

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

May 16, 2017

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Linda Lambert at 9:34 a.m., on May 16, 2017, at the Oklahoma Water Resources Board, 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 May 12, 2017, at 3:30 p.m. at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, and provided on the agency's website.

Chairman Lambert welcomed everyone to the regular meeting of the Oklahoma Water Resources Board, and asked for the roll call of members.

A.1. Roll Call

Board Members Present

Linda Lambert, Chairman
Jason Hitch, Secretary
Tom Buchanan
Charles Darby
Bob Drake
Robert L. Melton
Robert Stallings

Board Members Absent

Stephen Allen
Ford Drummond, Vice Chairman

Staff Members Present

Julie Cunningham, Executive Director
Robert Singletary, General Counsel
Cleve Pierce, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Kent Wilkins, Chief, Planning and Management Division
Bill Cauthron, Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

Others Present

Ed Fite, Tahlequah, OK
Clyde Collis, Hughes County Rural Water District No. 5

David P. Page, Clark Family Trust, Tulsa, OK
Ben Oglesby, Municipal Finance Services/Skiatook, Edmond, OK
Eric Cowan, Bank of America/Merrill Lynch, St. Louis, MO
Chris Gander, BOKFA, Oklahoma City, OK
Brad White, City of Skiatook, OK
John Dock, Muskogee County Rural Water District No. 3,
Nick Sidorakis, Southern Hills Country Club, Tulsa, OK
Bodie Bachelor, Centennial Law, Duncan, OK
Ken Williams, Southern Hills Country Club, Tulsa, OK
Bud Ground, Environmental Federation of Oklahoma, Oklahoma City, OK
Mike Mathis, Continental Resources, Inc., Oklahoma City, OK
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
Jeff Everett, OGE Energy Corp., Oklahoma City, OK
Tina Foshee-Thomas, City of Idabel, OK
Kim Corley, City of Idabel, OK
Deena Suddeth, BancFirst, Oklahoma City, OK
Charlie Swinton, BancFirst, Oklahoma City, OK
Vernon Smith, City of Sand Springs, OK

A.2. Presentation of Resolution of Appreciation to Ed Fite.

Chairman Lambert stated that prior to considering regular business, the Board would say goodbye and thank you to Mr. Ed Fite. Chairman Lambert read the Resolution of Appreciation from the Board and OWRB staff recognizing Mr. Fite's 12 years of service on the Board and the many significant accomplishments during his tenure and committee leadership. Secretary of Energy and Environment Michael Teague presented Mr. Fite with a Governor's Commendation for his service to the OWRB benefitting the state's natural resources. Following, a group photo, Executive Director Julie Cunningham expressed her personal appreciation, as well as that of the staff, to Mr. Fite for his involvement in the agency programs, particularly the water quality monitoring and floodplain management. Mr. Fite commented to the members and audience about his 33-year career goal to strike a balance between a robust economy and protection of the resource (Illinois River) through establishing a phosphorous level, stepping up to find solutions fair to everyone, and educating the public about the value of water. He spoke about the need to educate the public about Oklahoma's water resources, particularly conjunctive use and the need for whole river basin strategies for sustaining the health of rivers and he enumerated several components necessary. Mr. Fite concluded his remarks speaking to the potential future sale of water and the OWRB is the frontline of defense, he encouraged the members to travel around the state and interact with citizens, and thanked state officials for allowing him to serve the State of Oklahoma and to work with the Board members and staff.

A.3. Introduction of New Board members Robert Stallings and Robert L. Melton, Sr.

Chairman Lambert stated that while we say "goodbye and thank you" to one member today, we say "hello and welcome" to two new members. Mr. Robert Stallings is chairman of Envirotech Engineering and Consulting in Enid, Oklahoma, and represents Region 2 and oil and gas production water use; he will serve on the Water Policy/Rules Committee, and Finance Committee. Mr. Robert Melton is a third generation family car dealership and entrepreneur, representing Region 6 and municipal water use will serve on the Administrative/Budget Committee, and the Finance Committee. Chairman Lambert stated their background information is included in the meeting materials. She welcomed each gentleman to the Board.

B. Discussion, Amendments, and Vote to Approve Official Minutes of the April 18, 2017, Regular Meeting.

Chairman Lambert asked if there were any corrections to the minutes of the April 18, 2017, regular meeting. There were no changes, and Mr. Hitch moved to approve the minutes, and Mr. Darby seconded.

Chairman Lambert called for the vote.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert

NAY: None

ABSTAIN: None

ABSENT: Allen, Drummond

C. Executive Director's Report

Ms. Julie Cunningham, OWRB Executive Director, welcomed the members and began her report with the drought update stating despite the rain experienced across the state, drought conditions persist in the southeast portion of the state. The Panhandle area is recovering from the devastating fires that occurred in March due to dry conditions in Beaver, Harper, and Woods Counties, suffering from the loss of seven lives, and many livestock, homes, fences, and other structures. She said there had been an overwhelming outpouring of assistance not only from Oklahoma citizens but other states. There were also record-breaking floods in eastern Oklahoma and she noted the lake levels and Corps of Engineers operations in the Arkansas River system.

Ms. Cunningham highlighted meetings that had occurred over the past month: Red River Compact Commission met in Shreveport, Louisiana, on May 2 working on rules regarding Arkansas and Louisiana computing compact compliance in their reaches of the river; Interstate Council on Water Policy Board met in Washington, D.C. April 26-28 and she met with Oklahoma's Congressional Delegation visiting about the Water Plan priorities, budget and recommendations; and ICWP Board met with the leadership of and US Geological Survey, NOAA, Army Corps of Engineers, discussing gaging networks, drought forecasting and Congressman Lucas's bill, "The Weather Research and Forecasting Innovation Act," signed by the President. The Produced Water Working Group finalized its recommendation report which was well received and positive press coverage – the agency received the announcement of a grant approval to further study recommendations regarding two promising paths forward and will be working with the Groundwater Protection Council and the National Resources Defense Lab to match the \$150,000.00 grant. Additionally, staff met with Secretary Teague and representatives of OU and OSU, University of Colorado, and Environmental Defense Fund on a path for additional research in technologies for produced water, finding data gaps, and there's a new national research consortium regarding food-energy-water nexus. Ms. Cunningham noted the OWRB Clean Water and Drinking Water SRF programs evaluation report was finalized by EPA – looking at financial, engineering, and environmental bid documents, construction review and entire programmatic compliance with the Clean Water Act and Safe Drinking Water Act, and the agency received high marks on specific indicators—return on investment is one of the highest in the nation, 298% compared to national average of 263%, a 3-to-1 return on federal dollars, and for the Drinking Water program investment is 350% compared to the national average of 240%. She also noted on the new bond issue the agency received a AAA rating, and she complimented Mr. Freeman and the FA staff for the recognition of the Oklahoma program as being one of the best in the nation.

Regarding state legislative activities, Ms. Cunningham said there are four produced water measures and one will authorize Oklahoma through EPA to permit discharge activities of produced water into the stream, and the other measure will be worked on during the interim. The Water Quality Standards and Financial Assistance rules are included in the HJR 1029 approving agency rules and should become permanent. There is no news on the budget – the deadline for revenue-raising

measures is this week, and budget measures need to be done by next week; sine die is scheduled for May 26. She reviewed the Congressional report included in the meeting packet noting the City of Ada received grant funds for water reuse feasibility; and the City of Bartlesville received a grant for a feasibility study to augment its water supply with drought-resilient reclaimed water, all under the WaterSmart program under the Bureau of Reclamation. The Congress passed a funding bill through September 30, 2017, with an increase to the COE, Bureau of Reclamation, the US Geological Survey targeting water forecasting and monitoring as well as infrastructure, while the EPA continues to be reduced.

Chairman Lambert spoke about the survey by members regarding the Board Education Series where staff will present topics of interest during Board meetings to inform members about pertinent topics. She said the first meeting will cover Oklahoma Water Law 101, and how the law differs from other states. The series will begin in June or July. She noted the updated list of members and committees had been distributed; there are some gaps for committee chairmen which will stand until the next election of officers which will be in June.

Ms. Cunningham continued her report noting the 22nd Anniversary of the Oklahoma City bombing and the annual agency tree ribbon ceremony, 17 participants in the Memorial Marathon with 10 employees running the half-marathon, Sciencefest at the Oklahoma City Fairground where 123 private, state, and federal organizations hosted 31 schools and 2,600 students for an education day regarding water conservation, water infrastructure and the water cycle. Bond signing will occur following the Board meeting, and a group photo of the Board members.

There were no questions from members, but Mr. Drake relayed comments he had received from his area about the professionalism of OWRB staff while working on permits.

D. Financial Update

1. Budget Report. Mr. Cleve Pierce addressed the members and stated the budget report regards financial information for the month ending April 2017. During this reporting period, the agency has 49% of the revolving fund remaining, and expended 58% of federal dollars. Overall, the total budget remaining is 42%, with 17% of the fiscal year remaining. He said compared to last year, the agency has spent right on target. He said the divisions have been working on the FY2018 budget and scenarios for different levels of a funding decrease impact upon the agency programs. Chairman Lambert asked the percentage decreased, and Mr. Pierce answered the amount is unknown at this time; earlier in the year the agency had been asked for information up to a 14.5% decrease, but internally the agency is looking at 10%, and planning for flexibility.

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

2. **FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water District No. 5, Hughes County.

Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is for the consideration of a \$885,000.00 loan request by the Hughes County Rural Water District No. 5. The District is requesting the loan to refinance an existing OWRB variable rate loan for constructing a new water well and install 16,000 feet of water lines. Mr. Freeman noted provisions of the loan agreement, that the District has been a long-time, good customer of the Board's and its debt coverage ratio stands at 1.66-times. Staff recommended approval of the loan request.

Mr. Clyde Collis, District Board Member, was present representing the District. Chairman Lambert asked about the change in interest rate. Mr. Freeman answered the financing would go from a

variable interest rate that changes every 6 months to a fixed interest rate; the bond issue has not been priced as yet. Mr. Hitch asked how many taps the District serves, and Mr. Collis responded there are 300, in addition to the 1,500 in the prison system. Mr. Hitch asked if the prison is the main industry, and Mr. Collis answered, yes.

There were no more questions, and Chairman Lambert said she would entertain a motion. Mr. Hitch moved to approve the FAP loan to the Hughes County RWD #5, and Mr. Stallings seconded. Chairman Lambert called for the vote.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert
NAY: None
ABSTAIN: None
ABSENT: Allen, Drummond

B. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water District No. 3, Muskogee County. Recommended for Approval. Mr. Freeman stated this item is a \$1,890,000.00 loan request by the Muskogee County Rural Water District No. 3. The District is requesting the loan to refinance a previous bond issue in order to reduce interest and proceeds will also be used for installing a pump, water line and clarifier cover. Mr. Freeman noted provisions of the loan agreement, and stated the debt coverage ratio stands at approximately 1.44-times. Staff recommended approval.

District Chairman John Dock was present in support of the loan application. Chairman Lambert asked about the interest rate, and Mr. Freeman said there is currently a fixed rate and the refinancing will help to lower the interest rate to help afford the new project and be in more sound financial condition in the future. Mr. Hitch asked the number of taps served by the system, and Mr. Dock responded there are 370, serving small rural areas around the Checotah area and Council Hill.

There were no other questions, and Chairman Lambert asked for a motion. Mr. Darby moved to approve the FAP loan to the Muskogee County Rural Water District #3, and Mr. Stallings seconded.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert
NAY: None
ABSTAIN: None
ABSENT: Allen, Drummond

C. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water and Sewer District No. 1, Choctaw County. Recommended for Approval. Mr. Freeman stated this next item is a \$2,015,000.00 loan request from the Choctaw County Rural Water District #1. The District is requesting the loan to refinance water and sewer project financings in order to reduce interest expense and to lay approximately 33,000 feet of 4-inch water line. Mr. Freeman noted provisions of the loan agreement, and said the District's water connections have increased by 6% and sewer connections have increased by 12% over the past ten years. The District's debt coverage ratio stands at approximately 1.7-times. Staff recommended approval.

Financial Advisor Rick Smith, Municipal Finance Services, represented the District. Chairman Mrs. Susan Brewer was unable to attend, and Mr. Smith conveyed the District Board's appreciation of the Board's involvement. He spoke of the District's loan history with the Board. Mr. Hitch asked if there is a current loan with the Board, and Mr. Smith said there is not, the previous loan was refinanced in 2007 with a bond issue which will now be refinanced, coming full circle.

Mr. Drake moved to approve the FAP loan to the Choctaw County Rural Water and Sewer District No. 1, and Mr. Hitch seconded.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert
NAY: None

ABSTAIN: None
ABSENT: Allen, Drummond

D. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Rural Water, Sewer, Gas and Solid Waste Management District No.9, Wagoner County. Recommended for Approval. Mr. Freeman asked to withdraw consideration of this item today with the potential to be brought to the Board at a future meeting.

E. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Idabel Public Works Authority, McCurtain County. Recommended for Approval. Mr. Freeman stated that this item is for a \$4,325,000.00 loan request from the Idabel Public Works Authority located in McCurtain County. The Authority is requesting the loan to go along with approximately \$360,000.00 in local funds for the construction of two 500,000 gallon water storage tanks. Mr. Freeman noted provisions of the loan agreement, and said this will be the first loan that Idabel has obtained from the OWRB. The Authority has a very strong debt coverage ratio of approximately 4.5-times. Staff recommended approval.

Mayor Tina Foshee-Thomas, represented Idabel in support of the loan request. Chairman Lambert asked why it is Idabel's first loan, and Mayor Foshee-Thomas answered this is Idabel's first major water project since she has been mayor. Mr. Hitch asked the number of taps, and the main industry. The Mayor answered there are 3,000 taps both commercial and residential, and lumber and wood products is the main industry, a small Weyerhaeuser facility is located in the area, but largely it is International Paper.

Chairman Lambert asked if there were other comments. Mr. Hitch moved to approve the FAP loan to the Idabel Public Works Authority, and Mr. Stallings seconded.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert
NAY: None
ABSTAIN: None
ABSENT: Allen, Drummond

F. Consideration of and Possible Action on a Proposed Order Approving Amendment to Loan Agreement of Clean Water Funds for Skiatook Public Works Authority, Osage County. Recommended for Approval. Mr. Freeman stated this next item is a request from the Skiatook Public Works Authority for a \$2,103,000.00 increase in loan funds. At the December 2016 meeting, the Board approved a \$10,350,000.00 loan to Skiatook for wastewater system improvements. Following approval, bids for the project came in higher than initial estimates. The town has shown it can service the additional debt which is to construct a new lift station and force main, convert existing lagoons into flow equalization basins, construct a new mechanical wastewater treatment plant and remove two lift stations. In addition, the loan will be used for new alarm dialers, pump rails and brackets, generators, transfer switches and security fencing at two lift stations. Mr. Freeman reviewed the provisions of the loan agreement and said Skiatook has two other loans with the Board with a combined balance of approximately \$1.2 million. Skiatook's water and sewer connections have increased by about 10% over the past ten years, and its debt coverage ratio stands at approximately 1.84-times. Staff recommended approval.

Mr. Brad White, Public Works Director, was present representing Skiatook Public Works Authority. Chairman Lambert asked the main reason for the increase, and Mr. White asked Mr. Steve Tollar with Holloway Updike and Bellen, to speak to the members about the reason for the increase in bids received. He said the original estimates were made before receiving regulatory approval for the project from the Department of Environmental Quality, and there were design change requirements to reduce redundancy. The project will build a new mechanical plant and eliminate two sewer lagoons

and the amount of dirt work and time to construct the plant, and then the dirt work to close the lagoons, came in significantly higher; the electrical bids were also significantly higher.

Chairman Lambert stated she would entertain a motion if there were no other questions. There were none, and Mr. Buchanan moved to approve the increase in loan amount to Skiatook PWA, and Mr. Hitch seconded.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert
NAY: None
ABSTAIN: None
ABSENT: Allen, Drummond

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 Summary Disposition Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items Listed. Chairman Lambert stated item 3.D.1., agreement between OWRB and the Central Oklahoma Master Conservancy District, is withdrawn until a later date.

Chairman Lambert asked if there were actions regarding items on the Summary Disposition Agenda. There were none, and Chairman Lambert asked for a motion to approve the Summary Disposition Agenda.

Mr. Darby moved to approve the Summary Disposition Agenda, and Mr. Hitch seconded. Chairman Lambert called for the vote.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert
NAY: None
ABSTAIN: None
ABSENT: Allen, Drummond

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>
GGEDA				
a.	FAP-17-0031-R	Copan Public Works Authority	Washington	\$99,500.00

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

1. *Intergovernmental Agreement between OWRB and the Central Oklahoma Master Conservancy District for water quality monitoring at Lake Thunderbird. Item withdrawn*

- E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:
1. A L R Farms, L.L.C., Delaware County, #2016-542
 2. City of Enid/Enid Municipal Authority, Major County, #2016-574
 3. Kelly & Melody Bisel, Major County, #2016-578
- F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
1. Caddo County RWS&SWM District No. 3, Caddo & Washita Counties, #1995-637
 2. John Paul & Jennifer Lyn Page, Caddo County, #2011-526A
- G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:
1. Dakota Kinder, Tillman County, #2015-583
 2. Chad & Jenae Rippetoe, Beckham County, #2016-559
 3. Courtney Flat Holdings, Ltd., Love County, #2016-579
 4. Rex N. & Diana F. Hoover, Beaver County, #2016-582
 5. Southern Oklahoma Water Corporation, Love County, #2017-510
- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
1. Arthur & Deborah Ann Bohlmann, Texas County, #1979-555
 2. Craig & Tina Clark, Greer County, #1979-659
 3. City of Clinton, Custer County, #1993-618
- I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
1. Enable Gas Transmission, L.L.C. (Hinton Compressor Station), Caddo County, #1955-090B
 2. Caddo County RWS&SWM District No. 3, Washita County, #1972-234B
- J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
1. Oklahoma Department of Wildlife Conservation, Sequoyah County, #2016-005
 2. The Derald D. Dierksen Family Revocable Trust U/T/A 12/23/2015, Logan County, #2016-021
 3. Inman Family, L.L.C., Coal County, #2016-026
 4. Chris Klaassen, Caddo County, #2016-032
 5. R B Q, L.P., Choctaw County, #2016-035
 6. Five-G-Water, Kingfisher County, #2017-001
- K. Consideration of and Possible Action on Applications to Amend Permits to Use Stream
1. City of Sand Springs, Osage County, #1966-293
 2. City of Atoka, Atoka County, #1991-049
- L. Consideration of and Possible Action on Applications for Seasonal Permits to Use Stream Water:
1. Abbylane Properties, L.L.C., Grant County, #2016-036
- M. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:
1. New Licenses and Operators:
 - a. Licensee: Winters Doors, L.L.C. DPC-0985
 1. Operator: Travis Winters OP-1499
 2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:
 - a. Licensee: Andrews & Foster Drilling Company DPC-0776
 1. Operator: Jacob Stanton OP-2195
 - b. Licensee: Associated Environmental Industries DPC-0269
 1. Operator: Charles Clark OP-1210
 - c. Licensee: Robinson Water Well Drilling, Inc. DPC-0167
 1. Operator: Bruce Robinson OP-2196
 2. Operator: Chris Short OP-2197

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| d. Licensee: Loman Drilling, Inc. | DPC-0127 |
| 1. Operator: Tyler Loman | OP-2022 |
| e. Licensee: J & B Pump & Supply, LLC | DPC-0587 |
| 1. Operator: Wesley Anaya | OP-2198 |
| 2. Operator: Matthew Caraway | OP-2199 |
| f. Licensee: Dudley Water Well Pump and Repair | DPC-0822 |
| 1. Operator: Blaine Dudley | OP-2200 |
| g. Licensee: Northwest Water Well Service, LLC | DPC 0845 |
| 1. Operator: Harold McKinley | OP-947 |

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

1. Oklahoma Department of Transportation, Seminole County, #FP-17-04
2. Oklahoma Department of Transportation, Seminole County, #FP-17-05
3. Oklahoma Department of Transportation, Woodward County, #FP-17-06
4. Oklahoma Department of Transportation, Woodward County, #FP-17-07
5. Oklahoma Department of Transportation, Kay County, #FP-17-09
6. Oklahoma Department of Transportation, Kay County, #FP-17-10
7. Oklahoma Department of Transportation, Oklahoma County, #FP-17-11

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

1. John A. Barron, CFM, City of Altus, FPA-707
2. Derrick W. Mixon, Atoka County, FPA-708
3. Nehemiah A. Yager, Town of Cheyenne, FPA-709
4. Janet E. Smith, City of Crescent, FPA-710
5. Michael Price, Town of Davenport, FPA-711
6. Shelly D. Dalla Rosa, City of El Reno, FPA-712
7. Ronny J. Nelson, CFM, Town of Goldsby, FPA-713
8. Bruce C. Hoyt, City of Healdton, FPA-714
9. David R. Schucker, Town of Medicine Park, FPA-715
10. Todd M. Finley, Town of Mooreland, FPA-716
11. Jeffrey L. Goerke, City of Snyder, FPA-717
12. Ken M. Nelson, City of The Village, FPA-718

04000 4. QUESTIONS AND DISCUSSION ABOUT ITEMS OF INTEREST OR OTHER AGENCY MATTERS **Chairman Lambert**

A. Discussion of Board Education Series Topics and Priorities. Chairman Lambert discussed the Board Education Series topics and priorities under the Executive Director’s report.

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Application for a Temporary Permit to Use Groundwater No. 2002-508, Southern Hills Country Club, Tulsa County:

1. Summary – Mr. Kent Wilkins, Chief, Planning and Management Division, stated to the members that this item is an application to amend a temporary permit in the name of Southern Hills Country Club, Tulsa County, permit number 2002-508. He provided background on the application stating the original permit was issued to Southern Hills in 2002, for 594 acre-feet of water and

amended in 2013 to increase the amount to 608 acre-feet. In February of 2015, the applicant requested to amend the permit to dedicate an additional 4.7 acres of land and permit a total of 18 wells. The amendment was timely protested by Stacy and Roberta Clark on the basis the dedicated land did not overlie the same groundwater basin. On May 6, the hearing examiner remanded the application to staff and on May 18 the applicant submitted a revised application indicating a reduction in the dedicated lands from 309.1 to 202.7 acres of land, and reduction in the water to 405.4 acre-feet based upon a more recent geological map prepared by the Oklahoma Geological Survey which indicated the presence of the Arkansas Alluvium and Terrace Deposits (A&T) covering the 202.7 acres of dedicated land.

Mr. Wilkins stated the protestants submitted to the Board a motion to reconsider and request for hearing on the belief the deposits should be considered as separate basins; the motion was granted and hearing conducted on December 13, 2016. The protestants expressed the concern the alluvium deposits and terrace deposits should be treated as two distinct basins and the applicants testified the A&T are hydrologically connected and the geological materials are substantially the same. Mr. Wilkins said that based upon all the information presented at the hearing, the hearing examiner concluded that it is proper to treat the A&T of the Arkansas River as one basin and that the 202.7 acres of land dedicated to the application does overlie that basin. Therefore, the record showed the applicants own the land and have sufficient interest in the 202.7 acres of dedicated land, the land does overlie the groundwater basin known as the Alluvium and Terrace Deposits of the Arkansas River which is a temporary basin of which the maximum annual yield has not been determined and the equal proportionate share has not been established therefore each landowner is entitled to two acre-feet of groundwater per acre per year. He said the hearing examiner also indicated the use of water is beneficial use – irrigation of a golf course – and waste by pollution and depletion will not occur. The applicant has showed the requirements of law have been met as set forth in Oklahoma Groundwater Law, and staff recommended approval of the proposed findings of fact, conclusions of law, and Board order as presented by the hearing examiner.

Mr. Wilkins stated representing the applicant is General Manager Nick Sidorakis and attorney Kenyon Williams, and representing the protestant is attorney David Page.

Mr. Hitch asked about the number of wells but small quantity of water. Mr. Wilkins explained the original amount of water has been reduced because of the reduction in the land dedicated. He said these are shallow alluvium wells and more wells are needed to get that amount of water from the formation. There were no other questions by members.

2. Discussion and presentation by parties. Chairman Lambert invited Mr. Ken Williams to speak to the Board following a statement by General Counsel Singletary. Mr. Singletary stated pursuant to AOC 78549-2 that no new testimony or evidence may be presented or entertained at the Board meeting at which the hearing examiner's proposed order is being considered and acted upon by the Board. He said there can be no new testimony and no new evidence, and he asked the parties to keep their remarks related directly to the evidence that was presented before the hearing examiner. Chairman Lambert allowed 10 minutes for each party to make a presentation to the Board.

Mr. Ken Williams, Hall Estill law firm representing the applicant, stated to the members the applicant fully supports the determination and recommendation made by the hearing examiner and staff and said that for over 80 years the applicant has relied upon the groundwater it is requesting to continue to utilize, and he described the Southern Hills Golf Course as a crown jewel for the community of Tulsa. He said the basin is regularly recharged by the Arkansas River, and there are not many permit holders in the vicinity. He is present today to answer questions the Board may have, and certified hydrologist Matthew Coe, Myers Engineering firm and advisory, is also present. Mr. Williams stated the applicant's appreciation and asked the Board find it appropriate to grant the application.

There were no comments or questions by Board members.

Mr. David Page, representing the protestants the Clark Family Trust (who are not able to attend), addressed the members and distributed exhibits which had been presented at the hearing, and a transcript of the hearing of December 13, 2016. He highlighted key testimony in the materials, and stated the key issues regards whether where the wells will be implemented for Southern Hills is in the same groundwater basin as a lot of the land which is being dedicated for production of these wells. He noted exhibit 5 as the map presented by OWRB staff showing the area of Southern Hills, and the small areas he called the "metro" area, close to the Arkansas River, which information was taken from the Oklahoma Geological Survey map. Mr. Page contended the areas shown are undisputed that exhibits 4a and 4b are the basis for exhibit 5, and said there are several geological units depicted with the cross-hatch areas representing the original application and 600 acres. After receiving protests, staff eliminated all the blue areas and now before the Board is an application with 207 acres, which includes the orange (terrace deposits) and yellow (alluvial deposits), and he said the USGS makes as separate geological formations, and both hydrologists agreed the map showed separate formations. Mr. Page said the wells in the "metro" area -- a dozen wells in the 11 acre area -- will be pumped based on an allocation from Southern Hills a mile away that includes both terrace deposits and alluvial deposits. He asked if that is fair under the rules and are they separate and distinct, or not. He also referred to exhibit 7. providing the definition of a groundwater basin based on Oklahoma statute which he read and contended the evidence established these are separate geological units. He stated Mr. Sidorakis testified about historical wells on the Southern Hills property that over time reduced production to 2-9 gpm and the new wells will produce between 20-45 gpm and he argued that because the yield varied, there are two distinct formations. He said Mr. Coe agreed the production is different and also the Kleinfelder report concluded the area at Southern Hills compared to the metro area are two different geological formations. In conclusion, Mr. Page stated the issue is whether the permit covers the orange area on the Southern Hills property, and if excluded as a separate groundwater basin, rather than 202.7 acres it should be the yellow acreage of 47.7. He asked the Board either ask the hearing examiner to revisit paragraphs 22 and 12 of its decision or to amend the permit to allow a permit for one single groundwater basin where the wells will be located in the alluvium for 47.7 acres.

There were no questions by Board members.

Chairman Lambert invited the applicant to respond. Mr. Williams clarified the applicant has utilized wells since 1938 in the metro area and this is not the first request for an increase in production in areas other than the applicant's primary area. He asked the Board to focus on staff's presentation and in the application that the Arkansas alluvium and terrace deposits were all laid down by the same mechanism, the Arkansas River, over time and is unconsolidated, a sedimentary formation and has been treated by the agency as one unconsolidated formation. He said there is no determination by the OWRB the alluvium and terrace are separate formations and for these many years the permit has been based upon that treatment, and there was no evidence presented that should change the agency's treatment this unconsolidated material as one formation. He asked the Board to grant the application. Mr. Page also clarified that on exhibit 5. the blue area had been removed because staff asked the applicant to separate the Holdenville from the Arkansas alluvium terrace.

Chairman Lambert asked if the Oklahoma Geological Survey had made a determination on the alluvium terrace as to being one or not one. Mr. Page said as far as the applicant is aware, there had been no study and no determination by anyone that these are separate, defined formations. Mr. Coe, professional hydrologist and engineer, explained to the members that the Arkansas River basin groundwater, even in the Kleinfelder report, referred to the basin as the terrace and alluvial deposits, and the OWRB has not been permitting these areas as a separate groundwater basins and alluvial deposits, but treating them as one basin as they are hydrologically connected, there is forced media connecting the basins and the terrace deposits are merely at a higher elevation.

Mr. Hitch asked if there is a floor separating the areas, and Mr. Coe responded no, the Holdenville formation underlies both formations. Mr. Hitch said there would need to be a red bed or plate deposit between the Holdenville and the other areas to separate them, and Mr. Coe said, yes, and he presented bore logs from Southern Hills Country Club property. Mr. Williams said the Holdenville is at a different elevation and in response to Mr. Hitch stating the alluvial and terrace deposit is at a different elevation, Mr. Williams said there is still not separation of an impermeable material between the alluvial and terrace deposits and that all the water that irrigates the Club flows back into the deposits. Mr. Coe said that is a fair statement, and said the metro well field is near the Arkansas River and has a high recharge rate and there is always water being continuously fed back into the aquifer.

Mr. Stallings asked for a description of the differential in size and the hydrologic conductivity of the alluvial and deposits for a sense of how close they are. Mr. Coe said he observed through boring logs that characterized materials in both formations there were sands and clays very similar in nature; the clay layer is intermingled in the alluvium.

There were no further comments or questions for the applicant.

Chairman Lambert invited Mr. Page to respond to her questions. Mr. Page contended the Oklahoma Geological Survey determined them to be separate formations, referring to exhibits 4a and 4b, and 5., and he explained the deposits were laid down 12,000 years ago and at a different era in history. He said the boring logs were not that specific, and in Mr. Coe's testimony he admitted they were different geological formations and there was no pump test conducted to validate their similar hydrologic conductivity. He said there is undisputed testimony the wells on the Southern Hills property yield 2-9 gpm, and the metro wells yield 20-40 gpm.

Chairman Lambert referred to page 5006, #12 in the Board's order that the "exhibits do characterize the alluvium and terrace deposits as distinct geologic formations. However, this fact alone does not prove that the formations do not share a hydrologic connection." And further, "Neither party visited the site nor attempted to define the specific boundaries of the alluvium deposits and terrace deposits related to the dedicated lands. Furthermore, neither party conducted a specific investigation to determine the geological characteristics of the alluvium and terrace or whether hydrological connectivity exists between the deposits in the relevant area." She asked Mr. Wilkins to comment. Mr. Wilkins responded the Board routinely combines deposits and formations into a single basin if they are hydrologically connected, even separate formations that are alluvium and terrace, if they are connected they are combined into a single basin. The OGS map is a map of deposits and is not a basin boundary map. This is a temporary basin, no study has been conducted. Ms. Cunningham added that conclusions of law no. 22 refers to language in paragraph 12, "The Board concludes it is proper to treat the alluvium deposits and terrace deposits of the Arkansas River as one basin until such a time as the maximum annual yield study and determination can be completed by the Board," and this is routine. Mr. Hitch asked if the study does not find a connection, how does the Board take care of that, and Mr. Wilkins answered once the study is done a basin boundary is established and that would separate the two if that is the case and existing permits would be divided and placed in the appropriate basin. Mr. Hitch asked if that would affect the beneficial use, and Chairman Lambert asked if there would be an effect on this permit. Mr. Wilkins stated there is always the potential the equal proportionate share would be reduced so the overall amount permitted could be reduced. The area of use and beneficial use could remain the same as groundwater is a private property right and can be used on land that is not dedicated. Mr. Wilkins said a permit could be divided; Ms. Cunningham said it could become an "a" and a "b" etc., and that happens on every study because it is required by statute to determine the basin boundary. She added permits in an unstudied basin are temporary permits.

Mr. Stallings asked if the OWRB staff had looked at all the geologic data available and determined it is hydrologically connected. Mr. Wilkins stated staff has looked at the record as well as the hearing examiner and have not determined it is not hydrologically connected; that would require

drilling bore holes, but in general that is considered one basin. There is nothing in the record at this time that would require staff to separate that out. Chairman Lambert added when the study is conducted that question will be answered, and this is a temporary permit to be definitive when the study is done, and Mr. Wilkins said, based on the best available data at that time.

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 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 other questions or comments, and Chairman Lambert stated she would entertain a motion. Mr. Drake stated that based upon the information before the Board and rules as they are known, he would move approval. Mr. Stallings seconded.

AYE: Buchanan, Drake, Melton, Hitch, Darby, Stallings, Lambert

NAY: None

ABSTAIN: None

ABSENT: Allen, Drummond

B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

6. NEW BUSINESS

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

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

7. ADJOURNMENT

There being no further business, Chairman Lambert adjourned the meeting of the Oklahoma Water Resources Board at 11:05 a.m. on May 16, 2017.

OKLAHOMA WATER RESOURCES BOARD

_____/Absent_____
Linda P. Lambert, Chairman

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

_____/s/_____
Stephen B. Allen

_____/s/_____
Tom Buchanan

_____/s/_____
Charles Darby

_____/s/_____
Bob Drake

_____/s/_____
Robert L. Melton, Sr.

_____/s/_____
Robert Stallings

ATTEST:

_____/s/_____
Jason W. Hitch, Secretary (SEAL)