

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
August 18, 2015

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Vice Chairman Ford Drummond at 9:30 a.m., on August 18, 2015, in the second floor meeting room of 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 August 14, 2015, at 3:30 p.m. at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, and provided on the agency's website.

Vice Chairman Drummond welcomed everyone to the meeting, and asked for the roll call of members.

A. Roll Call

Board Members Present

Ford Drummond, Vice Chairman
Stephen Allen
Bob Drake
Richard Sevenoaks
Marilyn Feaver
Ed Fite

Board Members Absent

Linda Lambert, Chairman
Jason Hitch, Secretary
Tom Buchanan

Staff Members Present

J.D. Strong, Executive Director
Rob Singletary, General Counsel
Amanda Storck, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Julie Cunningham, Chief, Planning and Management Division
Derek Smithee, Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

Others Present

Tom Caldwell, City of Broken Arrow, OK
Anthony Daniel, City of Broken Arrow, OK
Ben Oglesby, Municipal Finance Services, Edmond, OK

Jared Davidson, Public Finance Law Group, Oklahoma City, OK
Bud Ground, Environmental Federation of Oklahoma, Oklahoma City, OK
Christine Southern, eCapitol, Oklahoma City, OK
Russell Doughty, Oklahomans for Responsible Water Policy, Broken Bow, OK
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK
Greg Carr, Oklahoma Department of Environmental Quality, Oklahoma City, OK
Kinsey Money, TPF

Vice Chairman Drummond appointed Mr. Bob Drake to act as Assistant Secretary in Mr. Hitch's absence.

B. Discussion, Amendments, and Vote to Approve Official Minutes of the July 21, 2015, Regular Meeting.

Vice Chairman Drummond asked if there was a motion to approve the draft minutes of the July 21, 2015, Regular Meeting. There were no changes or discussion.

Mr. Allen moved to approve the July 21, 2015, minutes and Ms. Feaver seconded. There were no comments, and Vice Chairman Drummond called for the vote.

AYE: Fite, Allen, Sevenoaks, Drake, Feaver, Drummond

NAY: None

ABSTAIN: None

ABSENT: Buchanan, Hitch, Lambert

C. Executive Director's Report

Mr. J.D. Strong, OWRB Executive Director, provided the Legislative report. He said there is little action at the State level, there were a few requests for interim studies with regard to water, none of which have been convened. However, a meeting has been convened by Senator Simpson for the afternoon of August 21 for a roundtable discussion of pit water/mining activities in the midst of the flooding which occurred in South Central Oklahoma to determine if management of pit water exacerbated the flooding situation. Mr. Strong said the agency did not have evidence that occurred, but the meeting will give concerned citizens and the mining companies an opportunity to speak about it. He said that at the Federal level, Congress is on August recess until after Labor Day. When Congress returns from recess, he anticipated work would begin on a continuing resolution to fund the government past September 20. He announced the OWRB Congressional staffer Brittnee Preston was currently on maternity leave.

Mr. Strong continued with his Director's report stating that mediation and technical meetings regarding the Chickasaw/Choctaw litigation continued with no update necessary at this time. Similarly, in regard to the Arbuckle-Simpson litigation, there has not been argument before the court and therefore no update in that matter. Mr. Rob Singletary, General Counsel, added the petitioners had filed a Brief-in-Chief and the OWRB has filed a response brief and there is still an opportunity to file a reply brief by August 25. On August 19, there is a hearing scheduled for preliminary motion, and a hearing on the merits is scheduled September 23.

Mr. Strong noted the Kansas-Oklahoma Arkansas River Commission met in Vinita July 22; on July 27 staff met with Board Member Feaver and interested others at Fort Sill about a Beaver-Cache Watershed Regional Planning effort and drought-proofing the Lawton-Fort Sill area; and he met with the USGS August 3 to discuss the Red River Focus Area. The USGS is looking at water quantity issues along the entire river, and there will be a Stakeholder meeting on August 26 in Durant. He spoke at the Tulsa Summer Policy Institute—Ms. Feaver was the facilitator—for students interested in learning about policy issues; will be meeting with the new federal chairman of the Arkansas-Oklahoma

Arkansas River Commission August 19; and there are several upcoming conference calls regarding WOTUS and Treatment as State rule making regarding Tribes and the Clean Water Act regulatory programs. Mr. Ford asked about Senator Inhofe's amendment, and Mr. Strong responded there is still the provision in the Transportation bill that was passed with the provision that Tribes seeking Treatment As State for regulatory programs must have a cooperative agreement with the State which is required to go through rule making on the subject to see how that requirement fits into the process. The annual OWRB management retreat will be August 20 at the Memorial Museum to review the strategic plan, accomplishments, failures, and looking forward. On Friday, August 21, representatives of the Northwest Water Action Plan will make a presentation to staff on their outlook for the next 50 years; and he will be speaking to the Red River Valley Association meeting in Durant, August 27.

Mr. Strong concluded his report noting the next OWRB meeting will be Tuesday, September 15, 2015, at 9:30 a.m. in the OWRB meeting room. Mr. Sevenoaks asked about the 90-day deadline for the effective WOTUS rule, and Mr. Drake asked about the Corps of Engineers internal memos suggesting the WOTUS rule was finalized in a way that was not acceptable to the COE, the COE was not adequately consulted, and there are problems with the rule. Mr. Strong said Senators Inhofe and Lankford have sent letters requesting additional information. He said the upcoming webinars will brief states and stakeholders on implementation of the rule. There is also an upcoming webinar to brief stakeholders/state wetlands managers on the legal challenges that have been levied against the rule and what that means.

There were no other questions for Mr. Strong.

D. Monthly Budget Report.

Ms. Storck presented the budget report for July 2015, which is the first month of the new fiscal year. She asked if there were questions at the beginning of the new year; the agency is beginning strategic planning at the Management Retreat and will be reviewing program information and action plans the team leaders have in charge of the past year, and moving forward with the Divisions on program performance which will be submitted in October with the agency budget request. Mr. Drummond asked about software issues, and Ms. Storck responded the program didn't perform as expected and the budget was entered on the wrong line; and Mr. Fite said it is a software problem that is affecting all agencies. Mr. Sevenoaks asked if billing and collecting is on schedule, and Ms. Storck responded that it is, and there have been no issues; the grants/projects/contracts system was billing on time and receiving funds on time this past fiscal year.

There were no other questions by members.

2. **FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the member that this item is a \$2,045,000.00 loan request by the Broken Arrow Municipal Authority. He said the Authority is requesting the loan to install approximately 8,000 automatic water meters, meter boxes, meter box lids, shut-off valves, reading equipment with GPS and other related equipment. He said the loan would be funded through the Clean Water SRF program, and he noted provisions of the loan agreement. Broken Arrow has been a long-time customer with the OWRB and has 12 outstanding loans with a cumulative principal balance of \$96 million. The BAMA water and sewer connections have increased approximately 15% over the past ten years, and the debt coverage ratio stands at approximately 1.88-times. Staff recommended approval of the loan application.

Mr. Tom Caldwell, Finance Director and Mr. Anthony Daniel, Utilities Director, were present representing Broken Arrow.

Mr. Sevenoaks asked how many customers would be on the AMR system in Phase I of the project, and Mr. Daniel responded about 25%; it is a multi-phase approach because all installation will be completed by city crews.

There were no other questions, and Mr. Fite moved to approve the Clean Water SRF loan to the Broken Arrow Municipal Authority. Ms. Feaver seconded the motion.

There were no other questions, and Vice Chairman Drummond called for the vote.

AYE: Fite, Allen, Sevenoaks, Drake, Feaver, Drummond

NAY: None

ABSTAIN: None

ABSENT: Buchanan, Hitch, Lambert

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 to Special Consideration.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items and Approval of Items listed.

There were no changes to the agenda as presented. Vice Chairman Drummond stated he would entertain a motion to approve the Summary Disposition Agenda.

Mr. Allen moved to approve the Summary Disposition Agenda as presented, and Mr. Drake seconded.

There were no questions or comments, and Vice Chairman Drummond called for the vote.

AYE: Fite, Allen, Sevenoaks, Drake, Feaver, Drummond

NAY: None

ABSTAIN: None

ABSENT: Buchanan, Hitch, Lambert

The following items were approved:

C. Consideration of and Possible Action on Financial Assistance Division Items:

1. Rural Economic Action Plan (REAP) Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
COEDD				
a.	FAP-03-0015-R	Rural Water District # 5	Hughes	\$31,000.00
GGEDA				
b.	FAP-14-0046-R	Bluejacket Public Works Authority	Craig	42,000.00

INCOG

c. FAP-14-0038-R Avant Utilities Authority Osage 36,000.00

NODA

d. FAP-03-0042-R Town of Waukomis Garfield 93,000.00

SWODA

e. FAP-11-0031-R Sentinel Public Works Washita 75,700.00
Authority

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

1. Professional Services Engagement Letter with Arledge & Associates, P.C. to provide auditing services for the Oklahoma Clean Water State Revolving Fund Loan Account Program OMB Circular A-133 Single Audit.

2. Interagency Agreement with the Grand River Dam Authority for the OWRB to explore water quality standards and implementation below hydropower facilities.

3. Amended Joint Funding Agreement with the U.S. Department of the Interior, U.S. Geological Survey to extend the time and increase the contributions to continue the *Water Quality, Hydrological Surveys, and Groundwater-Flow Model of the Canadian River Alluvial Aquifer, Western Central Oklahoma* that was first approved by the Board on August 21, 2012.

4. Intergovernmental Agreement between OWRB and the City of Norman. The City of Norman will contribute funding for the completion of Risk MAP discovery and study project that includes part of Phase I for Little River Watershed and Phase 2 for Ten Mile Flat Creek, Brookhaven Creek and Brookhaven Creek Tributaries A and B.

5. Interagency Agreement with U.S. Army Corps of Engineers through District Engineer for the Tulsa District for Planning Assistance to States Supplemental Agreement No. 8, Programmatic Planning Support of the Oklahoma Comprehensive Water Plan. First approved by the Board on June 12, 2007.

6. Amendment to Interagency Agreement with Grand River Dam Authority ("GRDA") for addition of a paragraph that states the GRDA is the sole owner of equipment being maintained by OWRB. The agreement for OWRB to assist GRDA with its Dissolved Oxygen Monitoring Project was approved by Board on June 16, 2015.

7. Addendum to Interagency Agreement with Oklahoma Office of Management and Enterprise Services, Information Services Division, for information technology services.

8. Amendment of Joint Funding Agreement with U.S. Geological Survey to increase funding and extend the date for the project to Update of the Hydrologic Surveys and Groundwater-Flow Models of the North Fork Red river Alluvial Aquifer.

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

1. Jack & Jennifer Bradshaw, Choctaw County, #2015-514
2. Paul D. & Rhonda L. Glass, McCurtain County, #2015-522

F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:

1. Jim D. Briscoe, Jackson County, #1981-569

G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:

1. Keith A. Rasmussen Revocable Trust, Major County, #2014-638

2. Arthur Chad Louthan, Woodward County, #2015-545
3. Shelly Stricklen, Beaver County, #2015-549
4. Craig & Tina Clark, Greer County, #2015-570
5. Tuls Hemann Enterprises Land, L.L.C., Cimarron County, #2015-573

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

1. Dairyland Cattle Company, L.L.C., Texas County, #1977-613

I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
None

J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:

1. Anthony F. Stangl, Kingfisher County, 2014-074
2. Lotta Water, L.L.C., Kingfisher County, #2015-020

K. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:
None

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

1. Granada Lake Dam, Pottawatomie County, #OK13214
2. Summit Lake Property Owners Association and Summit Lakes Villa HOA, Cleveland County, #OK12578
3. 9000 Broadway, L.L.C., Oklahoma County, #OK02422

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

1. New Licenses and Operators:

- | | |
|---|----------|
| a. Licensee: EnviroClean Services, L.L.C. | DPC-0941 |
| 1. Operator: Walter Petruzzi | OP-2112 |
| b. Licensee: C & S Lease Services | DPC-0943 |
| 1. Operator: Buford Collier | OP-2113 |

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

- | | |
|-------------------------------|----------|
| a. Licensee: Fire & Ice | DPC-0432 |
| 1. Operator: Briley Goodwin | OP-2110 |
| b. Licensee: AEI | DPC-0269 |
| 1. Operator: Murray Schneider | OP-2111 |
| c. Licensee: B & D Drilling | DPC-0903 |
| 1. Operator: Robert Yost | OP-2006 |

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

1. Oklahoma Department of Transportation, Blaine County, #FP-15-12

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

None

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

A. Presentation and Discussion regarding Oklahoma's Water Quality Standards: Upcoming Revisions and Triennial Planning. Mr. Derek Smithee, Chief, Water Quality Programs Division, stated

to the members that the agency is in the initial stages of the upcoming Water Quality Standards (WQS) revision process, and staff wanted to present to the members what is “on the radar screen” in the upcoming rulemaking, as well as foreshadowing for the next few years. He spoke to the WQS process, what the WQS are, actions planned for the upcoming rulemaking and what is anticipated in the future. Mr. Smithee stated the WQS are required by both State and Federal law, and that the Clean Water Act and Pollution Remedies Act both charge the OWRB with promulgating WQS for groundwater (state law) and surface water (federal law) which is required for “waters of the nation.” The WQS are housed in the water quality rules of the Board, chapters 45 and 46. He said the federal Clean Water Act states that WQS are designed, “...to maintain or improve the chemical, physical, and biological integrity of the Nation’s waters, and restore fishable/swimmable uses to all water of the nation.” He added the rules/laws adopted by the Board protect all the Clean Water Act and Pollution Remedies Act requirements, and are recognized when promulgated and approved by EPA as federal law and state law, and the Oklahoma’s WQS contain not only WQS for Surface water, but groundwater as well. There are three basic components of the Standards: Tier I of the WQS are the beneficial uses, i.e., aquatic life criteria/use (body contact, recreation, water supply, agriculture, navigation, etc.); every small water body of the state may not have an assigned use so some uses are assumed; Tier II of the WQS criteria is designed to protect beneficial uses i.e., numerical and narrative criteria for i.e., body contact for swimming has maximum bacteria concentrations to prevent gastrointestinal upsets and infection/dermal contamination; and Tier III of the WQS is the anti-degradation policy which protects the outstanding resource waters such as the six Scenic Rivers and their watersheds by a stringent policy of no new point sources and no increased loads, also protecting high quality water (HQW), sensitive water supply (SWS), and outstanding resource water (ORS). Finally, Mr. Smithee said, WQS are not auto-executing, there is implementation rules that tell where the criteria apply and when the averaging period is and what dissolution is available, etc.

Vice Chairman Drummond asked and Mr. Smithee responded that in cases where Primary Amebic Meningoencephalitis (PAM) is contracted, it is caused by a protozoan *naegleria fowleri*, and is relatively rare, is uncommon in water, and very uncommon to cause death. He said the state does not monitor for it because it is very expensive – requiring the filtering of hundreds of gallons of water to get a single ameba; however, staff does monitor for nutrient concentrations in the still, nutrient enriched backwaters waters in which this ameba thrives for both chlorophyll a and nutrients. He talked about the characteristics of the ameba that is common in low concentrations, where it is found and how it is contracted by humans. In response to Mr. Sevenoaks’ comments about monitoring for certain amebas Mr. Smithee said it is very expensive monitoring--its difficult now to have adequate funds to monitor swim beaches and the process needs to be timely. The agency’s BUMP report outlines information regarding indicators and people should be aware of swimming in areas of backwater.

Continuing, Mr. Smithee discussed the upcoming triennial revision of the WQS which will include the Aquatic Life Criteria Updates (ALC) for fish and wildlife propagation use particularly involving municipal and industrial discharges which were last updated in 1988, and will reflect updated science and include new information on fish species. Also, there are updates to Sensitive Water Supply and Supply/Reuse involving Tier II waters – small reservoirs that are water supplies for communities. The WQS protect its viability for a public water supply which are very strict protections through current prohibitions developed in the 1970s for new point sources, and new increased loads which needs updated to current information and activities and to include consideration of reuse as an option. There was discussion about the City of Norman and Lake Thunderbird, allowing communities to request a change for a new point source through the public process in order to gain more water through additional requirements, and practices underway today that allows discharges to be used i.e., for golf courses. Mr. Smithee said reuse allows for the supplementation of drinking water and needs to be in the “toolbox” for reservoir managers in times of drought. Mr. Strong commented that discharge

to drinking water is happening all over the state, but is a matter of how much that discharge should be treated, how far it goes downstream and what is the residence in the reservoir.

Mr. Smithee staid a WQS Workgroup will propose changes for the new classification for indirect potable reuse, there will also be Appendix A updates regarding classifications and enhancements, and Appendix B companion updates outlining water supply with unique recreational attributes (previous update in 2006).

Mr. Smithee reviewed the requirements by the Federal Clean Water Act for the Triennial WQS Updates, the Oklahoma public participation process and timeline requirements and key dates for rulemaking between August 2015 and Board approval in Spring 2016. He concluded the presentation with the introduction of OWRB WQS Staff members.

Mr. Sevenoaks asked about data on high water events, and Mr. Smithee said the Oklahoma Report for the Arkansas-Oklahoma Arkansas River monitoring report includes the high flow data, and Mr. Strong said this year's report that will contain last year's data and will not reflect this past Spring events. In conclusion, Mr. Strong announced that Mr. Smithee has been awarded the prestigious Statesman Award by the Association of Clean Water Act Administrators, the Association's highest honor.

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Application to Amend Temporary Groundwater Permit No. 1975-919, Jay Overton, Grant County:

1. Summary – Ms. Julie Cunningham, Chief, Planning and Management Division, stated this item is an application to amend a temporary groundwater permit in the name of Jay Overton in Grant County. The permit currently authorizes 320 acre-feet of groundwater for irrigation purposes, and the amendment would add an additional 1,446 acre-feet of groundwater for the same purpose, adding 803 acres of dedicated land, adding ten wells and deleting one well. In this case, she said, the record showed the applicant has met the four points of the Oklahoma Groundwater Law and, therefore, the Board shall approve the requested amendment. Ms. Cunningham said the application was protested on the concern of groundwater depletion; however, the protestants did not offer any additional evidence to support this assertion. As in other cases, the hearing examiner acknowledged the protestants' understandable concern about potential adverse affects by neighboring property owners; however, the hearing examiner determined the protestant's objections were not supported by the groundwater laws and use of this water will not impermissibly or unlawfully deplete the aquifer. The applicant is entitled to the equal proportionate share of the aquifer in the basin, and staff recommended approval of the permit amendment and proposed finding of fact, conclusions of law, and Board Order.

2. Discussion and presentation by parties - there were no representatives of the applicant nor protestant in attendance. Mr. Sevenoaks asked if this is salt water or fresh water, and Ms. Cunningham responded it is fresh water.

3. Possible Executive Session; and 4. Return to open meeting and possible vote or action on any matter discussed in the Executive Session, if authorized. The Board did not vote to enter Executive Session.

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

Mr. Drake moved to approve the application to amend temporary groundwater permit #1975-919, and Ms. Feaver seconded.

There was no other discussion, and Vice Chairman Drummond called for the vote.

AYE: Fite, Allen, Sevenoaks, Drake, Feaver
NAY: None
ABSTAIN: Drummond
ABSENT: Buchanan, Hitch, Lambert

B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

6. 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.

7. ADJOURNMENT

There being no further business, Vice Chairman Drummond adjourned the meeting of the Oklahoma Water Resources Board at 10:27 a.m. on August 18, 2015.

OKLAHOMA WATER RESOURCES BOARD

_____/Absent_____
Linda P. Lambert, Chairman

_____/Absent_____
F. Ford Drummond, Vice Chairman

_____/s/_____
Edward H. Fite

_____/Absent_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Bob Drake

_____/s/_____
Tom Buchanan

_____/s/_____
Stephen B. Allen

ATTEST:

_____/s/_____
Jason W. Hitch, Secretary (SEAL)