

OKLAHOMA WATER RESOURCES BOARD

OFFICIAL MINUTES

May 17, 2022

1. CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Chairman Matt Muller at 9:30 a.m. on May 17, 2022 in the second-floor Board Room of the Oklahoma Water Resources Board located at 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 May 13, 2022, at 9:00 a.m. at the Oklahoma Water Resources Board's office at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma and provided on the agency's website.

- A. Roll Call. Chairman Matt Muller welcomed everyone to the meeting and asked for the roll call of members.

Board Members Present

Matt Muller, Chairman
Charles Darby, Vice Chairman
Ron Justice, Acting Secretary
Darren Cook
Bob Latham
Suzanne Landess
Robert L. Stallings, Jr.

Board Members Absent

Jennifer Castillo, Secretary
Thomas A. Gorman

Staff Members Present

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Bill Cauthron, Chief, Water Quality Programs Division
Chris Neel, Chief, Water Rights Administration Division
Cleve Pierce, Chief, Administrative Services Division

Others Attending

Marcus Burkhalter, Consolidated RWD 9, McIntosh County

Tori Wright, Oklahoma Information Fusion Center
Ashley Chael, Oklahoma Information Fusion Center
John Kenney, Town of Lake Aluma
Billy Mizer
Jeff Everett, OG&E
Rachel Brookins, ODEQ
Chris Garden, BOKFS
Allison Christian, McAfee & Taft
Bodie Bachelor, Centennial Law

- B. Discussion, Amendments and Vote to Approve Official Minutes of the April 18, 2022 Regular Meeting. Chairman Muller stated members were provided the draft minutes of the April 18, 2022 regular meeting and asked the Board's pleasure regarding the minutes. There were no comments or amendments.

Vice Chairman Darby moved to approve the minutes of the April 18, 2022, Regular Meeting and Mr. Stallings seconded. Chairman Muller called for the vote.

AYE: Latham, Stallings, Justice, Darby, Landess, Muller
NAY: None
ABSTAIN: Cook
ABSENT: Castillo, Gorman

Chairman Muller states that in Ms. Castillo's absence there will need to be an acting Secretary. Mr. Justice agrees to be acting Secretary for the day and sign paperwork as needed. There were no objections to appointing Mr. Justice to this position.

C. Executive Director's Report

Ms. Julie Cunningham, Executive Director, greets the Chairman and members of the Board. She starts with an announcement of our newest Board Member, Mr. Darren Cook. Mr. Cook was appointed to the Board by the Governor and serves as the City Attorney for the City of Grove. He will be representing Region 8 which is municipal water use. Ms. Cunningham introduces Mr. Cook and he is able to greet everyone and be welcomed onto the Board.

Ms. Cunningham continues to the drought report. She states that after looking at the Mesonet, the western part of the state has been in extreme drought while the eastern and central areas have experienced flooding. It is reported that the panhandle has received 63% of normal precipitation while the east central region has received 232%. The OWRB Floodplain Management group has been an active part of the flooding disaster relief team for reporting and assessments. The burn bans have gone down from last month and there are currently 8 counties under a burn ban. The drought outlook remains the same with the central and west remaining below average for precipitation.

Ms. Cunningham states she would like to give a recap of the meeting the Audit Committee had after the April Board Meeting. Ms. Cunningham introduces Mr. Joe Freeman, Chief, Financial Assistance Division, to give a quick update on the Audit Committee meeting.

Mr. Freeman states that the Audit Committee met to discuss an item that had occurred

late last year which had never happened before. Mr. Freeman explains that in June of 2021 the OWRB received an email from the Grove Treasurer's email address requesting a change of bank accounts for depositing loan draw requests. Before it was discovered that the email address had been compromised, two draw requests were wired to a fraudulent account for \$30,000. After learning of the improper transactions there was guidance from our General Counsel, Sara Gibson, and the incident was reported to the Oklahoma City Police Department as well as the City of Grove Police Department. The money came through the Clean Water State Revolving Fund (CWSRF), which is partially funded by the Environmental Protection Agency (EPA), so it was reported to them as well. Our auditors were notified, and a claim was filed with the Office of Management of Enterprise Services (OMES) Risk Management and the FBI. To strengthen our internal controls and prevent this from occurring in the future, Mr. Freeman states that we have refined our written electronic funds transfer standard operating procedures based on guidance from our trustee bank, training through the EPA and the Spears School of Business at OSU. Following the incident, the Audit Committee was made aware, and it will be reviewed again during our annual evaluation by the EPA and our auditors when they begin their auditing process this July. Mr. Freeman asks for any question the Board might have on this incident. There were none.

Mr. Muller thanks Mr. Freeman and the Audit Committee for being responsive and on top of this situation.

Ms. Cunningham adds that there has been much more discussion about cyber security and breaching systems. After today's meeting, the Board is meeting with the Oklahoma State Bureau of Investigation (OSBI) to talk about security issues which is unrelated to the incident above but still relevant.

Ms. Cunningham proceeds to some calendar items starting with April 19th, the Oklahoma City bombing remembrance ceremony that was hosted at the OWRB to honor and remember two of our employees who lost their lives that day in 1995. There are two trees planted along with granite plaques located at the OWRB offices where every year current and past employees gather to honor and remember the impact from the Oklahoma City bombing.

April 21st, Ms. Cunningham was honored by the Oklahoma Rural Water Association as a Friend of Rural Water.

April 25th, Ms. Cunningham had a planning call with the Western States Water Council because we will be hosting the fall meeting.

April 26-27th, several OWRB staff members attended the Red River Compact Commission meeting. Ms. Cunningham explains that we are involved with four interstate compact commissions for the beneficial use of sharing water across state lines.

April 28th was the OWRB staff meeting where three long-time employees retired with a combined total of 102 years' experience.

Ms. Cunningham proceeds to her legislative update. She announces that Sine Die is May 27th and budget, and rules are the last things wrapping up. There is a budget bill with the Water Board receiving 8.45 million dollars in appropriations with 3 million set aside for the Emergency Drought Relief Fund. She states that there was a request bill that did not pass that would have generated \$240,000, so we asked our budget committee chairman to consider putting it into our general appropriations. Overall Ms. Cunningham states that OWRB is in a good standing with budget for the upcoming fiscal year.

Ms. Cunningham gives an update on all the bills that have passed in the legislature. Starting with HB 3821 from Representative Newton and Senator Jech. This would extend

funding for 5 years on gross production tax set to sunset in 2022 and that this is the primary fund for the OCWP, OCWP implement, including development of the OCWP and maximum annual yield studies. Next, is SB 1325 which transfers the authority to regulate and promulgate rules related to the Oklahoma Water Quality Standards from the Water Resources Board to the Department of Environmental Quality effective November 1, 2022. The OWRB Water Quality Standards positions were not discussed in the bill and will be open for further discussion. Several medical marijuana bills were signed into law including HB 3382 which will provide administrative penalties of up to \$5,000 per day on certain violations of water rights or privileges and increases related criminal penalties from \$250 to \$1,000 per violation.

Mr. Muller states that with the passing of SB 1325 there will be a “seismic shift” with the transfer of standards authority to DEQ. Mr. Muller states that instead of a non-biased regulatory agency setting the standards, DEQ will now have the opportunity to both set and enforce water quality standards which will be an interesting change for the State going forward.

Ms. Cunningham discusses the option to cancel the July Board Meeting and asks the Board to make note of that on their calendars.

D. Financial Update

1. Budget Report. Mr. Cleve Pierce, Chief, Administrative Services Division, presents the budget report for the period ending April 30, 2022. Mr. Pierce reports the agency has spent 51% of its appropriated budget, leaving 49%; has spent 53% of its revolving budget, leaving 47%; has spent 33% of its federal budget, leaving 67%. Overall, the total budget remaining is 51% with 17% of the year remaining. At this point last year, the agency had a total budget remaining of 45%. Mr. Pierce states that the agency is now in budget preparation for FY-2023. The agency has still not received a final audit report for its performance audit, but it is almost wrapped up. A final report will be presented to the Board once it is ready. Mr. Pierce thanks our Comptroller, Jessica Billingsley for taking over the budget and working closely with each division.

Mr. Muller asks for any questions for Mr. Pierce. There were none.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Consolidated Rural Water District No. 9, McIntosh County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, greets the Board and states that the first item he has is a \$695,000 loan request from McIntosh County Consolidated Rural Water District #9. The district is requesting the loan to construct two chlorine booster stations and for improvements to their water storage tank. The overall goal of the project is to reduce the district’s disinfection byproduct levels. The loan will be funded through the Drinking Water State Revolving Fund (DWSRF) loan program with a fixed interest rate plus a half-point administrative fee. The loan will have a maturity not to exceed 20 years of the completion of the project and will be secured with a lien on the district’s water system revenues and mortgage. The district’s debt coverage ratio stands at 2.53 times and staff recommends approval. Representing the district is Marcus Burkhalter, the district’s manager.

Mr. Burkhalter introduces himself as the manager and operator for the Consolidated Rural Water District #9 in McIntosh County. Mr. Burkhalter explains the challenges faced by the district and the help that they have received from ODEQ already. Mr. Burkhalter thanks ODEQ and the engineers that have addressed some of the issues presented. He also thanks the Board for their guidance and support in approving funding.

Chairman Muller asked for questions or a motion. Vice Chairman Darby moved to approve the application and Mr. Stallings seconded. There were no questions or discussion and Chairman Muller called for the vote.

AYE: Latham, Stallings, Justice, Cook, Darby, Landess, Muller
NAY: None
ABSTAIN: None
ABSENT: Castillo, Gorman

Vice Chairman Darby exits the Board Room at 10:00 a.m. and swiftly returns at 10:03 a.m. during Mr. Freeman's presentation of Item B.

B. Consideration of and Possible Action on a Proposed Resolution Expressing Official Intent to Reimburse Costs of Loans for Clean Water SRF Projects. Recommended for Approval.

Mr. Freeman continues to the next item which is a reimbursement resolution for the Clean Water State Revolving Fund loan program. The Federal Tax Act of 2005 tightened the time period in which tax-exempt bond issue proceeds must be utilized. The prior requirement to the IRS was that tax exempt bond issuers do a good faith effort to lend in excess of 90% of bond proceeds within 3 years of a bond issue closing. The subsequent rule requires that 30% must be drawn down within one year of the bond issue closing and 95% drawn within 3 years.

Mr. Freeman explains that we currently close SRF loans and then fund them with nonbond funds in the beginning, then we will close the SRF bond issue, and then reimburse ourselves with bond proceeds which allows us to be following the 30% first-year requirement on the day we close the SRF bond issue. In order to be able to do this, the IRS regulations require that we must declare our reimbursement intentions in a form such as the resolution before the Board.

Exhibit A to the resolution lists Clean Water SRF loans that have been approved by the Board but have not yet closed, Clean Water SRF loans that have closed with loan funds being drawn, and loan requests that are on the Clean Water SRF priority list for funding. As is noted in the resolution and exhibit, there are \$529,752,927 in loans which may be eligible for bond issue reimbursement. Staff recommends approval.

Mr. Freeman asks if there are any questions and Mr. Muller asks if the Board understands what they are voting on. There is a need for further explanation from Mr. Freeman. Mr. Freeman continues with some examples and elaboration of the process to reimburse the costs of loans. The resolution presented to the Board is good for 18 months and lists every loan that could be reimbursed back to ourselves.

Chairman Muller asked for questions or a motion. Mr. Latham moved to approve the application and Ms. Landess seconded. There were no questions or discussion and Chairman Muller called for the vote.

AYE: Latham, Stallings, Justice, Cook, Darby, Landess, Muller
NAY: None
ABSTAIN: None
ABSENT: Castillo, Gorman

C. Consideration of and Possible Action on a Proposed Resolution Expressing Official Intent to Reimburse Costs of Loans for Drinking Water SRF Projects. Recommended for Approval. Mr. Freeman presents a resolution just like the previous resolution but for the Drinking Water State Revolving Fund loan program. The resolution notes the same parameters but identifies the Drinking Water SRF loans which are available for possible reimbursement.

Exhibit A to this resolution lists the Drinking Water SRF borrowers who have loans approved but not closed, closed and drawing loan funds or are on the Drinking Water SRF priority list who are eligible for reimbursement. As noted in the resolution and in the exhibit, we have identified approximately \$1.4 billion in the Drinking Water loans which may be eligible for bond issue reimbursement under the IRS guidelines. Staff recommends approval.

Chairman Muller asked for questions or a motion. Mr. Stallings moved to approve the application and Mr. Latham seconded. There were no questions or discussion and Chairman Muller called for the vote.

AYE: Latham, Stallings, Justice, Cook, Darby, Landess, Muller
NAY: None
ABSTAIN: None
ABSENT: Castillo, Gorman

3. SUMMARY DISPOSITION AGENDA ITEMS

All of the items listed below under this Summary Disposition Agenda are recommended for approval.

Any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board's staff, or any other person attending this meeting, 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 Muller asked if there were any items being requested to be removed. There were no requests to remove items to the Special Consideration Agenda.
- B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Possible Action on Items Listed Below.

Chairman Muller asks for the Board's pleasure considering the items

listed. Vice Chairman Darby moved to approve the application and Mr. Stallings seconded. There were no questions or further discussion and Chairman Muller called for the vote.

AYE: Latham, Stallings, Justice, Cook, Darby, Landess, Muller
NAY: None
ABSTAIN: None
ABSENT: Castillo, Gorman

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>
None.				

2. DWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
None.				

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

1. Memorandum Agreement with USGS and Arkansas-Oklahoma Arkansas River Compact Commission for water monitoring and data collection.
2. Memorandum Agreement with USGS and City of Enid for water monitoring and data collection
3. Memorandum Agreement with USGS and the City of Lawton for water monitoring and data collection.
4. Memorandum Agreement with USGS and the City of Moore for water monitoring and data collection.
5. Memorandum Agreement with USGS and the City of Norman for water monitoring and data collection.
6. Memorandum Agreement with USGS and the Central Oklahoma Master Conservancy District for water monitoring and data collection.

7. Memorandum Agreement with USGS and CP Kelco for water monitoring and data collection.
8. Memorandum Agreement with USGS and Fort Cobb Master Conservancy District for water monitoring and data collection.
9. Memorandum Agreement with USGS and Grand River Dam Authority for water monitoring and data collection.
10. Memorandum Agreement with USGS and Hardage Site Remedy Corp. for water monitoring and data collection.
11. Memorandum Agreement with USGS and Lugert-Altus Irrigation District for water monitoring and data collection.
12. Memorandum Agreement with USGS and Oklahoma Gas and Electric Company. for water monitoring and data collection.
13. Memorandum Agreement with USGS and Oklahoma Dept. of Wildlife Conservation for water monitoring and data collection.
14. Memorandum Agreement with USGS and Poteau Valley Improvement Authority for water monitoring and data collection.
15. Interagency Agreement with Grand River Dam Authority providing work and services related to the GRDA Dissolved Oxygen Monitoring Project for fiscal year 2023.
16. Agreement with the Office of Management and Enterprise Services and Softchoice Corporation to build a platform through existing Microsoft products to connect FAD's internal financial database and reporting software to EPA's environmental reporting database for CWSRF reducing manual entry and streamlining EPA reporting requirements.
17. Joint Funding Agreement with United State Geological Service for continued operation and maintenance of the Monitoring Program.
18. Resolution with US Environmental Protection Agency authorizing an application for funding assistance through their Exchange Network Grant Program to support better access to water quality.
19. Sponsored Research Agreement between OWRB and Board of Regents of the University of Oklahoma for the modernization of ArcGIS desktop extensions and geoprocessing web service by the Center for Spatial Analysis.

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

Groundwater:

None.

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. Bobby Lee Martin, Beckham County, 2021-536
2. Velma Louise Pearson, Woodward County, 2021-546

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

1. Lo-Buck Farms, LLC, Texas County, 2016-504

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

None.

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:

1. William & Brenda G. Howard, Pushmataha County, 2008-035
2. John Brandon, Pushmataha County, 2012-006
3. Imogene Hairell Harris 1990 Revocable Trust, Pushmataha County, 2017-045

L. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:

None.

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

1. New Licenses, Accompanying Operator Certificates and Activities:

None.

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

- | | |
|--|----------|
| A. Licensee: Associated Environmental Industries | DPC-0269 |
| 1. Operator: Darren Gilliam | OP-2402 |
| B. Licensee: W.E. Pender & Sons Inc. | DPC-0737 |
| 2. Operator: Kevin Bullock | OP-2403 |

N. Consideration of and Possible Action on Dam and Reservoir Construction:

1. City of Hominy (Hominy Municipal Lake), #OK01344, Osage County
2. City of Guthrie/Guthrie PWA (Guthrie Lake Dam), #OK02123, Logan County
3. Town of Lake Aluma/John Kenney (Lake Aluma Dam), #OK02425, Oklahoma County

4. Oklahoma City Water Utilities Trust (Lake Hefner Dam), #OK02535, Oklahoma County

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

None.

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

1. Jeffery Moore, McIntosh County, #FPA-036

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

A. No Items.

5. SPECIAL CONSIDERATION

A. Reconsideration of and Possible Action on the Application to Amend Prior Groundwater Right No. 1968-350, Billy and Kimberly Mizer, Cimarron County, Oklahoma:

1. Summary–

Chairman Muller explains that this item was previously tabled from the April Board Meeting and is a continuation of that discussion after mediation attempts with both parties. Chairman Muller calls up Mr. Chris Neel to present on the special consideration item again.

Mr. Chris Neel, Chief, Water Rights Administration Division, greets the Chairman and Board. Mr. Neel explains that the special consideration item is an application to amend a Prior Right Permit to Use Groundwater, Permit No. 1968-350, under the name of Billy and Kimberly Mizer in Cimarron County. Mr. Neel reiterates that on April 22, 2021, Billy and Kimberly Mizer submitted an application to amend the groundwater permit in Cimarron County, OK. The existing Prior Right Permit authorizes 280-acre feet of groundwater for irrigation purposes from one well referred to as the West Well. The Applicant is requesting an additional well location and well exception referred to as the East Well, in addition to the already existing well location. The groundwater to be withdrawn is to be withdrawn from the Ogallala panhandle major groundwater basin which has a maximum annual established with an equal portion share of 2-acre feet per acre per year. The notice of application was published in the Boise City news in Cimarron County on August 25, 2021, and September 5, 2021. The Board received a protest to the application in a timely manner and a hearing was conducted on January 28, 2022.

Ronnie and Audrey Cochran protested the application and were made parties herein and claimed that the location of the East Well violates the well spacing requirements because of close proximity to their well. During the hearing, the Applicant testified to have never pumped the East Well and that it was used in the 1970's and 1980's by his uncle. The Applicant testified that they would like to use the East Well as an insurance in case something happens to the West Well, claiming that corn yield will be hurt if the crop goes without water for 7 days. The Applicant testified that they intend to only use the East Well in case the West Well fails and the Applicant is not requesting additional water.

The Protestant, Mr. Ronnie Cochran, raised a concern of depletion of his irrigation well if the

Applicant uses the East Well, which would negatively affect his well by drawing down the water table. Mr. Cochran testified the East Well is approximately 130 yards from his permitted well. In April of 2021, the Protestant, Mr. Cochran, received an additional permit that increased his water usage from 320-acre feet to 960-acre feet. The Hearing Examiner issued the Proposed Order to the April Board Meeting agenda to approve the amendment to the Application No. 1968-350, including the Well Spacing Exception in the name of Billy and Kimberly Mizer.

On April 14, 2022, OWRB received an Exception to the Hearing Examiner's Order which was provided to the Board last month. Mr. Neel explains that the Exception to the Hearing Examiner's Order states that the East Well is not necessary in order to withdraw the amount authorized by the existing permit under Chapter 30-7-4(a)(1) of the Proposed Order of these rules and that the term "necessary" is not defined in OWRB regulations. The Exception also points out that the Protestants made it clear to the Hearing Examiner during a hearing that the application should be approved, reasonable restrictions should be placed on the East Well under Chapter 30-3-6(b). After deliberation and discussion last month, the Board asked OWRB staff to do calculations on potential draw downs and serve as mediation between the Applicant and Protestant.

OWRB technical staff was able to do calculations which assisted staff in the mediation. Staff looked at potential draw down of the well over many different time intervals. The mediation was held the week before May's Board Meeting and a memorandum was prepared to recap the mediation efforts.

Staff attorney, Richard Cole, met with both the Protestant (Mr. Cochran and representatives) and the Applicant (Mr. Mizer) on May 13, 2022, regarding mediation on conditions on the Applicant's groundwater amendment. Mr. Cole drafted a memorandum to staff; based on discussions with both the Applicant and Protestant, the following conditions are recommended to be added to the amendment:

- 1) The East well be used only in the event the West well ceases to function due to unavoidable circumstances such as, but not limited to, well collapse or pump failure;
- 2) The West well and East well not be used simultaneously;
- 3) The East well not be used to supplement irrigation when the West well is not being used;
- 4) Use of the East well be limited to the duration of time needed to repair the West well or for 30 days, whichever is shorter;
- 5) Within twenty-four (24) hours, Applicants notify Board staff (email or phone) if the West well becomes unavailable for use and Applicants begin using the East well;
- 6) Following repair of Applicants' West well, Applicants provide to the Board, within fourteen (14) days of receipt, copies of applicable documentation showing completion of repairs to the West well and cessation of use of the East well.

Mr. Neel asks for any questions so far.

Mr. Latham asks if the recommendations are agreeable from both parties.

Mr. Neel answers that Mr. Cole met with both parties to discuss potential restrictions on this well and the parties were unable to come to a conclusion, so the listed recommendations were drafted from Mr. Cole.

Mr. Stallings asks about the calculations that were done by staff.

Mr. Neel states that staff used an equation to look at possible draw down from the East well based off assumptions of the aquifer's properties. This equation was used to simulate continuous pumping for multiple different time periods ranging from 21 days to 100 days

assessing the potential draw down from the use of the East well. The calculated draw down showed to be 3 feet after 21 days and up to 7 feet after 100 days based off of staff calculations.

Representing the Applicant is Mr. Mizer himself, and representing the Protestant is Allison Christian of McAfee & Taft.

2. Discussion and presentation by parties

Chairman Muller calls the Applicant, Mr. Mizer, to speak in front of the Board.

Mr. Mizer addresses the Board and gives the history of himself and his farm in Cimarron County. Mr. Mizer states that the East well is from the 1960's which was before the 1,320 foot well spacing requirement. Both the East and the West wells were drilled around the same time by Mr. Mizer's grandfather who he bought the land from. Mr. Mizer made it clear to the Board that he does not want his rights to be taken away considering he owns both wells but is only allowed to pump from the one that is permitted.

Chairman Muller calls Ms. Allison Christian to present to the Board on behalf of the Protestant.

Ms. Christian greets the Board and introduces herself as an attorney for McAfee & Taft here on behalf of Ronnie and Audrey Cochran in this matter. Ms. Christian refers to last Board Meeting where the consensus of the Board was to not approve the application without some restrictions applied. Ms. Christian states that her client is very understanding of both sides and was willing to discuss such restrictions during the mediation. Mr. Cochran has expressed concern about his water rights being infringed upon since the East well is so close to his well. She states that Mr. Cochran agrees with the recommendations presented in the memorandum except for item 4: "Use of the East well be limited to the duration of time needed to repair the West well or for 30 days, whichever is shorter". Ms. Christian states that her client would like to shorten the time period from 30 days to 21 days. She states that after 21 days there is significant draw down from the Cochran's well based off the calculations provided by the Water Board. Ms. Christian concludes her statement by stating that the ultimate issue is the distance of the East well in proximity to the Cochran's well.

Mr. Latham asks what the depth of the water column is.

Mr. Neel answers that the depth to water is about 180 feet and the depth of the well is about 250 feet which was provided by Mr. Cochran.

Mr. Muller states that given these depths, a 3-foot drop in water level would not break the suction on the pump.

Mr. Neel then provides the draw down amounts calculated in feet for multiple different time intervals of continuous pumping.

There is discussion about the potential issues of draw down to the well and the crops that could be sustained on that amount of water.

Mr. Muller states that the discussion is alluding to the fact that the farmer's in the Panhandle are doing "extraordinary things" with little amounts of water and short growing seasons.

Mr. Mizer is able to approach the Board again and asks Mr. Neel how the draw down calculations were done.

Mr. Neel responds that his staff used the Theis equation and further explained how those calculations were done.

3. Possible Executive Session

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of “[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act”.

- (a) Vote on whether to hold Executive Session. Before it can be held, the Executive Session must be authorized by a majority vote of a quorum of members present and such vote must be recorded.
- (b) Designation of person to keep written minutes of Executive Session, if authorized.
- (c) Executive Session, if authorized.

There were no requests for Executive Session.

4. Return to open meeting and possible vote or action on any matter discussed in the Executive Session, if authorized.

5. Vote on whether to approve the Proposed Order as presented or as may be amended, or vote on any other action or decision relating to the Proposed Order.

Mr. Stallings states that he would motion to accept the mediation recommendation as described in the memorandum presented to the Board.

Mr. Muller clarifies Mr. Stalling’s motion to accept the 30-day time period of use. Mr. Stallings confirms he would like no changes to the memorandum. Ms. Landess seconds the motion. Chairman Muller asks for any questions or relevant discussion. There was none and Chairman Muller proceeded to call for the vote.

AYE: Latham, Stallings, Justice, Cook, Darby, Landess, Muller
NAY: None
ABSTAIN: None
ABSENT: Gorman, Castillo

B. Consideration of and Possible Action on items Transferred from Summary Disposition Agenda, if any.

There were no items transferred from the Summary Disposition for the Board’s consideration.

6. NEW BUSINESS

Under the Open Meeting Act, this agenda item is authorized only for matters not known about which could not have been reasonable foreseen prior to the time of posting the agenda or any revised agenda.

There were no New Business items for the Board’s consideration.

