Oklahoma City, representing Oklahoma Gas & Electric
Carol Parrott, of Oklahoma City representing Oklahoma Dept., of Environmental Quality
Brooks Tramell of Oklahoma City, representing the Conservation Commission
Charles Swinton of Oklahoma City, representing BankFirst

B. Approval of Minutes

Vice Chairman Lambert asked if there were any changes to the draft minutes of the December 16, 2014, regular meeting. There were no changes, and Vice Chairman Lambert entertained a motion to approve the minutes.

Mr. Fite moved to approve the December 16, 2014, minutes, as presented and Ms. Feaver seconded. There were no comments or corrections, and Vice Chairman Lambert called for the vote.

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

C. Executive Director's Report

Mr. J.D. Strong, Executive Director, addressed the members and announced that Executive Secretary, Mary Schooley was absent due to the death of her sister. Legal Secretary, Joyce Coleman filled-in her absence.

Mr. Strong asked Ms. Amanda Storck, Chief, Administrative Services Division, to present the Legislative report. Ms. Storck is acting as Co-Legislative Liaison along with J.D. Strong, Executive Director, due to Lauren Sturgeon's new employment in Washington D.C. Ms. Storck advised that Brittany Preston will contact Ms. Storck weekly and give highlights on the Board report. Mr. Strong introduced Brittany Preston and discussed her duties for the OWRB. He said she was looking for part time employment and is a native Oklahoman with congressional experience working with Congressmen Lankford and Mullin, respectively. She resides in Washington D.C. and will fulfill the duties of tracking federal congressional legislation. Ms. Storck and Mr. Strong will track state legislation.

Ms. Storck began with the State legislative report. Ms. Storck advised the Board that OWRB has provided the House and Senate with the requested budget information so the House and Senate can schedule budget hearings. The Governor's office has been provided information for the Governor's budget, as well. State filing deadline for bills is Thursday, January 22, 2015 @ 4 p.m. Ms. Storck will review filed bills on Friday, January 23, 2015. Ms. Storck advised that more information on the rules and budget hearing information will be submitted to the Board at the February's Board Meeting. The Legislative session will convene on February 2, and staff will keep the Board apprised of any legislative changes/issues.

The Congressional report was presented by Ms. Storck. The members of the House and Senate were sworn in on January 6, 2015. Since the swearing in, most business at the Capitol has been organizational and administrative. New committee assignments for the Oklahoma members were in the packet and Ms. Storck noted they are quite length. In regard to the Waters of the U.S. Rule, Ms. Preston said the Congress is looking to finalize this by June 1, 2015. A one page EPA report dated January 15, 2015 that announced the finalization of their report: "Connectivity of Streams of Wetlands Down-Streams Waters; A Review in Synthesis of Scientific Evidence." The report concludes that streams, open waters, wetlands, and mini wetlands and open waters located outside riparian areas and floodplains have an effect or are connected to downstream waters. This report paves the way for the rule to move forward as planned in June.

There is a \$1.3 million Bureau of Reclamation Grant available for communities seeking new sources of water supplies using water recycling and reuse technologies. This is a cost-share agreement of 50/50. OWRB will work with communities to let them know this grant is available and this grant fits in the OWRB's Water for 2060 initiatives. Ms. Storck addressed a question from Vice Chairman Lambert as to a timeframe of the grant disbursement. The funding will be available in two groups but feasibility studies will be completed in the next 18 months. Funding may be available now. Ms. Cunningham responded to the question that OWRB has contacted

several communities, the OML (Oklahoma Municipal League), and the ORWA (Oklahoma Rural Water Association); the deadline to submit applications is either February or March.

Vice Chairman Lambert also had a question about the criteria of for the applications.

Mr. Strong answered that there were criteria that had to be met by applicants. OWRB sent out the criteria along with the funding announcement. OWRB has posted on its social media websites about the criteria as well. Vice Chairman Lambert had concerns about people who did not have access to social media. Mr. Strong informed the Board that people can call in as well as mail in a request for information. Director of Public Information Cole Perryman was present at the meeting in the galley area and acknowledged that he will make sure the OWRB website also has the application requirements posted.

Mr. Strong concluded his report with a summary of the comments made by Ms. Storck. Mr. Strong stated that Waters of the US will be a hot topic this legislative session. Mr. Strong stated that he has testified about significant over-reach of federal government in regard to protection of water. He continued that the states should have control over those waters. Also, that the states had inadequate consultation with the federal government on the rule making process.

Environment and Public Works (EPW) Committee invitations should go out on 01-20-15 that is chaired by Senator Inhofe. The EPW Committee may conduct a hearing on the Waters of the US and Oklahoma Attorney General may testify before that committee. However, Mr. Strong might testify if the Oklahoma Attorney General does not. But, Oklahoma will be represented at the hearing in one form or another (since Senator Inhofe is Chair).

There are technical and mediation committee meetings that are on-going and the Board will receive an update from the Oklahoma Attorney General's office in the Executive Session. Mr. Strong continued that mediation is ongoing in regard to Arbuckle Simpson;. The hearing on the Arbuckle Simpson matter was postponed to January 30 (per General Counsel Singletary). Mr. Strong had meetings at the Capitol regarding water issues involving the prison in Lexington, the City of Lexington, and the rural water district.

Mr. Strong spoke at and attended the Legislative AG Chair Summit in Florida earlier this month. This summit constituted agricultural committee chairs from the US state houses, senates and some providences of Canada. Mr. Strong spoke to the Rural Caucus on January 6 at the Oklahoma State Capitol. Mr. Strong will speak to American Farmers and Ranchers Policy Board the afternoon on January 20. He will meet with the Bureau of Reclamation Project Managers and Lake Managers on January 21 to discuss protection of lake yields and the appropriation of water of upstream of current projects. Mr. Strong is speaking to the OSU environmental science graduate class. Several of the graduate students are currently employed at the OWRB.

Mr. Strong will be present at the Public Stakeholders Meeting at the Armory in Tahlequah on January 22, at 6:30 p.m. This will be to kick-off of the pilot study of the Illinois River Instream Flow Pilot Study that will review the flow base, recreation and fishing needs in that watershed. It was determined that the OCWP priority recommendation of in-stream flows there would be a pilot study to look at within the context of scenic river watershed in particular what the flow based needs are and whether the current appropriation system adequately addresses those needs or if something more should be done.

Water for 2060 council members will have conference calls with various workgroups on January 27, 2015. A rough draft final report was sent out from the advisory council of the Water for 2060 committee. The February Water for 2060 Advisory Council meeting may possibly be

the last meeting of the Water for 2060 advisory council; it will meet to fine tune the final recommendation report to the Legislature and Governor. The conference calls are a preliminary measure to review those recommendations.

Mr. Strong concluded his report stating the Oklahoma Legislature will convene on Monday, February 2nd and the OWRB February Board meeting will be Tuesday, February 17th. At the February Board meeting, the Board will vote on the proposed rules. After the Public Meeting on today, there might be changes or removal of the proposed rules based on the public comments on the rules.

Following adjournment of the February Board meeting, the Board's Ad Hoc Audit Committee will meet in the Board Room. Also, at 1:00 p.m. the same day, the Water for 2060 Advisory Council will meet in the Board Room.

There were no questions from the Board on Mr. Strong's comments.

D. Monthly Budget Report

Ms. Storck, Chief, Administrative Services Division, stated to the members that the monthly budget report for December 2014 had been provided. She said the agency has 69% of total funding available with 50% of the fiscal year remaining. She is anticipating budget cuts. Chairman Lambert asked why there was anticipation of a budget cuts. Ms. Storck answered due to the State Legislature asking the agency for budget amounts that are between 3 to 5 percent lower than the current budget. Also, there was a 5% cut last year. Board Member Drummond asked when the agency will know the budgeted amount. He was told by Ms. Storck and Mr. Strong that it would be May.

Ms. Storck concluded her report. There were no further questions by members.

2. FINANCIAL ASSISTANCE DIVISION

An announcement was made by Vice Chairman Lambert said that until Board Member Hitch appeared, there could not be a vote on item 2.C. due to the need of a supermajority of the Board to be present to vote. Therefore, consideration of item 2.C. will have to wait until Mr. Hitch attends.

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Nicoma Park Development Authority, Oklahoma County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the first item is a \$3.89 million dollar Clean Water State Revolving Fund loan request from Nicoma Park Development Authority located in Oklahoma County to expand its waste water collection system. This will be accomplished by laying approximately 6.5 miles of new 8 inch sewer lines, constructing 177 new manholes and removal of 3 lift stations. The loan will bear a fixed interest rate plus half of a point for administrative fee. The loan will have a maturity date of 30 years after completion of construction. The loan will be secured by liens on Nicoma Parks' water and sewer revenues and a 1 cent sales tax and a mortgage on the system. They have no current outstanding debt with Board; they have had three previous loans with the

Board that were managed in a good manner. The debt coverage ratio is 1.33-times. Staff recommends approval of the loan.

Vice Mayor Mark Cochell of Nicoma Park was present and made comments in support of the loan. Also present for support of the loan was Beverly McManus, City Clerk of Nicoma Park.

There were no other questions, and Vice Chairman Lambert requested a motion. Mr. Buchanan moved for approval of the Clean Water SRF loan and Mr. Fite seconded.

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

B. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Oklahoma City Water Utilities Trust, Oklahoma County.

Recommended for Approval. Mr. Freeman stated that this item is a \$35.838 million Drinking Water State Revolving Fund loan request from the Oklahoma City Water Utilities Trust. The loan is for the construction of chemical storage and feed facility at the Hefner Water treatment plant and a sludge handling system at the Lake Draper Water Treatment Plant. The loan will bear a fixed interest rate plus half-point administrative fee. The maturity of the loan will be 30 years past the completion of construction. The loan will be secured by liens on Oklahoma City's water and sewer revenues. There are four outstanding loans with the Board with a combined balance of \$55.2 million dollars. The reason for the loan is that Oklahoma City's water connections have increased by 16% and the sewer connections have increased by 15% over the last ten years. The debt coverage ratio is 2.22-times. Staff recommends approval of the loan.

Ms. Marsha Slaughter, Oklahoma City Water Utilities Trust's General Manager was present and made comments in support of the loan. Also present in support of the loan was Vanessa Aguilar, Revenue Auditor and Billy Little, Finance Director, both from Oklahoma City Water Utilities Trust.

Vice Chairman Lambert stated she would entertain a motion. Mr. Drake moved for approval of the Clean Water SRF loan and Ms. Feaver seconded. There were no other questions, and Vice Chairman Lambert called for the vote.

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

Vice Chairman Lambert asked Mr. Freeman to proceed to item 2.D. Mr. Freeman concurred with the explanation that item "D" and item "E" related back to Item "C," which is the request for approval of a new Clean Water SRF bond issue

D. Consideration of and Possible Action on a Proposed Resolution Expressing Official Intent to Reimburse Costs of Loans for Clean Water State Revolving Fund Projects. Recommended for Approval. Mr. Freeman stated that this is a reimbursement resolution for the Clean Water SRF loan program. In order to stay in compliance with IRS requirements on spend down rules and U.S. Treasury regulations, the OWRB must declare its reimbursement intentions by way of this resolution. He said since the enactment of the Tax Act of 2005, the OWRB has adjusted from a blind pool loan program where we issue bonds that allows us to reimburse ourselves for loans which the OWRB funded with cash on hand. Exhibit A notes potential Clean Water SRF loans to be closed, eligible loans for reimbursement and the Clean Water loan priority list. He said as is noted in the resolution and in the exhibit, \$234 million dollars in Clean Water SRF loans have been identified that may be eligible for bond issue reimbursement. Staff recommends approval of the resolution.

There was a question from Board Member Drummond on the status of the SRF loans.

Mr. Freeman answered that the Clean Water SRF loans were fine. The Drinking Water SRF loans are being managed closely. OWRB is working with Oklahoma City to determine how much funding can go to Oklahoma City while assisting other communities. However, there might be funding issues that the OWRB cannot help Oklahoma City with over the next five or six years.

There were no further questions, and Vice Chairman Lambert requested a motion on the resolution for reimbursement of costs. Mr. Drummond moved for approval of the and Mr. Buchanan seconded. Vice Chairman Lambert called for the vote.

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

E. Consideration of and Possible Action on a Proposed Resolution Expressing Official Intent to Reimburse Costs of Loans for Drinking Water State Revolving Fund Projects. Recommended for Approval. Mr. Freeman stated that this resolution is for the Drinking Water SRF Loan Program. The loan parameters are the same as the ones in item 3.D. for possible reimbursement. Exhibit A lists potential Drinking Water borrowers who have closed loans which are eligible for reimbursement and those on the Drinking Water priority list. As is noted in the resolution and in the exhibit, \$348.6 million dollars in Drinking Water SRF loans have been identified that could be eligible for reimbursement. Staff recommends approval of the resolution.

NOTE: Board Member Hitch enters at 10:02 a.m. during Mr. Freeman's presentation of Item E.

There were no questions, and Vice Chairman Lambert requested a motion on the resolution for reimbursement of costs. Mr. Drake moved for approval of the resolution, and Mr. Fite seconded. Vice Chairman Lambert called for the vote.

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

C. Resolution Authorizing the Issuance of Oklahoma Water Resources Board Revolving Fund Revenue Bonds - Clean Water Program, Series 2015 (Master Trust) in the Aggregate Principal Amount not to Exceed \$115,000,000; 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. Freeman stated that this was a resolution for authorizing the Series 2015 new money Clean Water State Revolving Fund bonds issue that are scheduled for approval on January 29, 2015, Bond Oversight Council . The OWRB is scheduled for a rating agency presentation to Moody's Investors Service, Inc., Standard & Poor's Financial Services, LLC and Fitch Ratings, Inc., the first two weeks of February. The pricing of the bond issuance is estimated to occur on March 2 and 3. The bond issuances will not exceed \$115 million dollars for Clean Water SRF Loans with State matching funds. The resolution authorizes bond indenture to provide for issuance. The resolution will also authorize the issuance on a negotiated basis waiving competitive bidding; approving preliminary official statement; directing payment of cost of issuance, and authorizing other documents necessary to close the issue. Staff recommends approval of the resolution.

There were no questions, and Vice Chairman Lambert requested a motion for approval for the revenue bonds. Mr. Drake moved for approval of the resolution and Mr. Drummond seconded. Vice Chairman Lambert called for the vote.

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

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board's staff, or any other person attending this meeting, 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.

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

Vice Chairman Lambert stated that there were no items to be removed or added unless a Board Member had a request to do so.

Vice Chairman Lambert asked if there were any changes to the Summary Disposition Agenda.

There were none.

There were no questions, and Vice Chairman Lambert requested a motion. Mr. Buchanan moved for approval of the Summary Disposition Agenda and Mr. Drummond seconded.

- AYE: Drummond, Feaver, Hitch, Drake, Fite, Buchanan, Lambert
- NAY: None
- ABSTAIN: None
- ABSENT: Herrmann, 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>
ASCOG				
a.	FAP-14-0049-R	Verden Public Works Authority	Grady	\$99,999.00
KEDDO				
b.	FAP-11-0038-R	Canadian Public Works Authority	Pittsburg	99,999.00

D. Consideration of and Possible Action on Contracts and Agreements:

1. Professional Service Agreement with Huitt-Zollars, Inc., for engineering inspection services of grant and loan Programs used by the Financial Assistance Division.

2. Professional Services Agreement with First Southwest Company for financial advisor services related to the Board's financial assistance programs.

3. Amended Operating Agreement with the United States Environmental Protection Agency, Region 6 regarding the management of the Clean Water State Revolving Fund Loan Program.

4. Renewal Agreement with Meshek & Associates, PLC to provide professional engineering services in connection with Cooperating Technical Partnership Program Assistance for the creation and maintenance of Flood Hazard Data.

5. Services Agreement with USEngineering Solutions Corporation for the continued enhancement, development and access of proprietary software used by the DAM Safety Program.

6. Agreement with Oklahoma City Water Utilities Trust to improve water quality at Lake Stanley Draper through the Vegetated Wetland Project by strategically implementing and maintaining planting sites.

7. Joint Funding Agreement with the U.S. Geological Survey to do groundwater hydrological survey on Section (Reach) 1 of the Washita River Alluvium and Terrace Groundwater Basin.

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

1. Bob L. & Joyce B. Detrick, Major County, #2014-534
2. B & R Revocable Trust, Comanche County, #2014-559
3. Lynn & Katherine Bittle, Caddo County, #2014-578
4. Enid Municipal Authority, Major County, #2014-618
5. Enid Municipal Authority, Major County, #2014-619
6. Thomas Scott & Brandi Don Phelps, Jefferson County, #2014-583

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

1. Bryan Family Land & Cattle, L.L.C., Major County, #1977-872
2. Summit Lakes Development, L.L.C., Oklahoma County, #2006-605

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

None

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

1. Donna J. Thrall, Dianna K. Hankla, Linda Burke, the Luain Thrall Hensel Revocable Trust, and the Andrew M. Thrall Revocable Trust, Texas County, #1973-299

I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:

1. Pawnee Public Works Authority, Pawnee County, #1966-426

J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:

1. Clyde & Elizabeth Nipp, Love County, #2014-019

2. Foster S. Johnson, III, Leflore County, #2014-044
3. Enid Municipal Authority, Kay County, #2014-047
4. Lindsey 2011 Revocable Trust, Wagoner County, #2014-050
5. Lindsey 2011 Revocable Trust, Wagoner County, #2014-066

K. Consideration of and Possible Action on Applications for Term Permits to Use Stream Water:

1. Mark White, Wagoner County, #2014-013

L. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:

1. Lawana & Foster S. Johnson, Jr., LeFlore County, #1998-020

M. Consideration of and Possible Action on Dam and Reservoir Construction:

1. Fowler Pond, Jerry D. & Carolyn Fowler, Pittsburg County, #OK30480

N. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:

1. New Licenses and Operators:
 - a. Reid Drilling, Inc. DPC-0911
 1. Michael D. Reid OP-2072

O. Consideration of and Possible Action on Permit applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

None

P. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:

None

4. PUBLIC HEARING ON PROPOSED NEW AND AMENDED PERMANENT RULES OF THE BOARD

Vice Chairman Lambert stated that there would be no changes or voting on the proposed rules. The Staff will present recommended changes, the public can submit comments and ask questions, and the Board can ask questions and give comments. The proposed rules changes will be voted on in February.

Vice Chairman Lambert asked Mr. Derek Smithee to present Staff recommendations for Chapter 45.

1. Proposed Amendments to Chapter 45 – Oklahoma’s Water Quality Standards
 - Subchapter 1. General Provisions
 - 785:45-1-2. Definitions [AMENDED]
 - Subchapter 5. Surface Water Quality Standards
 - Part 3. Beneficial Uses and Criteria to Protect Uses
 - 785.45-5-12. Fish and Wildlife Propagation [AMENDED]
 - 785:45-5-21. Wetland Beneficial Uses and Criteria [NEW]

Part 5. Special Provisions

785:45-5-26. Mixing zones and zones of passage[AMENDED]

785:45-5-30. Other Provisions [NEW]

Appendix G. Numerical Criteria To Protect Beneficial Uses. Table 1. [REVOKED]

Appendix G. Numerical Criteria To Protect Beneficial Uses. Table 1. [NEW]

Appendix E. Requirements For Development of Site-Specific Criteria For Certain Parameters [REVOKED]

Appendix E. Requirements For Development of Site-Specific Criteria For Certain Parameters [NEW]

a. Summary:

Derek Smithee, Chief of the Water Quality Programs Division, presented a fifteen minute PowerPoint Presentation to the Board on three proposed revisions to Water Quality Standards. The current revisions are interim but triennial revision will be done next year. However, some of the Chapter 45 PPP will overlap into Chapter 46. There are three basic components: water effect ratio-dissolve translator study; dissolve oxygen criteria and clarification on changes on how to make useful decision making on use of reservoirs; and, wetlands quality standards.

Component #1 is water effect ratio, dissolve translator study.

The metals in Oklahoma are promulgated statewide and protective of every water body in Oklahoma. But the toxicity of the metal is site-specific and is largely determined by the hardness of the water. Therefore, the harder the water the less toxic the metal. Dischargers can do a site specific study on a particular water body to determine how toxic the metal(s) are or will be on their direct discharge. Mr. Smithee continued with citing, as an example, the City of Broken Bow/Broken Bow Public Works Authority. That City contracted to have a water effect ratio, dissolve translator study done due to a change of their water bodies. The study was site specific of the new discharge to determine the toxic fraction and toxic portion. The City submitted the study to OWRB and the EPA who both concurred on the technical aspects of the study. Adjustment factors on metals are proposed to go into the water quality standards. Chapter 45 will still be protective of the fish and wildlife propagation beneficial use, but provide a little less stringent criteria than the default that applies to all waters in Oklahoma due to the unique nature of the waters in Southeastern Oklahoma.

Component #2 is dissolved oxygen criteria and clarification on changes on how to make useful decision making on use of reservoirs.

This was designed to protect the dissolved oxygen criteria in the water quality standards. Built around how you protect fish and wildlife propagation with 5 mil per liter, 6 mil per liter, 3 mil per liter. This is done by taking water samples and comparing samples to in-stream, in-lake and in-river concentrations. If the in-stream and in-lake concentrations is less than the water quality standards by the frequency, duration, magnitude and timing, there is a standardize way between state agencies of in OWRB's rules. There is a use support report determination that goes on the impaired waters list if it is a "sick" water and a TMDL is accomplished.

Two years ago, OWRB wanted to submit the proposed rule changes. However, the results of the initial tests returned false positives and false negatives. Therefore, OWRB worked with sister state agencies to avoid false results, especially regarding lakes. Lakes naturally stratify in the summer time. This proposed rule change will help in the evaluation of the health of reservoirs. Changes to the evaluation process will more accurately make use support

decisions regarding dissolved oxygen in reservoirs. Instead of just evaluating the top six feet of a reservoir, the entire volume can be evaluated.

This component has companion changes in Chapter 46 in regard to dissolved oxygen in reservoirs.

Component #3 is wetlands quality standards.

OWRB staff worked on wetlands quality standards for the last twenty years. Over that timeframe, the OWRB Board has been presented with revisions to the rule. This current revision does not pertain to unique and designated beneficiary uses or criteria for wetlands. This proposed rule change will make the wetlands have a specific water quality beneficiary use and specific water quality standards for evaluation. Currently, the criteria of the evaluations for wetlands are what are being used for streams, lakes and rivers. The criteria to evaluate wetlands are being used by standards used for other bodies of water. The results returned end up being false-positives or false negatives. Wetlands have a lower dissolved oxygen concentration levels. When criteria of other water bodies are used, the results of the evaluation return a false positive or false negative.

In Oklahoma, multi-state agencies have jurisdiction over the wetlands. There is a Wetlands Working Group that is chaired by the Oklahoma Conservation Commission. This group is comprised of state and federal agencies including the OWRB, the Oklahoma Corporation Commission, the US Army Corps of Engineers, Department of Environmental Quality and Department of Food, Forestry and Agriculture. For several years the Wetlands Working Group has been working to prioritize standards for evaluations. This year, the OWRB is submitting proposed rule changes for technical support of the evaluation process.

The Wetlands Working Group supported the concept, and the OWRB worked closely with the Wetlands Working Group to conduct informal meetings and developed a Wetland Unique Suite of Beneficial Uses and Wetland Specific Criterion. The group worked for a year to establish a scientific foundation which was vetted for sound technical underpinnings and worked through the public programs to ensure that public policy was satisfied, were consistent with state or federal laws and how other agencies work within the Water Quality Standards program. Mr. Smithee explained the wetlands water quality package as defining wetlands and ecological integrity, wetland beneficial uses, wetland criteria, anti-degradation that identifies special protection above beneficial uses, and implementation provisions.

Board Member Buchanan asked if there were water bodies above and beyond the scenic water rivers that require additional protection. Mr. Smithee answered that there were three types of water bodies as tier one, tier two and tier three in regard to anti degradation policy.

There are three levels of protection of water in the US: maintain beneficial use waters; maintain high quality waters, and maintain outstanding resource waters.

All water bodies in the U.S. must maintain beneficial uses that are the first layer of protection. Next layer are high quality waters of protection certain waters that exceeds beneficial use criteria. Highest levels of protection are those water bodies in the water sheds of scenic rivers. These are waters that have endangered species, are in state parks and wildlife refuges. These waters must maintain the higher levels.

Mr. Strong added that the 3-tier protection levels are existing standards and Mr. Smithee added that the hierarchy has existed since the 1960's but implemented by federal law since the 1970's. There has been a strong push since 2013 to have the proposed rules submitted to the Board for 2015, after having been vetted through the interagency work group, presented at stakeholder meetings – agriculture, oil and gas and other interests to communicate, educate and receive feedback. On December 1, 2014,, notice of the proposed rules were published. If the Board approves the proposed rules, it will then go through the regular legislative process and the Governor for approval, and then go through the federal process for approval and implementation. Mr. Smithee noted there are five comment letters in the members' packet of rules information which were received prior to the meeting today.

Board Member Drummond said people are concerned about the EPA rules on the Water of the US and expanding jurisdiction, and he asked if the OWRB wetland rule had anything to do with this; does the rules expand the scope of OWRB regulations or it more focused on a specific regulations for a specific type of water.

Mr. Smithee answered that the proposed rules reflect the existing state and federal laws. Because EPA's rule changes came at the same time that OWRB was reviewing its proposed rules, there was some confusion as to what changes were being made on the federal level and what was going on at the state level. He said wetlands have always been included in federal law and state definition of waters of the state, and these rules clarify what standards and beneficial uses apply. Mr. Strong stated the timing is unfortunate, and it has been expressed to Congress, EPA and the USCOE that there is no need for expanded jurisdiction over Water of the US because the states are doing a fine job protecting their waters, and he clarified that the proposed rules about wetlands are those under the OWRB authority to set standards. He said the default set of standards apply to higher quality lakes and streams that apply to wetlands because there are no wetlands specific standards and the working group has been developing a set of standards for several years that are more appropriate.

Mr. Smithee continued that there were six comments that were received by the OWRB Staff:

George Matthews, Plant Manager, on behalf of US Silica

Jane B. Watson, Associate Director, on behalf of the U.S. Environmental Protection Agency

Shannon Phillips, Water Quality Division Director, on behalf of the Oklahoma Conservation Commission

Jeremy Seiger, Director, on behalf of the Oklahoma Department of Agriculture, Food and Forestry

Howard L. Ground, President, on behalf of the Environmental Federation of Oklahoma, Inc.

Chad Warmington, President , on behalf of the Oklahoma Oil & Gas Association

b. Questions and Discussion by Board Members

Question from Board Member Tom Buchanan in regard to the proper definition of wetlands in regard to frequency. Mr. Buchanan reads a definition from the Board Members packet that he has question about: ". . . those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support. . ." Mr. Smithee responded that the definition came from the unified federal definition in which the U.S. Army Corps of

Engineers, the Bureau of Reclamation and the United States Geological Survey use in their wetlands programs. After discussions between OWRB staff and the Wetlands Working Group, it was decided that the wording used in the proposed rules should closely resemble the regulations and definitions by the US Corps of Engineers.

Mr. Smithee continued that federal definition in regard to the frequency and duration, hydrology, hydrophilic vegetation and hydric soils. In order for a wetland to be considered a wetland, it must have the following: water of sufficient duration and the federal government defines how long that has to be. But, there must be hydric soils (glade soils produced under anaerobic conditions) and hydrophilic vegetation for wetland environment to grow. Mr. Strong added that if there is any confusion on the proposed rules as to definitions, that can be cleared up by changing the definition to make it easier to understand; the standards apply to water, and where there is no water the standards do not apply.

Vice Chairman Lambert stated instructions on the procedure of how the public comments should be presented. She asked presenters to state their name, organization, proposal they are speaking to, with efficiency and without duplication of previously made comments.

c. Public Comment

There was a written comment submitted by Anthony J. Fereate, Vice President of Regulatory Affairs, on behalf of the Oklahoma Independent Petroleum Association a few minutes before the beginning of the Board Meeting.

Mr. A.J. Fereate who represents the OIPA spoke. He distributed the statement he presented to the Office of the General Counsel of the OWRB earlier that morning. He stated that the proposed water quality rules are "extra-jurisdictional" and belong to other agencies. He continues that the federal wetland definition does not coincide with the statutory language that the state statutes have; therefore, the proposed rules should not reflect the federal language.

Mr. Strong added that issues raised in the OIPA comment letter and others about the proposed rules language use of commercial and non-commercial pits. Though this language is used by the Oklahoma Corporation Commission (OCC) in their rules, the OCC specifically requested that that language be used in proposed OWRB rules. The OCC is a member of the Wetlands Working Group.

Jim Rodriguez, Executive Director, on behalf of the Oklahoma Aggregates Association, spoke and had a written comment for the Board. His organization has concerns about use of water specifically about discharge of water. They believe the proposed rules are written too broadly and could affect their business operations. They need more time to review the proposed law.

Brooks Trammell, with the Oklahoma Conservation Commission and Chair of the Wetlands Tech Core Group of the Wetlands Working Group. He commended those who worked on the proposed rules for being transparent with their process. He stated that this proposed rules are broad due to the nature of the wetlands; there is "wobble room." He continued that the definition of wetlands is a scientific definition. It does not delve into regulatory affairs at all. It just tells you if it is a wetland or not. The proposed definition of wetlands was not from the OWRB but from people who are in the industry and agricultural groups who suggested the federal definition for wetlands. Mr. Hitch asked about the agriculture group, and Mr. Trammell answered it was Marla (Peek) of the Farm Bureau. The definition has been adopted by all of the federal agencies, states across the country and that it was not a regulatory definition, but it is a

scientific definition. Also, the definition does not do anything but states what the definition of the wetlands. But, Mr. Strong commented, and Mr. Tramell agreed, that standards setting is a scientific process with possible regulatory ramifications.

James Barnett, who is representing himself for these comments (but he is the attorney for EFO), stated that when he was in the Wetland Working Group that industry did not support the language. They (industry) supported a different definition for wetlands, but that was not agreed upon by the Wetlands Working Group. The proposed standards apply where there is no water and this is a jurisdictional issue.

Board Member Drummond asked Mr. Barnett about examples of where it states there is no water in the proposed rules. Mr. Barnett says the examples are in the criteria wording of the proposed rules. Also, in the OIPA comment letter has provided that language.

Bud Ground, President, on behalf of Environmental Federation of Oklahoma (EFO) and its member companies. He spoke to what has not been mentioned, and that is wetlands will be impacted no matter what when there is any development in Oklahoma. Because what is put in regulations can be "used against us" when there is advancement of development (by industry). There should be a way to work through the process. This could be done by use of mitigation language in the rules because the wetlands will be disturbed and that will happen but (industry) will mitigate the disturbance.

Vice Chairman Lambert asked for any further comments for Chapter 45 by the public or Board members. There were no other comments for Chapter 45.

Vice Chairman Lambert asked Mr. Smithee to present Chapter 46.

Mr. Smithee began by stating to Mr. Barnett that there is language in the criterion language about water not being present, and if there is federal language he would be willing to work together to clarify language. Mr. Barnett agreed and said any fair reading is that these do apply to dry land. Mr. Smithee stated that OWRB takes very seriously the rule making process is open, transparent, and above board. He especially thanked Jason (Childers), Becky (Rebecca Veiga) and the Wetland Working Group.

2. Proposed Amendments to Chapter 46 – Implementation of Oklahoma’s Water Quality Standards

Subchapter 15. Use Support Assessment Protocols

785:46-15-5. Assessment of Fish and Wildlife support [AMENDED]

a. Summary:

Derek Smithee, Chief of the Water Quality Programs Division, stated that Chapter 46 is the implementation of water quality standards. The proposed rules only deal with the dissolved oxygen criteria of reservoirs by expounding on this by explaining when thermal stratification occurs and how it is measured; definition of a water column; how to measure dissolved oxygen with depth, and; how do you statistically manipulate that information to make an accurate use report decision.

b. Questions and Discussions by Board Members

Vice Chairman Lambert asked if there were any comments or questions. There were none.

c. Public Comment

There were no comments from the public.

Vice Chairman Lambert asked for Joe Freeman to present Staff recommendations for Chapter 50.

3. Proposed Amendments to Chapter 50 – Financial Assistance

Subchapter 1. General Provisions

785:50-1-2. Definitions [AMENDED]

Subchapter 3. Project and Entities Eligible

785:50-3-1. Project Eligibility [AMENDED]

Subchapter 7. Water and Sewer Program (Bond Proceed Loans and Emergency Grants) Requirements and Procedures

785:50-7-5. Emergency grant priority points system [AMENDED]

Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures

785:50-8-2. Definitions [AMENDED]

785:50-8-4. Applicable law, deadline for applications, eligible project costs [AMENDED]

785:50-8-5. REAP grant priority point system [AMENDED]

Subchapter 9. Clean Water State Revolving Fund Regulations

Part 1. General Provisions

785:50-9-9. Definitions

Part 3. General Program Requirements

785:50-9-21. Eligible project [AMENDED]

785:50-9-23. Clean Water SRF Project Priority System [AMENDED]

785:50-9-24. Intended use plan [AMENDED]

785:50-9-28. Pre-application for funding [AMENDED]

785:50-9-33. Application for financial assistance [AMENDED]

785:50-9-35. Loan closing [AMENDED]

785:50-9-38. Construction phase [AMENDED]

785:50-9-45. Compliance with federal authorities [AMENDED]

Part 7. SRF Environmental Review Process

785:50-9-60. Requirement of environmental review [AMENDED]

785:50-9-61. Environmental information required by the Board [AMENDED]

785:50-9-62. Environmental review by the Board [AMENDED]

a. Summary:

Joe Freeman, Chief of the Financial Assistance Division, stated that the proposed changes are in five forms: to modify wording and acronyms to be consistent with the National Environmental Policy Act; assure that the loan processes for the Clean Water Act SRF and Drinking Water SRF loan programs are consistent; modify and add some definitions; correct grammatical errors; and, amend rules as a result of the reauthorization by Congress of the Clean Water Act.

Mr. Freeman continued that the main changes for Chapter 50 are in the amended of the rules. When borrowers of the Clean Water SRF loans retain engineers and architects: they must follow their state procurement process; follow the American Iron and Steel Provision of the Clean Water Act; and, make a create a fiscal sustainability policy in accordance with the Clean Water Act. There were questions to the OWRB staff about the changes but no comments.

b. Questions and Discussions by Board Members

Vice Chairman Lambert asked if there were any comments or questions. Vice Chairman Lambert asked Mr. Freeman if the changes were more administrative/clarifying than substantive. Mr. Freeman answered that this was correct except for the changes regarding reauthorization of the Clean Water Act.

Vice Chairman Lambert asked again if there were any comments or questions from the Board.

There were none.

c. Public Comment

Vice Chairman Lambert asked again if there were any comments or questions from the public

There were none.

Vice Chairman Lambert stated that completed the public hearing portion of the meeting, and staff will take the comments into consideration for the next meeting.

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Application for Regular Groundwater Permit No. 2013-620, Love County Disposal, L.L.C., Love County:

1. Summary:

Julie Cunningham, Chief, Planning and Management Division, presented to the Board the Proposed Findings and Facts, Conclusions of Law and Board Order for a regular permit to use 21 acre feet per acre of groundwater from one well on 10 acres of dedicated land for oil and gas completion. The protests were due to concerns of water level will interfere with neighboring uses and spacing in the basin (Antlers). Though there is a spacing rule, the applicant

met the exception because the configuration of their land would not allow them to get further away. Neither the applicant or the protestant appeared at the Board Meeting. Staff recommends approval of the findings of fact, conclusions of law and Board order.

2. Discussion and presentation by parties

No party involved in the matter was present.

Vice Chairman Lambert wanted to confirm that neither party was present. They were not. Vice Chairman Lambert asked if there were any questions or comments from the Board.

Mr. Hitch wanted clarification on a statement by Ms. Cunningham on the acre feet. She corrected that the amount should be 21 1/2 acre feet of water (and not 21 acre feet). Ms. Cunningham stated that is correct.

Mr. Drake wanted a clarification if the applicant or the protestant had the duty to prove that it would or would not affect the water supply. Ms. Cunningham responded that the applicant had the duty to submit information on their exception requirement. Mr. Strong added that the applicant had the duty to prove why they would qualify for the requirement. Then the protestant would have the duty to prove that even if the applicant met the exception, there would be an impact.

3. Possible Executive Session; and 4. Return to open session

The Board did not enter 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 further questions or comments, and Vice Chairman Lambert requested a motion to approve the application as recommended by Staff. Mr. Buchanan moved for approval of the Proposed Order, and Mr. Drummond seconded.

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

B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any.

There were no items transferred.

6. PROPOSED EXECUTIVE SESSION

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.

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.

Vice Chairman Lambert asked General Counsel, Robert Singletary to make a statement about the legal authority to have an executive session.

Mr. Singletary stated that pursuant to section 307(b)(4) of the Open Meetings Act, it is his advice that disclosure, communication and discussion that are proposed under agenda item 6. related to the pending litigation also reference in the agenda would seriously impair the ability to conduct the pending litigation in the interest of the public.

- 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.

Vice Chairman Lambert stated she would entertain a motion to move into Executive Session, and to designate Ms. Joyce Coleman to keep written minutes.

Mr. Buchanan moved for approval to go into Executive Session and for Joyce Coleman to be the designated to take written notes in the executive session, and Ms. Feaver seconded.

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

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

Ms. Coleman will keep written minutes.

- C. Executive Session, if authorized.

At 11:00 a.m. the Board entered Executive Session.

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

At 11:15 AM Board came out of Executive Session.

Vice Chairman Lambert requested a motion to end the Executive Session. Mr. Hitch moved to end the Executive Session return to the regularly scheduled Board Meeting and Mr. Buchanan seconded.

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

7. NEW BUSINESS

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

Vice Chairman Lambert asked if there was any new business. There was no new business.

8. ADJOURNMENT

There being no further business, Vice Chairman Lambert adjourned the meeting of the Oklahoma Water Resources Board at 11:17 a.m. on January 20, 2015.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Rudolf J. Herrmann, Chairman

_____/s/_____
Linda P. Lambert, Vice Chairman

_____/s/_____
Edward H. Fite

_____Absent_____
F. Ford Drummond

_____/s/_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Bob Drake

_____/Absent_____
Jason W. Hitch

ATTEST:

_____/s/_____
Tom Buchanan, Secretary (SEAL)