

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
September 19, 2017

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman F. Ford Drummond at 9:34 a.m., on September 19, 2017, at the Oklahoma Water Resources Board office, located at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on September 15, 2017, at 10:15 a.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 Drummond welcomed everyone to the regular meeting of the Oklahoma Water Resources Board. He asked for the roll call of members.

A.1. Roll Call

Board Members Present

Ford Drummond, Chairman
Stephen Allen, Secretary
Tom Buchanan
Charles Darby
Bob Drake
Linda Lambert
Robert L. Melton
Robert Stallings

Board Members Absent

Jason Hitch, 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

Lacy Rowell, Town of Calumet, OK
Jill Ray, Town of Calumet, OK

Billy Wilson, Town of Inola, OK
Michael Taylor, Cowan Group, Oklahoma City, OK
Connie Quinn, OWRB
Dean Couch, Devon, Oklahoma City, OK
Mike Mathis, Continental Resources, Oklahoma City, OK
Charles Swinton, BancFirst, Oklahoma City, OK
Blaine Nice, Nguyen/Do, Oklahoma City, OK
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK
Robert Getchell, John & Sarah Jarrett, Tulsa, OK
Brian Kellogg, Town of Inola, Talala, OK
Dallas Strimple, John Manning & Carl Manning
Carlos E. Johnson, BKA,LLP, Oklahoma City, OK
Curt Roggow, Roggow Consulting, City of Enid; Hillsdale, OK
Jared Cottle, City of Bixby, OK
Marla Peek, Oklahoma Farm Bureau, Oklahoma City, OK
Mike Langston, South Central Climate Science Center

B. Discussion, Amendments, and Vote to Approve Official Minutes of the August 15, 2017, Regular Meeting.

Chairman Drummond asked if there were any corrections to the minutes of the August 15, 2017, regular meeting. Mr. Allen said that on page 1114, in the first sentence, he proposed to insert the word, “not” in the second line, “...that groundwater was not available at other locations.” There were no other changes or comments. Chairman Drummond stated he would entertain a motion to approve the minutes as amended. Mr. Drake moved to approve the minutes as amended, and Mr. Darby seconded.

Chairman Drummond called for the vote.

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

C. Executive Director’s Report

Ms. Julie Cunningham, OWRB Executive Director, welcomed the members and began by reporting on the current drought conditions across the state. She said regarding the budget, the Governor has called a Special Session to begin on September 25; the agency has been asked by the House Appropriations and Budget Subcommittee on Natural Resources and Regulatory Services Chairman Representative Pfeiffer to provide information on how additional cuts would be absorbed. Mr. Wilkins and Mr. Pierce met with the Chairman explaining how the agency planned to push back IT modernization, renegotiating lab costs, scaling back field work if necessary, and the agency is also pursuing federal funding through projects. The Committee asked for effects of a cut of 3.17%. Ms. Lambert asked about emphasis for funding to complete the maximum annual yield studies, and Ms. Cunningham stated those studies are funded through the Gross Production Tax funds which is scheduled to sunset in 2019. While staff will be working with the legislature to extend that funding, those projects have slowed because GPT funds have not been coming in as expected. She explained that funding goes toward a team of 10 geologist and hydrologists working on those studies, and contract about one-half the work to consulting firms; there are six, 2-4 year projects ongoing at this time, but that is separate from the appropriations process. She reminded the members of the history of funding by the legislature since the approval of the water plan showing support for water. Ms. Lambert asked if

the members could assist the agency, and Ms. Cunningham stated staff is working on a strategy with involvement by the Board's legislative affairs and rules committees.

Continuing, Ms. Cunningham stated the agency received news on the Arbuckle-Simpson Maximum Annual Yield (MAY) lawsuit, and asked General Counsel Singletary to update the members. Mr. Singletary provided a brief background about the case stating in 2003, Senate Bill 288 was enacted that required any MAY issues for a sole source aquifer would not decrease the natural flow, in part or in whole, from springs and streams that emanate from the groundwater basins. After six years, and a \$6 million study, the Board issued a tentative MAY/EPS in 2012, ultimately issuing the order in October 2013. That order was subsequently appealed, a District Court hearing in 2015 upheld the Board's order which decision was appealed to the Supreme Court being assigned to the Court of Appeals. After briefings, the Court of Appeals issued an order received September 18 affirming the District Court's decision. The statutory default of two acre-feet of water per acre of land, and the MAY/EPS, in order not to reduce the springs and streams, is .2 acre feet of water per acre of land. Mr. Singletary said there is one final request that can be made to appeal back to the Supreme Court. Ms. Lambert asked who is appealing, and Mr. Singletary said there are several parties involved but the Oklahoma Farm Bureau is the first party listed. Ms. Cunningham said she and the Chairman are working to identify an existing or new committee to work with staff on a strategy to bring forward several studies to the Board.

Ms. Cunningham said that on August 18, the managers held its annual planning session and discussed some of the items the Board had identified during the executive director transitioning, including workforce development, succession planning, and legislative engagement. There are several key performance measures in the agency strategic plan including alliance building, outreach and education, employee training, and succession planning which staff are combining and developing further.

Acceptance for nominations for the new Water for 2060 Conservation Awards has been announced, and Ms. Cunningham encouraged people to share about projects. The Oklahoma Municipal League, Rural Water Association, and Farm Bureau are assisting in advertising the awards in the categories of Public Water Supply, Energy and Industry, and Crop Irrigation and Agriculture will be awarded at the Governor's Water Conference.

Ms. Cunningham stated the Oklahoma City permit hearing was held the week of August 21, and the Tribal Agreement requires that the Board consider the application within 45 days and October 10 is the meeting date, and the meeting will be held in Oklahoma City at 2:30 p.m. Chairman Drummond announced he would not be in attendance, and Vice Chairman Jason Hitch will conduct the meeting, and an education series has begun with the new Board members who have not been a part of the five years of litigation and mediation. He encouraged Board members who may have questions to contact staff. He said the November Board meeting will be held in conjunction with the Governor's Water Conference, following the conference session on November 1.

Ms. Cunningham continued with her report announcing the various meetings and other activities she and staff had been involved with since the last Board meeting including a water summit with southwest Oklahoma action planning committee (the project had been recognized by the White House Water Summit in 2015) involving six federal agencies and several new projects; and the first informal water quality standards stakeholders meeting was held, the second meeting will be October 10. Mr. Kent Wilkins informed the members about the situation with a 1915 oil and gas well leaking natural gas into geothermal wells on the softball fields of the Pawhuska Schools. Remediation was coordinated among several agencies, including the Osage Minerals Council, the Bureau of Indian Affairs, the Secretary of Energy and Environment, the Environmental Protection Agency, and multiple state agencies. The OWRB involvement concerned the geothermal wells; funding was available from the Oklahoma Corporation Commission to design and install a ventilation system, and the wells have been plugged for a successful result. There were no leaks inside the school building. Chairman Drummond commended Mr. Wilkins and OWRB for its work with state and federal agencies in resolving the issue

through the complicated jurisdictional system. He said the softball field is lost as it hasn't been determined how to plug the 1915 well. Mr. Singletary was involved as well.

Ms. Cunningham informed the members about visits with state legislators, the status of the water conference planning, invitations to the state leadership and participation by the Congressional delegation via videos; and, she noted highlights from the Congressional report. Mr. Wilkins updated the members on the reauthorization of the National Flood Insurance Program which is usually completed by the first of October but will be extended to December. Ms. Cunningham added the OWRB assists communities with the NFIP program.

Mr. Buchanan asked about the status comments from governmental agencies on the WOTUS rules and Ms. Cunningham and Mr. Singletary responded Oklahoma agencies provided comments in a letter submitted several months ago.

There were no other questions or comments from members, and Ms. Cunningham concluded her report

D. Financial Update

1. Budget Report. Mr. Cleve Pierce, Administrative Services Division Chief, addressed the members and stated the budget report regards financial information through August 2017. For the period, the agency spent 16% of its appropriated budget, 8% of the revolving budget, and 8% of federal dollars; overall, there is 90% of the budget remaining and 83% of the fiscal year remaining. He said the figures are exactly the same as last year, and there is a slightly smaller budget this year and while spending has slowed the percentages are the same. Currently, staff is working on the FY19 budget request document which is due to OMES on September 30. In addition to the 3.17% reduction, there was a request for agency response to a 5% reduction; 5% is a reduction of \$262,000, and 3.17% is a reduction of \$248,000. He said overall the budget is in good shape; the Division Chiefs are well aware of the financial situation and are watching spending.

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 Clean Water Funding Application for Calumet Public Works Authority, Canadian County. Recommended for Approval.

Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is a \$102,500.00 loan request from the Calumet Public Works Authority located in Canadian County. He said the loan is being requested for planning and design work for wastewater system improvements such as manhole rehabilitation and collection line replacement. Funding will be provided through the 10% loan forgiveness portion of the Board's 2017 EPA Capitalization Grant. He noted provisions of the loan agreement; the debt coverage ratio stands at 5.81-times. Staff recommended approval of the loan request.

Representing Calumet PWA was Mayor Lacey Rowell, Jill Ray, Clerk, and Michael Taylor, Project Engineer.

Ms. Lambert moved to approve the Clean Water Funding to the Calumet Public Works Authority, and Mr. Drake seconded. Chairman Drummond called for the vote

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

B. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Inola Public Works Authority, Rogers County. Recommended for Approval. Mr. Freeman stated this item is a \$161,250.00 funding request by the Inola Public Works Authority in Rogers County. Inola is requesting the funding for an infiltration and inflow study and engineering report to address deficiencies with its collection system and determine the best method to correct the situation. He said that funding will be provided through the loan forgiveness portion of the 2017 EPA Clean Water Capitalization Grant. He noted provisions of the loan agreement; debt coverage ratio is 1.85-times. Staff recommends approval of the Clean Water funding application request.

Representing Inola PWA was Mr. Billy Wilson, Board Member, and Mr. Brian Kellog, Engineer.

There were no questions by the members, and Chairman Drummond stated he would accept a motion. Mr. Melton moved to approve the funding request by the Inola PWA, and Mr. Darby seconded.

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

C. Consideration of and Possible Action on a Proposed Order Approving Extension of Time for Obligation of Drinking Water Funds for Canute Public Works Authority, Washita County. Recommended for Approval. Mr. Freeman informed the members this item is a request for an extension of time for obligation of funds by the Canute Public Works Authority located in Washita County. He said the Board originally approved a \$2,120,000.00 loan in October 2015 which was for constructing 150 gpm reverse osmosis water treatment plant and a raw water pipeline. He explained that after the loan was approved the bids received came in \$1 million over the engineer's estimate. Since that time period, Canute PWA has been looking at various options and working with DEQ to meet the consent order requirements. The loan is approved for funding through the Drinking Water SRF loan program, and he noted provisions of the loan agreement. Staff recommended approval of the request for an extension.

Mr. Dan Price, Administrator, and Mr. Ben Oglesby, Financial Advisor, were present in support of the request.

Ms. Lambert clarified this is an extension of the approval; this is not new money to solve the overreach. Mr. Freeman stated that is correct.

Chairman Drummond stated he would entertain a motion, and Ms. Lambert moved to approve the extension for obligation of funds to the Canute PWA. Mr. Stallings seconded.

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

D. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Bixby Public Works, Tulsa County. Recommended for Approval. Mr. Freeman stated this item is a \$24 million dollar loan request from the Bixby Public Works Authority. The loan is requested for 9,000 automatic water meters, and 4.5 mgd sequencing batch reactor wastewater treatment plant. Mr. Freeman said the loan will be funded through the Clean Water SRF loan program, and he noted provisions of the loan agreement. Over the last ten years, Bixby's water connections have increased by approximately 30% and sewer connections by 12%. Currently, the BPWA has two outstanding loans with the Board with a combined principal balance of approximately \$2.9 million. Bixby's debt coverage ratio stands at approximately 1.94-times.

Representing Bixby were Jared Cottle, City Manager, and Jon Wolfe, Financial Advisor. Mr. Cottle expressed his appreciation to the Board and staff. Chairman Drummond asked how long the project would take, and Mr. Cottle answered about a year and a half, the project is converting from a lagoon system to activated sludge system. He said they are looking at the next 30 years of continued growth of south Tulsa. Ms. Lambert asked if the sales tax had been approved, and Mr. Cottle answered yes, the sales tax was in place a number of years ago, and was dedicated to sanitary sewer system improvements.

There were no other questions, and Mr. Allen moved to approve the Clean Water SRF loan application to the Bixby Public Works Authority, and Mr. Darby seconded.

AYE: Lambert, Stallings, Allen, Drake, Darby, Melton, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Hitch

Mr. Freeman added that Bixby is contributing \$4.3 million in local funds to the project.

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 Drummond asked if there were actions regarding items on the Summary Disposition Agenda. Mr. Kent Wilkins asked that item 3.G.2., regular groundwater permit #2016-569, Roy & Louise Mach Trust, be withdrawn from the Board's consideration due to failure to meet notification requirements.

Mr. Buchanan asked about the contract with the Attorney General's office, and Mr. Singletary stated that is a contract for the hearing examiner for the Oklahoma City permit hearing. The agency has an ongoing contract with the A.G. office for overflow and hearing examiner services. Chairman Drummond added it was important to have an independent, non-conflicted hearing examiner.

There were no other changes, or questions, and Chairman Drummond asked for a motion to approve the Summary Disposition Agenda.

Mr. Buchanan moved to approve the Summary Disposition Agenda, and Mr. Allen seconded. Chairman Drummond called for the vote.

AYE: Lambert, Stallings, Allen, Drake, Darby, Melton, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Hitch

The following items were approved:

C. Consideration of and Possible Action on Financial Assistance Division Items:

1. Rural Economic Action Plan (REAP) Grant Applications:
Item No. Application No. Entity Name County Amount Recommended
None

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

1. Addendum to Contract between OWRB and Department of Public Safety related to building security.
2. Joint Funding Agreement between OWRB and USGS for the continued collection of data for the Little Washita River Basin and the Fort Cobb River Basin.
3. Speaker Agreement between OWRB and Let There Be Water, LLC to provide the keynote presentation at the 2017 Oklahoma Governor's Water Conference and Symposium.
4. Intergovernmental Agreement with Oklahoma State University – Oklahoma Water Resources Center to conduct a joint conference and symposium at the 2017 Oklahoma Governor's Water Conference presented before government officials and citizens.
5. Contract for Legal Services between OWRB and the Office of the Attorney General a hearing examiner for the OWRB.
6. Professional Services Agreement between OWRB and CH2M for engineering services provided to the Produced Water Working Group.
7. Assistance Agreement between OWRB and the U.S. Department of the Interior, Bureau of Reclamation for services provided to the Produced Water Working Group.

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

1. John E. & Markie Jo Repp, Caddo County, #2017-536

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

1. Georgia-Pacific Gypsum, L.L.C., Comanche County, #1985-511
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:

1. Technisand, Inc., Pontotoc County, #2011-647
2. Roy & Louise Mach Trust, Canadian County, #2016-569 *Item Withdrawn*
3. Philip Penner and Sara Penner Living Trusts, Beaver County, #2017-516
4. Kolar Land Co., L.L.C., Pottawatomie County, #2017-529
5. Brent Bauer, Texas County, #2017-537

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

None

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

None

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

1. Devon Energy Production Company, L.P., Kingfisher County, #2016-018
2. Perry & Karen Castonguay, Blaine County, #2017-019

3. Quentin & Mary Gilbert, Choctaw County, #2017-026
4. David Jess Hoffman & Mona Lisa Arthur Hoffman Revocable Trust, Canadian County, #2017-027
5. John Meyer and Thomas Meyer, Kingfisher County, #2017-028
6. Hillcrest Country Club, Washington County, #2017-029
7. Bryce LeGrand Castonguay, Blaine County, #2017-030
8. Kaw Land & Cattle Company, Inc., Noble County, #2017-031
9. LAZE, L.L.C., McClain County, #2017-034

K. Consideration of and Possible Action on Applications to Amend Permits to Use Stream Water:
 1. John Meyer and Thomas Meyer, Kingfisher County, #2015-016

L. Consideration of and Possible Action on Dam and Reservoir Construction:
 None

M. Consideration of and Possible Action on Proposed Resolution appointing Persons to Serve as Members of the Well Driller and Pump Installers Advisory Council:
 Names of persons to serve as members are individually set out in the September 19, 2017, packet of Board materials.

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

1. New Licenses and Operators:
 None
2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:
 - a. Licensee: Double J Energy DPC-0910
 1. Operator: Jason Randall OP-2208
 - b. Licensee: Mohawk Drilling, Inc. DPC-0563
 1. Operator: Tanner Brantley OP-2209
 - c. Licensee: Geotechnology, Inc. DPC-0866
 1. Operator: Patrick Hart OP-2210
 - d. Licensee: Cimarron Water Well Service DPC-0926
 1. Operator: Andrew Figures OP-2211

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

1. Oklahoma Department of Transportation, Pittsburg County, #FP-17-35
2. Oklahoma Department of Transportation, Ottawa County, #FP-17-36
3. Oklahoma Department of Transportation, Oklahoma County, #FP-17-60

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

1. Cathy L. Werner, Town of Bowlegs, #FPA-724
2. Thomas G. Coots, City of Stillwater, #FPA-725
3. Michael B. Ling, CFM, City of Tulsa, #FP-726

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

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

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Resolution for Easement Release, John T. Jarrett and Sara F. Jarrett, Tulsa County:

1. Summary – Mr. Kent Wilkins, Chief, Planning and Management Division, stated this item is an unusual situation and is for the consideration of a resolution for release of easement, no. 546 of the Conservation Commission of the State of Oklahoma. Current landowners are John T. and Sara Jarrett and the site is located in Section 30 Township 19N Range 11E. Mr. Wilkins explained the Conservation Commission was a predecessor agency for the Oklahoma Water Resources Board and on December 1, 1936, an easement document was patented between Leone Patton and the Conservation Commission for the purpose of constructing a dam, spillway and appurtenances on described lands. As the successor agency, the OWRB is authorized to execute a written release of an easement deed when a need for the easement no longer exists. A request by the current landowners was received by the Board, the Board's dam safety staff conducted a site inspection and determined the dam is 15 feet in height and impounds 3.3 acre-feet of water which is below the Board's jurisdictional authority. No issues were identified that would cause failure of the dam and the inspection report was reviewed by the Office of the Attorney General which approved the release. The landowners provided notice as required. Staff determined the need for the easement deed no longer exists, therefore; staff is recommending the Board execute a written release of the easement to John R. Jarrett and Sara F. Jarrett.

2. Discussion and presentation by parties. Mr. Robert Getchell was present representing John and Sara Jarrett. He said the easement is over 80 years old, as is the dam, and there hasn't been road access for some time. The Jarrett's recently purchased this parcel and 350 acres of land and want to control access to the pond. There is no one in the area and no public need; he asked for the Board's approval to authorize the release.

Chairman Drummond stated the matter is on the Special Consideration agenda not because it has been protested, but because it is an unusual item. Mr. Wilkins stated that is correct, the Board has not received any contact or protest. Mr. Buchanan asked the specifications that would be within the Board's jurisdiction, and Mr. Wilkins answered dam height would have to be 25 feet, or impound 50 acre-feet of water. He added if there were a house downstream, it would be a high hazard dam, but the inspection did not reveal one, and the Board does not have authority over the dam.

3. Vote on whether to approve or as may be amended, or vote on any other action or decision relating to the resolution.

Mr. Drake moved to approve the resolution for easement release, and Ms. Lambert seconded. Chairman Drummond called for the vote.

AYE: Lambert, Stallings, Allen, Drake, Darby, Melton, Buchanan, Drummond

NAY: None

ABSTAIN: None

ABSENT: Hitch

B. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Application to Amend Temporary Permit to Use Groundwater No. 2012-656, Jessica Nguyen and Vincent Do, Adair County:

1. Summary – Mr. Kent Wilkins stated this item is an application to amend a permit to use groundwater, no. 2012-656 in the name of Jessica Nguyen and Vincent Do for the operation of a poultry facility in Adair County. He provided the background of the original permit approved in 2013 to use 20 acre-feet for agriculture from two wells located on dedicated land; the land overlies the Boone Group and/or Roubidoux, an unstudied basin with an equal proportionate share of two acre-feet per acre per year. On February 6, 2017, the Board received a change of ownership request and an application to amend adding an additional well location and additional 235 acre-feet of water. The change of

ownership was approved; the applicants gave appropriate notice, and a timely protest was received by John Manning and Carl Manning, represented by attorney Jason Aamodt. A hearing was set and held on August 16, 2017; the certified mail receipt showed the attorney for the Protestants received the notice, but the Protestants did not appear and did not submit any documents requesting a continuance. Therefore, the Hearing examiner deemed the protest withdrawn and abandoned; opened the hearing and determined notice was proper and the applicants offered a statement regarding the application; the hearing was adjourned. On August 17, 2017, OWRB received Protestants' motion for requesting 10 days to file written objections because of the mistaken calendared date of the hearing. The hearing examiner denied the protestant's motion on August 31, and the proposed order for informal disposition was prepared and served on the parties prior to this Board meeting. The record showed the application met the requirements: applicants hold a valid right to produce groundwater, the land overlies the Boone Group and/or Roubidoux Formation, agricultural purpose is a beneficial use, and waste will not occur in the future. Therefore, staff recommended approval of the proposed findings of fact, conclusions of law, and Board order effectively approving the addition of one well and 235 acre-feet of groundwater.

2. Discussion and presentation by parties. Representing the Applicants was Mr. Blaine Nice, and representing the Protestants was Mr. Dallas Strimple.

Mr. Nice approached the members and stated the application meets the statutory requirements of ownership, beneficial use and no waste. He said the written objections, even if allowed, are not new and not jurisdictional to this Board, but to other agencies which his client has dealt with, and are in compliance. He asked the Board to approve the application.

Ms. Lambert asked that since the protest is late, does approval of the application mean the case is closed? Mr. Nice answered there would be a right to appeal; however, his position is the protest was not timely, the objections are the same as with the original application, which the Board approved. He said if they were to apply for the complete amount now, it would be granted; they are in compliance and meet all statutory requirements.

Mr. Strimple addressed the members and apologized they missed the hearing because the legal assistant had miss calendared the hearing. He said the application increases the water amount almost 13-fold for a poultry institution in northeast Oklahoma. He stated his experience is that poultry pollution of water is a large concern in that area, and John and Carl Manning are concerned how it may affect their groundwater and streamwater. He said under Oklahoma law, the applicant must provide evidence the effluent irrigation will not affect the groundwater formation, and reading the findings of fact it did not appear evidence was presented at the hearing regarding the specific issue, which is the Manning's objection to the application. He said groundwater in the area is particularly susceptible to pollution from poultry operations.

Mr. Nice stated the applicant contains the waste and dries it to sell, it is not spread, and that addressed the issue; but, that objection is not a matter of jurisdiction for the Board to hear.

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.

Chairman Drummond asked if there were other comments or questions, and there none. The Chairman said he would entertain a motion.

Mr. Darby moved to accept staff recommendation to amend temporary permit to use groundwater, no. 2012-656, and Mr. Buchanan seconded.

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

C. 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. However, Chairman Drummond stated the next meeting will be held on October 10, 2017, at 2:30 p.m. to consider the Oklahoma City permit application. Chairman Drummond and Mr. Buchanan will be absent. Ms. Cunningham stated staff is available if the members have questions about the matter. Mr. Drake asked and Mr. Singletary answered a supermajority of members is not needed for the October meeting.

7. ADJOURNMENT

There being no further business, Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 10:20 a.m. on September 19, 2017.

OKLAHOMA WATER RESOURCES BOARD

_____/Absent_____
F. Ford Drummond, Chairman

_____/s/_____
Jason Hitch, Vice Chairman

_____/s/_____
Linda P. Lambert

_____/Absent_____
Tom Buchanan

_____/s/_____
Charles Darby

_____/s/_____
Bob Drake

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

_____/s/_____
Robert Stallings

ATTEST:

_____/s/_____
Stephen B. Allen, Secretary (SEAL)