

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

February 19, 2019

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Board Secretary Rob Stallings at 9:30 a.m. at the offices of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, 73118. 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 February 14, 2019, at 4:00 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.

Board Secretary Rob Stallings stated the Board had a New Business item before starting the meeting, and he asked Ms. Sara Gibson, OWRB General Counsel, to address the members.

6. NEW BUSINESS

Ms. Gibson stated to the members that due to weather and other circumstances, the Board's Chairman and Vice Chairman are unable to attend, so the Board's first order of business is to appoint an acting chairman for this meeting.

Mr. Muller moved that Mr. Rob Stallings be the Acting Chairman, and Mr. Drake seconded. Upon roll call vote, Mr. Rob Stallings was selected as Acting Board Chairman for the February 19, 2019, meeting.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

Ms. Gibson stated that because Mr. Stallings is currently serving as the Board's Secretary, an Acting Secretary will need to be appointed for this meeting. Acting Chairman Stallings appointed Mr. Bob Drake as Acting Secretary.

1.A. Roll Call. Acting Chairman Stallings asked for the roll call of members.

Board Members Present

Robert Stallings, Secretary/Acting Chairman

Jennifer Castillo

Bob Drake

Robert L. Melton

Matt Muller

Board Members Absent

Charles Darby

Ford Drummond

Jason Hitch, Chairman

Stephen Allen, Vice Chairman

Staff Members Present

Julie Cunningham, Executive Director
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

Carly Cordell, Office of the Secretary of Energy and Environment, Oklahoma City, OK
Cole Bond, Sayre/Keys, OK
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK
Linda Stepp, Latimer County Rural Water District #2
John Stepp Latimer County Rural Water District #2
Chris Havenar, Tulsa Metropolitan Utility Authority, Tulsa, OK
Tom Prag, Tulsa Metropolitan Utility Authority, Tulsa, OK
Eddie Rhandour, Oklahoma Department of Environmental Quality, Oklahoma City, OK
Robert Pistole, City of Moore, OK
Joe Drew, CHMR OP, LLC
Lynda Williamson, Office of Secretary of Energy & Environment, Oklahoma City, OK
Brooks Mitchell, City of Moore, OK
Carrie Kennedy, BOKF
Mark McCoy, BOK, Oklahoma City, OK
Dean Couch, Gable/Shutler Trust
Henry Heinrick, El Reno, OK
Ron Mize, Edmond, OK
Saba Tahmassebi, Oklahoma Department of Environmental Quality, Oklahoma City, OK

B. Discussion, Amendments, and Vote to Approve Official Minutes of the January 15, 2019, Regular Meeting. Acting Chairman Stallings asked if there were any amendments or discussion of the draft January 15, 2019, minutes as distributed. There were no changes or discussion.

Mr. Muller moved to approve the minutes of the January 15, 2019, meeting, and Mr. Drake seconded. There was no discussion. Acting Chairman Stallings called for the vote.

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

C. Executive Director's Report

Ms. Julie Cunningham, Executive Director, updated the members on the current status of drought across the state; most of the state is in good condition with some drought in the west. Regarding calendar items, January 24 she presented to the House and Senate Appropriations Committee Subcommittee on Natural Resources. Staff assisted with preparations with the budget, strategic plan, goals and objectives, information about the agency's program provided in a "status report" (distributed), and a map for new legislators that indicate agency services provided in their district and she received positive feedback from the members. There were several members who had carried or are carrying water-related legislation; seven of the nine members in the House of Representatives on the Committee are new legislators. She said the only request bill is an extension to the Gross Production Tax which funds the OWRB water plan implementation--\$6.5 million matched with federal dollars--and groundwater studies that will determine the maximum annual

yield for certain groundwater basins, as well as USGS projects some of which is used by consultants to perform the work needed. There is support for the extension. Ms. Cunningham said staff hosted the USCOE representatives on February 7 to review Planning Assistance to the States projects which funding is critical for various studies and implementations for planning projects, i.e., flood control, water plans, studies, etc., and also discussed the Tribal agreement with the Chickasaw and Choctaw Tribes that can utilize the funding at 0% match. The Tribal Settlement Agreement requires the OWRB to assist in bringing in funding for projects they are working on, which includes infrastructure inventory, dam rehabilitation, and water and sewer treatment. She anticipated a future meeting with the Tribes and COE to discuss projects.

Ms. Cunningham spoke to a Clean Energy Economy Forum which included participation by the state universities looking at the water-energy nexus -- affordable produced water = lowered energy costs, lowering the total cost of reuse. Secretary Wagner also spoke about the Governor's initiative of the State's future energy portfolio. She announced Mr. Stallings was elected to the Enid City Council. She will be meeting with Secretary Wagner and the Cabinet agency directors that afternoon, and April 17 is Water Appreciation Day at the Capitol. If the proposed rules are approved today the Board may consider cancelling the March meeting. She updated the members on the water bills currently under consideration at the State Capitol, including instream flows and studying a permit's impact on a streamflow, and creation of groundwater irrigation districts, among others.

Ms. Cunningham concluded her report noting the Congressional report is provided. 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 January 2019. He said for the time period the agency has spent 60% of the appropriated budget leaving 40%, has spent 35% of the revolving funds leaving 65% of budgeted funds, and has spent 39% of the federal dollars leaving 71%. Overall, 60% of the total budget remains with 42% of the year remaining compared to last year at this time when the agency had 58% of the budget remaining; the agency is staying within the 2% range. Staff is working on the 2020 budget, and he received notice the Governor's new Secretary of Budget will be scheduling a meeting with the agency.

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 Emergency Grant for Rural Water District No. 2, Latimer County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members this first item is for the consideration of an emergency grant request from the Latimer County Rural Water District #2. The District is a purchase-water system and E.coli has been detected. For the District to be able to purchase the water on a consistent basis from the backup water source improvements need to be made. Improvements include installing an above ground backflow prevention valve, upgrade existing electrical, install a new master meter, make pump station repairs, and install water lines. Mr. Freeman stated it is estimated the project cost is \$94,000.00 and will be funded by the \$79,900.00 grant requested of the OWRB, and \$14,100 of local funds. Staff recommended approval of the grant request.

Representing the District was Ms. Linda Stepp, Office Manager, who stated the District's appreciation for the Board's favorable consideration of the emergency funding to improve connections with Talihina.

Mr. Muller asked about the measures being taken to mitigate E.coli. Ms. Stepp answered the District is under contract with the Sardis Lake Water Authority that experienced an E.coli outbreak in early August 2018. Latimer County has an emergency connection with Talihina and is the link between Sardis and

Talihina. The District has disconnected with Talihina until the valve can be replaced and the project completed.

There were no other questions, and Acting Chairman Stalling asked if there was a motion.

Mr. Muller moved to approve the emergency grant to Latimer County Rural Water District No. 2, and Ms. Castillo seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

B. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Sayre Public Works Authority, Beckham County. Recommended for Approval. Mr.

Freeman stated this item is a \$823,180.00 loan request by the Sayre Public Works Authority located in Beckham County. He said Sayre is requesting the loan to construct a 187,000 gallon steel ground storage tank, a 73,000 gallon steel ground storage tank, 567 feet of 16-inch PVC water line, and 349 feet of 12-inch water line. Mr. Freeman explained the loan will be funded through the Drinking Water State Revolving Fund Loan Program, and he noted provisions of the loan agreement. Sayre's debt coverage ratio stands at 9.76-times, and staff recommended approval.

Mr. Cole Bond, Cardinal Engineering project engineer, was present representing Sayre. He described the need to replace the current crumbling tank with the two steel tanks.

Acting Chairman Stallings called for a motion. Mr. Melton moved to approve the Drinking Water SRF loan to the Sayre PWA, and Mr. Drake seconded. There were no questions or discussion. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

C. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Tulsa Metropolitan Utility Authority, Tulsa County. Recommended for Approval. Mr.

Freeman stated this item is a \$10,626,000.00 loan requested by the Tulsa Metropolitan Utility Authority. The TMUA is requesting the loan to rehabilitate 200,000 feet of sewer line in the Joe Creek/LaFortune Park drainage basin to prevent infiltration and inflow, rehabilitate two sludge storage tanks, and an additional 4,000 feet of sewer line. He noted the provisions of the loan agreement, and stated the water sewer connections have increased by 12% over the past ten years. Tulsa has been a loan customer of the Board's for 29 years and currently has 25 loans with the Board with a combined principal balance of \$177 million dollars. Tulsa's debt coverage ratio is 2.55-times. Staff recommended approval of the loan application.

Mr. Tom Prag, Senior Project Engineer, and Chris Havenar, Treasury Analyst, were present in support of the loan application. Mr. Prag spoke to the members about the funding. Mr. Melton asked about deterioration of clay pipe, and Mr. Prag responded the system is two-thirds clay pipe and Tulsa is working to rehabilitate the connections and unreinforced concrete pipe prevalent in the system in the early 20th century with heavy PVC and fiberglass reinforced polymer pipe.

There were no other questions.

Mr. Drake moved to approve the Clean Water SRF Loan to the TMUA, and Mr. Melton seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

D. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for Moore Public Works Authority, Cleveland County. Recommended for Approval. Mr. Freeman stated this last item for the Board's consideration is a \$15,000,000.00 loan request by the Moore Public Works Authority. The MPWA is requesting the loan to construct a new lift station and force main to the wastewater treatment plant, replace an existing lift station and eliminate an inverted siphon and existing interceptor, demolish three existing lift stations, and lay new sewer line. Mr. Freeman stated the loan will be funded through the State Loan Program Revenue Bond Loan Fund (FAP Program), and he noted provisions of the loan agreement. The Moore PWA currently has three outstanding loans with the Board for a combined principal balance of \$39.5 million. The water and sewer connections have increased by approximately 24% over the last ten years, and the debt coverage ratio stands at approximately 4.37-times. Staff recommended approval of the loan application.

Mr. Brooks Mitchell, City Manager and Mr. Robert Pastole, project manager, were present in support of the request. Mr. Mitchell spoke to the project, and thanked the OWRB staff for its assistance.

There were no questions and Acting Chairman Stallings stated he would accept a motion.

Ms. Castillo moved to approve the FAP loan to the Moore PWA, and Mr. Drake seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

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 move items to the Special Consideration Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items Listed. Acting Chairman Stallings stated if there were no requests to withdraw items, he would entertain a motion.

Mr. Muller moved to approve the Summary Disposition Agenda, and Mr. Drake seconded.

There was no discussion, and Mr. Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

The following items were approved:

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

1. Rural Economic Action Plan (REAP) Grant Applications:

	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
ACOG				
a.	FAP-19-0044-R	Crescent Public Works Authority	Logan	\$99,999.00
COEDD				
b.	FAP-19-0025-R	Wetumka Public Works Authority	Hughes	99,999.00
NODA				
c.	FAP-14-0003-R	Nash Public Works Authority	Grant	129,948.11
OEDA				
d.	FAP-19-0006-R	Keyes Utilities Authority	Cimarron	100,000.00
SODA				
e.	FAP-18-0024-R	Maysville Municipal Authority	Garvin	99,999.00

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

1. Amendment Agreement between the Office of the Secretary of Energy & Environment ("OSEE") and OWRB extending the budget/project period for the National Wetlands Condition Assessment (NWCA).
2. Subscription Services Agreement between Elation Systems, Inc. and the OWRB for services and support for Davis Bacon reporting in conjunction with the Financial Assistance Division's State Revolving Fund Programs.
3. Agreement between OWRB and the Oklahoma Ground Water Association ("OGWA") for the oversight of continuing education of Well Drillers and Pump Installers.
4. Intergovernmental Agreement between OWRB and Central Oklahoma Master Conservancy District ("COMCD") for water quality monitoring at Lake Thunderbird.
5. Professional Services Agreement between OWRB and Gold Systems, Inc., to provide consulting and software development services as part of a fully federally-funded grant.
6. Amendment of Joint Funding Agreement between OWRB and U.S. Geological Survey ("USGS") for hydrological survey on Reach 1 of the Washita Alluvium and Terrace Groundwater Basin.
7. Amendment of Joint Funding Agreement between OWRB and U.S. Geological Survey ("USGS") for hydrological survey on Reaches 3 and 4 of the Washita Alluvium and Terrace Groundwater Basin.
8. Amendment of Joint Funding Agreement between OWRB and U.S. Geological Survey ("USGS") for hydrological survey on the Salt Fork of the Red River Alluvium and Terrace Groundwater Basin.

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

1. David & Marcy Bailey, Custer County, #2018-594
2. David & Marcy Bailey, Blaine County, #2018-595
3. GHMR Operating, LLC, Blaine County, #2018-600
4. Travis Eugene Farbros, Craig County, #2018-608
5. Freeman D. & Margaret L. Schrock, Custer County, #2018-614

F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
None

- G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:
1. Drue & Kelsey Knight, Beckham County, #2018-557
 2. Kendall & Carol Sue Bayless, Ellis County, #2018-579
 3. Richard & April Hood and Jonathan & Amy Esparza, Greer County, #2018-597
- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
1. Okmulgee Co. Rural Water District No. 5, Okfuskee County, #2003-545
 2. Roy Henry & Angela Kay Heinrich, Canadian County, #2005-569
 3. C. Jeff & Shelly D. Baumann, Cotton County, #2013-542
- I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
1. David & Marcy Bailey, Custer County, #1956-104
 2. First National Bank, Goodland, KS, Custodian f/b/o Lonnie W. Gilley and 7X Properties, LLC, Garvin County, #1964-229
- J. Consideration of and Possible Action on Applications for Regular Permits to Use Surface Water:
1. Jason Russell, Canadian County, #2018-004
 2. Jeff Yost, Blaine County, #2018-063
 3. Bluefin Water Solutions, LLC, Grady County, #2018-067
 4. Tim Osborn, Grady County #2018-079
 5. StreeTye Ranch, LLC, Grady County, #2018-087
- K. Consideration of and Possible Action on Applications for Seasonal Permits to Use Surface Water:
1. Gary Freeby, Rogers County, #2018-049
 2. Robert F. Hawkins Revocable Trust, Washita County, #2018-090
- L. Consideration of and Possible Action on Dam and Reservoir Construction:
1. Watonga Lake (Department of Wildlife Conservation), Blaine County, OK00115
 2. Lake Murray (Department of Tourism & Recreation), Love County, OK10039
 3. Holdenville City Lake (City of Holdenville), Hughes County, OK10479
- M. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:
1. New Licenses, Accompanying Operator Certificates and Activities:
 - a. Licensee: Premier Pump and Well Service, Inc. DPC-1005
Operator: Allen Stroot OP-2267
 2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses
 - a. Licensee: Wades Water Well Service DPC-0923
Operator: Alan Wade OP-2088
 - b. Licensee: Davis Water Well Service DPC-0197
Operator: Willie Jones OP-2268
 - c. Licensee: B & H Construction DPC-0765
Operator: Legend Booth OP-2269
 - d. Licensee: Martins Well Service DPC-0669
Operator: Matthew Martin OP-2270
 - e. Licensee: Oklahoma Environmental Services DPC-0363
Operator: Darryl Green OP-2271
 - f. Licensee: Sunbelt Industrial Services, Inc. DPC-0701
Operator: Francisco Javier Chavez OP-2272
- 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, Sequoyah County, #FP-18-14
 2. Oklahoma Department of Transportation, Osage County, FP-18-23

3. Oklahoma Department of Transportation, Osage County, FP-18-24
4. Oklahoma Department of Transportation, Roger Mills County, FP-18-26
5. Oklahoma Department of Transportation, Custer County, FP-18-27
6. Oklahoma Department of Transportation, Custer County, FP-18-30
7. Oklahoma Department of Transportation, Custer County, FP-18-31

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

1. Cody D. Smith, City of Heavener, FPA-779
2. Jacquelyn F. Porter, City of Tuttle, FPA-780

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

Acting Chairman Stallings stated staff will present the new and amended permanent rules.

A. Rules Amendments Recommended for Adoption in Chapter 5 – Fees

1. Subchapter 1. General Provisions

785:5-1-9. Dam safety and inspection fees [AMENDED]

785:5-1-11. Well driller and pump installer licensing fees [AMENDED]

785:5-1-14. Stream Water and Groundwater petition fees [AMENDED]

Mr. Kent Wilkins, Chief, Planning and Management Division, addressed the members and presented proposed changes to Chapter 5. He said there were two fee increases-- dam safety and groundwater amendment --and one new fee for marginal well construction. He said staff had only received one comment; however, no changes were made based on that comment. That comment was in support of the fee increase as the Board should receive adequate funding for the services provided.

2. Questions and discussion by Board Members. There were no questions or discussion by Members.

3. Vote on whether to approve recommended amendments as presented or as may be revised after discussions. Acting Chairman Stallings stated he would accept a motion for the approval of item A, Chapter 5.

Ms. Castillo moved to approve the amendments to Chapter 5, and Mr. Muller seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

B. Rules Amendments Recommended for Adoption in Chapter 30 – Taking and Use of Groundwater

1. Summary

Subchapter 1. General Provisions

785:30-1-2. Definitions [AMENDED]

Subchapter 3. Permit Application Requirements and Processing

785:30-3-1. General application requirements [AMENDED]

785:30-3-5.1. Prohibition to issuance or amendment of permit and waiver [REVOKED]

785:30-3-6. Well spacing [AMENDED]

Subchapter 7. Amendments to Groundwater Rights

785:30-7-4. Adding or replacing a well for the purpose of exercising prior rights or existing permits [AMENDED]

Appendix A. Application for a Permit to Use Groundwater [REVOKED]

Mr. Wilkins addressed the Board and explained the changes to the proposed Chapter 30 rules are highlighted in the meeting packet and the revisions were made based on comments received by the public. He referred to page 4114-4115 regarding well spacing correcting original language (date October 1, 2019); revised section 3 and 4 and adding section 5 and 6 clarifying spacing on a statewide basis whether major or minor basin, 1320 feet and 660 feet for alluvium. He said the same spacing applied statewide. Ms. Cunningham stated this is in response to legislation passed last year. Mr. Wilkins added this is the rulemaking for the legislation regarding studied as well as unstudied basins.

Mr. Wilkins referred to page 4116 regarding exempting wells in place prior to October 1, 2019, that have been drilled, completed and are being used, similar to treatment of wells when a maximum annual yield determination is implemented.

2. Questions and discussion by Board Members. There were no questions or discussion by Members.

3. Vote on whether to approve recommended amendments as presented or as may be revised after discussions.

Mr. Drake moved to approve the amendments to Chapter 30, and Mr. Muller seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

C. Rules Amendments Recommended for Adoption in Chapter 35 – Well Driller and Pump Installer Licensing

1. Summary

Subchapter 1. General Provisions

785:35-1-2. Definitions [AMENDED]

785:35-1-5. Indemnity Fund [AMENDED]

785:35-1-6. Well Drillers and Pump Installers Advisory Council [AMENDED]

Subchapter 3. Licensing and Certifications

785:35-3-1. Licensing procedures [AMENDED]

785:35-3-2. Expiration and renewal of licenses and certifications [AMENDED]

Subchapter 7. Minimum Standards for Construction of Wells

785:35-7-1. Minimum standards for construction of groundwater wells, fresh water observation wells, and water well test holes [AMENDED]

785:35-7-1.1. Minimum standards for construction of heat exchange wells [AMENDED]

785:35-7-3. Minimum standards for construction of marginal water wells [AMENDED]

785:35-7-4. Variances to minimum standards for construction of wells [NEW]

Subchapter 11. Plugging and capping Requirements for Wells and Test Holes

785:35-11-1. Plugging and capping requirements for groundwater wells, fresh water observation wells, heat exchange wells and water well test holes [AMENDED]

Mr. Wilkins stated the changes to the amendments to Chapter 35 regarding the well drillers rules and regulations have been highlighted on page 4145 of the packet. Minor revisions were made based on comments received at the public hearing on annular sealing requirements and cement bond logging.

2. Questions and discussion by Board Members. There were no questions or discussion by Members.

3. Vote on whether to approve recommended amendments as presented or as may be revised after discussions. Acting Chairman Stallings stated he would accept a motion. Mr. Muller moved to approve amendments to Chapter 35, and Ms. Castillo seconded. Acting Chairman Stallings called for the vote.

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

D. Rules Amendments Recommended for Adoption in Chapter 45 – Oklahoma's Water Quality Standards.

1. Summary

Subchapter 1. General Provisions

785:45-1-2. Definitions [AMENDED]

Subchapter 5. Surface Water Quality Standards

Part 1. General Provisions

785:45-5-4. Applicability of narrative and numerical criteria [AMENDED]

785:45-5-5. Water Quality Standards variance [NEW]

785:45-5-6. Compliance schedules [NEW]

785:45-5-7. Site-specific criteria [NEW]

Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater
[REVOKED]

Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [NEW]

Mr. Bill Cauthron, Chief, Water Quality Programs Division, stated the Board has received approximately 400 comments on the proposed rules, and 375 concerned the variance language. He reminded the members a variance is something a discharger can request relief from a discharge permit, which he explained can be used to clarify or stair-step the process but not change the permitted amount. He referred to page 4155 of the meeting packet. A variance is a time-limited designated use and criteria for a specific pollutant and does not continue on in perpetuity. It establishes a temporary criterion and does not change the underlying criterion. And on page 4158, Mr. Cauthron noted under 785:45-5-5(b) and he read regarding "reach specific, waterbody specific, or other site-specific basis, allowing a variance for one discharge for one waterbody or a site-specific basis, or for an entire watershed. Under 785:45-5-5(a) it is noted that the OWRB rulemaking and approval is required for all variances, and is a robust and rigorous process. Any change in the rule will come before the Board for approval. The language proposed has not been changed.

Ms. Cunningham said this sets up the framework and implements EPA language. Mr. Cauthron said it requires the OWRB and DEQ to work closely together; this outlines the process.

2. Questions and discussion by Board Members. Mr. Muller clarified that in response to public comment, the proposal allows a framework for a variance and does not concern a specific waterbody, specific element, or specific polluter, but is in response to 2015 EPA guidance from Administrator Gina McCarthy. Mr. Cauthron stated that is correct. Acting Chairman Stallings asked if OWRB's sister agency was okay with the proposal. Mr. Cauthron answered he had not heard comments otherwise, and Mr. Saba Tahmassebi stated DEQ is in support of the variance. There were no other questions by Members.

3. Vote on whether to approve recommended amendments as presented or as may be revised after discussions. Acting Chairman Stallings asked if there were other questions; there were none. He stated he would entertain a motion.

Mr. Muller moved to approve amendments to Chapter 45, and Ms. Castillo seconded. Acting Chairman Stallings called for the vote.

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

Mr. Cauthron stated that at the January meeting staff presented language regarding selenium. There were changes in Appendix G, which has not been included in the agenda for today's meeting. He said staff is withdrawing the proposed language related to selenium. He distributed a copy of the language withdrawn. No action is needed by the Board on the withdrawal of language.

Ms. Cunningham added that staff had received good comments from the public which speaks to the trust the public has in the process. Staff goes above and beyond even before the required formal process, and she thanked staff for their work and continuity of the process.

E. Rules Amendments Recommended for Adoption in Chapter 46 – Implementation of Oklahoma's Water Quality Standards.

1. Summary

Subchapter 15. Use Support Assessment Protocols

785:46-15-3. Data requirements [AMENDED]

785:46-15-4. Default protocols [AMENDED]

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

785:46-15-14. Assessment of Aesthetics support [AMENDED]

Mr. Cauthron stated that changes to Chapter 46 regarded withdrawing proposed selenium criterion proposed in January. A number of comments on the proposed language were received that centered around the change in the number from 5 to 3.1. There were concerns at the state level with respect to dischargers in Oklahoma, there were concerns at Region 6 that made suggested recommendations for adding language staff was uncomfortable with, so that language in Chapter 46 is withdrawn at this time and work will continue in the future.

Mr. Cauthron said the remaining amendments are clean up language on Use Support Assessment Protocols.

2. Questions and discussion by Board Members. There were no questions by Members.

3. Vote on whether to approve recommended amendments as presented or as may be revised after discussions. Acting Chairman Stallings asked for a motion. Ms. Castillo moved to approve amendments to Chapter 46, and Mr. Drake seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

F. Rules Amendments Recommended for Adoption in Chapter 50 – Financial Assistance

1. Summary

Subchapter 1. General Provisions

785:50-1-4. Application of rules [AMENDED]

Subchapter 5. Applications for Financial Assistance

785:50-5-1. Application form and required information [AMENDED]

Subchapter 6. Water and Sewer Program Emergency Grants Requirements and Procedures

785:50-6-1. Approval criteria [AMENDED]

785:50-6-3. Emergency grant priority point system [AMENDED]

Subchapter 7. Water and Sewer Program (State Loan Program Revenue Bond) Requirements and Procedures

785:50-7-2. Approval criteria [AMENDED]

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

785:50-8-3. Application review and disposition [AMENDED]

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

Subchapter 9. Clean Water State Revolving Fund Regulations
Part 3. General Program Requirements
785:50-9-23. Clean Water SRF Project Priority System [AMENDED]
Part 7. SRF Environmental Review Process
785:50-9-60. Requirement of environmental review [AMENDED]

Mr. Joe Freeman, Chief, Financial Assistance Division, stated there have been no changes to the proposed rules and amendments to rules regarding Chapter 50 as presented in January. Staff has not received any comments, and recommended approval.

2. Questions and discussion by Board Members. There were no questions by Members.
3. Vote on whether to approve recommended amendments as presented or as may be revised after discussions. Mr. Muller moved to approve amendments to Chapter 50, and Mr. Melton seconded. Acting Chairman Stallings called for the vote.

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

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Application for Temporary Permit to Use Groundwater No. 2017-587, Ronald and Jennifer Mize, Logan County:

1. Summary – Mr. Kent Wilkins stated to the members this application for temporary groundwater permit #2017-587 in the name of Ronald and Jennifer Mize is located in Logan County. The applicant submitted an application for 320 acre-feet of groundwater to irrigate small grains and grasses from three wells located on dedicated land overlying the Alluvium and Terrace Deposits of the Cimarron River, a major groundwater basin. The maximum annual yield has not been determined, therefore, the default equal proportionate share is two acre-feet of water per acre per year. Notice of the application was published in the Guthrie Newsleader on February 20, 2018 and February 27, 2018, a newspaper of general circulation in Logan County. Application was timely protested by the Shulter Irrevocable Trust and a hearing was held on September 7, 2018. At the hearing, the applicant testified they had followed OWRB rules and had identified all landowners within 1320 feet of the proposed or existing wells. The protestants asserted at the hearing that the notice of application was not properly given because the owner and operator of the nearby well should have been notified by certified mail. Testimony at the hearing established Logan County Rural Water Sewer Gas and Stormwater Management District #3 owned and operated a permitted well in the adjacent tract. Logan #3 did not protest the application; but the protestant further asked the Board to find that no priority existed with respect to the wells and well locations in the future. Logan #3, while holding a permit in its own name, was not the surface estate owner according to evidence at the hearing. The groundwater rights to the adjoining property to the east were owned by the surface estate owner Eunice Bufford and certified mail was provided to Ms. Bufford according to the Board's rules; Ms. Bufford did not protest the application.

Mr. Wilkins stated that no evidence was offered by the protestant the applicant's proposed use of groundwater would adversely impact his ability to utilize his own groundwater. The hearing examiner declined to make a determination with respect to well priority in the future. Based on the findings of fact, conclusions of law, the hearing examiner concludes that Ronald and Jennifer Mize have satisfied the necessary elements for obtaining the permit. The record showed the applicant has a valid right to the dedicated lands, the land overlies the Alluvium Terrace Deposits of the Cimarron River, with a default equal proportionate share of two acre-feet per acre per year, irrigation is a beneficial use, future waste will not

occur by pollution or depletion. Therefore, staff recommended approval of the application 2017-587 authorizing use of 320 acre-feet of groundwater per year for irrigation.

2. Discussion and presentation by parties. Mr. Ron Mize was present representing the applicant. Mr. Dean Couch represented the protestant. Acting Chairman Stallings allowed each party five minutes to present to the Board.

Mr. Mize stated he had no objections to the hearing examiner's findings. The past 15 months he and his wife were working to obtain a permit to water their grass, and he appreciated the Board's approval of the application.

Mr. Couch stated to the members that the Shutler Trust was concerned about how close the Mize's water well is located about 10 feet from their well, and was concerned that once the well is utilized under the permit from the water underlying their tract of land it will be affected by virtue of the impact of the well pumping. In a priority situation as the rule adopted today that in an unstudied basin such as underlying these properties the well spacing will be applicable. The concern is if the Shutlers decide to put in another well -- they may determine they need to put an offset well on the fence line across from the Mize's well. If that is the best location for the highest yield of groundwater, they are naturally concerned about a rule that requires well spacing 1/4 mile setback. They wanted to be on the record this situation has arisen at a time of the rule coming into place.

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.

Acting Chairman Stallings asked if there was Board discussion. Mr. Melton asked how many acres of land Mr. Mize dedicated. Mr. Mize answered 160 acres. Mr. Melton asked why the well will be drilled within 10 of the property line. Mr. Mize explained it is 50 feet from the property line, and he was avoiding the two irrigation wells and it was drilled as far away as it could to still get good water. He added the Shutlers have two wells and prior right permits which they can't cancel. This is the best location for water. Mr. Stallings asked if the hearing examiner has approved the proposal, and Mr. Wilkins stated yes, approval is recommended.

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 approval of the proposed order approving permit #2017-587, and Mr. Melton seconded. Acting Chairman Stallings called for the vote.

AYE: Muller, Melton, Drake, Castillo, Stallings

NAY: None

ABSTAIN: None

ABSENT: Allen, Darby, Drummond, Hitch

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

6. **NEW BUSINESS continued**

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 other new business items for the Board's consideration.

7. ADJOURNMENT

There being no further business, Acting Chairman Stallings adjourned the meeting of the Oklahoma Water Resources Board at 10:20 a.m. on February 19, 2019.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Jason Hitch, Chairman

_____/s/_____
Stephen B. Allen, Vice Chairman

_____/s/_____
Charles Darby

_____/s/_____
Bob Drake

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

_____/s/_____
F. Ford Drummond

_____/Absent_____
Jennifer Castillo

_____/s/_____
Matt Muller

ATTEST:

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

(SEAL)