

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

October 14, 2008

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Mark Nichols at 9:30 a.m., on October 14, 2008, in the Board Room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The October meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on October 7, 2008, at 4:30 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

Chairman Nichols asked Mr. Ed Fite to provide the invocation.

B. Roll Call

Board Members Present

Mark Nichols, Chairman
Ford Drummond
Lonnie Farmer
Ed Fite
Jack Keeley
Kenneth Knowles
Richard Sevenoaks

Board Members Absent

Rudy Herrmann, Vice Chairman
Linda Lambert, Secretary

Staff Members Present

Duane A. Smith, Executive Director
Dean Couch, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Monte Boyce, Comptroller
Julie Cunningham, Chief, Planning and Management Division
Derek Smithee, Chief, Water Quality Programs Division
Mary Lane Schooley, Executive Secretary

Others Present

Forest Osborn, City of Hooker, OK
Cassandra Burrell, City of Valliant, OK
Josh McClintock, McClintock Associates, Oklahoma City, OK
Robert M. Jones, Capitol West, Oklahoma City, OK
Darrell W. Tate, Town of Pittsburg, OK
Irene Johnston, Town of Pittsburg, OK
Tom Liu, Bank of America, New York City, NY
Stan Sims, Bank of America, New York City, NY
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK
Angie Burkhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK
Mike Mathis, Guernsey, Oklahoma City, OK
Kelly Danner, Oklahoma Municipal League, Oklahoma City, OK

Chairman Nichols noted Secretary Linda Lambert was absent, and asked Mr. Ford Drummond to serve as assistant secretary for the day.

C. APPROVAL OF MINUTES

Chairman Nichols stated the draft minutes of the September 9, 2008, Regular Meeting have been distributed. He stated he would accept a motion to approve the minutes unless there were changes. Mr. Fite moved to approve the minutes of the September 9, 2008, Regular Meeting, and Mr. Knowles seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols
NAY: None
ABSTAIN: None
ABSENT: Lambert, Herrmann

Prior to moving on to agenda item D., Chairman Nichols congratulated Mr. Duane Smith for 30 years of service to the State of Oklahoma and the Oklahoma Water Resources Board. He read a biographical recognition of his work for the OWRB over the years, and presented him with State anniversary pin and certificate.

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, addressed the members and asked Secretary of Environment J.D. Strong if he wanted to make any remarks to the Board. Secretary Strong stated he thought the OWRB is blessed to have Mr. Smith at the helm, someone that has risen through the ranks that is an experience he can relate to having started at the OWRB as a summer temporary employee in the Water Quality Division. He said he looked forward to working with the agency on the Comprehensive Water Plan, and other great projects down the road.

Mr. Smith also introduced Mr. Lindsay Robertson, law professor at the University of Oklahoma. He said there is a contract with Mr. Robertson on the meeting agenda. Mr. Smith said Mr. Robertson is the Special Liaison with the Governor's Office on Tribal Issues, and advises the Governor on Tribal compacts and in legal matters the Tribes and the State have together. Mr. Robertson will work with the Tribes and the OWRB in regard to the Comprehensive Water Plan. Resolving Tribal water rights issues have been a high priority item in the regional meetings. He said it is apparent that the water plan is not the forum to negotiate water rights claims with the Tribes in the State, but the guts of the plan is to develop a 50-year plan, and the Tribes want the same thing--a long-term water supply for the communities in their Tribal areas. The water plan is not the forum for a state-to-state relationship with the Tribes and previous plans' recommendations included compacts with the Tribes. For this plan, Mr. Robertson will hold a series of meetings with the Tribes, outlining what the Tribal issues are, and if there are recommendations that come out of that, it may be included in the report; however, there will be one chapter of the report that outlines the Tribal issues. He said this is not negotiation with the Tribes about what should or shouldn't be (in the plan). It is not the OWRB's role to negotiate Tribal rights or claims versus the State's claims, and will not be entering into that realm of negotiation. He said we want the Tribes to come to the Regional and Town Hall meetings and participate as a person or entity that wants to provide long-term reliable water supply for Oklahomans and Tribal members, and save the state-to-state dialogue as an outline that will move forward in another context. Mr. Robertson expressed his appreciation to work with the OWRB.

Mr. Smith continued his report announcing the Western States Water Council will conduct its quarterly meeting in Oklahoma City through October 17. Mr. Smith updated the members on his recent visit with the Oklahoma Congressional Delegation in Washington, D.C. He said there were very successful meetings in updating the Delegation on activities with the Comprehensive Water Plan. He said because there is no federal budget and working on a continuing resolution, it was important to be able to talk to Corps of Engineers headquarters people--Steve Stockton--and the flexibility within the COE to move Planning Assistance to States funding. We want to ensure we have the necessary matching funds for the coming year from the federal government, and right now that looks positive. He said they also traveled to New York City to meet with the rating agencies, and it was a unique time to be in New York with the financial crisis just coming up at that time. He said he met with Moody's rating service and was impressed with the quality of people there and the questions they asked even amongst all the activities going on in the market place and the pressure they were under to get other initiatives out of the way--they had prepared for the OWRB meetings and were very interactive, talked about water and the water plan, and he left with a good feeling about the Board's position and the people working on the Board's financial matters. He felt the agency will be in as good a situation as it possibly can be largely because of the people on staff--here in Oklahoma City--and the professionals we've hired to assist us.

Mr. Smith updated the members on recent and upcoming meetings such as the Floodplain Managers Association that met in Oklahoma City, the Red River Compact Commission met in Dallas regarding the Texoma reallocation, the Arbuckle Simpson Peer Review Team met in Oklahoma City; he spoke to the Colorado Governor's Conference on Drought; he will be attending the Council on Infrastructure Financing Agencies (Joe Freeman is Chairman) in Providence, Rhode Island, he will be speaking to the Mid-Continent Oil and Gas Association,

and the State Chamber of Commerce Natural Resources Committee, and he will be going to New Orleans to speak to the National Water Ways Conference about navigation and water planning.

Mr. Smith concluded his remarks reminding the members that the November meeting will be on Wednesday, November 12 due to Veterans Day holiday.

Chairman Nichols made a few comments about the meetings in Washington, D.C. and New York.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Valliant Public Works Authority, McCurtain County. Recommended for Approval. Mr. Freeman stated to the members that the Valliant Public Works Authority had made a request for a \$100,000.00 emergency grant. During heavy rain events, the sewer lines gets overloaded because of inflow and infiltration, causing overflows that result in a health hazard for residents and downstream water suppliers. In order to correct the problem, Valliant proposed to replace 1,700 feet of PVC sewer line and six new manholes. The project will be funded with the grant requested from the OWRB along with \$33,975.83 in local funds. Staff recommended approval.

Ms. Cassandra Burrell was present in support of the request.

Mr. Ed Fite moved to approve the emergency grant to the Valliant Public Works Authority, and Mr. Keeley seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols

NAY: None

ABSTAIN: None

ABSENT: Herrmann, Lambert

B. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Healdton Municipal Authority, Carter County. Recommended for Approval. Mr. Freeman stated that the Healdton Municipal Authority had made application for a \$100,000.00 emergency grant. He said a portion of the Authority's collection system and treatment facility experienced a failure as a result of heavy rains. As a result of the failure, the Authority has pumped the wastewater from the manhole upstream of the failed line to return it to the wastewater treatment facility. To correct the problem, Healdton is replacing the failed sewer main line and two manholes. The project cost approximately \$117,990.00, with funding secured through the OWRB emergency grant, and \$17,990.00 in local funds. Staff recommended approval.

Healdton City Manager Sherry Adams was present in support of the request.

Mr. Farmer moved to approve the emergency grant request to the Healdton Municipal Authority, and Mr. Drummond seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols

NAY: None

ABSTAIN: None

ABSENT: Herrmann, Lambert

C. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Hooker Municipal Authority, Texas County. Recommended for Approval. Mr. Freeman informed the members that the Hooker Municipal Authority, located in Texas County, owns and

operates a wastewater collection system, consisting of two pumps that are located 11 feet below grade. The lift station lacks any backup power, and failure of the lift station could result in the backing up of sewage and resulting health hazards. To correct the problem, the town proposed to replace the station with above ground diversion vertical pumps, construct a concrete wet well, and a connection for an emergency power generator. The project is estimated to cost \$145,000.00, and will be funded with \$70,000.00 in local funds, along with the \$75,000.00 grant requested of the Board. Staff recommended approval of the emergency grant request.

Hooker City Manager Frosty Osborn was present in support of the grant request. Chairman Nichols asked the population of Hooker, and Mr. Drummond asked if the town was going to tie onto Guymon's wastewater plant. Mr. Osborn said the population is about 1,800, and that Hooker is twenty miles to Guymon.

Mr. Knowles moved to approve the \$75,000.00 OWRB emergency grant request, and Mr. Drummond seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols
NAY: None
ABSTAIN: None
ABSENT: Herrmann, Lambert

D. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Pittsburg Public Works Authority, Pittsburg County. Recommended for Approval. Mr. Freeman informed the members that the Pittsburg Public Works Authority has made application for an OWRB Emergency Grant in the amount of \$80,000.00. He said the sewage lagoons have been severely damaged by rodents that have burrowed holes halfway through the dikes and causing seepage. In order to correct the problem, the surrounding area of trees and shrubs will be cleaned out to remove the rodents and to repair the dikes with riprap. The estimated cost of the project is \$90,000.00 and will be funded with the grant requested of the OWRB, along with approximately \$15,000.00 in local funds. Staff recommended approval.

Representing Hooker at the meeting was PWA Vice Chairman Wayne Tate, and Irene Johnson, Town Clerk and Treasurer. Mr. Fite asked what type of rodents caused the problem, and Mr. Freeman answered beavers are the main problem.

Mr. Fite moved to approve the emergency grant to the Pittsburg Public Works Authority, and Mr. Drummond seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols
NAY: None
ABSTAIN: None
ABSENT: Herrmann, Lambert

E. Report on Current Market Conditions and Effects on the Board's State Loan Program and State Revolving Fund Loan Programs. Mr. Freeman updated the members on the current market conditions and how the Board's Financial Assistance Program is effected. He said most of the Board's assets are concentrated in the loan program, but there are other investments. He said total assets of the loan program stand at approximately \$967 million, with the net assets of approximately \$413.5 million, and investments outside loans are located in the State Treasurer's cash management fund, federated money market funds; he assured the Board that none of the funds have had any exposure to Lehman Brothers holdings, AIG group, or Washington Mutual, and had not been invested in derivative securities. The SRF unobligated loan funds, SRF reserve

funds, and SRF revenue funds are with TransAmerica Occidental Life Insurance Company; the FAP reserve funds are invested with FSA Capital Management Services and TransAmerica. As of October 13, Mr. Freeman said that FSA is still rated AAA by all three rating agencies and is currently under review by Moody's. Mr. Freeman said that in September, the Board had an additional \$33 million in six-month variable bonds remarketed and when the market became dramatically different, it was discovered there would be difficulty in remarketing the bonds in anything but very high interest rates. As the Board is aware, the agency is extremely fortunate through the hard work of Capital West Securities--the remarketing agent for the October bonds--the bonds were sold at a much more reasonable rate of 3.5%.

Mr. Freeman introduced Mr. Chris Cochran and Mr. Bob Jones of Capital West who visited with the Board about the transaction and current market conditions. Also, Tom Liu with Bank of America was present.

Mr. Cochran explained the bonds have always been sold to money markets and approximately four weeks ago the concern nationwide began regarding the safety and security of money market funds. Investors then began pulling out their funds and going to safer investments, making the timing unfavorable for the OWRB bonds. Mr. Bob Jones suggested calling the State Treasurer to buy the bonds if a buyer could not be found at a lower rate, and he agreed to buy the bonds at 4.61%. Capital West then looked for a buyer at a lower rate, and had just completed a bond issue for the Grand River Dam Authority and was looking for ways to invest those funds, and the GRDA had the opposite problem of the OWRB. So, the GRDA and OWRB were put together, allowing the GRDA to receive a higher yield investment than it could have gotten on any similarly rated investment option, and the OWRB was able to get a higher rate than in the past, but yet dramatically better than what the market could bear. Mr. Cochran said he felt very good about the transaction; the initial words of Mr. Kevin Easley, GRDA Executive Director, when approached with the idea were, "...sounds like Oklahomans helping Oklahomans."

Mr. Bob Jones stated to the members the OWRB bonds had historically been remarketed to well-known money market funds. Mr. Sevenoaks asked how GRDA was able to do a bond, reinvest back into the OWRB at a greater yield, and be allowed to invest it? Mr. Cochran responded that the issue Mr. Sevenoaks is addressing regards arbitrage, and there have been numerous circumstances even in Oklahoma where these arbitrage bonds have been issued for the wrong purposes, and that was not a problem here because the bond yield for the GRDA was at 4.75% and they are earning 3.5% on the OWRB investment and are well below their bond yield. The GRDA is in a negative arbitrage position, still losing money, but less than they would have with treasury or other bank-type investments. Mr. Sevenoaks asked with liquidity a concern in the market place, were they giving the OWRB a favored rate over what they could get in the regular market? Mr. Cochran said that arbitrage occurs--a potentially rebated situation--when bonds are issued at one rate, i.e., 4.75%, and then take those monies and investing at a rate greater. In this situation, the GRDA is just like the OWRB, and is limited and must invest in very secure collateralized-type investments. The GRDA was allowed to invest in the OWRB municipal bonds because they are rated AAA stand alone, but it would not be able to go out and buy just any municipal bond. The GRDA is earning 3.5%, but paying 4.75% on the bonds, a negative arbitrage not a positive arbitrage. Mr. Sevenoaks asked the term of the bonds, and Mr. Cochran answered, six months. He said he hoped that in six months the money markets are back in business, and if not, the GRDA can do this again for another six months or other options may be available. Mr. Sevenoaks asked if the State would guarantee in six months; Mr. Freeman

answered the Board would have to contact the Treasurer for that option. Mr. Cochran added that people know that credit is "ceased up" with a few exceptions, and this is the problem the government is trying to fix, and it has brought the municipal bond market place to a halt. He said that on fixed interest rate bonds, there are no guarantees we could do that now, but he is hopeful. Mr. Sevenoaks asked what will happen in February; and Mr. Freeman said they will be watching the market, and at a worst case scenario would be to go to the liquidity facility, which would buy the bonds, but at a high interest rate of 12%, meaning the borrowers interest rate would go to 12.8%, which staff will do everything possible to avoid. He said he wanted to bring the matter to the Board's attention. Mr. Sevenoaks asked if the program was in jeopardy, and Mr. Freeman said there are no loans from the FAP program, most loans are from the SRF, which will continue until next spring, and the hope is the market will be back to some level of normalcy.

Mr. Sevenoaks asked if the interest rates were anticipated to go higher, and Mr. Freeman asked Mr. Tom Liu for comments. Mr. Liu answered that the announcement this morning was to provide \$250 billion of funding to commercial banks to help loosen their purse strings in terms of getting credit out there. Right now there is a situation where the market is ceased up, and banks have loaned money to individuals and businesses and even within the public banking institutions, and that has come to a standstill. He said the hope is that every dollar that is put into the system, there will be ten dollars of monies for loans. In return, what the Feds are getting, Mr. Liu stated, is that these companies will have an obligation to provide a 5% return back to the federal government over the next 3-5 years, escalating to a 9% return. He said the federal government is not looking at it as a bail-out, per se, but as an extension of credit to the financial institutions so they can lend money out for a return. Mr. Sevenoaks said, the institutions are being charged 5% for the money, and Mr. Liu answered that is correct, and the current prime interest rate is below 5%. Mr. Sevenoaks said, then, the business model that has been used for the OWRB current loan program will have to be re-analyzed; and Mr. Freeman commented that as a community has to build a project, and interest rates go back to 5%--which used to be a low interest rate--the communities are going to have to raise rates.

Mr. Smith said that discussions in New York indicated that programs such as the OWRB's will be in the best position--AAA rating, loans to communities for water and wastewater infrastructure--are the cream of the crop of infrastructure. He said that no one can guarantee what the market will be, we can say that based on past experience, this is what the future will be, but there is always risk in the market place. The OWRB is in the best position of all the issuers that are going to the marketplace, and while it is an uncertain time, he wouldn't characterize it as the OWRB program being in jeopardy, although he anticipated it will cycle through higher rates. The soundness of the program, even with defaults, the cashflow in the OWRB's particular program are going to save bond holders, there are double protections in the program. He said we need to understand where it's at, but at the same time, we have formulated the program so that when the dips come, we can take care of the program. He complimented GRDA and said while there was some coincidence, there was also smart people involved and the professionals in place, and people willing to help. He said this is a why we need more cash into the program. Mr. Freeman said the staff would continue to keep the members informed. The members commented about certain aspects of the program and the lending market, and potential impact to communities, and Chairman Nichols thanked the financial team for its hard work.

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board’s staff, or any other person attending this meeting, may be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items.

There were no requests to transfer items from the Summary Disposition Agenda to the Special Consideration Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items and Approval of Items 3.C. through 3.O.

There being no further questions or discussion regarding items on the Summary Disposition Agenda, Chairman Nichols asked for a motion.

Mr. Fite moved to approve the Summary Disposition Agenda, and Mr. Knowles seconded.

- AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols
- NAY: None
- ABSTAIN: None
- ABSENT: Herrmann, Lambert

The following items were approved:

C. Consideration of Approval of the Following Applications for REAP Grants in Accordance with the Proposed Orders Approving the Grants:

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

D. Consideration of and Possible Action on Contracts and Agreements, Recommended for Approval:

1. No-Cost Time Extension Agreement with the Oklahoma Rural Water Association to extend the end date for water provider survey distribution and collection.
2. No-Cost Time Extension Agreement with the Oklahoma Municipal League to extend the end date for water provider survey distribution and collection.
3. Contract with the Oklahoma State University Agriculture Conference Services to provide coordination services for the Oklahoma Water Resource Board FACT (Funding Agency Coordinating Team) Funding Workshop.

4. Professional Services Contract with Dr. Lindsay Robertson wherein Dr. Robertson will act as liaison in government-to-government dialogue with appropriate representatives of Indian tribes concerning the update to Oklahoma Comprehensive Water Plan.
 5. Agreement for the Clean Water Act FY08 §104(b)(3) Wetlands Program CA# CD-966785-01 between Office of the Secretary of the Environment and OWRB.
 6. Contract with C.H. Guernsey & Company for Technical Assistance in Support of Oklahoma Comprehensive Water Plan Update.
 7. Service Level Agreement with the Office of State Finance Information Services Division for IT network equipment configuration and support as well as email threat and spam filtering services.
 8. Grant Agreement with U.S. Environmental Protection Agency for Clean Water State Revolving Fund Capitalization Grant.
- E. Applications for Temporary Permits to Use Groundwater:
1. Thomas & Lisa Price, Oklahoma County, #2008-539
 2. Vernon Lee & Linda Sue Racer, Kingfisher County, #2008-544
 3. Vernon Lee & Linda Sue Racer, Kingfisher County, #2008-545
 4. Vernon Lee & Linda Sue Racer, Kingfisher County, #2008-546
 5. Harmon Water Corp., Harmon County, #2008-560
- F. Applications to Amend Temporary Permits to Use Groundwater:
1. City of Medford, Grant County, #1977-778
- G. Applications for Regular Permits to Use Groundwater:
1. Will Grote, Bryan County, #2007-565
 2. G. Hump, Ltd., Bryan County #2007-566
 3. Jackson County Water Company, Jackson County, #2007-579
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Edwin Glynn & Karen Stringer, Beckham County, #1977-761
- I. Applications for Regular Permits to Use Stream Water:
None
- J. Applications to Amend Regular Permits to Use Stream Water:
None
- K. Forfeitures of Stream Water rights Due to Nonuse Recommended for Informal-Default Disposition:
None
- L. Well Driller and Pump Installer Licensing:

1. New Operators for Existing Licenses:
 - a. Licensee: Envirotech Engineering & Consulting, Inc. DPC-0283
Operator: Justin Robert Campbell OP-1640
Activities: Monitoring wells and geotechnical borings

M. Dam and Reservoir Construction:
None

N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

1. Oklahoma Turnpike Authority, Cotton County, #FP-08-16
2. Oklahoma Department of Transportation, Woods County, #FP-08-17

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the October 14, 2008 packet of Board materials.

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

A. Update Report on Oklahoma Comprehensive Water Plan Activities. Mr. Kyle Arthur, Director of Planning, provided a brief update of the OCWP activities. He spoke to the members about the notion of "plugging in" of certain organizations and sectors of use, as well as the notion of ensuring reliable supplies and water use sector work groups for demand projections, that include the oil and gas industry, the military installations across the state, Tribal water systems, agriculture industry, federal representations and the industrial community.

Mr. Mike Langston, Oklahoma Water Research Institute updated the members on the Regional Input Meetings. He described the format and participants for the workshops that will follow, as well as the Town Hall meeting that will culminate in the development of the final plan for recommendation to the Legislature. Mr. Sevenoaks commented about his attendance at the Tulsa RI Meeting, as did Mr. Fite. Mr. Smith recognized Mr. Bryan Mitchell, CDM, who has been a great asset in working with the communities. He emphasized the importance of the OWRRI conducting the public meeting process, and research into estimating agriculture use and conservation. Mr. Smith also commented about those groups that do not want certain issues discussed at the public meetings, but that it is to everyone's benefit to discuss those issues, and that everyone has equal access to the process.

Chairman Nichols concluded the discussion with comments about the meetings in Washington, D.C. with the Corps and CDM's participation as well as McClintock Associates.

B. Update on Oklahoma Water Resources Board's FY-09 Strategic Plan. Ms. JaNeal Beougher updated the members on the OWRB Management Team's planning retreat in June at Lake Eufaula. The Lake Eufaula Association President Karen Weldin spoke to the team about the association's activities, as well House of Representative's member Terry Harrison. Board members Rudy Herrmann and Richard Sevenoaks attended.

Ms. Beougher detailed the format and process by which the management team reviewed and developed recommendations for the Oklahoma Water Resources Board FY-09 Strategic Plan, with the overarching High Priority Opportunity, the Oklahoma Comprehensive Water Plan. A written summary of the meeting was distributed.

5. SPECIAL CONSIDERATION

For INDIVIDUAL PROCEEDINGS, a majority of a quorum of Board members, in a recorded vote, may call for closed deliberations for the purpose of engaging in formal deliberations leading to an intermediate or final decision in an individual proceeding under the legal authority of the Oklahoma Open Meeting Act, 25 O.S. 2001, Section 307 (B)(8) and the Administrative Procedures Act, 75 O.S. 2001, Section 309 and following.

A majority vote of a quorum of Board members present, in a recorded vote, may authorize an executive session for the purposes of CONFIDENTIAL COMMUNICATIONS between the public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct the pending investigation, litigation, or proceeding in the public interest, under the legal authority of the Oklahoma Open Meetings Act, 25 O.S. 2001, Section 307(B)(4).

A. Application to Amend Regular Permit to Use Groundwater No. 1984-633, Baxter Gray, Garvin County:

1. Summary – Ms. Julie Cunningham, Planning and Management Division Chief, stated to the members that this item is for the consideration of an application to amend a regular permit to use groundwater by Baxter Gray in Garvin County. The applicant, Patsy Gray, succeeds the permit owner, Baxter Gray who is deceased. The applicant holds a regular permit authorizing 175.36 acre-feet of groundwater per year for rural water district use from 264.5 acres, and an undivided 3/4 interest in 7 acres of dedicated land. The water is currently authorized to be withdrawn from two wells overlying the Gerty Sand Groundwater Basin in Garvin County. The application to amend requests the addition of 76.7 acres of dedicated land, the addition of 49.86 acre-feet of groundwater (for a total of 225.22 acre feet), the addition of four wells, and the request to delete the two previously authorized well locations.

Ms. Cunningham stated the application was protested by several landowners near or adjacent to the additional tracts of land, and based on the use may adversely affect their domestic groundwater well. A hearing was held, and the proposed findings of fact, conclusion of law and Board order state the four points of groundwater law have been met. The Board's spacing rule has been met on three of the four requested additional wells; however, the one well that does not meet the spacing rule and is less than 1320 feet from the protestant's well should be not approved. Staff recommended approval of the proposed findings of fact, conclusions of law and Board order, with the exception the proposed well in Section 10.

2. Discussion and presentation by parties - there were no representatives of the applicant nor the protestant in attendance.

Mr. Fite asked if there had been any changes, and Ms. Cunningham said there were no changes, Mrs. Gray holds the contract with Garvin County Rural Water District #1, which actually maintains the wells. Mr. Drummond asked what kind of evidence is needed to indicate

draw down in a well, and Mr. Smith responded that the spacing rule of 1320 is the burden of proof. If the applicant wants to be closer than 1320, the burden is upon the applicant to show that there will not be significant impact on the well; and if greater than 1320, the protestant has the burden. He added this is a studied basin, and to make that allocation and set the well spacing, the criteria needs to be evaluated very closely because the goal is to keep the wells separated, and if it isn't done and its easy to obtain an exception to the rule, then there is no meat behind the spacing rule. Staff looked very closely in this, particularly where it is densely developed with agriculture use, and it was appropriately recommended not to approve that well. Mr. Drummond asked when the study was conducted, and Mr. Smith said the study was conducted in the early 1980s when he was serving as Division Chief of the Groundwater Division, and the maximum annual yield was set at .65 acre-feet per acre. Mr. Drummond asked how often the determinations are re-evaluated, and Mr. Smith answered this is a relatively small area, and the study was originally conducted because of rural water district use coming into a typically agricultural area. He said there are no representatives here, and while he didn't know why, he suspected that it is because the well-spacing rule is enforced. Ms. Cunningham said Mrs. Gray was aware of staff 's recommendation. Mr. Keeley asked how the .65 acre-feet yield was determined, and Mr. Smith said there were two pump tests on adjacent landowners' land, one he attended, and there was also a lot of data from well logs and mapping.

3. Possible executive session. The Board did not vote to enter executive session.

4. 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

There being no further discussion, Chairman Nichols called for a motion.

Mr. Drummond moved to approve the proposed order to amend regular groundwater permit no. 1984-633, and Mr. Farmer seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols

NAY: None

ABSTAIN: None

ABSENT: Herrmann, Lambert

B. Consideration of Items Transferred from the Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda for discussion.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Monte Boyce, OWRB Comptroller, said the budget report provided is through the end of September. He said 25% of the year has passed, and 65% of the budget has been expended and obligated, and 31% collected. Next month in the October report, he said a new item will be added indicating carryover money from last year.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY

A. Contracts and Agreements Recommended for Approval.

1. Consideration of Grant Contract with The Kerr Foundation, Inc.

Mr. Drummond moved to approve the grant contract with The Kerr Foundation, and Mr. Knowles seconded.

AYE: Drummond, Farmer, Keeley, Sevenoaks, Knowles, Fite, Nichols
NAY: None
ABSTAIN: None
ABSENT: Herrmann, Lambert

8. NEW BUSINESS

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

There were no New Business items for the Board's consideration. Chairman Nichols reminded the members of the Western States Water Council meetings and the 29th Annual Governor's Water Conference and 6th Annual Water Research Symposium. Mr. Sevenoaks asked that at a future meeting a presentation on the groundwater law be made in regard to "pooling" and noncontiguous land. Mr. Smith said at the November meeting that presentation will be made.

9. ADJOURNMENT

There being no further business, Chairman Nichols adjourn the regular meeting of the Oklahoma Water Resources Board at 11:27 a.m. on Tuesday, October 14, 2008.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Jess Mark Nichols, Chairman

_____/s/_____
Rudolf J. Herrmann, Vice Chairman

_____/s/_____
Lonnie Farmer

_____/s/_____
Edward H. Fite

_____/Absent_____
Jack W. Keeley

_____/s/_____
Kenneth K. Knowles

_____/s/_____
Richard Sevenoaks

_____/Absent_____
F. Ford Drummond

ATTEST:

_____/s/_____
Linda P. Lambert, Secretary
(SEAL)