

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

April 14, 2009

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 April 14, 2009, in the Board Room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The April 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 April 7, 2009, at 5:15 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

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

B. Roll Call

Board Members Present

Mark Nichols, Chairman
Rudy Herrmann, Vice Chairman
Linda Lambert, Secretary
Ford Drummond
Lonnie Farmer
Ed Fite
Jack Keeley
Kenneth Knowles
Richard Sevenoaks

Board Members Absent

None

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
Kyle Arthur, Director of Planning

Mike Melton, Executive Administration Division

Others Present

Robert Shelton, City of Tulsa, OK

Paul Smith, City of Moore; Sperry, OK

Tammy Swinburne, Friend Public School, Chickasha, OK

Jeff Basare, Oklahoma Climate Survey-University of Oklahoma, Norman, OK

Mike Mathis, Chesapeake Energy, Oklahoma City, OK

Karl Stichley, C.H. Guernsey & Co., Oklahoma City, OK

Ron Gooch; Pawnee, Harrah, Perkins; Oklahoma City, OK

David Cockrell, City of Mustang, OK

Bobby & Donna McSpadden, Sardis, OK

Cheryl Dorrance, Oklahoma Municipal Utilities Providers/Oklahoma Municipal League,
Oklahoma City, OK

Terry L. Hawkins, Moore Public Works Authority, Moore, OK

John Rehring, CDM/OCWP, Denver, CO

Bryan Mitchell, CDM/OCWP, Norman, OK

Dick Scalf, Ada, OK

Satish Dasharahty, ECI/Moore, Oklahoma City, OK

Angie Burckhalter, Oklahoma Independent Petroleum Association, Oklahoma City, OK

Deborah Minel, Harrah, OK

Earl Burson, Harrah, OK

Tim Williams, JP Morgan, Oklahoma City, OK

Josh McClintock, McClintock Associates, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Nichols stated the draft minutes of the March 10, 2009, Regular Meeting had been distributed. He stated he would accept a motion to approve the minutes. Ms. Lambert moved to approve the minutes, and Mr. Herrmann seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

D. EXECUTIVE DIRECTOR'S REPORT

Prior to Mr. Smith's report, Chairman Nichols announced Mr. Sevenoaks' reappointment to an additional 7-year term as OWRB Board member.

Mr. Duane A. Smith, Executive Director, addressed the members and congratulated Mr. Sevenoaks on his reappointment. He said it has been a busy month with the Legislature in session, and today is a special day for the OWRB in that the first five pieces of the stimulus

money to five well-deserving communities in Oklahoma, will be presented under the Financial Assistance Division agenda items. He said the coordination regarding stimulus funds has been unbelievable, and the accountability and transparency of the funding is critically important and so whatever work the agency has to go through to make sure that we are accountable is worth the time and effort spent so that the general public does not have any uncovering of wasteful spending. The communities are committed, and the OWRB will do everything possible to make sure the money that is going to the communities is spent in the manner required. He introduced two special guests who play a very important role in the stimulus funding, J.D. Strong, Secretary of Environment and OWRB Liaison to the Governor's Office, and Secretary of State Susan Savage who plays an important role in coordinating stimulus with all of the various agencies and has attended meetings in Washington, D.C. and in Oklahoma, and not just on water but all the various stimulus packages.

Secretary Savage spoke to the Board members and said the OWRB staff and OSE office has done a marvelous job in attempting to look at the range of projects that are potentially eligible for the dollars that are coming through the Recovery Act and working through a mechanism meets the goals of the Act--create jobs, look for projects that are ready to move through the process quickly, and add value to the community. The infrastructure dollars are very important and will meet very critical needs, and she said so much work has been done in the past months "ramping up" implementation and it is fun to now see it at this point.

Mr. Smith, Ms. Savage, Mr. Strong, and representatives of the communities took photos with the Board commemorating the event.

Mr. Smith suggested to Chairman Nichols that Mr. Freeman proceed with the Financial Assistance Agenda to consider the projects as recommended.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Friend Public School, Grady County. Recommended for Approval. Mr. Freeman said this first project for the Board's consideration is not associated with the ARRA funding, but is a \$61,500.00 emergency grant request from the Friend Public School located in Grady County. He said the school is discharging onto adjacent property which endangers public health and the DEQ has placed the school under a consent order. In order to solve the problem, the school is constructing a total retention lagoon system consisting of the lagoon, lift station, manholes and liner. It is estimated the project will cost approximately \$82,000.00 with funding secured by \$20,500.00 in local funds, and the requested OWRB emergency grant of \$61,500.00. Staff recommended approval.

Acting Superintendent Tammy Swinburne was present in support of the grant application.

Ms. Lambert moved to approve the emergency grant application to the Friend Public School, and Mr. Keeley seconded.

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

NAY: None

ABSTAIN: None
ABSENT: None

B. Consideration of and Possible Action on a Proposed Order Approving Funding Application for Pawnee Public Works Authority, Pawnee County. Recommended for Approval.

Mr. Freeman said that this application by the Pawnee Public Works Authority was originally approved by the Board at the December 2008 meeting but is presented today in order that a portion of the project can be funded by the American Recovery and Reinvestment Act, also known as ARRA. The funding request in the amount of \$5,575,000.00 is to repair and replace approximately 4,000 feet of sewer line, clean 10,000 feet of sewer line, install 30 manholes, and raise 72 manholes and clean and seal additional manholes. The project will be funded through the Clean Water SRF funds and the ARRA funds made available in an amount not less than 20% -- the target amount of providing 30% of ARRA funds. Mr. Freeman noted provisions of the loan agreement; the debt-coverage ratio stands at approximately 2-times, and staff recommended approval of the loan application.

Mayor Tom Briggs; Ron Gooch, Engineer; and Rick Smith and Worley Aiken, financial advisors were all present in support of the loan request.

Mr. Drummond moved to approve the Clean Water SRF application for the Pawnee Public Works Authority, and Mr. Fite seconded.

Mr. Herrmann asked if this loan has already been approved, does this meet the intent of the stimulus package if we are now diverting new money to something that has already been approved using an existing mechanism that is already in place. Mr. Freeman said the loan had not been funded or closed, and the Act is written so that even if the loan had been closed the loan it could be refinanced up to the beginning of the federal fiscal year as of October 1, allowing those communities that staff has been working with after original approval to have the advantage of the funding. Mr. Herrmann asked if there is an incremental stimulus benefit. Mr. Freeman said it will get the project built, and include additional projects with the additional cash flow.

There being no other questions, Chairman Nichols called for the vote.

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

C. Consideration of and Possible Action on a Proposed Order Approving Funding Application for Harrah Public Works Authority, Oklahoma County. Recommended for Approval.

Mr. Freeman stated the Harrah Public Works Authority has requested \$1,630,000.00 to upgrade its existing wastewater treatment plant by raising the digester wall, constructing a belt press building and to install the belt press. The project will be funded with Clean Water SRF loan funds and ARRA funds will be made available in an amount not less than 20% of the project's cost, with a targeted goal of 30% of ARRA funding. Mr. Freeman noted provisions of the loan agreement; the debt coverage ratio is 2.4-times, and staff recommended approval.

Mr. Earl Burson, City Manager, and Mr. Jon Wolfe, financial advisor, were present in support of the loan application.

Mr. Fite moved to approve the Clean Water SRF application to the Harrah PWA, and Mr. Drummond seconded.

Mr. Herrmann asked if this application is new money and has not been previously approved; and Mr. Freeman responded that is correct. There were no other comments.

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

NAY: None

ABSTAIN: None

ABSENT: None

D. Consideration of and Possible Action on a Proposed Order Approving Funding Application for Mustang Improvement Authority, Canadian County. Recommended for Approval. Mr. Freeman stated to the members that this \$8,140,000.00 funding request is from the Mustang Improvement Authority, located in Canadian County. He said this loan was originally brought to the Board in January 2009. He said the loan proceeds are expanding the existing treatment capacity from 1.5 MGD to 2.0 MGD, and the design will allow for expansion of up to 3.0 MGD. The project will be funded with Clean Water SRF and ARRA funds. Mr. Freeman noted provisions of the loan agreement; the debt coverage ratio stands at 2.7-times, and staff recommended approval.

Mr. David Cockrell, City Manager, and Mr. Jon Wolfe, financial advisor, were present in support of the funding application.

Mr. Knowles moved to approve the loan to the Mustang Improvement Authority, and Ms. Lambert seconded.

Mr. Herrmann asked if this loan has been previously approved; Mr. Freeman responded that it had. Mr. Herrmann stated the project would go forward without this action today, and Mr. Freeman answered it would, but Mustang could not take advantage of the ARRA funds.

Mr. Sevenoaks stated he didn't understand Mr. Herrmann's comments; there are ARRA funds available, these projects are shovel ready, and have been vetted by the OWRB staff, and this is what the stimulus is asking be done--put dollars into the community, have projects that are shovel ready, and go, and these are ready to go. Mr. Herrmann responded that his only concern is that these were already approved, and there's minimal incremental benefit.

There being no further comments, Chairman Nichols called for the vote.

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

NAY: Herrmann

ABSTAIN: None

ABSENT: None

E. Consideration of and Possible Action on a Proposed Order Approving Funding Application for Tulsa Metropolitan Utility Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated that this item is an \$8,375,000.00 funding request by the Tulsa Metropolitan Utility Authority to fund engineering and construction of the City's Northside wastewater treatment plant anaerobic digesters, and the Southside wastewater treatment plant odor control system. The projects will be funded with Clean Water SRF loan funds, and ARRA funds consistent in the manner previously described. Mr. Freeman noted provisions of the loan agreement. He said that Tulsa currently has eighteen loans with the Board with a principal balance of approximately \$103,000,000.00. The debt coverage ratio stands at 1.4-times, and staff recommended approval.

Mr. Bob Shelton, City Engineer, was present in support of the loan application.

Mr. Herrmann asked if the loan has been previously approved, Mr. Freeman stated it has not.

Mr. Fite moved to approve the CWSRF loan application to the TMUA, and Mr. Herrmann seconded.

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

F. Consideration of and Possible Action on a Proposed Order Approving Funding Application for Moore Public Works Authority, Cleveland County. Recommended for Approval. Mr. Freeman stated this item is a \$32,000,000.00 funding request from the Moore Public Works Authority. Moore is requesting the funds for construction of two storage basins with approximately six million gallons of storage capacity, four displacement blowers and piping, approximately 1,800 feet of line work and construction of a 9 MGD wastewater treatment plant. Mr. Freeman said the loan will be funded with Clean Water SRF funds and ARRA funds in an amount not to exceed two million dollars. Mr. Freeman noted provisions of the loan agreement; he said that Moore's water and sewer connections have increased by over 40% in the last ten years; Moore has been long-time loan customer of the Board's and currently has one loan outstanding. The debt coverage ratio stands at 7.0-times, and staff recommended approval.

Mr. Steve Eddy, City Manager, Mr. Jim Corbett, Finance Director, and Mr. Paul Smith, Financial Advisor, were present in support of the loan application.

Chairman Nichols reminded the Board there is a \$2 million cap on the ARRA funds.

Mr. Herrmann moved to approve the CWSRF loan to the Moore Public Works Authority, and Mr. Sevenoaks seconded.

Mr. Sevenoaks if the project included overflow basins or daily operational basins? Mr. Satish Dasharaty, project engineer, answered these are overflow basins that are needed for operational purposes, in order to make the 9 MGD project work. Mr. Sevenoaks asked there were odor control measures in place and Mr. Dasharaty replied there are throughout the project.

There were no other comments, and Chairman Nichols called for the vote.

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

Mr. Duane Smith thanked the communities and their service providers for attending the meeting today and for the job they have done in getting the projects ready. He also thanked Secretary Strong and Secretary Savage for attending. Mr. Keeley added the OWRB staff deserved appreciation for their response to the stimulus projects.

1.D. (continued) Chairman Nichols asked Mr. Smith to continue with the Executive Director's report. Mr. Smith stated that the Red River Compact Commission will meet in Bossier

City, Louisiana, April 28, 2009. He said this is the annual meeting, and the biggest issue coming up is the reallocation of water at Lake Texoma from the flood control pool to the water supply pool. Congress approved the Corps of Engineers to conduct the reallocation study, with one-half of the water to Oklahoma and one-half to Texas. This item will be discussed at the meeting by the COE, basically all the study work has been completed and they are ready to approve that reallocation of the storage. For those communities that are going to use water from Lake Texoma, the COE has calculated costs. There is a variety of ways to calculate storage costs for Lake Texoma--one way is to use updated costs, or what would it cost to build the reservoir today and then compared to lost revenue from hydropower so as more water is taken from the hydropower pool and put it into water supply, there are lost revenues that can be evaluated; whichever is the higher is what the cost of storage will be. He anticipated the storage for the Texas communities will be fairly expensive. He said there is an application from a Texas entity to use a portion of Oklahoma's allocation, so all these issues will be discussed. The applicant is the Upper Trinity.

Dr. Will Focht and Mr. Derek Smithee have been working with Texas State University on nutrient evaluation in the Red River Basin, and that will be presented to the Commission. On May 6-7, the Lake Texoma Advisory Committee will meet where the various interests around the lake get together to discuss issues, i.e., stimulus dollars to upgrade areas of the lake, etc. will be discussed. Following that, the Leadership Oklahoma will meet in Durant and Mr. Smith will be speaking there about the updates to the OCWP.

Mr. Smith announced the Oklahoma Water Plan Science Workshop is scheduled May 14-15, at the Oklahoma City MetroTech. Last year the agency sponsored a water law workshop; this event will look at hydrologic studies and required components to do technical evaluations. The workshop is primarily for the water plan participants, and the following month the three plan workshops will begin to be held.

Mr. Smith concluded his report stating the Financial Disclosure Statements are due May 15.

3. SUMMARY DISPOSITION AGENDA ITEMS

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

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

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. Lease Agreement Renewal with ELF Properties, LLC for renewal of lease for McAlester Office.
2. Intergovernmental Agreement between OWRB and the Board of Regents of the University of Oklahoma Quantifying Evaporation and Effective Precipitation Across Varying Seasonal and Within-Season Climatic Signals Across Oklahoma, in Support of the State Comprehensive Water Plan.
3. Amendment of Joint Funding Agreement with USGS entitled “Trends in Base and Total Flows of Selected Streams within Oklahoma through 2007”.
4. Second Amendment Agreement with the Office of the Secretary of the Environment for the Clean Water Act FY 05 §104(b)(3) Water Quality Cooperative Agreement, CA# CP-966144-01.
5. Modification of Agreement between Oklahoma Water Resources Board and Oklahoma State University for State Water Plan Assistance.
6. Contract Renewal with Norstan Communications, Inc. d/b/a Black Box Network Services to provide PBX system maintenance.

E. Applications for Temporary Permits to Use Groundwater:

1. Wilshire Land Co., L.L.C., Oklahoma County, #2008-576
2. Black Mesa Sand, L.L.C., Cimarron County, #2008-579
3. Bryan Kroeker, Kingfisher County, #2008-593

- F. Applications to Amend Temporary Permits to Use Groundwater:
None
- G. Applications for Regular Permits to Use Groundwater:
1. Seminole County Rural Water District No. 7, Seminole County, #2008-535
 2. Gwynne Dale Sr. & Anna Lou Caid, Gwynne Dale Jr. & Debra Kay Caid, Anna Lou Caid Living Trust and Dale Caid Living Trust, Greer County, #2008-572
 3. L. Mark & Deidra Damron, Beckham County, #2008-595
- H. Applications to Amend Regular Permits to Use Groundwater:
1. John Coffman, Greer County, #1996-571
- I. Applications to Amend Prior Rights to Use Groundwater:
None
- J. Applications for Regular Permits to Use Stream Water:
1. Lafarge North America, Inc., Tulsa County, #2008-031
- K. Forfeitures of Stream Water Rights Due to Nonuse Recommended for Informal-Default Disposition:
1. C. A. Denning, Jr., Jefferson County, #1971-409
 2. James Maniaci, Beckham County, #1962-171
 3. James Maniaci, Beckham County, #1962-171A
 4. C. G. Fuchs, Jr./Butcher Boy Enterprises, Beckham County, #1967-452
 5. C. G. Fuchs, Jr./Butcher Boy Enterprises, Beckham County, #1968-143
 6. Robert Lowe, Jr., Grady County, #1952-095
 7. Luther or Evelyn Nunley, Grady County, #1958-368
 8. Luther or Evelyn Nunley, Grady County, #1966-117
 9. Hershel McCarty/McCarty Farm, Inc., Grady County, #1962-129
 10. Lynn Koehn, Grady County, #1966-642B
 11. Lynn Koehn, Grady County, #1966-683
 12. J. L. Shelby, Grady County, #1967-824
 13. Glen Christian, McClain County, #1969-003
 14. Fred & Carolyn Suchy/S & S Ranch, Inc., McClain County, #1995-001
 15. Gordon Travis, Custer County, #1939-015
 16. Paul or Dosia Jackson, Jr., Caddo County, #1949-123
 17. Henry Johnson, Custer County, #1950-001
 18. Claude Milwee, Washita County, #1951-088
 19. Barton Rackley, Washita County, #1953-060
 20. Equitable Variable Life Insurance Co./J. P. Reimer, Washita County, #1953-318
 21. W. E. Ireton/Ireton Farms, L.L.C., Dewey County, #1954-477
 22. Chester Rice, Washita County, #1954-1145
 23. Lowell Sheperd/Kirby Sheperd, Washita County, #1954-1313
 24. E. S. Greteman, Washita County, #1955-211
 25. Genetia Bryant/Russell Johnson, Caddo County, #1955-1089

26. Genetia Bryant/Russell Johnson, Caddo County, #1958-050
27. Gary Pierce/J. P. Reimer, Washita County, #1958-031
28. Troy & Virginia Taylor, Caddo County, #1961-144
29. Roger Stockton/Randy Meachum, Custer County, #1963-468
30. Alfred Fobes, Washita County, #1964-938
31. Fred Hale/Hale Farms, Caddo County, #1965-381
32. Commissioners of Land Office, Caddo County, #1966-105
33. Claude Millwee/Randy Holsted, Washita County, #1967-218
34. J. P. Reimer, Washita County, #1968-461A
35. Marvin Jackson, Jr., Caddo County, #1969-116
36. Marvin Jackson, Jr., Caddo County, #1969-117
37. E. H. Mannschreck, Caddo County, #1969-252
38. H. W. Pitzer, Washita County, #1970-152
39. Mae Roach, Caddo County, #1970-188
40. Lorene Flaming, Washita County, #1970-320
41. Perry Price, Washita County, #1970-322
42. Harold W. Cooper, Washita County, #1971-437
43. Kenneth Thornbrough, Washita County, #1972-459
44. Kenneth Thornbrough, Washita County, #1973-152
45. Arthur & Joi Salisbury, Washita County, #1973-018
46. Fred Farmer/Dennis Farmer, Caddo County, #1974-198
47. Hubert & Mamie Holsted, Caddo County, #1975-062
48. John Hinz/Joe Hinz, Washita County, #1982-072
49. Fred Wunderlich, Caddo County, #1982-118
50. Roy Shepherd, Custer County, #1954-311
51. Derman/Darrel Shepherd, Custer County, #1953-796
52. Hadley Hudgins, Custer County, #1982-040
53. Kenneth Robertson, Dewey County, #1954-282
54. Cornell Cattle Co., Inc., Custer County, #1989-017
55. Raymond Ferguson/Cecil Don & Phyllis Janice Martin, Caddo County, #1989-027
56. Michael & Evelyn Reiss, Caddo County, #1994-045
57. Emil Larson Trust, Washita County, #1994-023
58. John Teeman/Alvin Schimmel, Caddo County, #1961-040
59. Irvin & Elma Nix, Kiowa County, #1999-036
60. E. M. Arnold/JLM Farm, L.L.C., Caddo County, #1954-359
61. R. J. Wesner/Kenneth Smith, Washita County, #1965-510
62. Howard Calhoun/Ann, J. E. or Nancy Calhoun, Grady County, #1955-320

L. Well Driller and Pump Installer Licensing:

1. New Licenses, Accompanying Operator Certificates and Activities:

- | | |
|--------------------------------|----------|
| a. Licensee: Jay Pump | DPC-0755 |
| 1. Operator: John L. Christian | OP-1684 |
| Activities: Pump installation | |
| 2. Operator: John C. Christian | OP-1690 |
| Activities: Pump installation | |

- b. Licensee: S & M Drilling DPC-0759
 - 1. Operator: Kirk Stephenson OP-1688
 - Activities: Groundwater wells, test holes and observation wells
 - Pump installation
 - c. Licensee: Miller Well Drilling DPC-0761
 - 1. Operator: Dennis W. Miller Jr. OP-1147
 - Activities: Groundwater wells, test holes and observation wells
 - d. Licensee: B & H Construction, Inc. DPC-0765
 - Operator: Larry Cox OP-1246
 - Activities: Groundwater wells, test holes and observation wells
 - Heat exchange wells
2. New Operators for Existing Licenses:
- a. Licensee: Talon/LPE DPC-0619
 - 1. Operator: Robert Hill, Jr. OP-1694
 - 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 Department of Transportation, Bryan County, #FP-09-01
- 2. Oklahoma Department of Transportation, Noble County, #FP-09-03
- 3. Oklahoma Department of Transportation, Noble County, #FP-09-04
- 4. Oklahoma Department of Transportation, Noble County, #FP-09-05
- 5. Oklahoma Department of Transportation, Canadian County, #FP-09-06
- 6. Oklahoma Department of Transportation, Oklahoma County, #FP-09-07

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the April 14, 2009 packet of Board materials

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

A. Update Report on Oklahoma Comprehensive Water Plan Water Quality Programs Activities.

Mr. Derek Smithee, stated to the members that he would be giving a blended presentation on the Oklahoma Comprehensive Water Plan (OCWP) Water Quality Management Activities. He said he had recently presented to the Leadership Altus group, and Chairman Nichols asked that he give this presentation to the Board about how the water quality standards team and the water planning activities are working together.

Mr. Smithee introduced the staff of the water quality standards program, he discussed the myriad of agencies and the use of the state's water quality standards as a living document updated triennially. He said the OCWP concept embraces holistic water management, not

just public and private water supply and demand model. He said the staff is looking at areas where water management can be improved through the development of the water plan such as water quality, water quantity, hydrology, climate and many other issues.

Mr. Smithee illustrated with a PowerPoint presentation the permitting requirements process, evaluation implementation, and monitoring and assessment. He described how and through what mechanisms (particularly development of water quality standards and implementation methodology and components of these documents) water quality fits into the holistic management paradigm by determining availability and quality of water supplies, protecting the water supplies and finding ways to improve water supplies while also protecting recreational integrity, ecologically ensuring agriculture use, navigation use, endangered species, and downstream uses.

Mr. Smithee and the Board members discussed the incorporation of non-consumptive uses (instream flows, etc.) into the OCWP, and major gaps in the ability to obtain the best data in order to acquire sound quality data for sound quality decision making, i.e., costs of the program and impacts due to reduced budgets in the future, and accessibility of the data.

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. In the Matter of Stream Water Right No. 1954-551 of Sue McCoy, Stream System 1-8-2, Garvin County, Oklahoma:

1. Summary – Ms. Julie Cunningham, Chief, Planning and Management Division, stated to the members that this item is for the consideration of cancellation of stream water right 1954-551 in the name of Sue McCoy. She reported that the completion of cancellations and reduction review of the Red River basin is nearing, and from this particular subbasin--lower Washita River, Latimore, Grady and Garvin Counties--one party attended the hearing on February 25 providing evidence the water had not been used since 1986. Staff recommended approval of the proposed findings of fact and proposed order determining the right has been lost due to nonuse.

2. Discussion and presentation by parties. Chairman Nichols noted that Ms. McCoy was not in attendance at the hearing. Mr. Drummond clarified that Ms. McCoy would be able to re-apply for the water right, and Ms. Cunningham answered that is correct.

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

Ms. Lambert moved to approve the proposed findings of fact and conclusions of law cancelling stream water permit no. 1954-551, and Mr. Herrmann seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

B. Consideration of Approval of the Following Applications for Water Conservation Grants in Accordance with the Proposed Orders Approving the Grants: Mr. Kyle Arthur, Director of Planning, stated to the members that for a long time the OWRB has supported and encouraged--as a matter of policy and as a matter of practice--water conservation. He quoted Senator Inhofe's statement at a recent Congressional committee meeting regarding the importance of conservation to improve infrastructure and economic development. Mr. Arthur mentioned that through the recent water provider surveys, it was clear that water conservation is needed and desired, and tools will be provided through the OCWP that will help water providers assess and employ a variety of tools and conservation programs, such as through the water planning gap tool and in a quantitative sense determine how certain water conservation programs, policies and practices will allow communities to see what reductions could occur as they plan for the future. He mentioned the Oklahoma State University Department of Agricultural Economics is looking at water conservation policies, funded in part by the OWCP through the OWRRI, and looking at available water policy conservation tools, feasibility for local participation, and relative cost and water savings. But furthermore, in forming stakeholder input from water planners and managers from across the state, getting a sense of needs, concerns, and impediments experienced in implementing water conservation programs. He said this is a very important part of the OCWP.

Mr. Arthur stated that change often begins on a small scale, and the Oklahoma State Legislature, and in particular Representative Kris Steele of Shawnee, recognized this need and provided legislation for funding water conservation projects. The OWRB through the OCWP also recognized the need and established the process and dedicated the funding to implement the program, passing emergency rules acknowledging something needed to be done sooner, rather than later. Mr. Arthur stated the following six projects are recommended for approval and include rainwater harvesting, zeriscape gardening, elementary school education, neighborhood-driven green building initiatives and strategies, drip irrigation gardening and others.

Chairman Nichols asked if there is a maximum amount for each project, and Mr. Arthur answered \$7,000 for each project.

Mr. Herrmann enthusiastically moved to approve the six water conservation grant projects as presented, and Mr. Fite seconded.

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

NAY: None

ABSTAIN: None

ABSENT: None

The following projects were approved:

Water Conservation			Amount
<u>Application No.</u>	<u>Entity Name and Project</u>	<u>County</u>	<u>Recommended</u>
OWCGP-2009-10	OSN Chapter Sustainable Stillwater Skyline Elementary School Garden Rainwater Recycling Initiative	Payne	\$6,063.95
OWCGP-2009-01	Jefferson Elementary School Parent Teacher Association Norman Jefferson Elementary School Water Conservation and Outdoor Classroom Project	Cleveland	\$7,000.00
OWCGP-2009-08	Sustainable Shawnee Shawnee Water Conservation Education Program	Pottawatomie	\$4,450.00
OWCGP-2009-06	City of Tahlequah Rainwater Harvesting Model	Cherokee	\$4,944.04
OWCGP-2009-09	Community Association of Sparrow Hawk Sparrow Hawk Village Water Conservation Project	Cherokee	\$6,939.00
OWCGP-2009-12	City of Guymon Fire Station One Zeriscape	Texas	\$5,603.00

C. Items transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda for further consideration.

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Monte Boyce, OWRB Comptroller, said the budget report is the budget-to-actual report for the month ending March 31, 2009. He said that the agency has completed 75% of the fiscal year; expended and obligated 87% of the budget and collected 72% of the budget.

Mr. Herrmann asked the projected revenues for this fiscal year. Mr. Smith answered the agency is anticipating 5%-10% cut in the state budget for next year, but at this time there is no

feedback that the state appropriated dollars would be reduced this year, although agencies have addressed the question. He added that with the downturn in the economy, and in particularly in oil and gas drilling, on an annualized basis the agency is looking at about \$150,000.00 less in fees collected from oil companies that apply for water permits and the drilling of oil and gas wells---an impact the agency has not seen at this magnitude. He also said that the litigation the agency is currently involved in, the agency is tracking tens-of-thousands of dollars in preparation for litigation activities. Combining that litigation increase, the lack of fees collected, and a proposed budget cut, there is concern.

Mr. Sevenoaks asked about the time accounting for the litigation work. Mr. Smith said that the staff time is budgeted, but other work tasks--public hearings, etc.,--don't get done. There were no other questions or discussion.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY

There were no Supplemental Agenda items for the Board's consideration.

8. PROPOSED EXECUTIVE SESSION

Chairman Nichols

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(4) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of confidential communications between a 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 a pending investigation, litigation or proceeding in the public interest.

Pursuant to this provision, the Board proposes to hold an executive session for the purpose of discussing *United States v. State of Oklahoma* and *OWRB*, and *Tarrant Regional Water District v. Herrmann*, and *Barby v. OWRB and DF&D*.

Chairman Nichols announced a break at 10:50 a.m. until 11:00 a.m. to await arrival of the Attorney General's office representative. The Board reconvened at 11:00 a.m. to consider the following:

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.

Mr. Farmer moved to enter executive session, and Mr. Drummond seconded. Chairman Nichols asked for the vote.

A YE: Sevenoaks, Herrmann, Keeley, Drummond, Farmer, Fite, Knowles,
Lambert, Nichols

NAY: None

ABSTAIN: None
ABSENT: None

B. Designation of person to keep written minutes of Executive Session, if authorized.
Chairman Nichols asked Executive Secretary Mary Schooley to keep written minutes of the executive session. Chairman Nichols stated Mr. Dan Weitman, Attorney General's office, Secretary of Environment J.D. Strong would also attend, as well as OWRB Executive Director and General Counsel's office.

C. Executive Session, if authorized. The Board entered executive session at 11:01 a.m.

D. VOTE(S) ON POSSIBLE ACTION(S), IF ANY, RELATING TO MATTERS DISCUSSED IN EXECUTIVE SESSION IF AUTHORIZED

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

Upon motion by Mr. Sevenoaks to enter regular session, and seconded by Ms. Lambert, the members unanimously voted to return to open session:

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

NAY: None

ABSTAIN: None

ABSENT: None

The Board returned to regular session at 12:06 p.m. The Board did not vote on any matter or take any action as a result of the executive session.

Chairman Nichols stated that while in executive session, the Board discussed the three matters of litigation involving the OWRB as indicated on the agenda.

9. 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 Water Resources Advisory Board members that meeting would convene in the Executive Conference Room immediately.

10. ADJOURNMENT

Ms. Lambert moved to adjourn the meeting, and Mr. Sevenoaks seconded. Chairman Nichols adjourned the meeting of the Oklahoma Water Resources Board at 12:08 p.m. on Tuesday, April 14, 2009.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Jess Mark Nichols, Chairman

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

_____/s/_____
Lonnie Farmer

_____/s/_____
Edward H. Fite

_____/s/_____
Jack W. Keeley

_____/s/_____
Kenneth K. Knowles

_____/s/_____
Richard Sevenoaks

_____/s/_____
F. Ford Drummond

ATTEST:

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