

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
April 21, 2015

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Rudy Herrmann at 9:30 a.m., on April 21, 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 April 17, 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.

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

A. Roll Call

Board Members Present

Rudy Herrmann, Chairman
Tom Buchanan, Secretary
Bob Drake
Marilyn Feaver
Ed Fite
Jason Hitch
Richard Sevenoaks

Board Members Absent

Linda Lambert, Vice Chairman
Ford Drummond

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, Water Quality Programs Division
Mary Schooley, Executive Secretary

Others Present

Barbara Albritton, Sperry/INCOG; Tulsa, OK
Austin Chapman, Sperry/INCOG; Tulsa, OK
Afsaneh Jabber, City of Lawton, OK

Others Present continued

Gary Walker, SOAR, Wichita Falls, TX
Bud Ground, Environmental Federation of Oklahoma, Oklahoma City, OK
Dennis W. Thomas, Tuttle, OK
John Rehring, Carollo, Denver, CO
Deena Suddeth, BancFirst, Oklahoma City, OK
Kyle Elliott, BancFirst, Oklahoma City, OK
Jeff Everett, OG&E, Oklahoma City, OK
Charlie Swinton, BancFirst, Oklahoma City, OK
Chris Cochran, BOSC, Dallas, TX
Jim Barnett, Doerner Saunders Daniel, Anderson; Tuttle, OK
James M. Ballard, Tuttle, OK
James J. Ballard, Tuttle, OK
Janelle Stecklein, CNHI
Kylee Davis-Maddy, Doerner Saunders Daniel Anderson; Tuttle, OK

B. APPROVAL OF MINUTES

Chairman Herrmann stated the draft minutes of the March 11, 2015, Regular Meeting had been electronically distributed. He said there had been minor format changes from the distributed draft; however, no substantive changes had been made. He said he would accept a motion.

Mr. Fite moved to approve the March 11, 2015, minutes, as presented and Ms. Feaver seconded. There were no comments or corrections, and Chairman Herrmann called for the vote.

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

C. EXECUTIVE DIRECTOR'S REPORT

Mr. J.D. Strong, OWRB Executive Director, greeted the members and asked Ms. Amanda Storck to present the legislative report. Ms. Storck began with the Congressional report prepared by Ms. Brittnee Preston, stating the House and Senate have introduced and passed their budgets which are now headed into conference negotiations, and she noted the breakdown of the House and Senate budgets as shown in the prepared report. She said the House Transportation and Infrastructure Committee introduced H.R. 1732 – Regulatory Integrity Protection Act – and requires the withdrawal of the WOTUS rule (Water of the US). The House Appropriations on Energy & Water passed its bill on April 15, and highlights of the bill were included in the written report. Ms. Storck said several hearings were scheduled which were listed, and she highlighted the activities of federal agencies such as revised guidelines for Floodplain Management by FEMA; on April 3 EPA sent its final WOTUS rule to OMB keeping with the timeline to release the final rule before the end of Spring; USDA NRCS announced the availability of \$332 million in financial and technical assistance to protect wetlands and grasslands; and \$73 million is available to rehabilitate and assess dams across the nation (18 projects in Oklahoma). There were no questions regarding the federal report.

Ms. Storck continued and presented the State Legislative report noting that one deadline remains before Sine Die adjournment. She said all the bills listed are those the agency tracks and she highlighted HB 1420 regarding the repealer of part of the Weather Modification Act—regulatory

authority will remain with the OWRB--other than General Appropriations bills. She said the employee bill specifying temporary employees are seasonal employees, which is important to the agency budget, was introduced as a Senate bill and is now in the House but is caught between procedural changes in the committees so staff is working to find a vehicle. The employee designation is important because of the new Affordable Health Care Act exemptions. Mr. Sevenoaks asked about SJR 1012 (Right to Farm Act); Mr. Buchanan said it is anticipated the Senate will hear the measure today.

Ms. Storck concluded her report stating that the agency had provided information on its budget, but the percentage of cut the agency will receive is unknown at this time.

Mr. Strong added to the federal activity report that several things happened in March when he traveled to Washington, D.C. with the Western States Water Council (WSWC) when Congressman Lucas passed HR 1029 – EPA Science Advisory Board Reform Act of 2015 – on March 17. He said the WSWC had asked for more state representation on the Advisory Board due to the technical nature which provides peer and scientific review of the activities of EPA, including the WOTUS rule making, and yet there is no representative on the Board currently for state government expertise. Regarding the House Transportation & Infrastructure Committee bill to require withdrawal of the WOTUS rule, Mr. Strong stated he understood that similarly on the Senate side the Environment and Public Works Committee chaired by Senator Inhofe is likely to propose legislation to require withdrawal of the WOTUS rule, and interestingly EPA submitted the final version of the rule to the Office of Management and Budget for final review. In meetings it was stated EPA did not intend to seek additional state input as co-regulators of the rules, but would work diligently with states on how to implement the rule once finalized. Chairman Herrmann asked if there was organized support for the rule, and Mr. Strong answered there is a coalition of groups that have gathered to support the rule under the auspices of it being the “Clean Water Rule” so if you are for clean water you are for the rule. Some believe their state does not do enough to protect clean water and if EPA has more jurisdiction that will result in better protection, and there have been some high profile supporters.

Mr. Strong reported that he spoke to the Yukon Rotary, EPA Region 6 came to Oklahoma City to meet with the agencies to discuss water quality program and issues (March 31-April 1), and he has had several meetings with the City of Blackwell and irrigators, met with the Department of Wildlife regarding instream flow, managed aquifer recharge meetings with the Department of Environmental Academy, met with the Pottwatomie RWD #3, and attended the Leadership Academy. Mr. Strong spoke to the ORWA conference in Tulsa, then hosted the Western States Water Council Spring meeting in Catoosa April 15-17 and Chairman Herrmann attended. Chairman Herrmann commented that he now understands the hard work the Council does dealing with real issues i.e., Waters of the US, funding issues, sharing of best practices, and with a high level professionalism, and Oklahoma is well represented by Mr. Strong. He sensed the federal agencies recognized they needed to do a better job of working with the states.

Regarding the Arbuckle Simpson Maximum Annual Yield litigation, Mr. Singletary noted upcoming dates scheduled for a hearing on preliminary motions on April 24, and briefing deadlines in June, and the hearing is set for mid-September. Mr. Strong added this is the timeline and the matter is still in preliminary stages; staff would keep the Board apprised.

Following the Board meeting today, the Board’s Ad Hoc Water Policy/Rules Committee will meet and the Water for 2060 Council meets at 1:00 p.m. today and is working to finalize a report to the Legislature and Governor by the November deadline. Next week, the Red River Compact Commission will conduct its annual meeting at Lakeview Lodge at Beavers Bend on April 28, and the Canadian River Compact will meet in Santa Fe on May 12. He announced the Arkansas-Oklahoma Arkansas River Compact Federal Commissioner Dick Seybolt (and former OWRB member) was replaced by President Obama with Dr. Delia Haak, Executive Director of the Illinois River Watershed Partnership. The compact will meet at the end of September in Oklahoma.

Other upcoming events Mr. Strong and OWRB staff will be involved in are Ada Day at the Capitol, CLE Water Law Symposium, South Oklahoma City Rotary, the annual ScienceFest at the Fairgrounds, the Wetlands Workgroup Kickoff meeting, and the Water and Environment Conference. The next OWRB meeting will be May 19, 2015, at 9:30 a.m. in the OWRB meeting room.

Mr. Strong concluded his report commenting about the 20th Anniversary of the Murrah Building bombing, and the participation of 30-plus OWRB employees and family participating in the OKC Memorial Marathon on April 26.

Mr. Buchanan said notices had been sent to the permit holders within the Arbuckle Simpson regarding the implementation of the rule, and asked if staff had received any comments. Mr. Strong responded staff had made an effort to work with the entities that would be affected by the new limit prior to the notice being sent, and a cover letter was included inviting permit holders to meet with staff if there were concerns. One individual farm operator staff had not been able to reach contacted the Board and his issue was resolved. Mr. Sevenoaks asked and Mr. Strong responded staff has been in contact with the City of Ada and local rural water districts as well. Mr. Drake said staff is working diligently with all parties to come up with solutions.

D. Monthly Budget Report

Ms. Amanda Storck, Chief, Administrative Services Division, stated to the members the prepared report indicates that staff has been able to bill for grants and contracts on time this year. She said that 52% of the funding is available with 25% of the fiscal year remaining. She said that divisions are assisting her to enter the agency budget information into the new OMES system. She announced the agency purchasing officer, Ms. Wilma Beagle, will be retiring at the end of May and she introduced her replacement, Mr. Anil Pillai.

Mr. Sevenoaks asked what percentage of budget cut the agency is anticipating, and Ms. Storck responded the Governor's budget included a 6% cut, and the shortfall was a 5% above that amount. At this time, agencies have not been informed about an amount but staff is getting information ready for negotiations i.e., personnel, contracts, training and travel costs. Impacts to the divisions would be decrease in REAP funds, 1/3 of funding to Planning and Management would be affected, and Water Quality and Administration are mostly affected which are taking measures by not filling positions and reviewing contracts. Regarding whether saving travel costs could offset a budget cut, and how the agency will adjust to a budget cut, Ms. Storck said the agency is anticipating a 10% budget cut; the majority of travel costs involve field staff and Board travel, compacts, etc., not anything that can be cut. Mr. Strong said it depended upon the final budget cut, but staff is planning scenarios to endure a 10% cut which may include minor scale back of some monitoring because the bulk of the state appropriation for that division is for monitoring. Chairman Herrmann added that the good news is the agency had been able to receive monitoring funds due to the Comprehensive Water Plan, and Mr. Smithee added that the division can survive a 10% cut to lab analysis and personnel costs.

There were no other questions by members, and Ms. Storck concluded the report.

2. FINANCIAL ASSISTANCE DIVISION

Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that on Monday afternoon the Board's Finance Committee – Ms. Lambert, Ms. Feaver, Mr. Fite and Mr. Buchanan – met to review the summary of proposals received for bond counsel and investment bankers for the Financial Assistance Program (FAP) and State Revolving Fund (SRF) loan programs.

A. Consideration of and Possible Action on Selection of Bond Counsel in Connection with the Issuance of One or More Obligations to Provide Funding for the State Loan Program. Recommended for Approval. Mr. Freeman stated this item is the resolution for selection of bond counsel for the FAP loan program. He said staff distributed 25 requests for proposals and received a proposal from the Centennial Law Group. Mr. Freeman said Mr. Buchanan would make a motion on behalf of the Committee.

Mr. Buchanan said after the Finance Committee met and reviewed the proposals, the Committee recommended the selection of Centennial Law Group to serve as FAP bond counsel to the Board. Chairman Herrmann asked and Mr. Buchanan responded that is a motion. Mr. Fite seconded. Chairman Herrmann said the Centennial Law Group had served in this capacity in the past and had done a commendable job.

There were no questions or comments regarding the motion, and Chairman Herrmann called for the vote.

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

B. Consideration of and Possible Action on Selection of Investment Banker(s) in Connection with the Issuance of One or More Obligations to Provide Funding for the State Loan Program. Recommended for Approval. Mr. Freeman said this item is a resolution for the selection of investment bankers for the FAP loan program. He said 37 requests for proposals were distributed, and staff received proposals for Senior Manager from Baird, Wells Fargo, Stifel, and BOSC and additionally received a proposal to serve as co-manager from Wells Nelson and Associates. Mr. Freeman said the proposals were reviewed based on each firm and assigned personnel's relevant experience, marketing capabilities, distribution capabilities and quality of the proposal. Mr. Freeman said Mr. Buchanan will make a motion on behalf of the Committee.

Mr. Buchanan moved the Board select the underwriting firm of BOSC as Senior Managing Investment Banker to the Board, and on an as-needed basis when staff feels a co-manager is needed, select Wells Nelson as Co-Manager. Ms. Feaver seconded.

Mr. Herrmann asked if a supermajority is needed to vote, how many is needed for a majority to pass, and Mr. Strong said a supermajority is not needed for this item, but for the bond issue (2.E.).

Mr. Sevenoaks asked which BOSC office would be used, and Mr. Freeman answered the Oklahoma City office. There were no other questions and Chairman Herrmann called for the vote.

AYE: Hitch, Buchanan, Feaver, Sevenoaks, Drake, Fite
NAY: None
ABSTAIN: Herrmann (regarding BOSC)
ABSENT: Drummond, Lambert

C. Consideration of and Possible Action on Selection of Bond Counsel in Connection with the Issuance of One or More Obligations to Provide Funding for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Loan Programs. Recommended for Approval. Mr. Freeman said this item is for the selection of bond counsel for the Clean Water and Drinking Water SRF loan programs. He said staff requested proposals from 25 firms and received proposals from the Centennial Law Group and McCall, Parkhurst & Horton, LLC. He said the proposals were reviewed based on SRF bond issue experience, new money and pooled revenue bond issue experience, and the overall experience of the assigned attorneys. The proposals were reviewed by OWRB staff, and the Board's financial advisors with First Southwest. Mr. Freeman stated Mr. Buchanan would make a motion on behalf of the Committee.

Mr. Buchanan moved that the firm of McCall, Parkhurst & Horton serve as bond counsel for the SRF bonds. Mr. Drake seconded.

Chairman Herrmann stated the Board has had a long-standing relationship with the firm. There were no questions by members, and Chairman Herrmann called for the vote.

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

D. Consideration of and Possible Action on Selection of Investment Banker(s) in Connection with the Issuance of Obligations to Provide Funding for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Loan Programs. Recommended for Approval. Mr. Freeman stated this item is for the selection of investment bankers for the Clean Water and Drinking Water SRF loan program. He said staff requested proposals from 37 firms, and received four proposals for Senior Manager, and four firms submitted proposals for Co-Manager. Proposals for Senior Manager were received from Wells Fargo, Morgan Stanley, Bank of America Merrill Lynch, and Citigroup. Proposals for Co-Manager were received from BOSC, Baird, Stifel, and Goldman Sachs. Proposals were reviewed by staff and First Southwest, and were based on the firm's relevant experience, marketing and distribution capabilities, and quality of the proposed financing plan. He said Mr. Buchanan would make a motion on behalf of the Committee.

Mr. Buchanan moved to select the underwriting firm of Bank of America Merrill Lynch to serve as Senior Managing Investment Banker, and recommend and moved that the underwriting firm Morgan Stanley and BOSC serve as Co-Managing Underwriters. Ms. Feaver seconded.

Chairman Herrmann stated the firms have had a longstanding relationship with Board, and that the Committee is satisfied the selection is through the proper process.

There were no questions by the members, and Chairman Herrmann called for the vote.

AYE: Hitch, Buchanan, Feaver, Sevenoaks, Drake, Fite, Herrmann
NAY: None
ABSTAIN: Herrmann (BOSC)
ABSENT: Drummond, Lambert

E. Resolution Authorizing the Issuance of Oklahoma Water Resources Board State Loan Program Revenue Bonds in an Aggregate Principal Amount not to Exceed \$20,000,000; at a Net Interest Cost not to Exceed Six Percent (6.0%); Providing for the Issuance of Said Bonds in One or More Series; Approving and Authorizing Execution of a Twenty-Ninth Supplemental Bond Resolution and, if Deemed Advisable, an Additional Supplemental Bond Resolution for Each Additional Series; Waiving Competitive Bidding on the Bonds and Authorizing the Sale Thereof by Negotiation and at a Discount Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Authorizing the Chairman or Vice Chairman to Deem Preliminary Official Statements for Said Bonds and Additional Series of Bonds Final; Directing Deposit of Proceeds Derived from the Issuance of the Bonds in the State Treasury and Requesting the State Treasurer to Remit Such Proceeds to the Bond Trustee; Ratifying and Approving the Form of Promissory Note, Loan Agreement, and Note Purchase Agreement to be Executed by Borrowers in the State Loan Program; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as may be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval. Mr. Freeman stated this item is an authorizing resolution for the issuance of FAP loan program bonds. He said the bonds may be sold as one issue or a series of issues. The bonds are proposed to be used to eventually fund up to 16 loans that are new money projects and refinances. The resolution authorizes the following items: issuance of bonds not exceed \$20 million

dollars; authorizing execution of the Twenty-Ninth Supplemental Bond Resolution for the issuance of the bonds; authorizing the issuance be on a negotiated basis; authorizing the Chairman or Vice Chairman to deem final the Preliminary Official Statements; direct deposit of proceeds to the State Treasurer for remittance to BancFirst, the Board's Trustee Bank; approving the form of Promissory Note and Loan Agreement; and, directing payment for the cost of issuance and authorizing all other documents necessary for issuance. Staff recommended approval.

Mr. Drake moved to accept staff's recommendation to approve the resolution, and Mr. Buchanan seconded.

Chairman Herrmann asked if the bond issue would fund loans that the Board has already approved, or provide the capacity to do future loans. Mr. Freeman said the issue is for new loans; staff's plan is to bring one in May, another in June, and close the bond issue in July. There are additional projects in amount of \$11 million. Mr. Sevenoaks asked if Tulsa was included in those projects, and Mr. Freeman answered it is not. Mr. Drake said it is an uncertain interest environment, and he asked if the Board could only borrow up to the level of commitment that is asked, or can there be funds in the Board's accounts for what is coming down the road. Mr. Freeman said the Board used to do blind pool bond issues for the FAP for years; however, now when we close an issue for the FAP we simultaneously close the loans so there is no gap between the bonds and the loans. Chairman Herrmann noted that is important to maintain the tax free status for the people that buy the bonds. Mr. Freeman said the loans are lined up and ready to close when the bonds are closed.

Chairman Herrmann stated the motion had been made and seconded, and he asked if there were other questions. There were none, and he called for the vote.

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

Chairman Herrmann thanked the members of the Committee for their hard work on this effort.

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.

Chairman Herrmann read the statement above and asked if there were requests to transfer items from the Summary Disposition Agenda to the Special Consideration Agenda. 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.

Chairman Herrmann asked if there any changes to the Summary Disposition Agenda. Ms. Julie Cunningham, Planning and Management Division, asked that item H.2. Edward S. Greteman #1979-607, and item I.1., Edward S. Greteman, #1968-229, be withdrawn from the Board's consideration due to notice issues.

There were no other changes, or questions by members, and Chairman Herrmann stated he would entertain a motion to approve the Summary Disposition Agenda with the two withdrawals.

Mr. Hitch moved to approve the Summary Disposition Agenda, and Mr. Buchanan seconded. Chairman Herrmann called for the vote.

AYE: Hitch, Buchanan, Feaver, Sevenoaks, Drake, Fite, Herrmann
NAY: None
ABSTAIN: None
ABSENT: Drummond, 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>
INCOG				
a.	FAP-14-0037-R	Sperry Utility Service Authority	Tulsa	\$75,715.00

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

1. Interagency Agreement with the Department of Environmental Quality for payment of shared office spaces in McAlester and Woodward.

2. Joint Funding Agreement with the U.S. Department of the Interior Geological Survey to review Terrace Hydrologic Investigative Reports for Rush Springs and Enid and a Groundwater Model Report for Rush Springs.

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

1. Ronald Leon & Jennifer D. Mize, Logan County, #2014-623
2. Merlin Schantz Jr. & Lillian Schantz, Caddo County, #2014-628
3. Tommy & Veronica Winnett, Bryan County, #2014-632
4. Lacey & Diane Weger, Bryan County, #2014-639
5. Kerry & Heather Castle, Grady County, #2014-641
6. Neat L. Trust, Caddo County, #2015-506

F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
None

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

1. John Kelly & Macy Davenport, Love County, #2014-568
2. Bone Family II, L.L.C., Love County, #2014-633

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

1. Ricky & Lynna Brakhage, Cimarron County, #1976-522D
2. *Edward S. Greteman and Dolores Greteman Revocable Living Trusts, Washita County, #1979-607 withdrawn*

I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:

1. *Edward S. Greteman and Dolores Greteman Revocable Living Trusts, Washita County, #1968-229 withdrawn*

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

1. Robison Family, L.L.C. and Lela Robison, Muskogee County, #2014-052
2. X T O Energy, Love County, #2014-070
3. Jerry & Cheryl Winnett, Bryan County, #2014-071
4. City of Duncan, Stephens County, #2014-076
5. The 1995 Revocable Trust of LaDonna Meinders and Ruth Evelyn Seideman, Kingfisher County, #2014-080
6. Chandler Maass, Canadian County, #2015-003

K. Consideration of and Possible Action on Applications for Term Permits to Use Stream Water:

1. Crescent Services, L.L.C., Grady County, #2014-051

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

None

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

1. New Licenses and Operators:
 - a. Licensee: J. Diswell Drilling and Irrigation DPC-0919
 1. Operator: John Munro OP-2086
 - b. Licensee: Wades Water Well Service DPC-0923
 1. Operator: Alan Wade OP-2088
 - c. Licensee: D & B Oilfield Services, Inc. DPC-0921
 1. Operator: Thomas Fulgham OP-2087
 - d. Licensee: Drash Consultants, L.L.C. DPC-0917
 1. Operator: Craig Perryman OP-1622
 - e. Licensee: Legacy Services DPC-0925
 1. Operator: Jesse Dunlap OP-2089
 - f. Licensee: Huff Irrigation, L.L.C. DPC-0927
 1. Operator: Houston Huff OP-2090
2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:
 - a. Licensee: Citizen Potawatomie Nation DPC-0641
 1. Operator: Dennis Bristow OP-2083
 - b. Licensee: R W Water Wells DPC-0678
 1. Operator: Richard Wild OP-1398

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, Comanche County, #FP-15-02
2. Oklahoma Department of Transportation, Comanche County, #FP-15-03
3. Oklahoma Department of Transportation, Tulsa County, #FP-15-04
4. Oklahoma Department of Transportation, Oklahoma County, #FP-15-05

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

1. Town of Beaver, Marc A. Davis, FPA-614
2. Town of Hydro, Rick L. Johnson, FPA-615
3. Kiowa County, Daniel W. Fantinel, FPA-616

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

- A. No items. There were no items for the Board's consideration.

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Application for Weather Modification Operations Permit No. WM-2015-1, Seeding Operations and Atmospheric Research (SOAR), Inc. of Wichita Falls, TX, on behalf of the City of Lawton, OK:

1. Summary – Ms. Julie Cunningham, Chief, Planning and Management Division, stated to the members that this item is a permit application for a permit to engage in weather modification operations by Seeding Operations and Atmospheric Research (SOAR), Inc. on behalf of the City of Lawton. At the Board’s March meeting, staff presented the Board’s rules on weather modification licensing and project permitting to approve the weather modification operator’s license for this company from Wichita Falls, Texas. The company has now submitted the required documentation for this operation permit, and she reviewed the permit procedure: the applicant must hold a current license issued by the Board, submit a properly complete an application and application fee, publish a notice of intent, submit evidence of financial responsibility, and provide additional information as the Board sees necessary. In this case, the application included where, when and what techniques of weather modification would be performed, evidence of financial responsibility in the form of a \$1 million dollar insurance policy, and proof of publication where the equipment may be located or operated which include eight counties included in the target area. The company published notice in seven of the eight counties; Jefferson County was omitted.

Mr. Cunningham said that staff recommended approval of the permit to perform work in the seven counties immediately, and conditional authorization to perform work in Jefferson County following proper notice of intention published in the Jefferson County paper, with hearing and final order by the Board in the event of a protest.

Chairman Herrmann noted that what is before the Board today is different than what was provided earlier electronically. Ms. Cunningham said the condition regarding Jefferson County had been added. She explained the common materials that would be used in the operation, and said the rules provide the operation shut down due to weather threats, which is included as a condition to the permit. Mr. Strong added the City of Lawton is represented, as is the weather modification operator, and he reiterated the Board’s rules state the Board shall approve the permit if the conditions required by the law and the regulations are met, and he read the language of the current rule. He stated the conditions are provided in the permit, including the additional condition they cannot operate in Jefferson County until they have published adequate notice, and no protest was filed.

Mr. Hitch asked if the Board could grant a license to operate in Texas, and Mr. Strong responded the Board considered the license at the last month’s meeting, and this is for the permit. The permit mentions that operations will be in Texas, but does not authorize operations in Texas, that should be obtained from Texas.

2. Discussion and presentation by parties. Mr. Gary Walker, SOAR of Wichita Falls, TX, addressed the members’ questions and stated that the Texas process is similar to Oklahoma; a permit is applied for a specific area and he has a current permit for the Wichita Falls project called the Rolling Plains project north of Abilene, and a project west of Lubbock. He explained that if the National Weather Service issues a warning for an area – thunderstorm, flood, hail, tornado, etc. – the area is vacated as it is a safety issue. Mr. Walker said when there is development in those counties in Texas he has a license to operate; he will bring the airplane into those counties to seed and enhance that rainfall as it moves into Oklahoma. Mr. Hitch noted the language in the Oklahoma permit about Texas, but the Board does not have authority. General Counsel Singletary responded that for clarity, that language should be stricken, making clear the Board is only authorized to permit activities in the counties in Oklahoma.

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 application as presented or as may be amended, or vote on any other action or decision relating to the application.

Chairman Herrmann stated that he would accept a motion that captures the spirit of the discussion regarding the permit language and operations in Texas.

Mr. Drake moved the Board follow staff's recommendation to approve the application. Chairman Herrmann clarified the three counties in Texas would be excluded, and Mr. Drake concurred. Mr. Buchanan seconded.

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

AYE: Hitch, Buchanan, Feaver, Sevenoaks, Drake, Fite, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Drummond, Lambert

Chairman Herrmann stated the permit is approved.

B. Consideration of and Possible Action on Withdrawal of Application to Amend Temporary Groundwater Permit No. 1983-612, City of Tuttle, Grady County:

1. Summary – Ms. Julie Cunningham stated this item is a withdrawal of an application to amend an existing 1983 groundwater permit. She said the notice was submitted after the hearing examiner's proposed amended findings of fact, conclusions of law, and Board order were mailed to the parties. In these cases, it is the interpretation of staff that once the hearing is completed, such a withdrawal may only occur with Board approval. Staff has reviewed the case, and does not object to approval of withdrawal of this application to amend the groundwater permit.

Chairman Herrmann clarified that staff is recommending approval of the withdrawal. Mr. Strong added staff did not object to the withdrawal; the reason it is before the Board is because the matter was so far along in the process it needed to be a Board decision rather than a staff-level decision. Had the application come earlier, staff would have deemed it withdrawn. Chairman Herrmann stated then, if the Board does not support staff recommendation, then the Board would consider item "C." on the agenda which is the actual permit. If the Board approves the withdrawal, item "C." will not be acted upon.

Chairman Herrmann stated he would entertain a motion to accept staff's recommended approval of the withdrawal. Mr. Fite so moved, and Mr. Buchanan seconded.

2. Discussion and presentation by parties. Chairman Herrmann stated he would allow five minutes each for those in favor of the withdrawal and those opposed to the withdrawal to address the Board.

Mr. Jim Barnett, representing the applicant, stated he would not explain the reasons why the request to withdraw has been submitted since the Board has moved and seconded to approve the application. He said he appreciates the Board's approach to the matter, and believes they can come back to the Board with a cleaner, more straightforward application.

Mr. Dennis Thomas, representing several families in Tuttle opposed to the withdrawal, stated to the members that they had been going through this process for the past year and a half and when the matter was to come to the Board, Tuttle got it delayed. Now, he said, they want to withdraw where they do not have a deed for the wells, but during this time they have pumped 50-75 gallons per minute 24-7 from these wells. He said now that the findings of fact is against them and they will lose wells, the City wants to withdraw. He described the geography and sections in relationship to the town, and

said there have been multiple wells drilled they didn't receive notice about, and his family well is located within 300 yards of the new well.

Mr. Hitch said he understood their home water was not from the City of Tuttle, and Mr. Thomas answered, no, they are 300 yards from City limits. He explained three wells are located 300 yards north, and are spaced about 100 feet apart, and are 595 feet from city limits, which is a violation of state law. He asked the Board to shut down the wells. Mr. Hitch asked about the depth of the wells, and Mr. Thomas said most go to the red shale at 50-55 feet and most home wells have 8-inch casing. He was aware of two wells in the city that have gone dry and said he wanted to protect his domestic well. He explained the large housing additions in the area are supplied by water from downtown and had been drilled in the 1960s on land owned by the schools. Tuttle is supplying water by drilling wells on easements of sections they do not have deeds to.

Mr. Barnett responded stating there is a long history to the matter beginning in 2008 when the Board loaned the City of Tuttle \$4 million to improve its water system. In working with the OWRB staff to determine the proper way to get its permits in order, which took a considerable amount of time, in 2011 two applications were filed under the platted lands statute, which can become a very convoluted and difficult, and is not like a typical groundwater application. He explained that going through the application process, there was concern that some of the wells were not more than 660 feet from the border, which is required, and therefore the hearing examiner disallowed those wells and that became an issue. He said the Board sent back the exceptions for further consideration for issues such as the hearing examiner determined there were three wells on the railroad lease which only applied to one, the record is closed and it is too late for the new lease to be with this application. He said there are a number of problems with the application that is on the agenda today, and the hearing examiner clearly stated in both the previous order and this order the protestant's concerns were not legitimate (page 5024 of the packet), and he quoted from the proposed findings, the groundwater law does not support the protestant's objections to the application. He said whether the Board approves the withdrawal or not, there is no help for the protestant's in this matter. Mr. Barnett stated he had been hired by the City after the applications had been filed, and it was clear to him there were two recommendations that were inappropriate (1) withdraw an earlier permit that permitted several wells from the original permit that the hearing examiner finds controversial which was withdrawn, and (2) it wasn't necessary to come under the platted lands statute for this application and so the purpose for this withdrawal. He said a new application has been filed which will eventually come before the Board and will be a straightforward application to authorize these wells. Mr. Barnett stated he appreciated the Board's affirmative vote to follow staff's recommendation and allow withdrawal of the application.

Chairman Herrmann asked for staff's comments if the Board approves the withdrawal. Mr. Strong stated a withdrawal does not prejudice the protestants and they will be able to come back in any process going forward in regard to the new application and raise similar or new objections that could be subject to a new hearing. He said he is sympathetic to the fact it is frustrating to go through more process but in some ways approval of the hearing examiner's findings might be detrimental because as Mr. Barnett noted the order does find the protestant's objections are not valid in regard to depletion and diminishment of water in their wells, setback requirements, and it might be beneficial to await a new application to see what Tuttle is proposing to do that is different and see if it does resolve their complaint. Chairman Herrmann asked what the protestant's rights are if there is interference today. Mr. Strong responded this is an unstudied basin and there are no setback requirements so under the laws of the state allow for the measured depletion of groundwater, there will not be much recourse. The opportunity would be on a going forward basis, next step if the Board chooses to allow withdrawal, City of Tuttle will come back addressing the ownership deficiencies which is what remains, and the protestants to look at the new application to see if their concerns remain. Mr. Hitch asked if Tuttle is still operating unpermitted wells, and Mr. Strong answered to the extent they are, that is why the Board has embarked on this process – as it has with a lot of water users across the state – to

get down the road to get legal as long as there is cooperation. If they can't get legal, they will have to shut down wells, and he added it has been the Board's longstanding operation for those that want to come voluntarily to come into compliance and we help with that process. Mr. Hitch asked if the Board could condition the withdrawal that the wells be shutdown until things are squared away, and Mr. Strong said conditions could not be added to a withdrawal. General Counsel Singletary concurred, that once it is withdrawn the Board does not retain jurisdiction. Mr. Strong said the Board has jurisdiction over the wells and can seek enforcement action now based on current law; however, this is a situation where they have been working diligently; the issues of ownership were not raised by the protestant, but the hearing examiner. A fresh application will allow an opportunity to correct deficiencies, and come with a tidy application. Ms. Cunningham stated staff is working with the applicant before it goes to notice.

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.

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

Chairman Herrmann stated staff's recommendation is to withdraw; a motion has been made and seconded. There were no other questions by members, and he called for the vote.

AYE: Hitch, Buchanan, Feaver, Sevenoaks, Drake, Fite, Herrmann

NAY: None

ABSTAIN: None

ABSENT: Drummond, Lambert

Chairman Herrmann expressed sympathy to the protestants on behalf of the Board for their situation, and he asked staff to assist them during the process, and he reiterated that the Board supports staff working with users to come into compliance as long as there is a good faith effort.

C. Consideration of and Possible Action on Application to Amend Temporary Groundwater Permit No. 1983-612, City of Tuttle, Grady County. The Board did not consider this item due to approval of agenda item 5.B.

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

7. 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. Chairman Herrmann stated there were no New Business items for the Board's consideration.

There were no new business items for the Board's consideration. Chairman Herrmann reminded everyone the May 19, 2015, meeting will be held at 9:30 a.m. at the OWRB offices.

8. ADJOURNMENT

There being no further business, Chairman Herrmann adjourned the meeting of the Oklahoma Water Resources Board at 10:49 p.m. on April 21, 2015.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Linda P. Lambert, Vice Chairman

_____/s/_____
F. Ford Drummond

_____/s/_____
Edward H. Fite

_____/s/_____
Marilyn Feaver

_____/Absent_____
Richard Sevenoaks

_____/s/_____
Bob Drake

_____/s/_____
Jason W. Hitch

Vacant

ATTEST:

_____/s/_____
Tom Buchanan, Secretary (SEAL)