

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
November 8, 2011

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Linda Lambert at 9:30 a.m., on November 8, 2011, at the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

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 November 1, 2011 at 5:15 p.m. at the Oklahoma Water Resources Board's offices.

A. Invocation

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

B. Roll Call

Board Members Present

Linda Lambert, Chairman
Ford Drummond, Vice Chairman
Joe Taron, Secretary
Marilyn Feaver
Ed Fite
Rudy Herrmann
Richard Sevenoaks
Tom Buchanan

Board Members Absent

Kenneth Knowles

Staff Members Present

J.D. Strong, Executive Director
Dean Couch, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Julie Cunningham, Chief, Planning and Management Division
Derek Smithee, Chief, Water Quality Programs Division
Amanda Storck, Chief, Administrative Services Division
Kyle Arthur, Director of Planning
Josh McClintock, Director of Government and Public Affairs
Mary Schooley, Executive Secretary

Others Present

Erin Boeckman, eCapitol, Oklahoma City, OK

Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK

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

Sue Ann Nicely, Oklahoma Municipal League, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Lambert asked if there were any amendments to the draft minutes of the October 17, 2011, Regular Meeting. There being none, Mr. Drummond moved to approve the minutes and Dr. Taron seconded.

AYE: Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann,
Lambert

NAY: None

ABSTAIN: None

ABSENT: Knowles

D. EXECUTIVE DIRECTOR'S REPORT

Prior to Mr. Strong's report, Chairman Lambert commented this is the first time in five years there has not been a report on the agenda for an Update on the Comprehensive Water Plan, and the first time she was aware there were no Financial Assistance Division items for the Board's consideration.

Mr. J.D. Strong, Executive Director, said to the members the Water Plan is done, and implementation will now "kick in;" The Board's Legislative Committee met prior to the meeting today to talk about what is anticipated to be a very active Session from what he understood from the Legislative Leadership. He invited Mr. Josh McClintock to address the members and review the distributed legislative report.

Mr. McClintock mentioned that Rep. Dale DeWitt had been named Majority Floor Leader; he noted the legislative deadlines for the 53rd Legislature, Second Session. He said that with the Continuing Resolution near expiration, Congress is working on a "minibus" bill which is actually three different bills, with hopes of working on a second bill this week. Mr. Strong added Western States Water Council counterparts are meeting in Washington, D.C. this week, and he will participate on a conference call with EPA on waters of the state issues. Other matters of discussion regards the 30% on SRF funding, and he will be going to Washington, D.C. to meet with Kansas and Texas counterparts with the Corps of Engineers to talk about water supply projects as higher priority for funding to address water supply issues, as well as working with states to develop comprehensive water plans (which they have done with Oklahoma, but not so positive with other states), and also to have them "on board" for implementation. A meeting was held last January in Norman to begin the steps.

Mr. Strong said the Joint Legislative Committee on Water met on November 2 to hear from six individuals and one agency head. Mr. McClintock attended the Town Hall on Economic Development, Mr. Couch and Mr. Arthur participated in a Leadership Oklahoma

meeting on October 29 regarding tribal issues and water planning; next week he will meet with American Farmers and Ranchers Policy Board. Lastly, he said the schedule of regular meetings is required to be filed by December 15 each year. He noted the distributed proposed list of 2012 meetings, and because Water Day at the Capitol is scheduled for February 13 (Monday) the members agreed to meet on Monday in the morning in order to attend the Capitol activities in the afternoon. The members also discussed the possibility of conducting the regular meetings at 1:00 or 1:30 p.m. rather than the usual 9:30 a.m. meetings to save on travel expenses; no consensus was reached on changing the time of the meetings. They also mentioned the desire to conduct meetings outside the Oklahoma City area as the budget allows.

Ms. Lambert asked about the Town Hall and any discussion of tying economic development to the Comprehensive Water Plan. Mr. McClintock responded there was no specific discussion about the water plan, but most discussions regarded Tribal issues, tourism and recreation aspects and the plan priority recommendations, and there is mention of the OWRB's completion of the OCWP in the final Town Hall Report, but mostly general discussion. Mr. Buchanan asked about the meetings with the other states and the COE and if discussions were about water storage or future projects. Mr. Strong responded typical issues regard existing reservoirs and better cost-share, reallocation costs, updated storage costs which are dealt with broadly and translate into giant costs, and calculating costs for storage and operation and maintenance. Also, discussions will be about the COE funding coming to the states and allowing the states decide how it should be spent, i.e., more state-led prioritization which is supported by the Oklahoma Delegation. Mr. Sevenoaks spoke to the cost of storage and that people are not aware of the inherent costs.

Mr. Strong concluded his report.

E. Monthly Budget Report

Ms. Amanda Storck

Ms. Amanda Storck addressed the members and said that there is 67% of the fiscal year remaining, with 78% of the budget. She said she is preparing the budget revisions for carryover and other unforeseen monies that have come in.

Mr. Drummond asked about the unforeseen monies, and Ms. Storck said that there have been some grants awarded that were not originally anticipated. Ms. Cunningham said she had received a FEMA grant for the dam safety program (same amount as received last year), and Mr. Smithee said he had received grants through the Grand River Dam Authority for work on W.R. Holway, and partnering with the DEQ to use fine dollars (environmental restoration funds) to support the gaging network and blue-green algae monitoring. Mr. Strong noted this is one-time money and will not be available next year.

There were no other questions by members.

2. FINANCIAL ASSISTANCE DIVISION

There were no Financial Assistance Division Agenda items for the Board's consideration.

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.P.

Chairman Lambert asked if there were any other changes to the Summary Disposition Agenda in addition to those noted on the agenda. There were no other changes, and no questions or discussion. Chairman Lambert asked for a motion to approve the Summary Disposition Agenda.

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

AYE: Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann, Lambert

NAY: None

ABSTAIN: None

ABSENT: Knowles

The following items were approved:

C. Financial Assistance Division Items:

No items.

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

1. Interagency Agreement with the Grand River Dam Authority for Monitoring Plan for Salina Project/W.R. Holway Reservoir.
2. Agreement for Professional Engineering Services with Meshek & Associates, PLC for Dam Breach Analysis and Mapping.

E. Applications for Temporary Permits to Use Groundwater:

1. Wayne A. Jacques and Edna Louise Jacques 1989 Revocable Trusts, Caddo County, #2011-504
2. Terry & Barbara Ryan, Grant County, #2011-530
3. Gum Springs Farms, L.L.C., Delaware County, #2011-572
4. Andy & Nicole Reimer, Major County, #2011-579

5. Bobby Lynn & Carolyn Miller, Bryan County, #2011-586
6. Bobby Lynn & Carolyn Miller, Bryan County, #2011-587
7. Nghi Truong & Diem Nguyen, Delaware County, #2011-588

F. Applications to Amend Temporary Permits to Use Groundwater:
None

G. Applications for Regular Permits to Use Groundwater:

- 1. Eddie Zaloudek & Sons, Inc., Garfield County, #2011-585 *Item withdrawn*
 2. Rodney & Luanna Chitsey, Lincoln County, #2011-608
 3. Fischer & Fischer, Texas County, #2011-626
- 4. Boone Operating, Inc., Seminole County, #2011-629 *Item withdrawn*
 5. I P Eat Four, L.L.C., McCurtain County, #2011-633

H. Applications to Amend Regular Permits to Use Groundwater:

1. Town of Shattuck, Ellis County, #1978-562
2. Harvey White, Custer County, #1994-510

I. Applications to Amend Prior Rights to Use Groundwater:
None

J. Applications to for Regular Permits to Use Stream Water:

- 1. Clear Creek Farms, L.L.C., Kingfisher County, #2011-031
 2. City of Broken Arrow, Tulsa County, #2011-036 *Item withdrawn*
 3. Vernon H. & Cora Belle Lenaburg, Caddo County, #2011-040
 4. Robert B. Knight, Creek County, #2011-043
 5. W. G. Townsend, Lincoln County, #2011-045
 6. Greenhill Materials Co., L.C., Rogers County, #2011-046

K. Applications for Term Permits to Use Stream Water:

1. Select Energy Services, Alfalfa County, #2011-022
2. Select Energy Services, Grant County, #2011-023
3. Select Energy Services, Grant County, #2011-024

- L. Proposed Resolution Appointing Persons to Serve as Members of the Water Well Drillers and Pump Installers Advisory Council: *Names of persons to serve as members are individually set out in the November 8, 2011 packet of Board materials. Item added*

M. Well Driller and Pump Installer Licensing:

1. New Licenses, Accompanying Operator Certificates and Activities:
 - a. Licensee: Matthew A. Toews DPC-0845
 Operator: Matthew A. Toews OP-1874
 Activities: Groundwater wells, test holes and observation wells
 Pump installation
 Heat exchange wells
 - b. Licensee: Radiant Water Pumps and Purification Company, LLC DPC-0847

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|---|----------|
| 1. Operator: Albert Brandt | OP-1875 |
| Activities: Pump installation | |
| c. Licensee: Scott Drummond | DPC-0849 |
| 1. Operator: Scott Drummond | OP-1876 |
| Activities: Groundwater wells, test holes and observation wells | |
| Pump installation | |

N. Dam and Reservoir Construction:

1. Broken Arrow Municipal Authority, Wagoner County, #OK30266
2. Cimarex Energy Corporation, Canadian County, #OK30394

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

1. Oklahoma Department of Transportation, Garvin County, #FP-11-31
2. Oklahoma Department of Transportation, Garvin County, #FP-11-32
3. Oklahoma Department of Transportation, Jackson County, #FP-11-33
4. Oklahoma Department of Transportation, Jackson County, #FP-11-34
5. Oklahoma Department of Transportation, Garfield County, #FP-11-35
6. Oklahoma Department of Transportation, Grant County, #FP-11-36
7. Oklahoma Department of Transportation, Carter County, #FP-11-37
8. Oklahoma Department of Transportation, Ottawa County, #FP-11-40

P. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the November 8, 2011 packet of Board materials.

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

There were no items of discussion by Board members.

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 for Regular Permit to Use Groundwater No. 2010-562, Long Family Partnership, Texas County:

1. Summary – Ms. Julie Cunningham, Chief, Planning and Management Division, stated to the members this application is for a regular permit to use groundwater in Texas County by the Long Family Partnership. She said the request is to take and use a total of 3,040 acre-feet of water per year for irrigation purposes from four wells (three are completed, one yet to be drilled) located on 1,520 acres of dedicated land in Texas County. The record shows the applicant has met the four points of law: has a valid right to the dedicated land, the land overlies the Ogallala Panhandle Region Groundwater Basin (for which the maximum annual yield and equal proportionate share has been determined and each landowner is therefore entitled to two acre-feet per acre); irrigation is a beneficial use, and waste will not occur (waste by pollution uncontested and no indication the applicant will waste water in future). Ms. Cunningham said plugging reports have been provided for six test holes and the order states any other test holes will be plugged and completed prior to use of any water under the permit. Additionally, while the hearing examiner determined there would not be any waste of water in the future, there has been use of water from the wells, as the applicant received a 90-day permit in order to get the wells permitted in 2010. No evidence establishes that in the future the applicant would take and use water without a permit, take more than authorized, or use water inefficiently.

Ms. Cunningham said that in a studied basin, well spacing requirement does apply and in this case two wells are located within the spacing requirement of an existing well on the property of Mr. Marvin Mathis. The application was protested with spacing the primary issue and a hearing was conducted. It was determined by the hearing examiner, however, that in this case there was no authorized well within the spacing of 1320 feet. Ms. Cunningham read the Board's rules regarding spacing, noting that for the spacing requirement to apply the well needed to be either a domestic well or authorized under a permit, and in this case the protestant's use of the well does not meet the definition of a domestic well. The protestant, Mr. Mathis, actually supplies water to four households using the well personally on occasion for irrigation, therefore the well was determined to be a public water supply well and must have a permit. As a result, the well is not acknowledged as an existing domestic or authorized well.

Ms. Cunningham stated that in discussions prior to and during the hearing, the applicant committed to assurance to the families that are using the well, and voluntarily agreed to permit conditions beginning May 13, 2010, and for five years that if the water level of the well dropped to below 290 feet, the applicant will pay 90% of the cost to drill and complete a new well.

Ms. Cunningham stated the record showed the applicant is entitled to the equal proportionate share of groundwater from the basin, and staff recommended approval of the proposed findings of fact, conclusions of law, and Board order.

2. Discussion and presentation by parties. Chairman Lambert invited the applicant's attorney to speak to the Board. Mr. Mark Walker, Crow Dunlevy, addressed the members and stated he would echo Ms. Cunningham's comments, and that ultimately, the case came to down to whether the wells proposed by his client violated the spacing requirement. He said they had asked for an exception to the spacing rule, or determines that the well supplying water to the four households was not authorized and the spacing requirement did not apply. He said his client approached the four households and presented an agreement whereby if the irrigation wells do adversely affect their household well, he would agree to fund 90% of a replacement well so the permit can be approved with some assurance these households will not suffer adverse

consequences. He said there is a provision in the order regarding plugging all of the test holes before the permit would become affective, and he said they have all been plugged and they are straightening out the plugging reports.

Mr. Sevenoaks asked if the applicant would agree not to protest the new permit when the protestant applies for the water supply well. Mr. Walker answered that he had not spoken with his client about that, but he was confident they would not protest.

Chairman Lambert invited Mr. Mathis to speak to the members. Mr. Marvin Mathis stated Mr. Long drilled the well without a permit and told him "it is legal and I'm going to take your well." He said the well is his, there are not four people but only three using water, and he has used little water and none for household or livestock, but others have had livestock on the land and used water. Mr. Mathis said the well was originally a domestic well in 1951 and did not require a permit; he attempted to find records and found that Tri-County Electric obtained an easement for a power line to the well in 1951. He bought the farm in 1991 and the previous owner reserved the right to use water for one house, and one shop for domestic use and retained 10 acres. He later sold one house and a horse barn, then a shop and then an acreage with approximately 3 acres on each. At the time of purchase the buildings could be used for fire protection, shop, etc. but the people used the water and added another house on the empty parcel and moved another house in. Originally it qualified as a domestic well, he did not benefit from the use and because of the agreement, he didn't contest it. He said he did nothing wrong except failing to evict them.

Mr. Mathis stated there are inconsistencies in the agreement signed and the number of persons who have agreed to it. The applicant had drilled the well and used water prior to obtaining the 90-day permit, but had used it in 2010 and 2011 and later added 125 acres to the use without notifying the Board, and in 1985 there were four circles irrigated one with a permitted well and the other unpermitted so they were not appropriated.

Chairman Lambert asked Mr. Mathis to summarize his comments. Mr. Mathis stated that the applicant has a history of abusing water, abusing state statutes, drilling wells without permits, and producing water. He said the wells may have been plugged, but there are three abandoned irrigation wells on the property which the new application did not mention their status.

Mr. Sevenoaks asked Mr. Mathis if he agreed with the compromise that if there are problems with the well the applicant will drill a new one. Mr. Mathis answered the agreement was not brought to him, he disagreed with it, and he is not interested in owning a well that becomes a municipal well. He said he didn't agree to the people using it and abusing the domestic use. Mr. Sevenoaks suggested he compromise with his neighbor, and Mr. Mathis responded he (the applicant) doesn't want to compromise, just take his rights.

The members and staff discussed with Mr. Mathis that he does not have a legal well, that the staff recommendation is that the agreement be a condition of the permit which he could not back out of, that all wells and borings will be plugged before the permit is issued, that if there is any implication to Mr. Mathis's well the applicant will assist him, the depth of the well is unknown, and what is required for Mr. Mathis's well to be authorized.

Mr. Couch and Mr. Strong explained that a new application for permitted use (not domestic) specifying a well location and use which will require notice and other procedures to be followed, and there may be requirements for a Department of Environmental Quality permit for public water supply. Also, at that time, and considering this application is approved and these wells authorized, then a well spacing issue would be faced. However, the applicant is agreeable to commit not to protest and therefore trigger a location exception for a new well and a new use

here. There was further discussion about the facts of the case including, that if Mr. Mathis's well was authorized there would be a well spacing issue and the applicant would have to meet the requirements for a well spacing exception, and that evidence was presented but was not fully explored once it was determined the protestant's well was not authorized and the well spacing does not apply. Mr. Mathis does not have an agreement with the applicant, the domestic users have the agreement with the applicant, and it is Mr. Mathis's well; but, the Board cannot make legal determinations about the legal relationship between the seller and the buyer and the scope of the retained right, whether public water supply was contemplated by the parties, etc., to what extent the affect of the cone of depression has on the ownership right, the applicant has an agreement as to what it will do and also will be bound by the conditions of the permit, and whether there are any private party agreements is irrelevant to the Board, the agreement is solidified in the permit conditions.

Mr. Couch stated the order indicated the agreement is with the four households, not Mr. Mathis. Mr. Mathis contended there are only three households and Mr. Strong said two or more require a public water supply permit. Mr. Mathis responded there was only one household when he purchased the property, the additional users made the well illegal taking away his possibility of keeping it as being domestic. He said there is a provision in the statutes that he has the right to correct the wrong, and "kick them off" and establish the original use of the well, a domestic well which did not have to be permitted but which he could use as a domestic well for his livestock. Mr. Couch stated that would be a change of condition from the facts that have been presented at a hearing, from the required process to gather evidence at the time; to make determinations of what may happen in the future and potential conditions of the future is not part of the process presented today, based on a hearing and based on evidence and information at the hearing, which is an established process.

Mr. Walker approached the Board and stated that evidence was presented on the exception to the spacing rule; seismic was run that showed the only place to locate these irrigation wells to obtain the gallons per minute necessary to support the use is the location where the wells were drilled and was uncontested at the hearing, but, the hearing examiner never got to that issue having discovered the well was not an authorized well. He read from the proposed order, "Mr. Mathis testified the families in the Four Households take care of the operation and maintenance of the protestant's well, either themselves or by hiring a contractor as needed. Mr. Mathis uses a small amount of water from the Protestant's well occasionally to fill a stock tank on his land, and pays the Four Households for the amount of water he uses therefrom." The applicant's managing partner testified the applicant made an agreement with the Four Households to drill the additional well, wanting to make sure he did not interrupt their use and that there would be no problem with drilling the well.

Mr. Mathis commented again there are only three users.

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.

Chairman Lambert asked if there were any other questions by the members. There were none.

Mr. Fite moved to approve the proposed Board order for regular groundwater permit no. 2010-562, and Mr. Herrmann seconded.

There were no other questions; however, Mr. Sevenoaks asked for discussion and whether an amendment could be made to include that the applicant will not protest the new well application. Mr. Couch said it is on the agenda, "as proposed or as may be amended," and the motion to amend would be considered before the motion.

Mr. Sevenoaks then moved to amend the motion that the applicant would not protest the well spacing of the new well permit by the protestant. He clarified that, the applicant -- the Long Family -- will not protest the well spacing permit of the existing well on the Mathis land when they file for a public water supply (permit). He said he only wanted to limit it to well spacing, and to add it to the order as proposed. There were questions about what Mr. Sevenoaks intended regarding use or amount, and Mr. Sevenoaks said he only wanted to include the well spacing regarding the existing use (public water supply).

Chairman Lambert stated the amendment included three things: the applicant will not protest the well spacing for a future application for the existing well's current use. Mr. Buchanan seconded the motion. There was no discussion and Chairman Lambert called for the vote on the amendment.

AYE: Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann,
Lambert
NAY: None
ABSTAIN: None
ABSENT: Knowles

Chairman Lambert stated she would entertain a motion to approve the order as amended. Mr. Drummond moved to approve and Dr. Taron seconded. There was no further discussion.

AYE: Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann,
Lambert
NAY: None
ABSTAIN: None
ABSENT: Knowles

B. Presentation, Discussion and Possible Action to Ratify or Amend OWRB FY 2013 Budget Request. Ms. Amanda Storck referred to a printed chart indicating the 5-year look at general revenue appropriations the OWRB has received, noting the agency request for FY 2013 is just over \$7 million. The budget from 2008-2012 decreased by 15% and if the budget request is approved and acted upon by the Legislature, it would be a 71% increase in the budget. The line item requests are: Instream Flow Workgroup for \$321,000, Hydrologic Studies for \$1,156,000, Water Quality/Quantity Monitoring for \$1,828,000 and Dam Safety Program mapping of high hazard dams for \$250,000, totaling of \$3,555,000.00. She added the exact numbers shown is different than what was included in the Oklahoma Comprehensive Water Plan (OCWP) because the numbers were put into the categories as required, such as salaries, insurance, flexible benefits, etc., but are very similar.

Chairman Lambert said this budget shows the flat operating budget in 2012-2014, and the difference is the additional \$3,555,000 only for the Comprehensive Water Plan recommendations. Mr. Herrmann asked about the amount of money for the Regional Planning Groups, and Ms. Storck explained the agency received money from the Gross Production Tax for the OCWP and staff intends to use that money. Mr. Strong added that this is additional money

we are seeking; the Legislature extended the GPT to move into OCWP implementation activities, so that is something that could be implemented from the OCWP using that money.

Ms. Storck said that some of these items will be ongoing items, and will be requested each year such as the Instream Workgroup and hydrologic studies. Mr. Herrmann asked about how the GPT monies expected to be spent. Mr. Strong responded that starting July 1, 2013, all the planning related activities will be done, and it may be that more may be shifted to some of the other costs. Mr. Herrmann asked if some of those GPT funds are used for financial assistance programs, and Mr. Strong said that is correct, and he anticipated wanting to shift some back to infrastructure financing. Currently, it is split 50-50, and 50% is the maximum amount to spend on water planning; this is an issue to work with the appropriators at the Capitol. Ms. Storck said that use of the fund has been extended to 2014, and work will need to be done this session to have it further extended.

Mr. Drummond asked if the agency had to go through the Legislature on how the GPT funds are spent. Mr. Strong said that yes somewhat, at least he would want to make sure they don't oppose what the agency proposes, but the Board makes the decision at the "dollar-for-dollar" level. Mr. Strong said the budget was due October 31, and has been submitted as presented with the inclusion of the OCWP items. He asked for the Board's approval, or any amendments. Ms. Storck said this budget basically begins discussion with the Governor's Office.

Dr. Taron moved the budget be adopted as presented, and Chairman Lambert clarified the Board is ratifying what has been submitted. Mr. Herrmann seconded.

Mr. Herrmann said it would be important for the Board to see a presentation on the "whole picture," i.e., all the sources of funding, etc., including Gross Production Tax. Ms. Storck responded that the budget planning process starts in April for FY2013, and staff could provide an estimate of the totals, but the divisions are not asked to do budget planning until the picture is better known.

There was no other discussion, and Chairman Lambert called for the vote on the ratification of the 2013 budget request.

AYE:	Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann, Lambert
NAY:	None
ABSTAIN:	None
ABSENT:	Knowles

C. Items transferred from Summary Disposition Agenda, if any.

There were no items transferred from the Summary Disposition Agenda.

6. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY

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

7. PROPOSED EXECUTIVE SESSION

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 *Chickasaw Nation and Choctaw Nation v. Fallin, et al. and Tarrant Regional Water District v. Herrmann, and City of Hugo v. Nichols*

- 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.

Chairman Lambert stated she would accept a motion to move into Executive Session for discussion of the three items (as noted).

Mr. Drummond moved and Mr. Buchanan seconded the Board convene into Executive Session.

AYE: Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann, Lambert
NAY: None
ABSTAIN: None
ABSENT: Knowles

- B.** Designation of person to keep written minutes of Executive Session, if authorized.

Chairman Lambert designated Executive Secretary Mary Schooley to keep written minutes of the Executive Session.

- C.** Executive Session, if authorized.

Following a five-minute break, the Board entered Executive Session at 11:05 a.m. on Tuesday, November 8, 2011.

8. 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

Chairman Lambert departed from the meeting at 11:35 a.m. Vice Chairman Ford Drummond assumed the chair of the meeting. Upon a motion and second by Mr. Sevenoaks and Dr. Taron to adjourn the Executive Session, Mr. Drummond called for a vote.

AYE: Taron, Drummond, Buchanan, Fite, Sevenoaks, Feaver, Herrmann
NAY: None
ABSTAIN: None
ABSENT: Knowles, Lambert

The Board adjourned from the Executive Session and returned to regular session at 11:40 a.m. There was no action or any further discussion about items considered during the Executive Session.

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.

10. ADJOURNMENT

There being no further business, Vice Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 11:41 a.m. on Tuesday, November 8, 2011.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Linda P. Lambert, Chairman

_____/Absent_____
F. Ford Drummond, Vice Chairman

_____/s/_____
Edward H. Fite

_____/s/_____
Kenneth K. Knowles

_____/Absent_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Rudolf J. Herrmann

_____/s/_____
Tom Buchanan

ATTEST:

_____/Absent_____
Joseph E. Taron, Secretary
(SEAL)