

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

November 1, 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 3:30 p.m., on November 1, 2017, at the Embassy Suites Hotel and Conference Center, Sooner Room, 2501 Conference Boulevard, Norman, 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 October 27, 2017, at 4:35 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 Drummond welcomed everyone to the regular meeting of the Oklahoma Water Resources Board, and complimented the staff on the successful Governor's Water Conference. He asked for the roll call of members.

A.1. Roll Call

Board Members Present

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

Board Members Absent

Stephen Allen, Secretary

Staff Members Present

Julie Cunningham, Executive Director
Sara Gibson, Interim 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

Mark Miller, Town of Vici, OK
Steve Harris, Town of Vici, OK
Roger Cospers, City of Coalgate, OK
Kathryn Starkee, City of Weleetka, OK
Kevin Brill, City of Weleetka, OK
Jennifer McCormick, Vici Vision Newspaper, Vision TV, Vici, OK
Randy Castor, Vici, OK
Becky Castor, Vici, OK
Tom Dupris, Dolese Bros. Co., Oklahoma City, OK
Bud Ground, Environmental Federation of Oklahoma, Oklahoma City, OK
Sissy Swafford, Porum Public Works Authority, Porum, OK
Jimmy Robinson, Porum Public Works Authority, Porum, OK
Dale Burke, ISG, McAlester, OK
Janice Cain, City of Altus, OK
Dan Becker, Dolese Bros., Co., Oklahoma City, OK
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK

B. Discussion, Amendments, and Vote to Approve Official Minutes of the October 10, 2017, Regular Meeting.

Chairman Drummond asked if there were any corrections to the minutes of the October 10, 2017, regular meeting. Chairman Drummond stated he was not present at that meeting, and thanked Vice Chairman Hitch for conducting the meeting. He asked for any changes, and Ms. Lambert moved to approve the minutes of the October 10, 2017, meeting. Mr. Drake seconded.

Chairman Drummond called for the vote.

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

C. Executive Director's Report

Ms. Julie Cunningham, OWRB Executive Director, welcomed everyone in attendance and thanked the members for their support of staff for coordinating the annual water conference. She also thanked the Governor's Cabinet Secretaries that participated and the tremendous support of the conference sponsors. Ms. Cunningham stated she would defer her calendar notes report to next month, but stated staff is watching the state and federal budgets, and are waiting for legislation regarding the National Flood Insurance Program.

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

D. Financial Update

1. Budget Report. Mr. Cleve Pierce, Administrative Services Division Chief, addressed the members and stated that because this meeting is early in the month, the budget report for October is not yet available. However, he determined the agency is at the same level as last year at this time with 78% of the budget left, and more percentage of the budget remaining than the percentage of the year remaining. He said this indicated the agency is spending less, and the budget is also less. He said there has been no budget deal by the Legislature as yet.

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 Weleetka Public Works Authority, Okfuskee County. Recommended for Approval.

Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this first item is an \$82,500.00 funding request by the Weleetka Public Works Authority located in Okfuskee County. He said the funding is requested to pay for planning and design documents to address inflow and infiltration issues, and lift station replacement. Mr. Freeman said funding will be provided through the 10% loan forgiveness portion of the Board's 2017 Clean Water State Revolving Fund Capitalization Grant. He noted the provisions of the loan agreement, and stated staff recommended approval.

Mr. Kevin Brill, Chairman, and Ms. Kathryn Starkee, Secretary, were present representing the Weleetka Public Works Authority.

There were no questions or comments by Board members, and Chairman Drummond stated he would entertain a motion. Mr. Hitch moved to approve the Clean Water SRF loan to the Weleetka Public Works Authority, and Mr. Darby seconded. Chairman Drummond called for the vote.

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

B. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Coalgate Public Works Authority, Coal County. Recommended for Approval.

Mr. Freeman stated to the members that this item is \$213,050.00 funding request by the Coalgate Public Works Authority, located in Coal County. The funding will be used for planning and design to perform a sanitary sewer evaluation study inclusive of video inspection and smoke testing of approximately 71,000 linear feet of sewer mains. He explained the loan will be funded at a fixed interest rate and the 10% forgiveness portion of the Board's 2013 SRF Capitalization Grant; he noted other provisions of the loan agreement. The Authority's debt coverage ratio stands at approximately 3.8-times. Staff recommended approval of the loan request.

Coalgate City Manager Roger Cospers was present in support of the loan request and spoke to the need for the evaluation study. Mr. Hitch asked about the smoke testing, and Mr. Cospers explained the system is getting inflow it cannot handle, and this method will help identify the problem.

Mr. Hitch moved to approve the Clean Water SRF loan to the Coalgate PWA, and Mr. Stallings seconded.

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

C. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Porum Public Works Authority, Muskogee County. Recommended for Approval.

Mr. Freeman stated this item regards a \$496,117.00 funding request from the Porum Public Works Authority located in Muskogee County. He said the loan is being requested to replace approximately 7,200 feet of clay sewer line with PVC line, replace 20 manholes, and purchase an excavator. Approximately \$307,000 of the loan will be funded through the loan forgiveness portion of the 2017 Capitalization Grant and approximately \$189,000 will be funded through the Clean Water SRF loan fund. The Authority will also utilize \$103,000 of funding from the 2016 Clean Water SRF

Capitalization Grant previously obtained from the Board. Mr. Freeman noted provisions of the loan agreement. The debt coverage ratio stands at approximately 2.2-times. Staff recommended approval.

Representing the Porum PWA was Ms. Sissy Swafford, Office Manager, and Mr. Jimmy Robinson, Superintendent. Mr. Robinson explained the status of the system and need for the loan proceeds. There were no questions.

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

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

NAY: None

ABSTAIN: None

ABSENT: Allen

D. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Choctaw Utilities Authority, Oklahoma County. Recommended for Approval. Mr. Freeman explained this item is a \$1,425,000.00 loan request from the Choctaw Utilities Authority to supplement a \$9,775,000.00 loan approved by the Board last January for numerous upgrades to its wastewater treatment plant. He said the loan will be funded through the Clean Water SRF loan program, and he noted provisions of the loan agreement. Choctaw's water connections have increased by 16% over the past seven years and the population from the 2010 census has increased by approximately 19%; the debt coverage ratio stands at approximately 2.08-times. Staff recommended approval of the loan request.

Choctaw City Manager Ed Brown was present in support of the loan application.

There were no questions, and Chairman Drummond stated he would entertain a motion. Mr. Darby moved to approve the Clean Water funding application to the Choctaw Utilities Authority, and Ms. Lambert seconded. Chairman Drummond called for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: Allen

E. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Grand Lake Public Works Authority, Delaware County. Recommended for Approval. Mr. Freeman stated this item is a \$1,425,000.00 loan request by the Grand Lake Public Works Authority. He said the loan is being requesting to refinance \$1,990,000.00 FAP loan closed with the Board in November 2009. The 2009 loan was used to refinance three of the Authority's prior OWRB loans and three financing loans with the Bank of Oklahoma. The prior loans were for water well site locations for water main extensions to six housing divisions, for the purchase of the Port Duncan Utilities System for upgrades to its water system, and to connect additional subdivisions to its wastewater system. Mr. Freeman stated the new loans will be funded through the Board's 2017C FAP Bond Issue at a fixed interest rate; he noted provisions of the loan agreement. The debt coverage ratio stands at 1.47-times. The Authority's savings through the refinancing is approximately \$105,000.00. Staff recommended approval of the application.

The Grand Lake Public Works Authority was unable to have a representative in attendance at the meeting.

Ms. Lambert asked the interest rates before and after the loan, and Mr. Freeman answered 4% average on the old bonds and 2.75% on the new loan. There were no other questions, and Chairman Drummond stated he would entertain a motion.

Ms. Lambert moved to approve the state loan program funding to the Grand Lake Public Works Authority, and Mr. Drake seconded. Chairman Drummond called for the vote.

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

F. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Wilburton Public Works Authority, Latimer County. Recommended for Approval. Mr. Freeman stated this item is for consideration of the \$2,170,000.00 loan request from the Wilburton Public Works Authority located in Latimer County. The Authority is requesting the loan to refund a prior bond issue for its water treatment plant construction and the loan proceeds will fund sewer line, replace 13 manholes, construct a lagoon enclosure, and for wastewater treatment plant improvements. Mr. Freeman said the loan will be funded through the Board's FAP loan program with a fixed interest rate; he noted provisions of the loan agreement. He said that Wilburton currently has one other loan with the Board with a principal balance of approximately \$7.3 million, and the debt coverage ratio stands at approximately 1.31-times. The estimated gross savings through the refunding is approximately \$176,000.00. Staff recommended approval.

Mr. Wes Brown, City Attorney, and Mr. Dale Burk, Engineer, were present in support of the loan application. Mr. Brown complimented staff, Mr. Burk and Mr. Rick Smith, with Municipal Finance Services, who have worked together to solve Wilburton's problems.

Ms. Lambert asked the before and after interest rates, and Mr. Brown said the interest rate was 5.65% and the new rate will be 3.25%. There were no other questions.

Mr. Stallings moved to approve the FAP loan program funding to the Wilburton Public Works Authority, and Mr. Hitch seconded. Chairman Drummond called for the vote.

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

G. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Alva Utility Authority, Woods County. Recommended for Approval. Mr. Freeman stated this item will be withdrawn from the Board's consideration. The project is awaiting final engineering approval from the Department of Environmental Quality and is expected to be ready for the December Board meeting.

H. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Altus Municipal Authority, Jackson County. Recommended for Approval. Mr. Freeman stated this \$11 million loan request is by the Altus Municipal Authority and is requesting the loan for major improvements to its wastewater treatment facility, as well as replace 8,000 water meters, and 12,000 electric meters with an Advanced Metering Infrastructure. He said the loan will be funded through the Board's Clean Water SRF program with a fixed interest rate plus a .5 administrative fee; he noted provisions of the loan agreement. Altus currently has one loan outstanding with the Board with a balance of approximately \$991,000.00. The debt coverage ratio stands at approximately 2.15-times. Staff recommended approval of the application.

Ms. Janice Cain, Altus City Manager, was present in support of the funding request and spoke to the members about the project.

Mr. Drake asked about the fee for the "special tax counsel," which is not often seen. Mr. Freeman said a tax counsel from Hawkins Delafield & Woods was retained to look over any tax considerations the community needs to take into play, and is the communities' choice. There were no other questions.

Mr. Melton moved to approve the Clean Water Funding to the Altus Municipal Authority, and Mr. Hitch seconded. Chairman Drummond called for the vote.

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

I. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Waurika Lake Master Conservancy District, Jefferson County. Recommended for Approval. Mr. Freeman stated this item is a \$24,960,000.00 loan request from the Waurika Lake Master Conservancy District located in Jefferson County. He said the loan is being requested to refund an FAP loan obtained from the Board in November 2010. The loan was used to purchase permanent water storage rights from the Corps of Engineers, and for intake bulkheads and water intake gates, and to replace valves. Mr. Freeman said the refunding will be funded through the Board's 2017C FAP bond issue at a fixed interest rate, and will be secured with a lien on the District's water supply agreements with Lawton, Duncan, Comanche, Waurika, Walters, and Temple ; 90% of the District's use is by Lawton and Duncan. He said the estimated savings is approximately \$680,000. Staff recommended approval.

Mr. Rick Smith, Municipal Finance Services, was present in support of the loan funding application. Mr. Smith said the interest rate on the note is 4.5% and the expected rate on the new loan to be approximately 3%; the actual gross savings for the six cities should be approximately \$1.2, which will be shared based on the proportionate pro rata share. He expressed appreciation of the Board's consideration.

Mr. Drake moved to approve the loan application to the Waurika Lake Master Conservancy District, and Mr. Buchanan seconded. Chairman Drummond called for the vote.

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

J. Consideration of and Possible Action on a Proposed Resolution Authorizing the Reallocation of Revolving Fund Revenue Bonds, Series 2015A Proceeds. Recommended for Approval. Mr. Freeman stated this item is a resolution authorizing reallocation of bond proceeds from the Board's Series 2015 Clean Water SRF Bond Issue for the use of state matching funds for the Board's 2017 Clean Water SRF Capitalization Grant. He said the 2017 SRF Clean Water Capitalization Grant was for \$10,712,000.00 and requires 20% matching funds of \$2,142,400.00. There is approximately \$63 million remaining in the 2015 Clean Water Bond Issue from which to allocate the funds. Mr. Freeman explained the use of the Capitalization Grant funds and required matching funds and that the options for using state matching funds in compliance with the IRS is to either issue debt or reallocate bond issue proceeds.

Ms. Lambert asked if the Board has done this before, and Mr. Freeman answered, yes. Mr. Hitch asked if there is a cost, and Mr. Freeman said yes, the Trustee moves it from the loan funds to the state matching fund. Ms. Cunningham asked if the funds are drawn down proportionately, and Mr. Freeman explained the match portion is drawn first then the capitalization grant and is supported by EPA as a check for unliquidated obligations.

There were no other questions and Chairman Drummond stated he would entertain a motion. Mr. Darby moved to approve the resolution to reallocate revolving fund bond proceeds, and Mr. Melton seconded.

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

NAY: None
 ABSTAIN: None
 ABSENT: Allen

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. There were no 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. Drake seconded. Chairman Drummond called for the vote.

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

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>
INCOG				
a.	FAP-14-0032-R	Barnsdall Public Works Authority	Osage	Change of Scope

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

1. Agreement between OWRB and the Office of the Secretary of Energy & Environment to complete water quality supplemental monitoring program under the Clean Water Act.
2. Agreement Amendment between OWRB and Oklahoma Secretary of Energy and Environment to extend the project period for the reimbursement of monies for water management planning program.
3. Joint Funding Agreement between OWRB and the U.S. Geological Survey to increase matching funds for the Continuation of the Data Collection and Water Monitoring Program FY18.
4. Intergovernmental Agreement between OWRB and Oklahoma State University - Department of Zoology for water monitoring and sampling programs in coordination with other state environmental agencies.

5. Agreement with Grant Thornton, L.L.P., for Escrow Verification Services in connection with the State Loan Program Revenue Bonds, Series 2017 C.
6. Agreement between OWRB and Board of Regents of the University of Oklahoma to support the water and wastewater system infrastructure in Oklahoma by developing a customized data model with GIS web viewer, enhancing the web viewer functionality and developing new tools.
7. Agreement between OWRB and Board of Regents of the University of Oklahoma to support the water and wastewater system infrastructure in Oklahoma by website hosting, providing maintenance and backup services to the GIS web viewer.
- E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:
 1. Dustin J. & L. Nicole Snow, Caddo County, #2013-570
 2. Chris & Ginger Klaassen, Blaine County, #2016-580
 3. Enid Municipal Authority, Major County, #2017-521
 4. Lawrence D. & Diva H. Withers, Caddo County, #2017-534
 5. Brent R. & Sheri L. White, Harmon County, #2017-544
 6. Darren Reimer, Major County, #2017-550
- F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
 1. Keith A. Rasmussen Revocable Trust, Major County, #2014-638
 2. Metro Technology Centers #22, Oklahoma County, #2015-580
- G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:
 1. James & Son Farms, Texas County, #2017-542
- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
 1. Devon Brakhage and Logan Brakhage, Cimarron County, #2014-569
- I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
 1. John E. & Markie Jo Repp, Caddo County, #1969-400
- J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
 1. Sessums Brooks Family, L.L.C., Hughes County, #2016-037
 2. Jimmy Curl, Kay County #2017-003
 3. Patrick Curl, Kay County, #2017-004
 4. George Harrington, Choctaw County, #2017-009
 5. Lacey & Diana Weger, Bryan County, #2017-015
 6. Michael Yost, Kingfisher County, #2017-033
 7. Anthony F. Stangl, Kingfisher County, #2017-038
- K. Consideration of and Possible Action on Applications to Amend Permits to Use Stream Water:
None
- L. Consideration of and Possible Action on Dam and Reservoir Construction:
 1. SCS-Cottonwood Creek Site #33, Canadian County, #OK01517
- M. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:
 1. New Licenses and Operators:
 - a. Licensee: Major Drilling DPC-0993
 1. Operator: Zane Plumlee OP-2214

2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:

- a. Licensee: Associated Environmental Industries DPC-0269
 - 1. Operator: Matthew Harker OP-2212

- b. Licensee: TXI Operations, L.P. DPC-0898
 - 1. Operator: Kyle Grogan OP-2213

N. 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, Tillman County, #FP-17-32
- 2. Oklahoma Department of Transportation, Atoka County, #FP-17-33
- 3. Oklahoma Department of Transportation, Muskogee County, #FP-17-34
- 4. Oklahoma Department of Transportation, Stephens County, #FP-17-37
- 5. Oklahoma Department of Transportation, Lincoln County, #FP-17-38
- 6. Oklahoma Department of Transportation, Jackson County, #FP-17-40
- 7. Oklahoma Department of Transportation, Blaine County, #FP-17-41
- 8. Oklahoma Department of Transportation, Harmon County, #FP-17-43
- 9. Pittsburg County RWD No. 14, Pittsburg County, #FP-17-75

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

- 1. James F. LeClair, CFM, Otoe-Missouria Tribe of Indians, #FPA-727
- 2. Thomas O. Parker, City of Stilwell, #FPA-728

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 Proposed Findings of Fact, Conclusions of Law and Board Order on Application to Amend Temporary Permit to Use Groundwater No. 2011-541, Dolese Bros. Co., Kay County:

1. Summary – Mr. Kent Wilkins, Chief, Planning and Management Division, stated to the members that this application to amend a temporary permit to use groundwater, #2011-541, by Dolese Bros. Co., and the water will be used in Kay County. He said Dolese has an existing permit approved in 2013 under the name of Don and Bonnie Irons and was transferred to the name of Dolese Bros.; it has 25 well locations and an allocation of 1,400 acre feet of water for the purpose of irrigation. The amendment will add one additional well location in the form of a sand lake and add the beneficial use of sand mining to the permit. The land dedicated overlies the alluvium terrace deposits of the Salt Fork of the Arkansas River, which is an unstudied basin with an equal proportionate share of two acre-feet per acre of land, and no spacing requirements.

Mr. Wilkins stated that on January 20, 2017, the Board directed Dolese to give notice for the application by certified mail to the surrounding surface owners within 1,320 feet of each ten acre tract that contains a well location, and was also required to make public notice in a newspaper of general circulation in that county. On February 23, 2017, the Board received timely protest letters from the Poncan Nation of Oklahoma, the Town of Marland, and from David Wilkerson and Retigae Wilkerson. Subsequently, the Board received notices of withdrawal of protest from the Poncan Nation and the

Town of Marland; the Wilkerson's maintained their protest. A pre-hearing conference was conducted on August 3, 2017, and the hearing was held September 25, 2017; the hearing opened, arguments were received, and the proposed order was prepared and served on the parties prior to this Board meeting.

At the hearing, Mr. Wilkins stated the Applicants provided evidence the operation will be a closed loop system where 99.4% of the water will be returned back to the sand pit. The operation has already been permitted by the Oklahoma Department of Mines; Dolese has permits at each of its facilities in Oklahoma. The Protestants raised the concern the removal of the sand could affect water quality for other users in the area. The Applicants testified the dredging equipment will be by electric operation and not by diesel so there will not be fuel storage near the sand lake, and the mining operation does not use processing chemicals. Dolese has agreed to install monitoring wells between the Protestant's property, which also contains the Town of Marland's water wells and a monitoring well will also be placed for Marland's well. Mr. Wilkins stated that in the proposed order the hearing examiner also acknowledged concerns that groundwater supply in the area could potentially be affected by neighboring uses; however, there is no basis in this case that the Applicant's use will be impermissible or unlawful. The record from the hearing demonstrates Dolese will exercise reasonable intelligence and diligence in the application of the groundwater for the lawful purposes intended.

The record showed there is a valid right to the dedicated land, the land overlies the Alluvium and Terrace Deposits of the Salt Fork of the Arkansas River, allocation is two acre-feet of water per acre per year, mining is considered a beneficial use, and future waste will not occur either by pollution or by depletion. The record showed the Applicant has satisfied elements for approval of the amendment. Staff recommended approval of the proposed finding of fact, conclusion of law, and Board order approving the application to amend by adding one well as a sand lake and the beneficial use of mining.

Representing the Applicant are Mr. Fred Liebrock, Mr. Tom Dupris, and Ms. Anne Decker. The Protestants are not represented or in attendance.

(Member Tom Buchanan departed the meeting at 3:57 p.m., and returned at 4:03 p.m.)

2. Discussion and presentation by parties – Mr. Fred Liebrock, counsel for Dolese, approached the members. Mr. Hitch asked about the mining of water. Mr. Liebrock said a lake is made by dredging and using water to soften sand which will go through a washing machine with filters and processed until the grain size desired goes through the filter; water goes to the bottom of the filter machine and returned to the lake. As time goes on, the lake becomes larger and when the mine is complete in 30-35 years, there will be a facility for fishing and recreation and water use. Mr. Hitch asked how the well is plugged properly as the lake size increases, and Mr. Liebrock answered as the area where the sand is removed becomes the lake, the well location becomes a lake location; there are 25 well locations presently that will disappear. He said the wells are very shallow at about 25 feet and the lake will consume the well so the water use overall will not increase. Chairman Drummond stated the well that is being permitted is actually the lake, and Mr. Liebrock stated that is correct. Mr. Melton asked how the sand is used, Mr. Liebrock answered it is sold and goes into concrete, cinder blocks, and a number of different products. Mr. Stallings asked about the monitoring wells, and Mr. Liebrock said the monitoring well is outside of the permit area; the Wilkerson property is one mile away and the well will be placed between the lake and their property

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.

Mr. Drake moved to approve the proposed findings of fact, conclusions of law and Board order, and Mr. Stallings seconded. Chairman Drummond called for the vote.

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

B. Consideration of and Possible Action on the Vici Public Works Authority's Motion to Reconsider the Hearing Examiner's Proposed Findings of Fact, Conclusions of Law and Board Order on Application to Amend Regular for Permit to Use Groundwater No. 2004-532, Vici Public Works Authority, Dewey and Woodward Counties:

1. Summary – Mr. Kent Wilkins explained this item is a motion to reconsider the hearing examiner's proposed findings of fact, conclusion of law and Board order on application to amend regular permit to use groundwater under permit number 2004-532 under the name of Vici Public Works Authority, for water to be used in Dewey and Woodward Counties. He said the application's amendment came before the Board at the August 15, 2017, Board meeting and received a 4-to-4 tie vote. On August 18, 2017, the Applicant filed a motion to reconsider regarding its application citing Administrative Code that no action can be approved or disapproved without a majority vote of members present.

Executive Director Julie Cunningham announced that Ms. Sara Gibson is currently serving as Interim General Counsel as Mr. Rob Singletary accepted the General Counsel position at the Department of Environmental Quality. Ms. Cunningham asked Ms. Gibson to address the request to reconsider.

Ms. Gibson stated the motion for reconsideration was timely filed and the only grounds were that it had not received a positive or negative vote. The correct rule had been stated and the applicant is looking for a majority vote. Mr. Hitch said this first vote will only be on the reconsideration, and if approved, the second vote will be on the permit. Chairman Drummond confirmed that is correct.

2. Discussion and presentation by parties. There was no presentation by parties.

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 Motion to Reconsider as presented or as may be amended, or vote on any other action or decision relating to the Motion to Reconsider.

Ms. Lambert moved to approve the motion to reconsider, and Mr. Buchanan seconded. Chairman Drummond called for the vote.

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

C. Contingent Upon the Action Taken on Item No. 5.B. above, Possible Consideration of and Action on the Hearing Examiner's Proposed Findings of Fact, Conclusions of Law and Board Order on Application to Amend Regular for Permit to Use Groundwater No. 2004-532, Vici Public Works Authority, Dewey and Woodward Counties:

1. Summary – Mr. Kent Wilkins explained this is an application to amend a regular permit to use groundwater, number 2004-532, in the name of Vici Public Works Authority, Dewey and Woodward Counties. Vici has a permit approved in 2004 with one well location and allocation of 615 acre-feet of groundwater. The land dedicated to the permit overlies the Ogallala Northwest groundwater basin, spacing requirement of 1,320 feet, and an equal proportionate share of 1.4 acre-feet of water per acre of land per year. On May 6, 2015, Vici PWA filed an application to add wells and a proposed order denying the application was prepared, served on the parties, and the Board voted on

February 2017 to approve the proposed order denying the application. On March 16, 2017, Vici PWA refiled the application to amend the same permit and as in the previous application, requested to add two wells to the existing permit but no additional water. On May 19, Randy and Becky Castor filed a timely protest alleging the groundwater wells had been drilled in violation of the spacing of 1,320 feet from the Castor's domestic well. A hearing was held on July 25, 2017, and a proposed order was prepared and served on the parties prior to being presented to the Board for consideration. At the hearing, the Applicant offered evidence in support of the spacing exception request; and according to testimony Vici hired a licensed driller to test for additional sources of water on the Borden's property where the wells are located. According to testimony, the test holes failed to produce sufficient water to meet the water needs of the Vici PWA; and so the wells were asked to be added to this permit. The Protestant asserted the wells did not meet spacing requirements, and questioned how the test wells were chosen and why a large portion of the land was not tested as well sites. Mr. Wilkins stated that in the proposed order before the Board today, the hearing examiner acknowledged the Applicant had presented substantial and competent evidence to the Board that the amount of groundwater available at the locations that would meet the spacing requirements would be insufficient for the purposes authorized. Therefore, based on the findings of fact and conclusion of law, the Vici PWA has satisfied the elements for approval of the location exceptions according to the proposed order. Furthermore, the Applicant has a valid right to the dedicated lands which overlie the Ogallala Northwest region, 1.4 a.f. is the equal proportionate share, public water supply is a beneficial use, future waste by pollution will not occur and waste by depletion will not occur. Staff recommends approval of the proposed findings of fact, conclusions of law, and Board order approving the application to amend the permit to add the two wells.

Mr. Steve Harris, attorney for the Vici PWA and Vici PWA employee Mark Miller were in attendance representing Vici. Representing the Protestants are Randy and Becky Castor.

2. Discussion and presentation by parties. Chairman Drummond said the Board is familiar with the matter, and he allowed three minutes for each side to address the Board.

Mr. Steve Harris addressed the Board on behalf of the Vici PWA. He said one issue that was not discussed when the vote was 4-to-4, was the possibility of proposing conditions which he believed would protect the Castors but also provide public benefit. If the Borden #1 well fails, the town will be lacking sufficient water for both consumption and fire protection; the two additional wells are back up wells. He suggested the permit have conditions placed on it which would protect both parties interest. There are three wells, but the Borden #2 and #3 function as back up to Borden #1, and he suggested the Board impose a restriction that either Borden #1 can operate, or Borden #2 and #3 can operate but the three cannot operate at the same time. This will place no greater burden upon the adjacent landowners in terms of water because #2 and #3 will not produce more water than #1. The second condition he suggested the Board impose upon Vici in approving this application is the condition would be not only can the three wells be operated simultaneously, but Borden #2 and #3 cannot produce more water than #1 on an average annual basis, guaranteeing the status quo is maintained. Borden #1 has been in operation since 2004 and for 13 years the status quo has been maintained with no harm to the Castors. There is no risk to the Castors and the town benefits in compliance with Department of Environmental Quality regulations by having a backup system of water if #1 fails, #2 and #3 will provide water for consumption and fire protection. Chairman Drummond clarified that Vici would voluntarily accept those conditions, and Mr. Harris said he had been authorized to voluntarily accept and make the conditions to the permit.

Mr. Buchanan asked the location of Borden #1, and Borden #2 and #3, in relation to the Protestant's well. Mr. Harris explained #1 (and Mr. Castor confirmed) well is 800 feet, and #2 is farther away and #3 is 100ft closer. Mr. Hitch asked in what direction or are they grouped, and Mr. Harris answered #2 is north and east away from #1 and the Castor well, and #3 is west of #1 and 100ft closer. Mr. Melton asked about the tap provided to the Castors, and if water can be drawn from that

tap. Mr. Harris explained tap was provided in connection with arrangements of drilling Borden #1; all three wells are within the 1,320 spacing. The Castors were not charged for the tap, but there is a charge for taking water from the system. Mr. Castor said his son has his own line and pays for the water; he has not used the free tap he was provided. Mr. Darby asked the percentage of the use from Borden #1, and if #2 and #3 would be the same. Mr. Harris said there are two well fields and in a general sense the use is balanced, about ½ of water used by the town comes from #1. He said production from #2 and #3 would be limited, and water use reports would be provided to the Board. Looking at the annual production for the year, Mr. Harris said the condition would be that Borden #2 and #3 together are not allowed to produce more water than the average production of #1; the wells are designed to cycle on and off. Ms. Lambert stated there will not be an additional volume of water with these two conditions as regards the Castors and Mr. Harris stated that is correct, and this to maintain the status quo. Mr. Stallings asked about the failure of the other well field and concern that might require the use of all three Borden wells. Mr. Harris explained his concern as well for the Castor well, but if the well field goes down or the Borden wells go down, the town is out of water. This is a safety mechanism, #2 and #3 are designed as a backup, are reducing the risk, and is a fair compromise.

Mr. Castor spoke to the Board and said this has been going on for over 2.5 years and he realizes the City of Vici needs water and a backup, but he felt the City needed to look elsewhere outside the spacing requirement. He expressed his deep concern, and felt he needed to stand up for his residential water well as there is no guarantee of what will happen, the information presented is speculation and is about spacing and safety. He said the water will be more valuable to the planet as time goes on, he felt his duty to stand up for the rights of his family and he questioned the current exception and said that “substantial and competent evidence” has not been met. He also noted the 10 wells were drilled after the fact, that there are 300 acres that have not had exploration, and he would like the spacing requirement in effect. He said the City of Vici is his neighbor and he wants it to have water but he does not want his family penalized now.

Ms. Lambert stated she sympathized and understood Mr. Castor’s comments, and asked if he would be agreeable to the two voluntary conditions placed by Vici that there will be no more volume of water going forward than there is currently. Mr. Castor said he couldn’t make up his mind now and he would give it an honest consideration, but he asked the Board not to make the concession to agree with the conditions. Mr. Buchanan and Mr. Darby asked when Mr. Castor became aware of the special conditions, was today the first time. Mr. Castor answered it was mentioned in past proceedings, but the limiting portion had not been mentioned until today.

Chairman Drummond asked if there were questions for Mr. Wilkins. He said this is the third time before the Board and he would like to resolve the matter. He asked for the members to express their comments, concern, and questions before the vote.

Mr. Hitch asked why Vici had not looked at the other acreage. Mr. Wilkins and Mr. Mark Miller, City of Vici, responded explaining Mr. Borden has drilled two additional windmills since the last meeting, and he described their locations but they were found to be inadequate, and that the three wells were drilled to blend and solve the problem with the nitrates. Mr. Buchanan asked about the depth of the wells which Mr. Miller said are between 105 feet to 120 feet, but he wasn’t aware of the depth of the windmills. In response to Mr. Hitch’s questions, Mr. Miller said the depth is to bedrock, and the wells are pumping between 80-110 feet.

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.

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.

Ms. Lambert said there are three items: There has not been a problem to date, the conditions to the permit are that the volume of water will not change, and if it does change there is an opportunity for

the Castors to come back to the Board. She moved the application be approved. Mr. Darby seconded.

Mr. Buchanan asked Ms. Lambert to repeat the motion. Ms. Lambert stated her motion is that the application be approved, but the three rationales in her mind are (1) there has not been an issue to date, (2) the two conditions that were presented she recommended be part of the permit—the volume of water will not change, and (3) if for any reason something happens that does change the volume of water the Castors have the opportunity to come back to the Board with new information. Mr. Buchanan theorized that at some point in the future the Castors see a drop in their well then her motion and the Board's approval will allow them to come back and try to address that. Ms. Lambert answered that is part of the OWRB process that if Vici's use goes up and the Castor's well goes down, the Castors have an opportunity to come back to this Board. She asked staff if that is correct, and Chairman Drummond stated that interference with a domestic well is a condition of all wells, but explicit with this one. Ms. Lambert stated that is her understanding.

Mr. Wilkins stated Oklahoma Groundwater Law does allow depletion to occur, there is no priority of use on groundwater as in surface water, and would more likely be a specific condition placed on the permit agreed upon by the Applicant for the Board to look at interference.

Mr. Melton said he heard two things: if more water is used, and interference, which is different. Mr. Wilkins said if the pumping schedule or pumping changed, that would trigger review, and there could be changes in the permit, for example. Interference with the domestic well would have to be agreed upon before the Board could investigate.

Chairman Drummond said with an aquifer there are no guarantees with water levels and as a landowner who relies on wells for drinking water and livestock, and he appreciated the Castor's concerns. He said he also understands Vici's need for the water which has made a good faith effort to avoid interference with the Castor's well. He said there is a motion and a second and he'd like to take a vote.

Mr. Darby stated his second concerned the three items. Ms. Lambert clarified her motion is to approve the permit with the two conditions by Vici; numbers 1 and 3 items were her personal comments. Chairman Drummond said the motion is to approve the permit with the two conditions voluntarily agreed to by the City of Vici, and Mr. Darby said he would second that motion.

The two conditions are: (1) The Borden No. 1 well and the Borden Nos. 2 and 3 wells shall not be operated/pumped simultaneously, more specifically, the Borden Nos. 2 and 3 wells can be operated/pumped in unison/together, and the Borden No. 1 well can be operated/pumped as a stand-alone well, but all three wells cannot be operated/pumped at the same time; and (2) The volume of water produced/pumped from the Borden Nos. 2 and 3 wells shall not exceed the annual average volume of water produced/pumped from the Borden No 1 well. (Paragraph added as a clarification to the minutes by Member Linda Lambert at the December 19, 2017, meeting.)

Chairman Drummond asked for any other discussion. There was none. Chairman Drummond called for the vote.

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

NAY: Buchanan, Hitch

ABSTAIN: None

ABSENT: Allen

Chairman Drummond thanked the staff and the parties for their patience and perseverance.

D. 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. Chairman Drummond appointed Bob Drake as Assistant Secretary for the meeting in the absence of Secretary Stephen Allen. The next meeting will be December 19, 2017. He expressed his appreciation for everyone’s participation in the conference and meeting today, and Happy Thanksgiving!

7. ADJOURNMENT

There being no further business, Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 4:38 p.m. on November 1, 2017.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
F. Ford Drummond, Chairman

_____/s/_____
Jason Hitch, Vice Chairman

_____/s/_____
Linda P. Lambert

_____/s/_____
Tom Buchanan

_____/s/_____
Charles Darby

_____/s/_____
Bob Drake

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

_____/s/_____
Robert Stallings

ATTEST:

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