

OKLAHOMA WATER NEWS

Bimonthly Newsletter of the Oklahoma Water Resources Board



*from
the desk
of the
Director...*

I want to issue a personal invitation to the Governor's Water Conference to all of you who are interested in water resources, economic development and the environment. The conference on November 2 will define the issues and offer insight into the decisions Oklahomans of the 21st century will be asked to make concerning quality of life and economic progress.

The Water Resources Board and other sponsors invite you to listen to a distinguished assembly of experts discuss Indian water rights, economic/environmental impacts of corporate farming, long-range planning in water resources development, interstate planning issues, floodplain management incentives, new directions in wetlands policy and strategies that will affect the future well-being of all Oklahomans.

I invite you to be with us as the three gubernatorial candidates define their stands on water development, economic progress and environmental matters.

Celebrate with us as we honor three outstanding Oklahomans with 1994 Water Pioneer awards.

Use the registration form on this page to reserve your place with Oklahoma's movers and shakers at the Governor's Water Conference on November 2.

Water, Enviro Planning Theme Of Governor's Water Conference

*Nov. 2 Conference to explore issues on state's horizon:
CAFO's, Indian water rights, wetlands, interstate policy*

What's ahead in the coming decade for planners concerned with water resources and the environment? Speakers at the Fifteenth Annual Governor's Water Conference on November 2 will pinpoint the issues that are likely to concern Oklahomans of the 21st century.

The Conference will be held in Oklahoma City at the Marriott Hotel, with registration opening at 8 a.m.

Water Resources Board Chairman Ross Kirtley will call the meeting to order at 8:30, then Sen. Gene Stipe will describe "Water Resources Strategies to Carry Us Forward." Stipe's enduring interest in water resources began with his election to the Okla-

homa House of Representatives in 1949. He was elected to the Senate in 1957, and earlier this year, marked 45 years of service in the Legislature. Maintaining the planning theme, Water Resources Board Executive Director Patty Eaton will introduce a visual progress report on efforts to update the 1980 Oklahoma Comprehensive Water Plan, the flexible, long-range strategy for managing and developing the state's water resources. In 1992, House Bill 2036 directed the Board to prepare 10-year updates to the Plan, with the first due in 1995.

Raymond "Buddy" Young, Region VI director of the Federal Emergency

Continued on page 2

Governor's Water Conference
P. O. Box 150
Oklahoma City, OK 73101-0150

Please make \$30 check or purchase order payable to GOVERNOR'S WATER CONFERENCE. No refunds considered after October 26.
Registration includes luncheon.

Name _____

Representing _____

Address _____

City _____ State _____

Zip _____ Phone (____) _____

Water Conference from page 1

Management Agency, will focus on FEMA's innovative strategies in "Sharing the Challenge: Floodplain Management into the 21st Century." Young will describe a new federal initiative to drastically reduce losses in the nation's floodplains. FEMA emphasizes replacement of traditional approaches with flood hazard mitigation incentives, prudent land-use practices, and allowing rivers to reclaim natural channels and floodplains.

A mid-morning panel entitled "Water Planning Issues on the Horizon" will be chaired by District Chief Kathy Peter of the U.S. Geological Survey. Drew Kirshen, OU Professor of Law, will discuss Agribusiness and Agriculture (confined animal feeding operations and their impact on the economy and environment.) Indian Water Rights, will be the topic of Phillip D. Lujan, OU Professor of Communication and Chief Judge of the Sac and Fox.

Mason Mungle, executive director of the Oklahoma Conservation Commission, will discuss the state's Wetlands Policy, then Col. Otis Williams, district engineer, Tulsa District Corps of Engineers will brief conferees on Interstate Planning in the Neosho River Basin.

Invited to the pre-lunch podium are members of the Oklahoma Congressional Delegation.

The Governor's Water Conference will recognize Oklahoma Water Pioneers in the program segment after lunch. Since the Water Pioneer award was created in 1985, 63 Oklahomans have been recognized for significant contributions to the development, conservation and preservation of the state's water resources. Also on the luncheon agenda, conferees will hear an update on the activities of the Joint Committee on Financing, Environment and Infrastructure for Economic Development by Rep. Randy Beutler, committee co-chair, and remarks by Sen.

Jack Bell, chairman of the Kiamichi River Basin Water Supply Study Committee.

Gubernatorial candidates Lt. Gov. Jack Mildren, Frank Keating and Wes Watkins will address water, environmental and economic issues in a forum chaired by Patricia Acebo, president of the League of Women Voters of Oklahoma.

The Conference will adjourn at approximately 3 p.m.

Registration costs \$30 and includes the luncheon. Use the convenient registration form below, phone your registration to the Oklahoma Water Resources Board at (405) 231-2576 or register by FAX at (405) 231-2600. For further information, please call 231-2576.

The Marriott Hotel offers a special \$70 room rate (single or double) to Conference guests who make reservations by October 26. For reservations, call the Marriott at (405) 842-6633. □

Public Meetings on Standards Underway

The 1994 triennial revision of Oklahoma's Water Quality Standards got underway October 6 with the first of a public meeting at the offices of the Oklahoma Water Resources Board in Oklahoma City. According to Water Quality Programs Division Chief Shon Simpson, two other informal public meetings and two formal public rulemaking hearings will complete the process.

The meeting schedule is as follows:

Informal Public Meeting

November 3, 1:30 p.m. OWRB Offices, 600 N. Harvey, Oklahoma City

Agenda items include discussions of modification of numerical aquatic life criteria, applicability of agricultural beneficial use criteria and separation of groundwater standards from surface water quality standards.

Informal Public Meeting

December 1, 1:30 p.m. OWRB Offices, 600 N. Harvey, Oklahoma City

Agenda items include Use Attainability Analyses (beneficial use recommendations for 23 streams), temperature criteria for implementation purposes and other topics as needed.

Formal Rulemaking Hearings:

January 11, 1995, 6:30 p.m. State Agencies Bldg., 440 S. Houston, Tulsa (tentative)

January 12, 1995, 6:30 p.m. OWRB Offices, 600 N. Harvey Oklahoma City (tentative)

For further information on Water Quality Standards, public meetings or rulemaking hearings, call (405) 231-2541.



Kerr Honored by Colleagues



Robert S. Kerr, Jr. was honored by his colleagues on the Oklahoma Water Resources Board at the September 13 meeting. Board member Mike Henson presents Kerr a plaque recognizing his service and dedication during the six terms his fellow members elected him chairman of the Water Resources Board. He was also awarded a Resolution of Appreciation from Governor Walters.

Eaton Elected ICWP Chairman

Patty Eaton, OWRB executive director, was installed as chairman of the Interstate Council on Water Policy on September 7 at the organization's annual meeting in Philadelphia. The Interstate Council on Water Policy is a national association of state and regional water officials concerned with all aspects of water development, management and policy. Eaton has represented the Water Resources Board as a state member of ICWP since 1991.

She has served on the ICWP Board of Directors since 1992 and was installed as first vice chair at the 1993 annual meeting. Eaton has been a member of the ICWP Audit and Bylaws Committee, Policy Committee and Executive Committee and has served as chair of the Administrative Committee for 1993-1994.

Board to Study Lake Arcadia

Shon Simpson, Water Quality Programs chief, announced the Environmental Protection Agency has awarded a \$148,000 grant to the OWRB to study the water quality of Lake Arcadia. Total cost of the project will be approximately \$211,429, the balance to be underwritten by local sponsors.

Simpson said the grant is awarded through the EPA Clean Lakes program, an effort to restore the recreational benefits of publicly owned lakes.

Paul Koenig of the Board's Clean Lakes Section will oversee the Phase I Study, expected to begin in June 1995.

Phase I involves sampling water, soil and fish, then making recommendations for remediation.

Lake Arcadia, a Corps of Engineers project completed in 1986, is located on the Deep Fork River near Edmond, north of Oklahoma City.

Ark River Shiner Endangered?

The U.S. Fish and Wildlife Service has proposed to list the Arkansas River shiner as an endangered species under the 1973 Endangered Species Act. Earlier, the small fish was abundant

and widespread throughout the Arkansas River and its tributaries. However, within the last 20 years, it has disappeared from 80 percent of its historic range, with the Arkansas River Basin population restricted to the Canadian River in New Mexico, Oklahoma and Texas.

Upon listing, the Arkansas River shiner would receive the protection and recovery opportunities provided by the Endangered Species Act. According to the Fish and Wildlife Service, no restoration activities are yet planned.

According to OWRB Chief Engineer Harold Springer, listing could affect current and future development in the Canadian, North Canadian and Cimarron River Basins. Springer said the OWRB had requested the Fish and Wildlife Service to hold a public meeting to explore the potential impact of the listing on development in the Arkansas River Basin.

Pet Product Migraine Cure?

A magnesium-free bottled water that was originally developed to prevent urinary problems in pet cats has been hailed as a treatment for migraine

headaches in humans. Bernard Schroeder, a retired insurance salesman in Jacksonville, Florida, with a degree in chemistry, developed the special water for domestic cats at the urging of a veterinarian friend who told him magnesium in water could cause problems for some felines.

Quite by coincidence, an office-mate of Schroeder drank a bottle of the new product while she had a migraine and discovered that the water relieved headache symptoms. Schroeder asked her to log her headaches and her doses of the water over a period of time. Each time she suffered a migraine and drank the bottled water, the headache dissolved.

News of the product's success in alleviating migraines has spread only by word of mouth, but its fame has boosted sales to 2 million bottles. Schroeder says the magnesium-free water, marketed under the name H2O Plus, is available in some drug and grocery stores from Florida to California. Its manufacturer claims it's nothing more than filtered tap water with the magnesium removed, and some potassium and electrolytes added to improve absorption in the body.



Members of the Drillers/Pump Contractors Advisory Committee met at the Water Resources Board September 28 to review proposed rules and regulations that apply to their industry. Seated: Dala Bowlin, Dudley Williams, Terrel Williams, Robert Keys. Standing: Winston Pool, Kent Wilkins, Wayne Busby, Larry Hudgens, Gary Glover, Danny Ewbank, Kim Sullivan, Ira Smith. The Advisory Committee assisted the Board in proposing concepts for rules that would lengthen the term of licenses, reduce the grace period for license renewal, modify some monitoring well construction standards, modify some variance procedures, exempt pump installers from filing completion reports and modify plugging requirements for test holes, contaminated and uncontaminated water wells. Gary Glover, who administers the OWRB Driller and Pump Contractors program, emphasized that proposed regulations must be approved by the Board and Oklahoma Legislature.

Stream Water Right: Why Does the OWRB Require Permittee to Use It or Lose It?

When a holder of a right to use stream water receives a notice of hearing to reduce or cancel the water right, questions often arise as to the reason why water right holders must use the water or lose rights to take it. In this article OWRB General Counsel Dean Couch explains the basis for having a use-it-or-lose-it requirement in laws governing stream water use.

Oklahoma follows the appropriation doctrine to regulate use of water from streams and lakes. While the specific rules and regulations governing that program can get complex, the basic elements of the appropriation doctrine are simple and stem from historical events and means to encourage development of the West in the days of settlers on the frontier.

Priority system carries over from California's Gold Rush days

The first basic element of the appropriation doctrine is "priority in time gives the better right." This idea was carried over from the old gold mining days in California where the federal government owned the land. There, disputes over mining claims that were not settled with a gun went to court where judges figured that the person who staked the claim first should be able to keep it over someone who staked the same claim later. What this means for water rights is that if you have an earlier claim date than another person who wants to take water from a stream, and the stream gets too low to supply both of you, your uses should be satisfied first. Under Oklahoma's old law, the date work started on any project to put the water to use was considered the claim date. Now, the date of filing an application for a permit with the Oklahoma Water Resources Board is considered the priority date of a permit once it is issued. If a dispute arises over who can use the water in a stream or lake when there is not

enough for everyone, a court would look to the priority date to see who has the best claim.

Use-it-or-lose-it policy kept the West growing

The second major element to the appropriation doctrine is the requirement to use the water once a claim has been made, and if there is no use, the water right is lost. This "use-it-or-lose-it" element (called a "forfeiture") also has its roots in the way mining disputes were settled long ago. Having an earlier claim date was not enough. You had to work the mine to keep the claim. If someone just "sat" on a claim without working the mine, or if that person just disappeared and abandoned the claim, courts would allow someone else to make a claim and begin working the mine.

These decisions allowed prosperity to grow by keeping mining activities going in the old West. Requiring use of a mine or use of water encouraged continued settlement of that developing part of the United States, a policy fostered by our federal government in the 1800s.

For water rights in Oklahoma, the

requirement to put water to use shows up in several ways. Before a permit is issued, the Board must determine that the person applying has a present or future need for the amount of water requested. After a permit is issued, the law requires that the permittee start ("commence") construction on the project within two years. As examples, building a pond or buying irrigation equipment qualifies as "commencement".

The law then makes an initial or first water use requirement. After a project is commenced, the full amount of water authorized by the permit must be used within a certain time period. The time period within which this first use must be made is usually seven years from the date the permit is issued. If full use does not occur within that time period, the water right is reduced to the amount used and the permit becomes "vested" for the reduced amount. The permit will be cancelled if there is no use. For instance, if an irrigator gets a permit in 1980 to use 500 acre-feet of water each year, and the most water used in the non-consecutive seven years is 350 acre-feet in 1985, the water right will "vest" for 350 acre-feet.

Another use-it-or-lose-it provision then kicks in after initial period allowed to begin using the water. Like the requirement to use the water for the first time after the permit is issued, the "vested" amount must be used

Continued on page 5

Announcing

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- ❖ Funded by oil overcharge monies
- ❖ Administered by the Oklahoma Water Resources Board
- ❖ Assisted by the Oklahoma Rural Water Association

For information, call (405) 231-2576.

Water right, continued from page 4
at least once every seven continuous years.

An unused water allotment reverts to the public

If the water right holder uses less water or stops using water altogether for seven years, the water right holder loses part or all of the amount of the water right that had vested in the first use period. For instance, a municipality may have a "vested" amount of 8,000 acre-feet based on maximum use in 1985. If the municipality then uses only a maximum of 5,000 acre-feet of water in any year through 1991, 3,000 acre-feet more of the water right is lost (from 8,000 down to 5,000).

Fifth in a Series...

Meet the Water Resources Board

Lonnie Farmer, president of the First State Bank in Davidson, is the "newcomer" on the Water Resources Board, with one year's service. However, Farmer is no newcomer to the state's water issues, having spent his life in western Oklahoma, where water is a precious commodity. Farmer is a founder of the Oklahoma Rural Water Association 24 years ago and today serves on the ORWA Board as assistant secretary.

As a banker in a region whose well-being depends on the yield of cotton, alfalfa and wheat, Farmer has spent a good deal of time planning how to have enough good water in the right place at the right time. The topic led him to design the first mechanism for blending surface water with groundwater in a single system, an invention born of necessity.

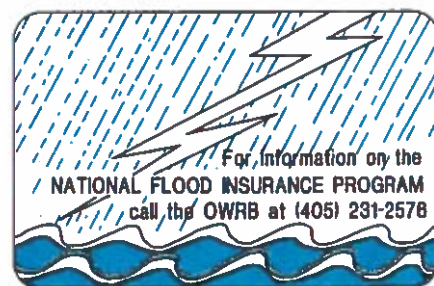
"Davidson, my hometown of 500 folks, and about 9,500 other residents of the county were using groundwater as primary or backup water supplies," Farmer recounted. "Grandfield, Manitou, Davidson, Hollister, Tipton and Tillman County RWD #1 were using water extremely high in nitrates. Some other communities were run-

The new vested amount is then 5,000 acre-feet. The cycle then starts again. The municipality must use the full 5,000 acre-feet in at least one year in the next seven. If the 5,000 acre-feet usage occurred in 1987, the municipality would have to use the full 5,000 acre-feet in any one year through 1994 (seven years after 1987) to prevent another reduction in the water right.

These use-it-or-lose-it requirements were included in Oklahoma's law to help prevent claimants from tying up water rights.

To prevent water rights from being tied up by people who can't or won't use the water, the laws were written to free up water rights to give others a chance to make claims to what they may need. This action encourages growth and prosperity, just like the frontier days of old.

The Water Management Division of the Board is in charge of keeping up with rights to use stream water. If you receive a letter or notice in the mail about a proposed reduction or cancellation of your water right and have questions, please contact J.A. Wood, Chief of the Water Management Division, in Oklahoma City at (405) 231-2531. □



"Unsafe levels of nitrates in the aquifer, according to the EPA standard of 10 ppm, forced us to look for other sources," Farmer said.

"Rather than coping with the high costs of treating the nitrate-contaminated water, we decided to form a regional water supply system to share the costs of a new system. We formed the Tillman County Water Development Authority and contracted with the City of Frederick to buy water from Lake Frederick and Tom Steed Reservoir to blend with the lower quality groundwater."

Farmer recalls that the cost to construct the system and bring the communities on line was about \$1.9 million. Grant and loan funds from the Water Resources Board, State Department of Commerce and Farmers Home Administration enabled the system's development.

"As a Board member of both the Water Resources Board and the ORWA, I am proud that the OWRB Financial Assistance Program supported creation of this system with more than \$415,000 in grant and loan funds," he said.

Today, the Tillman County Regional Water Supply system stands as a model for other Oklahoma communities. Farmer and his associates are models of ingenuity, cooperation and perseverance. □



Lonnie Farmer

ning into trouble with water shortages and storage and distribution problems," he said.

The region in extreme southwest Oklahoma is underlain by the Tillman Terrace Aquifer, a reliable source of irrigation water, but sensitive to nitrate concentrations when high water usage causes water levels to decline.

At the September 13 Board Meeting in Oklahoma City:

On the portion of the agenda devoted to the Financial Assistance Division, the Board approved a loan for \$3,185,000 to the Broken Arrow Municipal Authority. According to FA Division Chief Joe Freeman, the loan will fund improvements to the city's wastewater treatment plants. The Board also approved a \$410,000 loan to the Washington Municipal Authority in McClain County for wastewater improvements that will bring the Authority into compliance with the DEQ consent order. The Board approved a request from Langston PWA to apply unused funds left in the construction account for the replacement of water lines serving customers northwest of Langston.

Mr. Freeman reported to the Board that the SRF-state match note issuance is proceeding on schedule. The Board approved Boatmen's Bank to provide trustee services and a resolution authorizing the issuance of SRF notes. The notes will fund the 20 percent state match required under the Clean Water Act to provide the 1994 capitalization grant.

J.A. Wood, chief of the Water Management Division, asked and received Board approval for three regular groundwater permits, seven temporary permits to use groundwater, and five regular permits to use stream water. Two protested applications for the regular use of groundwater were approved for Triple S Farms L.C., Tillman Co. and Cama Trust, Canadian Co.

The Board approved cancellation of five stream water rights due to non-use within the seven-year time limit.

The Board approved licenses for seven

new well drilling firms: Geotechnical Services, Inc.; Mowdy Water Well Service; Hinkle Hardware; Prairie Land Environmental Remediation; GM Enterprises; Mid-America Environmental and Ward Environmental. Operators certificates were issued to nine drillers/pump installers associated with those firms. They are: Charles A. Brewer, Steve Gensler, Robert Peterson, Don Mowdy, Jr., Leon Hinkle, Lot F. Taylor, Terry Long, James J. Lloyd and Brent M. Ward. Three applications were approved to add activities and operators to existing licensed firms.

The Board approved an agreed settlement whereby the well drilling license held by Robert A. Hall of Norman is voluntarily suspended for the three months previously served. Hall had submitted a written admission of the violations and had voluntarily suspended activities. □

FINANCIAL ASSISTANCE PROGRAM UPDATE			
Approved at September Board Meeting			
FAP Loans (4.522%; 30 year maximum term)		SRF Loans	
Broken Arrow MA	\$ 3,185,000	Washington MA	\$ 410,000.00
Grants (None at September Board)			
Totals as of 9/13/94			
	FAP LOANS	FAP GRANTS	SRF LOANS
APPROVED	148	388	23
Amount	\$170,070,000.00	\$18,925,175.00	\$118,329,726.48
FUNDED	137	308	20
Amount	\$156,920,000.00	\$17,047,878.11	\$92,160,115.48

Mary E. Whitlow, Editor

Barry Fogerty, Photographer

James Leewright, Typography and Layout

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Oklahoma Water Resources Board
600 N. Harvey Avenue, P.O. Box 150
Oklahoma City, OK 73101-0150

J. Ross Kirtley, Chairman
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