

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

August 21, 2018

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Jason Hitch at 9:33 a.m., on August 21, 2018, at the offices of the Oklahoma Water Resources Board, 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 August 17, 2018, at 3:00 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 Hitch welcomed everyone to the August meeting of the Oklahoma Water Resources Board.

A. Roll Call. Chairman Hitch asked for the roll call of members.

Board Members Present

Jason Hitch, Chairman
Stephen Allen, Vice Chairman
Robert Stallings, Secretary
Jennifer Castillo
Charles Darby
Bob Drake
Ford Drummond
Robert L. Melton
Matt Muller

Board Members Absent

None

Staff Members Present

Sara Gibson, 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

Robert (Buddy) Thompson, Logan County Rural Water District #1, Guthrie, OK
Kaylee Davis Maddy, Doerner Sanders Daniel Anderson/Enid, Oklahoma City, OK

(Others continued)

Steven Hoffman, Oklahoma Department of Environmental Quality, Oklahoma City, OK
Dickie Walton, Town of Meeker, OK
Marrisa Sherwood, Town of Meeker, OK
Derek Blackshare, Tulsa, OK
Jennifer Wasinger, Freese & Nichols, Oklahoma City, OK
Clay Herndon, Freese & Nichols, Oklahoma City, OK
Curt Roggow, City of Enid, OK
Michael Taylor, Cowan Group, Oklahoma City, OK
Brian Kellog, Kellog Environmental/Town of Inola, Talala, OK
Senator Frank Simpson, Oklahoma Senate District #14
Billy Wilson, Board of Trustees, Town of Inola, OK
Marilyn Barton, Logan County Rural Water District #1, Edmond, OK
Stuart England, Floyd Law Firm/Logan County Rural Water District #1, Norman, OK
Janet Stewart, Oklahoma Conservation Commission, Oklahoma City, OK
Robert Kellog, Jennifer Taylor, Oklahoma City, OK
David Gleason, Jennifer Taylor, Oklahoma City, OK
Kelly F. Monaghan, Sequoyah County Conservation District, Tulsa, OK
David B. Wyatt, Logan County Rural Water District #1, Oklahoma City, OK
Amy Anne Ford, Citizens for the Protection of the Arbuckle Simpson Aquifer, Durant, OK
Josh McClintock, Citizens for the Protection of the Arbuckle Simpson Aquifer, Edmond, OK
Darrel Gibbs, Carney Public Works Authority, Carney, OK
Mark Stanke, Calumet, OK
Krystina Phillips, Citizens for the Protection of the Arbuckle Simpson Aquifer, Ada, OK
David Oakley, LegisOK, Oklahoma City,
Kinsey Money, TPF, Jones, OK
Kandice Taylor, Thlopthlocco Tribal Town, Okemah, OK
Justin Hodge, Oklahoma Department of Environmental Quality, Oklahoma City, OK
Elizabeth Nichols, Pontotoc Sands, Edmond, OK
Tim Lochridge, Pontotoc Sands, Stonewall, OK
Geoff Canti, Pontotoc Sands, Norman, OK
Bob Kellog, Edmond, OK
Anthony Mackey, M&M Natural Resource Management, Noble, OK
Bud Ground, Environmental Federation of Oklahoma, Oklahoma City, OK
Jered Davidson, Public Finance Law Group, Oklahoma City, OK
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK
Bodie Bachelor, Centennial Law Group, Duncan, OK

B. Discussion, Amendments, and Vote to Approve Official Minutes of the June 19, 2018, Regular Meeting.

Chairman Hitch stated the draft minutes of the June 19, 2018, meeting had been distributed and he asked if there were any changes. There were no changes, and Mr. Darby moved to approve the minutes of the June 19, 2018, meeting. Mr. Stallings seconded.

Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Hitch

NAY: None

ABSTAIN: Melton

ABSENT: None

C. Executive Director's Report

Chairman Hitch noted Executive Director Julie Cunningham was not able to attend today and he asked General Counsel Sara Gibson to present the Executive Director's Report. Chairman Hitch recognized that Speaker Charles McCall and Senator Frank Simpson were in attendance and he thanked them for coming.

Ms. Sara Gibson, OWRB General Counsel, stated that recently the Kansas-Oklahoma Arkansas River Compact Commission met and approved a \$10,000.00 grant to partner with the Middle and Lower Neosho River Basin Regional Conservation Project along with conservation districts and other partners in Oklahoma and Kansas to implement conservation practices to reduce runoff and sediment deposits. She said that the Financial Assistance Division needed a Supermajority of Board member to attend the September meeting in order to approve an FAP bond issue, and she thanked Member Matt Muller for hosting a tour of his farm as part of a soil health workshop. Ms. Gibson noted that the federal report from Ms. Brittnee Preston was included in the meeting materials, saying there is no state legislative report at this time.

Ms. Gibson concluded the report. There were no questions by members.

D. Financial Update

1. Budget Report. Mr. Cleve Pierce, Administrative Services Division Chief, addressed the members and stated the budget report is for the time period ending July 30, 2018. He said this is the first month (of the fiscal year) and the agency is doing well on the budget and has spent 7% of the appropriated for general revenue, 3% of the revolving budget, and 3% of federal dollars, which basically represents salaries. He said the budget was submitted by June 30 and posted by OMES by mid-July; the next issue will be submitting the agency's budget request by September 30, as well as the Strategic Plan. He said the agency managers will be meeting in August to work on the Strategic Plan. He updated the members on the status of the audit findings and the only remaining item is the completion of developing the tracking of inventory.

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

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Meeker Public Works Authority, Lincoln County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this first item for the Board's consideration is a \$60,000.00 request by the Meeker Public Works Authority located in Lincoln County. He said the Authority is requesting the funding for an engineering study for planning, mapping, evaluation and recommendation for the Town's sewer manholes and collection lines. He said the loan would be funded through the loan forgiveness portion of the 2018 Clean Water State Revolving Fund (SRF) Capitalization Grant, and will be in the form of a loan. He noted provisions of the loan agreement; the debt coverage ratio stands at 6.14-times. Staff recommended approval of the loan request.

Representing Meeker was Mr. Dickie Walton, Town Administrator, Ms. Marissa Sherwood, Town Clerk, and Mr. Michael Taylor, Cowan Group. Mr. Walton expressed the Town's appreciation for the Board's assistance to small communities, and its consideration of this request.

There were no questions by Board Members, and Mr. Allen moved to approve the CWSRF loan the Meeker Public Works Authority. Mr. Stallings seconded. Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch

NAY: None
ABSTAIN: None
ABSENT: None

B. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Carney Public Utilities Authority, Lincoln County. Recommended for Approval. Mr. Freeman stated this item is a \$104,850.00 funding request by the Carney Public Utilities Authority located in Lincoln County. He said the Authority is requesting the funding to go along with \$4,500.00 in local funds to conduct planning and design for sewer system improvements. He said the loan will be funded through the principal forgiveness portion of the 2018 Clean Water SRF Capitalization Grant, and he noted provisions of the loan agreement. Carney's debt coverage ratio stands at 2.03-times. Staff recommended approval of the loan request.

Mayor Darrel Gibbs was in attendance representing Carney, and expressed his appreciation to the Board for assistance to small communities, and its consideration of the request.

Mr. Darby moved to approve the Clean Water funding request to the Carney Public Works Authority, and Ms. Castillo seconded.

There was no further discussion, and Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: None
ABSENT: None

C. 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 is a \$300,000.00 funding request by the Inola Public Works Authority located in Rogers County. He said Inola is requesting the funding for planning, surveying, and design for the sewer relocation project, and the loan will be funded through the principal forgiveness portion of the 2018 Clean Water SRF Capitalization Grant, and Mr. Freeman noted provisions of the loan agreement. He said Inola currently has two outstanding OWRB loans with a combined balance of approximately \$1.3 million dollars, and its debt coverage ratio stands at 1.34-times. Staff recommended approval of the loan request.

Representing Inola was Board Member Billy Wilson, and Brian Kellog, engineer. Mr. Wilson thanked the Board for its continued assistance with improvements to Inola's infrastructure.

Mr. Drake moved to approve the CWSRF funding to the Inola Public Works Authority, and Mr. Melton seconded. There was no discussion, and Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: None
ABSENT: None

D. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Rural Water, Sewer, and Solid Waste Management District No. 1, Logan County. Recommended for Approval. Mr. Freeman stated that this item is a \$1,000,000.00 million loan request by the Logan County Rural Water, Sewer, and Solid Waste Management District No. 1. He said the District is requesting the loan to go along with \$347,000.00 in local funds to construct a 350,000 gallon elevated storage tank, and a 350 gpm booster pump. The loan will be funded through the Drinking Water SRF loan program, and Mr. Freeman noted provisions of the loan agreement. The District has been a long time loan customer of the Board's and has three loans outstanding with the Board with a

combined principal balance of \$2.3 million; the debt coverage ratio stands 1.2-times. Staff recommended approval of the loan request.

District President Marilyn Barton, General Manager Buddy Thompson, Stuart England, Bond Counsel, and David Wyatt, Engineer, were present in support of the loan application. Ms. Barton expressed appreciation for the Board's consideration, and for the staff's assistance over the years.

Mr. Drummond asked the number of taps, and Ms. Barton responded there are approximately 3,600; the District started in 1972 with 300 taps. Mr. Allen asked the current storage capacity, and Mr. Thompson answered approximately one-half million gallons.

Mr. Drake moved to approve the DWSRF loan to the Logan County RWS&SWMD #1, and Mr. Darby seconded.

There was no other discussion, and Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch

NAY: None

ABSTAIN: None

ABSENT: None

E. 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. Freeman stated this \$1,100,000.00 million dollar loan request from the Calumet Public Works Authority in Canadian County is to make improvements to the wastewater system, including manhole upgrades, and to replace 11,000 feet of sewer line. He said \$200,000.00 will be through the loan forgiveness portion of the 2018 Clean Water SRF Capitalization Grant, and \$900,000.00 through the CWSRF loan fund. Mr. Freeman noted provisions of the loan agreement; debt coverage stands at 3.63-times. Staff recommended approval of the loan request.

Vice Mayor Mark Stanke was present in support of the loan request, and expressed his appreciation to the Board for its consideration of the loan application as the project will affect generations to come.

Mr. Stallings moved to approve the CWSRF loan application to the Calumet Public Works Authority, and Mr. Allen seconded.

There were no questions or discussion. Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch

NAY: None

ABSTAIN: None

ABSENT: None

F. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Rural Water District No. 2, Cotton County. Recommended for Approval. Mr. Freeman stated this item is a \$5,000,000.00 loan request from the Cotton County Rural Water District No. 2. He said the District is requesting the loan for the construction of a water treatment plant, a pump station, two water wells, and to lay four miles of water line. Mr. Freeman noted provisions of the loan agreement and stated in addition to this loan, the project will be funded with an IHS grant of \$164,000.00, and local funds of \$958,221.72. The District water connections have increased by 6% over the past ten years and the debt coverage ratio stands at 1.51-times. Staff recommended approval.

Mr. David Rodriguez, Operating Manager and Mr. Al Jung, Consulting Engineer, were present in support of the loan request. Mr. Jung expressed the District Board's appreciation for the Board's consideration, and he noted the project would address nitrate issues in the south wells, and fluoride and arsenic issues in the north well, assuring a good supply of water into the future.

Mr. Allen asked how long the project will take, and Mr. Jung answered 13 months. Mr. Muller asked if the primary beneficiaries are the tap customers, or are there other districts that purchase water,

and Mr. Jung said there are only residential tap customers in the farming community with some rural development from Lawton.

There were no other questions, and Chairman Hitch asked for a motion. Mr. Allen moved to approve the DWSRF loan to the Cotton County RWD #2, and Ms. Castillo seconded.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: None
ABSENT: None

G. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Enid Municipal Authority, Garfield County. Recommended for Approval. Mr.

Freeman explained to the members this item is the first of two loan requests from the Enid Municipal Authority located in Garfield County. The first request is for \$20,000,000.00 million dollars from the Drinking Water SRF Loan Program for engineering and design, along with associated program management costs, for the Kaw Lake Water Project. The overall project, which will be in access of \$300 million dollars, is for construction of a pipeline from Kaw Reservoir east of Ponca City to Enid. In addition, the project will include water treatment plant construction, water right acquisition, right-of-way easements, along with other associated items. Mr. Freeman noted provisions of the loan agreement. He said that Enid currently has seven loans outstanding with the Board with a combined principal balance of \$46.2 million; the debt coverage ratio stands at approximately 4.27-times. Staff recommended approval of the loan application.

Mayor Bill Shewey, City Manager Jerald Gilbert, Director of Engineering Services Chris Gdanski, Finance Director Erin Crawford, and Mr. Michael Graves of Garver Engineering, were present in support of the application. Mayor Shewey spoke to the members saying it is a big project and the City has been accumulating money for 20 months; Enid is the hub of northwest Oklahoma and southern Kansas and is looking down the road 50 years. Mr. Muller asked the projected completion date, and the Mayor answered in four years, 2022; the pipeline is about 70 miles. He added the city had been working on the project for about three years--there has been good engineering, good input, and the city passed a sales tax issue (68% approval) specifically for the project. The next phase is to acquire easements. Mr. Allen asked if the sales tax will fund the project or is more funding needed and Mayor Shewey said it is a large portion of it. Mr. Muller asked if the sales tax collections were meeting projections and Mr. Shewey and Mr. Gilbert responded they are meeting projects. Mr. Allen asked if the debt coverage ratio of 4.27 assumed the approval of the next funding request, and Mr. Freeman answered, yes. Mr. Drummond asked for an explanation for the two sources of funding and Mr. Freeman responded staff chose the two sources, DWSRF and State Revenue Loan Program (FAP), for more cost efficient borrowing for the community under non-EPA requirements, and because of the capacity numbers of the DWSRF. He said Enid is also looking at funding \$50 million of the project through the WIFIA loan program and has filed a letter of intent with EPA, which will be cost effective for the citizens, and increase the Board's debt coverage ratio. He said staff has submitted a rating to Standard & Poor's for the FAP and it has been considered a AAA bond issue.

Mr. Stallings asked Mr. Gdanski to explain the project beyond the pipeline. Mr. Gdanski informed the members that the project includes the intake at the lake, a 70-mile pipeline, a pump station, water treatment plant, terminal storage area, integrating lake water with groundwater and the existing system. Mr. Drummond asked the elevation from the lake to Enid and Mr. Gdanski answered the water will be pumped uphill about 300 feet. Mr. Muller asked the anticipated capacity for future growth, and Mr. Gdanski said the project is designed for a full fifty-year build out, but will build what is needed to get 30 years down the road, and there will be capability to add pump stations to increase beyond 50 years.

There were no other questions. Mr. Drummond moved to approve the DWSRF loan to the Enid Municipal Authority, and Ms. Castillo seconded. Chairman Hitch called for the vote.

AYE: Darby, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: Stallings
ABSENT: None

H. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Enid Municipal Authority, Garfield County. Recommended for Approval. Mr. Freeman said this item is the \$46,500,000.00 million FAP loan request for the Kaw Lake Project. The loan proceeds will be used to pay for right-of-way easements, water storage rights, and for associated program management costs. He said the loan will be funded through the issuance of a State Loan Program (FAP) bond issue that will bear a fixed interest rate and have a maturity of approximately 31 years after completion of this phase of the project. He noted other provisions of the loan agreement, and stated the debt coverage ratio is 4.27-times. Staff recommended approval.

Mayor Bill Shewey, City Manager Jerald Gilbert, Director of Engineering Services Chris Gdanski, Finance Director Erin Crawford, and Mr. Michael Graves of Garver Engineering, were present in support of the application.

Mr. Drake stated he would like to make a motion to approve this loan for a very progressive city that has come before the Board. Mr. Allen seconded. Chairman Hitch called for the vote.

AYE: Darby, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: Stallings
ABSENT: None

I. Consideration of and Possible Action on Proposed Resolution Authorizing Certain Individuals To Sign and Act on Behalf of the Board Regarding the Board's Financial Assistance Program, State Revolving Fund Programs, and Issues of Indebtedness and Authorizing Members to Act as Assistant Secretary. Mr. Freeman explained this last item is a proposed resolution that authorizes certain individuals to sign and act on behalf of the Board regarding the Board's Financial Assistance Loan Program and State Revolving Fund Loan Programs. The resolution names each Board member, except the Chairman, as Assistant Secretary in the absence of the Secretary. The resolution allows BancFirst, as the Board's Trustee, to know the Board's composition and to have signatures on file for verification, and adds Ms. Castillo and Mr. Muller as new Board members. Staff recommended approval.

There were no questions regarding the resolution. Mr. Drummond moved to approve the resolution, and Mr. Darby seconded. Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: None
ABSENT: None

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. Chairman Hitch stated that staff had requested that item 3.F.2., Charles D. and Charles W. Testerman Joint Venture, #2012-590, be withdrawn from consideration.

Chairman Hitch stated a Board Member request is to move item G.4., Pontotoc Sands Company, LLC, to the Special Consideration agenda for discussion.

There were no other items moved to the Special Consideration Agenda.

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

Chairman Hitch asked if there were other actions or questions regarding the items on the Summary Disposition Agenda. There were none.

Mr. Drake moved to approve the Summary Disposition Agenda with the two items removed, and Mr. Stalling seconded. Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch

NAY: None

ABSTAIN: Mr. Hitch on item I.1., Hitch Enterprises, Inc., Texas County, #1949-144

ABSENT: None

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> |
|-----------------|------------------------|---------------------------------------|---------------|---------------------------|
| EODD | | | | |
| a. | FAP-17-0047-R | East Central Oklahoma Water Authority | Muskogee | \$99,999.00 |

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

1. Joint Funding Agreement between OWRB and USGS for Hydrogeologic Investigation and Simulation of Groundwater Flow and Availability in the Salt Fork Arkansas River Alluvial Aquifer, North-Central Oklahoma.
2. Amendment to Interagency Agreement between OWRB and DEQ to provide laboratory services for OWRB.
3. Agreement Amendment between OWRB and the Office of the Secretary of Energy & Environment (OSEE) to extend budget and project period.
4. Joint Funding Agreement between OWRB and USGS for continued operation and maintenance of the monitoring program.
5. Professional Services Contract between OWRB and HISINC, LLC to administer, manage and implement floodplain administration assignments as requested by OWRB.

6. Amendment to Professional Engineering Services Agreement between OWRB and Lynker Technologies to provide updates to OWRB's North Fork of the Red River CRAM model
- E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:
 1. Douglas & Nancy Testerman, Harmon County, #2015-543
 2. Gerald & Karie McKinley, Pottawatomie County, #2017-586
 3. Roger D. & Edith N. Entz, Caddo County, #2018-505
 4. Max A. Redgate, Woods County, #2018-533
 - F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
 1. FoxRock Ranch, LLC, Dewey County, #1973-491
 2. Charles D. & Charles W. Testerman Joint Venture, Harmon County, #2012-590 *Item withdrawn*
 3. Preston & Candy Masquelier, Custer County, #2015-591
 - G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:
 1. Marathon Oil Company, Canadian County, #2017-546
 2. Hollis P. Gallup, Jr. & Nancy E. Gallup Trust No. 2, Garvin County, #2017-557
 3. Kent D. & Denise R. Miller, Ellis County, #2018-511
 4. Pontotoc Sands Company, LLC, Pontotoc County, #2018-531 *Moved to Special Consideration item 5.B.*
 - H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
 1. The Jerald & Deborah Radcliff Revocable Family Trust, Beaver County, #1975-751B
 2. Dean Simmons Farms, Dean & Twylah Simmons, and Tyler Dean Trujillo, Texas County, #2001-582
 - I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
 1. Hitch Enterprises, Inc., Texas County, #1949-144
 - J. Consideration of and Possible Action on Applications for Regular Permits to Use Surface Water:
 1. Cimarex Energy Company, Canadian County, #2017-070
 2. Lottawater, LLC, Kingfisher County, #2018-001
 3. Southwind Hills Land & Development, McClain County, #2018-003
 4. Grisham Construction Co., Grady County, #2018-006
 5. Five-G-Water, Kingfisher County, #2018-008
 6. Larry David Brim, II, Rogers County, #2018-011
 7. Todd Jay Ice Trust, Blaine County, #2018-013
 8. Christopher Wayne Didier and August Grant Didier, Blaine County, #2018-014
 9. The Rick Scott & Teresa Scott Revocable Living Trust, Grady County, #2018-020
 10. Mark E. Helm, Garvin County, #2018-022
 11. AEM Holdings, LLC, Wagoner County, #2018-041
 - K. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Surface Water:
 1. Hillcrest Country Club, Washington County, #2017-029
 - L. Consideration of and Possible Action on Dam and Reservoir Construction:
None

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

1. New Licenses, Accompanying Operator Certificates and Activities:

- a. Licensee: Schrock Well Service, LLC DPC-0974
Operator: Freeman Schrock OP-2252

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

- a. Licensee: Roddy Qualls Environmental Drilling DPC-0857
Operator: Matthew Arendall OP-2250
- b. Licensee: Ski Line and Equipment Rental, LLC DPC-0681
Operator: Levi Lockhart OP-2251
- c. Licensee: Clarke Well and Equipment, Inc. DPC-0362
Operator: Jared Brown OP-1870
Operator: Christopher Ekberg OP-1872
- d. Licensee: R W Water Wells, Inc. DPC-0678
Operator: Alan Trammell OP-2254
- e. Licensee: Braun Intertec Corporation DPC-0593
Operator: David Rogers OP-2255

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, Muskogee County, #FP-17-82
- 2. Oklahoma Department of Transportation, Oklahoma County, #FP-17-83
- 3. Oklahoma Department of Transportation, Cotton County, #FP-17-84
- 4. Oklahoma Department of Transportation, Carter County, #FP-17-85
- 5. Oklahoma Department of Transportation, Garvin County, #FP-17-86
- 6. Oklahoma Department of Transportation, Garvin County, #FP-17-87
- 7. Oklahoma Department of Transportation, Carter County, #FP-17-88
- 8. Oklahoma Department of Transportation, Carter County, #FP-17-89
- 9. Oklahoma Department of Transportation, Carter County, #FP-17-90
- 10. Oklahoma Department of Transportation, Carter County, #FP-17-91
- 11. Northeastern Oklahoma A & M College, Ottawa County, #FP-18-40

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

- 1. Owen Wade Tackett, Cherokee County, #FPA-757
- 2. Tera L. Mathis, City of Duncan, #FPA-758
- 3. Matthew D. Duke, Town of Muldrow, #FPA-759

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

- A. There were no items presented.

5. SPECIAL CONSIDERATION

Chairman Hitch asked that item 5.B., Consideration of items transferred, Summary Disposition Agenda item G.4., Pontotoc Sands Company, LLC, Pontotoc County, #2018-531 be considered first.

B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any. Summary Disposition Agenda Item, G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater 4. Pontotoc Sands Company, LLC, Pontotoc County, #2018-531.

Chairman Hitch asked Mr. Drake if he would like to address the request. Mr. Drake stated he hoped the Board would table the matter and give more time, understanding that it (the application) was published in a paper that has been recognized and it wasn't seen, and didn't know it was coming (to the Board). He said this is over the Arbuckle Simpson Aquifer (ASA) and he asked that any time there is a matter concerning the Arbuckle Simpson in any form, he'd like to take a better look at it. He said this is one of those instances, and he hoped the Board would allow discussion; to table consideration and come back and look at it in a month.

Chairman Hitch said before taking action to table the matter, he invited the interested parties to speak since they traveled to be in attendance. He emphasized this is not a hearing, but an opportunity for comment. He reminded those in attendance the process has been completed and the four points of law have been met.

Ms. Krystina Phillips, representing the Citizens for the Protection of the Arbuckle Simpson Aquifer (CPASA), addressed the members and stated the mission of the organization. She said the aquifer is an important water body for southcentral Oklahoma. She talked about Senate Bill 597 which regards mining over the aquifer and requires mines to come within the sustainable framework of the OWRB's maximum annual yield determination and Senate Bill 288, and creates three classifications of mines: exempt (pending application at the ODM prior to 8/1/2011), diminimus mine which uses 5 acre-feet or less of groundwater, and a new mine. She explained that Pontotoc Sands is a mine that has been permitted since 8/1/2011, initially meeting the requirements of an exempt mine; however, it failed to report the discharge of water from its pits. The OWRB revoked the exempt status, Pontotoc Sands presented evidence, and the OWRB concurred the operation was a diminimus mine. Ms. Phillips argued the application is for 160 acre-feet of water and while it meets the four points of law for a groundwater permit, it can no longer be classified as diminimus and does not meet the new mine requirements under SB 597 which requires a site-specific water management and conservation plan, which she explained. She said that as a result, CPASA would support the tabling of this issue and would request the OWRB request Pontotoc Sands to re-file an application that complies with the law and republish the notice.

Mr. Stallings asked if SB 597 is under the OWRB's jurisdiction. OWRB General Counsel Sara Gibson answered, yes, SB 597 deals with the taking of water by mines over a sensitive sole source basin, which is the ASA in Oklahoma. It distinguishes mines with an exemption that were in operation or had an application with the ODM prior to the legislation, and states that existing mines could keep the exemption if it demonstrated met the equal proportionate share. Further, she explained that mines that were not in operation, did not have an application on file or pending permit, or did not comply with the exemption requirement, is a mine without an exemption would be required to have a management plan. Ms. Gibson stated the attorney for Pontotoc Sands is present today.

Chairman Hitch called upon Ms. Elizabeth Nichols to speak to the Board. Ms. Nichols stated the SB 597 issue has to do with taking water from a pit and not taking water from a well. The application is for a regular groundwater permit, the application submitted to the OWRB was in compliance, went through the steps necessary, and the public was notified pursuant to publication. She said the OWRB found the application to be administratively complete and technically correct, the publication ran for the required amount of time, the affidavit was supplied, and there were no objections. Pontotoc Sands has complied with all of the rules to receive a groundwater permit. She said the permit is not for the use of water from a mine pit which is what SB 597 is regarding. Ms. Nichols urged the Board to enforce the rules as written in Title 82 subsection 1020.8 and the Administrative Rules for the OWRB pursuant to 785.

Mr. Drummond asked the distance from the mine to the well and Mr. Tim Lochridge answered 300 feet. Mr. Allen confirmed the facts, that the application was received and reviewed by staff, met qualifications and placed on the consent agenda, and the issues being raised would have been raised on a protest docket had the complainants seen the notice. Ms. Gibson stated that is correct.

Mr. Lochridge, General Manager for Pontotoc Sands, stated to the Board that the notice may have been missed, but there have been two public forums where the attorney (Ms. Phillips) stated the Allen paper would be watched for Pontotoc Sands; he felt everything had been met and was asking for due process. He added he lives in the area.

Mr. Muller asked if the staff, after this objection has arisen, has any misgivings or reconsiderations about meeting the points of law. Ms. Gibson answered, no.

Chairman Hitch stated there is a motion by Mr. Drake before the Board. He asked if there was a second.

Mr. Drummond asked Mr. Drake's intention. Mr. Drake responded he was not asking the Board to vote against it, but to allow the people that are interested in it more time; for those who had changed travel plans to attend such as Speaker McCall, to give 30 days to look at it. He acknowledged the applicant has met the law.

Mr. Drummond seconded the motion to table the matter. Chairman Hitch asked if there was further discussion. Mr. Darby asked that when the matter comes back, it will come before the Board and not another hearing, and Ms. Gibson said it would come back on the Summary Disposition Agenda. Mr. Allen asked if staff would do anything procedurally during the 30 days, and Ms. Gibson stated no, unless directed by the Board, which Chairman Hitch added i.e., go against the rules and reopen and reconsider. Mr. Drake said he is not requesting reconsideration, just tabling for the people that are interested and here today to take a look and the Board will act on it in 30 days; the Board is not voting against it, but a 30 day postponement. Mr. Stallings asked the point of the table, and Mr. Drake said he would like for the people that are concerned to have 30 days to look at it further and if they feel a necessity, to file suit before the fact rather than after the fact. Mr. Muller asked if the 30 day postponement would cause a hardship to the applicant. Mr. Lochridge said he did not understand the purpose of the 30 days, he met everything required, it is on the agenda, and he noted the two distinguished guests. He said he has met the law and gone above and beyond what was required; he said he is not asking for anything special, just due process. Mr. Muller repeated his question, and Mr. Lochridge responded unless he receives a 90-day temporary permit, he has spent money on a well he will not be able to use.

Mr. Allen stated he has serious concerns about delaying a matter based upon a failure to see a notice that complies with the law. Newspapers are used to make notification in different areas of the law and the courts have found time and again it complies with due process, and he struggled approving a delay because they missed the notice. Ms. Castillo stated she shared Mr. Allen's concerns.

Chairman Hitch asked if there was further discussion. There was none. He called for the vote for or against the motion to table for 30 days consideration of Pontotoc Sands' application to use groundwater.

AYE: Darby, Drummond, Drake
NAY: Stallings, Castillo, Allen, Muller, Melton, Hitch
ABSTAIN: None
ABSENT: None

Chairman Hitch stated the motion failed. He asked if there was a motion to move forward (approve the Pontotoc Sands application to use groundwater) or another motion. Mr. Allen so moved, and Ms. Castillo seconded. Chairman Hitch asked if there was any further discussion on the motion, and there was none. Chairman Hitch called for the vote.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Melton, Hitch
NAY: Drake
ABSTAIN: None
ABSENT: None

A. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Petition for Declaratory Ruling Regarding the Hazard Classification of Sallisaw Creek Dam No. 33, Dam ID No. OK11057:

1. Summary – Mr. Kent Wilkins, Chief, Planning and Management Division, stated to the members that this item is a petition for declaratory ruling on a hazard classification of Sallisaw Creek Dam Site No. 33, ID No. OK11057. Mr. Wilkins explained this proceeding arose from the petition by Ms. Jennifer Taylor (Petitioner), owner of the land on which the US Department of Agriculture Soil Conservation Service (NRCS) designed and constructed a flood control structure in 1966. An easement for the flood control works was obtained by the Sequoyah County Soil and Water Conservation District and/or Sallisaw Creek Conservancy District seeking a declaratory ruling on the hazard classification of Sallisaw creek Site No. 33 Dam and Spillway. Ms. Taylor requested a declaratory ruling by the Board on the hazard classification that was denied by the Board in April 2011 due to litigation that was occurring. The order was appealed to District Court of Sequoyah County and the Board appealed the order to the Oklahoma Court of Civil Appeals which reversed the Sequoyah County District Court decision and remanded the matter back to the Board for further review. A prehearing conference was held in October 2017, and a hearing was then held at the OWRB on April 2, 2018; both parties were represented by counsel on both occasions, the hearing was adjourned, and the hearing examiner prepared the proposed order which was served on the parties, and presented now to the Board.

Mr. Wilkins continued stating the Petitioner proposed the Board had not taken formal action on the high hazard classification, and the conservation district contends that Site 33 is a high hazard due to the consequences of failure if a catastrophic breach were to occur. The SCS state engineer, Chris Stoner testified that if Site 33 failed, there is a potential of loss of life which warrants a high hazard classification. Mr. Wilkins said that based on the findings of fact and conclusions of law Board staff concludes Site 33 is properly classified as a high hazard dam. He said the timeline of the classification is somewhat complicated: initially classified as a low hazard dam when constructed in 1966, reclassified under a Phase I report in 1979 as high hazard, requested to be reclassified as a significant hazard in 1991 with no action, and in 1994 OWRB rules dictated the Phase I report would be used as an accurate reflection of the hazard classification and the site was reaffirmed as a high hazard dam. Furthermore, in 2005 a supplemental assessment of the dam was performed and again determined to be a high hazard dam. Therefore, based on the hearing examiner's order, it is so ordered and decreed that Sallisaw Creek Site No. 33 shall be declared as a high hazard dam and staff recommended approval of the proposed findings of fact, conclusions of law, and Board order as presented.

2. Discussion and presentation by parties. Mr. Wilkins stated representing the Petitioner today are attorneys David Gleason and Bob Kellog, and representing the conservation district is attorney Kelly Monaghan and Ms. Janet Stewart, General Counsel, Oklahoma Conservation Commission.

Chairman Hitch invited the representatives to speak to the Board, allowing five minutes each. Mr. Gleason approached and explained the request for a declaratory ruling filed in 2011 and the Board did not take action because at the time, the District Court determined it was a low hazard dam, which order was appealed by the Board claiming authority to make the determination, and the Court sent the matter back to the Board for a determination. He said he didn't want to change the classification of the dam, and he presented the history of the classification, breach analysis and inventory report in 1979 classifying it high hazard and that no action was taken on the report. He said the OWRB and SCS District agreed in 1991 to reclassify the dam as a significant class dam because it never met the qualifications of the high hazard. Later, however, a modification permit application was made to raise the dam height to meet the requirements of a significant hazard structure which was approved by the OWRB but did not require the district to raise the dam to comply with high hazard class requirements. The 1994 rules recognized the 1979 Phase I inventory report is accurate but that raised the question if it replaced actions between 1979 and 1994, and Mr. Gleason stated his position is the rule was not meant to ignore changes that lowered the classification; however, the rule would essentially reset the

classifications of dams which he did not believe was the intent of the rule. Mr. Gleason stated the proposed order does not address this argument, and he referred to paragraph 25 that states the argument fails because it does not take into consideration the 2005 assessment classifying the same as high hazard; however, the Board never approved the 2005 report. Paragraph 26 says the Board is not required to take action and Mr. Gleason argued the NRCS cannot file a report unilaterally changing the classification of a dam and that the Board would have to take action to do that.

Mr. Allen referred to paragraph 18 of the proposed findings of fact and conclusions of law and Mr. Stoner's statement that if Site No. 33 failed there would probably be loss of life and warrants a classification of high hazard and he asked Mr. Gleason if he had any evidence that statement is incorrect. Mr. Gleason answered, no; their petition filed in 2011 asked, what is the classification of the dam today.

Mr. Kelly Monaghan, representing the Sequoyah County Conservation District, stated to the members the matter was before the Board a number of years ago based upon the declaratory ruling filed by Ms. Taylor seeking determination of the hazard classification at dam Site No. 33. The Board deferred action due to a pending condemnation case as the Board's rules prohibit action until settlement of pending litigation. The Court ultimately remanded the case to the Board and the administrative hearing was conducted in April 2018; the parties attended but did not present evidence or expert testimony to challenge the hazard classification of Site No. 33. At the hearing, Sequoyah County presented testimony by Mr. Chris Stoner, NRCS engineer who was involved in the 2005 supplemental report and clearly testified that a dam failure would probably result in loss of human life, meeting the high hazard classification. He talked about hazard standard and performance standard but the evidence clearly demonstrated failure of this dam would probably cause loss of life. He agreed with the history of the dam that has been presented and said the Board agreed to consider lowering the classification in 1991 but no evidence presented the work was performed or a hearing conducted before the Board requesting the reclassification. Mr. Monaghan said the proposed order presented by the hearing examiner accurately reflects the findings of fact and conclusions of law that was demonstrated, he supports the approval and adoption of the order by the Board confirming this is a high hazard dam and has been since 1979.

There were no questions by Board members. There was no statement by Ms. Janet Stewart. Mr. Wilkins stated Yohanes Sugeng OWRB Engineer is available for questions.

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 Hitch asked if there is a motion. Mr. Drummond asked and Mr. Wilkins answered that staff agrees with the proposed order declaring it a high hazard dam.

Mr. Allen said based upon paragraph no. 18 it would be difficult to say the Board could determine the dam is anything other than high hazard, and that testimony was not refuted. He moved to approve the proposed findings of fact, conclusions of law, and Board order. Ms. Castillo seconded the motion.

AYE: Darby, Stallings, Castillo, Drummond, Allen, Muller, Drake, Melton, Hitch
NAY: None
ABSTAIN: None
ABSENT: None

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 Hitch made appointments to the Board's Ad Hoc Committees of the new members: Jennifer Castillo to the Legislative, Water Policy and Rules, and Water Planning Committees, and Mr. Muller to the Legislative and Water Planning Committees. He asked the committees to select the chairman.

7. ADJOURNMENT

There being no further business, Chairman Hitch adjourned the meeting of the Oklahoma Water Resources Board at 10:40 a.m. on August 21, 2018.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Jason Hitch, Chairman

_____/Absent_____
Stephen B. Allen, Vice Chairman

_____/s/_____
Charles Darby

_____/s/_____
Bob Drake

_____/Absent_____
Robert L. Melton, Sr.

_____/s/_____
F. Ford Drummond

_____/s/_____
Jennifer Castillo

_____/s/_____
Matt Muller

ATTEST:

_____/s/_____
Robert L. Stallings, Jr., Secretary

(SEAL)