

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

February 16, 2021

1. CALL TO ORDER

The Special Meeting of the Oklahoma Water Resources Board was called to order by Chairman Robert L. Stallings, Jr., at 9:33 a.m. on February 16, 2021, via Zoom Webinar. 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 11, 2021, 3:30 p.m., at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, and provided on the agency's website.

A. Roll Call. Chairman Stallings welcomed everyone to the meeting and thanked the members for their attendance. He noted there could be power outages due to the weather effecting attendance. He asked for the roll call of members, and recognized a quorum of members attending.

Board Members Present and participated via Zoom Webinar

Robert L. Stallings, Jr., Chairman
Bob Drake, Secretary (joined at 9:40 a.m.)
Jennifer Castillo
Charles Darby
Thomas A. Gorman
Suzanne Landess
Matt Muller

Board Members Absent

Stephen Allen, Vice Chairman
Robert L. Melton

Staff Members Present and Participated via Zoom Webinar

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Bill Cauthron, Chief, Water Quality Programs Division
Chris Neel, Assistant Chief, Planning and Management Division
Mary Schooley, Executive Secretary

B. Discussion, Amendments, and Vote to Approve Official Minutes of the December 15, 2020, Regular Meeting. Chairman Stallings stated members were provided the draft minutes of the December 15, 2020, meeting and asked if there were any discussion, amendments. There were no comments or questions. He stated he would entertain a motion to approve the December 15, 2020, regular meeting minutes.

Mr. Darby moved to approve the minutes of the December 15, 2020, Regular Meeting, and Mr. Gorman seconded. There was no discussion, and Chairman Stallings called for the vote.

AYE: Darby, Gorman, Castillo, Muller, Stallings
NAY: None

ABSTAIN: Landess

ABSENT: Drake, Melton, Allen

C. Executive Director's Report

Ms. Julie Cunningham, Executive Director, welcomed everyone to the meeting and recognized the rolling blackouts (due to the weather), stated appreciation for the Oklahoma energy companies, and said she would keep her report brief. She began her report informing the members about two new Board appointees for the positions held by Mr. Allen and Mr. Drake whose terms expire May 14, 2021; the Board has appreciated their service and they will be recognized. Governor Stitt appointed Mr. Ron Justice of Chickasha to replace Mr. Drake, serving Region 4 and representing rural residential water use. Mr. Justice is a former State Senator and served with the Extension Service. Mr. Bob Latham, Jr. of Tulsa will replace Mr. Allen serving Region 7 and representing industrial water use. New appointees will be confirmed by the Senate and staff will schedule orientation meetings.

Ms. Cunningham stated the State Legislature and Governor "fast-tracked" legislation authorizing Boards and Commissions to conduct public meetings as virtual meetings during the pandemic until the Governor declares the end of the emergency or until the end of February 2022. There is an agenda item for next month's meeting to be held in person; however, she was confident the Board would continue to meet via virtual platform. Regarding proposed rules, Mr. Monty Porter will provide a briefing for the proposed water quality standards rules. A public hearing was held on January 7, and the comment period was extended until February 15; staff will assess the comments received and reviewed with the Board's Water Policy/Rules Committee. The full Board will consider the amendments at the March 16, 2021, meeting.

Regarding the update of the Oklahoma Comprehensive Water Plan, multiple state agency leaders, including agriculture, commerce, wildlife, conservation commission, tourism, etc., have been invited to meet and share information about planning for the next 50 years for water supply and demand, as well as flood security. On January 20, Ms. Cunningham presented to the legislative appropriations committee the annual agency budget and performance report. Committee members are very active and provide good feedback. Staff met with a representative of the Panhandle Irrigation Association and Oklahoma State University water center about groundwater basin updates in regard to additional tools, applications, and mapping to use on location. The Oklahoma Legislature convened on February 1, and there are some water related bills that will be watched by staff including the Red River Boundary, streamline designs for water and wastewater projects, allowing OWRB Executive Director to approve unprotested water permits, a holdover bill regarding water rights permitting notice, SB 2021 creating an Oklahoma hydrogen pipeline task force which will have an OWRB member, and HB 1093 the agency is working on with Secretary of Energy and Environment Wagner regarding watershed nutrient trading. The report will be provided to the members.

Ms. Cunningham concluded her report. There were no questions by members.

D. Financial Update

1. Budget Report. Mr. Cleve Pierce presented the budget report which is for the time period ending January 31, 2021. He said the agency has spent 57% of the appropriated budget, leaving 43%; has spent 34% of the revolving fund leaving 66%; and has spent 22% of federal dollars with 78% remaining. The overall budget remaining stands at 63%, with 50% of the fiscal year remaining. He said the agency is in good shape and at the same spend rate as this time last year.

Mr. Pierce updated the members on the status of the Gross Production Tax collections which at the end of January stood at \$457,000.00, and staff remains optimistic the agency will receive all revenues that are authorized. Mr. Pierce concluded the report. There were no questions.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Haworth Public Works Authority, McCurtain County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this item is for the consideration of an emergency grant for the Haworth Public Works Authority located in McCurtain County. The Authority has a four-cell lagoon system that has experienced a breach from one cell to another which developed into erosion of the one cell. In order to correct the situation, flow will be temporarily diverted from the damaged cell for repairs. The Authority is requesting \$42,254.65 to go along with \$7,456.70 of local funds to fund the project at \$49,711.35. Staff recommended approval.

Mr. Freeman read a statement from the Town of Haworth expressing the town's appreciation for the opportunity to apply for the emergency grant which will allow them to fix the breach in the lagoons. The town appreciated the Board's consideration and its assistance to Oklahoma communities.

Chairman Stallings stated he would entertain a motion for the emergency grant for the Haworth project. Mr. Drake moved to approve the emergency grant to the Haworth Public Works Authority, and Mr. Darby seconded.

AYE: Darby, Gorman, Castillo, Drake, Muller, Landess, Stallings
NAY: None
ABSTAIN: None
ABSENT: Melton, Allen

B. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Rural Water District No. 11, Cherokee County. Recommended for Approval. Mr. Freeman stated this item is for the consideration of a \$1,575,000.00 funding request by the Cherokee County Rural Water District No. 1. The District is requesting the loan to go along with a \$673,000.00 grant from the Cherokee Nation to replace approximately 23,100 feet of 8-inch water line, 18,600 feet of 6-inch line, and 5,300 feet of 4-inch line. The funds will also be used to lay 3,120 feet of 6-inch water line to connect Cherokee County RWD #11 with District #9. Proceeds will also be used to construct a 150,000-gallon water stand pipe. The loan will be funded through the Drinking Water State Revolving Fund Loan Program, and Mr. Freeman noted provisions of the loan agreement. He said the District's water connections have increased approximately 9% over the past ten years, and its debt coverage ratio stands at approximately 1.6-times. Staff recommended approval of the funding request.

Chairman Stallings stated he would entertain a motion regarding the Cherokee County RWD request for funding to install pipelines and a standpipe. Mr. Muller moved to approve Drinking Water SRF loan to the Cherokee County RWD #11, and Mr. Drake seconded.

AYE: Darby, Gorman, Castillo, Drake, Muller, Landess, Stallings
NAY: None
ABSTAIN: None
ABSENT: Melton, Allen

C. Consideration of and Possible Action on a Proposed Order Approving Increase in Obligation of Clean Water Funds for Edmond Public Works Authority, Oklahoma County. Recommended for Approval. Mr. Freeman stated he would like to withdraw item 2.C. as requested by the Edmond Public Works Authority. Subsequent to the request, the city received bids on the project and will be able to complete the project without additional funds from the Board.

D. Report of the December 4, 2020 Board Audit Committee Meeting Including Oklahoma Water Resources Board State Loan Program Revenue Bonds and Clean Water State Revolving Fund Program (CWSRF) Financial Statements as of June 30, 2020 and 2019, Audits of the CWSRF Administrative Fund and the Drinking Water Treatment Loan Administrative Fund as of June 30, 2020 and 2019. Mr. Freeman

stated this item is to report on the Board's Audit Committee that met by videoconference on December 4, 2020 -- the Committee is composed of Mr. Darby, Mrs. Landess, and Mr. Gorman. The following items were reviewed with the committee: Auditor's management letter from Arledge and Associates, the EPA evaluation of the Board's two programs, the arbitrage rebate report that stated all are current and no rebates are due, and the auditor's borrowers' debt coverage ratio report that 95% of borrowers are meeting their debt coverage ratio. The Committee reviewed the continuing disclosure policy and loan document exception items outstanding that stood at 8% at the end of October 2020 -- these are borrower loan agreement requirements they are maintaining property insurance, liability insurance, worker's compensation coverage, that operators are licensed, and their annual audits are submitted to the Board. Mr. Freeman reported there are no loan payment defaults in the three loan programs, and the committee reviewed the debt service reserve balances, investment portfolio, discussed the standby bond purchase agreement with State Street Bank of Boston, variable rate bonds outstanding, and reviewed the Board's bond rating reports from Standard and Poor's for the SRF loan program and FAP loan program, as well as Fitch rating report for the SRF program.

Chairman Stallings ask if there were questions about the Audit Committee report. There were none, and he stated he would entertain a motion to approve the report.

Mr. Darby moved to approve the Board's Ad Hoc Audit Committee Report, and Ms. Castillo seconded.

AYE: Darby, Gorman, Castillo, Drake, Muller, Landess, Stallings

NAY: None

ABSTAIN: None

ABSENT: Melton, Allen

E. Resolution Authorizing the Issuance of Oklahoma Water Resources Board State Loan Program Revenue Bonds in an Aggregate Principal Amount not to Exceed \$250,000,000; at a Net Interest Cost not to Exceed Six Percent (6.0%); Providing for the Issuance of Said Bonds in One or More Series; Approving and Authorizing Execution of a Series 2021A Supplemental Bond Resolution and, if Deemed Advisable, an Additional Supplemental Bond Resolution for Each Additional Series; Waiving Competitive Bidding on the Bonds and Authorizing the sale Thereof by Negotiation and at a Discount Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement with Respect to Said Bonds; Authorizing the Chairman or Vice Chairman to Deem Preliminary Official Statements for Additional Series of Bonds Final; Directing Deposit of Proceeds Derived from the Issuance of the Bonds in the State Treasury and Requesting the State Treasurer to Remit Such Proceeds to the Bond Trustee; Ratifying and Approving the Form of Promissory Note, Loan Agreement, and Note Purchase Agreement to be Executed by Borrowers in the State Loan Program; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as may be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval.

Mr. Freeman stated this item is for the approval of FAP Loan Program bonds to be issued, and under guidance of the Board's General Counsel, he requested to withdraw the item until the March meeting because this is a Special Meeting and not a Regular Meeting. He added there is no problem with waiting until the March meeting, and he concluded his presentation.

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.

Chairman Stallings stated he would entertain a motion for approval of the Summary Disposition items. Ms. Landess moved to approve the Summary Disposition Agenda items, and Ms. Castillo seconded. Chairman Stallings called for the vote.

AYE: Darby, Gorman, Castillo, Drake, Muller, Landess, Stallings

NAY: None

ABSTAIN: None

ABSENT: Melton, 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>
ACOG				
a.	FAP-20-0001-R	Orlando Public Works Authority	Logan	Change of scope
EODD				
b.	FAP-21-0017-R	Rural Water District #7	Cherokee	\$53,000.00
KEDDO				
c.	FAP-21-0010-R	Keota Public Works Authority	Haskell	\$79,999.00

2. CWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	ORF-19-0005-CW	Copan Public Works Authority	Washington	\$127,654.74

3. DWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	ORF-20-0009-DW	Rural Water, Sewer, Gas, and Solid Waste Management District #8	McIntosh	\$100,000.00

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

1. Professional Services Contract with Centennial Law Group for professional legal services in relation to the OWRB's Administration Account funds of the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund.

2. Information Sharing Access Agreement between Dept. of Homeland Security/Federal Emergency Management Agency and OWRB to provide documentation of the safeguarding requirements for PII dataset(s) shared by FEMA and the OWRB.

3. Professional Services Agreement with Hilltop Securities, Inc. for financial advisor services related to the Board's financial assistance programs.
 4. Amendment to Agreement with Oklahoma State University extending the deadline for taxonomy services related to zooplankton identification.
 5. A Contract between OWRB and Oklahoma History Center for rental of space for meetings of the OWRB.
 6. Contract with the City of Norman, OK, providing monitoring services for Lake Thunderbird as specified in the City of Norman's Lake Thunderbird Total Maximum Daily Load Monitoring Plan.
 7. Professional Services Agreement with Lynker Technologies to update OWRB's North Fork of the Red River System CRAM model.
 8. Joint Funding Agreement between U.S. Geological Survey ("USGS") to provide field and analytical work related to the Arbuckle-Simpson Aquifer Study, Oklahoma-Texas Water Science Center Water Resources Investigations.
- E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:
1. Benjamin & Sarah Schantz, Blaine County, #2020-507
 2. Noble Research Institute, LLC, Love County, #2020-518
 3. Christina M. Jefferson Living Trust, Pawnee County, #2020-523
 4. Western Carter County Water & Sewer Corp., Carter County, #2020-528
 5. Max & Joanne Mefford Living Trust, Harmon County, #2020-531
- F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
1. Troy & Rebecca Lynn Lotspeich Revocable Living Trusts, Beaver County, #1974-248
 2. Town of Mountain View, Washita County, #1974-450A
 3. Turkey Creek Golf Club, LLC, Kingfisher County, #2013-605
- G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:
1. Noble Research Institute, LLC, Love County, #2020-517
 2. Noble Research Institute, LLC, Love County, #2020-519
 3. Gary & Michelle Speilman, Cimarron County, #2020-526
 4. Cody Joe & Jessica Renee Wilson, Cimarron County, #2020-536
- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
1. City of Edmond, Oklahoma County, #1983-664
 2. City of Edmond, Oklahoma County, #2000-514
- I. Consideration of and Possible Action on Applications to Amend Prior Right to Use Groundwater:
1. City of Norman, Cleveland County, #1952-557
- J. Consideration of and Possible Action on Applications to for Term Permits to Use Stream Water:
None
- K. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
None
- L. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:
None

specific meetings with stakeholders. Staff has spent much time with many people developing the rules based upon sound science which began when the rules were first proposed in the early 2000's. During the second decade of the century, there have been several processes to reaffirm the rules, a joint study in 2015, and the process the past two years has been based on science, not just public participation. He said that the advent of COVID-19 changed the way the process usually proceeds -- a public meeting was held on January 7; the January 2021 meeting was cancelled preventing the Board's review, and the comment period ended on February 15 after being extended for 30 days; this is the first presentation to the Board, prior to the March vote by the Board on the rules. Several comments were received regarding the Implementation rules in Chapter 46 regarding the term "critical condition," as well as textural changes, but no other changes are expected; prior to the March meeting all proposals will be provided to the Board. There were no questions by the Members.

Ms. Rebecca Veiga Nascimento addressed the members, and using a PowerPoint presentation, stated she would provide an overview and summary of the proposed rules for Chapter 45 and Chapter 46, and recognized key OWRB staff--Jade Jones, Monty Porter, Bill Cauthron, Cole Perryman; partner agencies in Oklahoma--Conservation Commission, Department of Environmental Quality, Department of Agriculture Food & Forestry, and the Cherokee Nation and Arkansas Division of Environmental Quality, all who have worked long and hard on the project. She provided an outline of what would be discussed today regarding the two chapters that relate to Water Quality Standards: Chapter 45 proposed revisions to the Total Phosphorous Criterion (TP), and Chapter 46 three proposed implementation provisions -- critical condition, calculation of a six-month average for the TP criterion, and the Beneficial Use Assessment. Prior to the explanation of the proposals, Ms. Veiga provided background information, clarifying the proposed rules are limited to the Illinois River Watershed located in northeast Oklahoma and northwest Arkansas, crossing the political boundary of the two states, which she described as 1,650 square miles, home to three designated scenic rivers-- Illinois River, Barren Fork Creek, and Flint Creek, all have multiple beneficial uses establishing goals for water bodies, including aquatic life, drinking water, recreation; and highly valued scenic beauty. These scenic rivers are designated with the aesthetics beneficial use which expresses that for waters to be aesthetically enjoyable they should be free from undesirable effects, such as the dramatic overgrowth of algae on the streambed. Ms. Veiga Nascimento provided a history of the total phosphorous criterion which began in 2002 when it was recognized that the Oklahoma's scenic rivers were being negatively impacted by phosphorus pollution. The OWRB adopted a total phosphorus criterion for the protection of these waters which was the start of several agreements with the State of Arkansas, all with the goal of working together to reduce phosphorus pollution: the 2013 Statement of Joint Principals included formation of a Joint Study Committee overseeing a study by Dr. Ryan King of Baylor University, a 2016 Final report accepted by the Governors of both states which resulted in two key recommendations regarding the proposed total phosphorous criterion reflected in the proposed revision in Chapter 45, and regarding water quality monitoring and defining a critical condition for sample collection proposed in the implementation revisions in Chapter 46 for 2021.

Ms. Veiga Nascimento explained that all water quality criteria have three components: a magnitude, a duration, and a frequency, and she detailed the current criterion and development of the proposal compared to the Committee recommendation and staff analyses which did not require a change in the magnitude 0.037, proposed a change in the current 30-day geometric mean to a 6-month rolling average duration, and to provide flexibility while minimizing risk to beneficial uses, proposed a two-part approach in the frequency; thereby, reaching the proposed draft criterion in Chapter 45: the total phosphorus six month rolling average of 0.037 mg/L shall not be exceeded more than once in a one-year period and not more than (3) three times in a five-year period.

Ms. Veiga Nascimento extensively explained the development of Chapter 46 proposals; first, as regards the critical condition term, which is related to water quality monitoring and serves to define a critical condition for when samples will be collected. The Joint Committee definition of critical condition is where surface runoff is not the dominant influence of total flow and stream ecosystem processes, which focused on flow. The OWRB staff conducted two analyses (previous work by OWRB and the Joint Study Committee

study results) of total flow and stream ecosystem processes together with current analyses and generated science to translate the Committee definition into an operational definition that can be clearly and consistently implemented across multiple agencies and programs, the proposed definition: The critical condition is when baseflow is fifty-five (55%) or greater of the total daily average flow calculated by the USGS hydrograph separation method sliding-interval. Ms. Veiga Nascimento noted this proposal (55%) has proven controversial among environmental and agricultural and Arkansas municipal stakeholders. Staff has received comments which are currently being evaluated and could result in an amended proposal for the Board's consideration at the March meeting.

Secondly, the proposed revised criterion (Chapter 45) is a rolling 6-month average total phosphorus value. This value will be calculated based on individually measured TP values from various water quality monitoring programs in Oklahoma and Arkansas. Staff found that 80% of the time there would be at least 1 measured TP value available per month, also considering the need for flexibility and maximizing the 6-month calculations each year. The proposal: The calculation of a rolling 6-month average must include at least four (4) measured values from four separate months. And thirdly, implementation of the proposed Beneficial Use Assessment, means that in order for the beneficial use to be attained, the criterion magnitude and duration of 0.037 mg/L as a 6-month average cannot be exceeded more than once in a 1 year period and not more than 3 times in a 5 year period. Therefore, the proposed implementation of criterion frequency is 1-year, no more than 1 exceedance per 1-year period, and 5-year, no more than 3 exceedances per 5-year period; and, the minimum number of samples required of 10 for 1-year period and 30 for 5-year period which is consistent with other USAP sample requirements.

Ms. Veiga Nascimento concluded the presentation detailing the important stakeholder outreach through a website created to provide an overview of Staff's work and to post documentation and links to other resources, three evening public webinars conducted by OWRB staff, and targeted stakeholder meetings. She also noted the common topics of concern: concerns regarding critical condition term & P-loading during storm events, desire for critical condition baseflow threshold to be greater, significant concern regarding ongoing pollution in the watershed, desire more implementation actions and enforcement, and downstream protection of Lake Tenkiller. She said twenty-five comment letters had been received and there may be others, and staff will be preparing a response to comments to include with the Board's March meeting packet and posted for public comment and review. (Staff PowerPoint presentation is available on the agency website "Board Meetings" page.)

Mr. Porter informed the members the Staff will review all comments, provide the information to the Board with time to review, and any rule changes as a result of the comments will be presented to the Board's Water Policy/Rules Committee and provided to the Board. Chairman Stallings ask if there would be any further public comment, and Mr. Porter responded the public input portion of the process was completed formally through the public hearing held January 7, 2021, and the extended comment period. Chairman Stallings clarified that after staff review and any proposed changes, there will not be an opportunity for the public to comment, and Mr. Porter answered that would require a reposting of rulemaking intent. He said changes as an outgrowth of the comments from the rulemaking process are allowed. Chairman Stallings recognized there are comments on both sides; he thanked the staff for the presentation.

There were no other comments, or questions, by the Members.

5. SPECIAL CONSIDERATION

- A. No items. There were no Special Consideration items for the Board's consideration.
- B. Consideration of and Possible Action on Items Transferred from the Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition for the Board's consideration.

6. ADJOURNMENT

There being no further business, Chairman Stallings adjourned the Special Meeting of the Oklahoma Water Resources Board at 10:20 a.m. on February 16, 2021.

OKLAHOMA WATER RESOURCES BOARD

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

Stephen B. Allen, Vice Chairman

Charles Darby

Robert L. Melton, Sr.

Jennifer Castillo

Suzanne V. Landess

Matt Muller

Thomas A. Gorman

ATTEST:

_____(signature stamp)_____
Bob Drake, Secretary
(SEAL)

Members voted to approve the February 16, 2021, meeting minutes at the March 16, 2021, Board meeting which was held via videoconference and were not present to sign the document.