

OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES
July 19, 2016

1. CALL TO ORDER

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Linda Lambert at 9:30 a.m., on July 19, 2016, in the second floor meeting room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, OK.

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 July 15, 2016, at 3:30 p.m. at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, and provided on the agency's website.

Chairman Lambert called for the roll call of members.

A. Roll Call

Board Members Present

Linda Lambert, Chairman
Ford Drummond, Vice Chairman
Stephen Allen
Tom Buchanan
Ed Fite
Richard Sevenoaks

Board Members Absent

Jason Hitch, Secretary
Bob Drake
Marilyn Feaver

Staff Members Present

J.D. Strong, Executive Director
Robert Singletary, General Counsel
Cleve Pierce, 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

Mike Mathis, Continental Resources, Oklahoma City, OK
Carlos E. Johnson, BKA, LLA
Jeff Everett, Oklahoma Gas & Electric, Oklahoma City, OK

Sue Ann Nicely, Oklahoma Municipal League, Oklahoma City, OK
Brett Sebastian, Journal Record Legislative Reporter, Oklahoma City, OK
Tyler Talley, eCapitol, Oklahoma City, OK
Michelle Wynn, Department of Environmental Quality, Oklahoma City, OK
Chris Chandler, Broken Bow, OK

B. Discussion, Amendments, and Vote to Approve Official Minutes of the June 21, 2016, Regular Meeting.

Chairman Lambert asked if there were any corrections to the minutes of the June 21, 2016, meeting. There were no changes, and Mr. Buchanan moved to approve the minutes. Mr. Allen seconded.

Chairman Lambert called for the vote.

AYE: Buchanan, Fite, Sevenoaks, Allen, Lambert

NAY: None

ABSTAIN: Drummond

ABSENT: Drake, Feaver, Hitch

C. Executive Director's Report

Mr. J.D. Strong, OWRB Executive Director, began his report stating there is little legislative activity now; however, the House interim studies have been approved and there is one concerning water that regards produced water reuse and recycling. The Senate has another week to submit interim study requests. Congress is in recess until after Labor Day, and appropriations bill were not done so congress may return in September. Senator Inhofe is working diligently to craft a Water Resource Development Act (WRDA) bill and get back on the every-other-year schedule. Staff has had the opportunity to provide review and input on the Senate version and may see some positive moves on water supply issues when it is typically heavy on navigation. A written report has been provided by Ms. Brittnie Preston and is in the meeting packet. Notable actions in the report are that Oklahoma City will receive technical assistance from EPA under its "Greening America's Communities" program and also Tulsa is set to receive \$300,000.00 in supplemental funding from the Brownfield program to assist in redeveloping contaminated properties. WaterSmart grants were announced from the Department of Interior, UDSA, and Reclamation to the Choctaw and Chickasaw Tribes for water conservation measures at their major facilities in southeast and south central Oklahoma; the projects are in line with the OWRB statewide Water for 2006 initiative. Altus received a drought resiliency grant of \$300,000.00 for improvements to the Altus City Reservoir which is a backup water supply.

Continuing the report, Mr. Strong stated that mediation is ongoing, and there is an Executive Session scheduled today for an update. General Counsel Rob Singletary presented to the Environmental Federation of Oklahoma Newsreel on June 24; and Mr. Strong attended the Corps of Engineers' Change of Command Ceremony. Colonel Pratt retired from the Army and Tulsa District Corps of Engineers and is replaced by Colonel Christopher A. Hussin. The Western States Water Council met in North Dakota early July---Mr. Strong was unable to attend but was elected Secretary-Treasurer. Mr. Strong said the agency elected to participate as a Pace Setter agency in the State's Charitable Contributions Campaign and fund raising is in full swing. The Robert S. Kerr Environmental Research Center will celebrate its 50th Anniversary on August 3 in Ada; and the Kansas-Oklahoma Arkansas River Compact typically meets in later July but has rescheduled this year's meeting until November. The next regularly scheduled meeting of the OWRB is August 16, at 9:30 a.m. and he reminded the members there is a new law in place that allows the Board to cancel a meeting if there is no business. Looking forward, on August 18 the Red River Valley Association will

conduct its Oklahoma Conference, the Oklahoma Rural Water Association will meet at its annual technical conference August 31-September 2 at Sequoyah State Lodge at Fort Gibson, and the Governor's Water Conference has been scheduled for October 11-12 at the Embassy Suites in Norman.

Chairman Lambert asked about the additional funding that was discovered and would the agency be a beneficiary, and Mr. Strong responded there has been no determination how the money will be dispersed. Mr. Buchanan asked if there are pressing issues with the Kansas-Oklahoma Arkansas River Compact, and Mr. Strong answered there are no issues.

There were no other questions, and Mr. Strong concluded his report.

D. Monthly Budget Report.

Mr. Cleve Pierce addressed the members and stated to the members that at the end of June 2016—also the end of the fiscal year--the agency had 3% remaining in FY'16 appropriations and the remaining budget left for expenditures through June is 31%, which he anticipated would be paid throughout the calendar year and completed around November. He said currently the 2017 budget is being finalized in the Iparian System and can be expended for the first payroll. Mr. Sevenoaks asked if there were any issues with the system, and if the agency bills are being paid and processed in an orderly manner. Mr. Pierce answered there is nothing unusual and bills will be paid within thirty days. Mr. Buchanan commented about the reduced travel expenses, and asked about the Well Drillers Indemnity fund. Mr. Strong said the agency is required to maintain a balance of \$50,000.00 which is funded through fees by the well drillers and is maintained to take care of abandoned wells that are not plugged. Ms. Cunningham added the recalcitrant driller is billed after the fact. Chairman Lambert asked about the 75% remaining in Administrative expenses, and Mr. Pierce anticipated that related to the Financial Assistance Division.

There were no other questions by members, and Mr. Pierce concluded his report.

2. **FINANCIAL ASSISTANCE DIVISION**

Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the two items for the Board's consideration today is for the selection of bond counsel and investment bankers for the State Revenue Bond Loan Program, also known as the FAP Loan Program. He said the selection process at this time now allows for the Board to use the previously selected team which is expiring but potentially there will be a need for a bond issue in the fall of 2016. Mr. Freeman said that 25 requests for proposals were distributed for bond counsel services and 34 requests for proposals for investment bankers were distributed. He said one proposal for bond counsel and four proposals for senior investment banker, and one proposal for co-managing investment banker were received. After staff's review of the proposals, and discussions with Mr. Jim Joseph, State Bond Advisor, Mr. Freeman said he reviewed the proposals with the Board's Finance Committee comprised of Mr. Tom Buchanan, Mr. Ed Fite, Ms. Marilyn Feaver, and Mr. Steven Allen. Therefore, Mr. Freeman stated the following recommendations.

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 for the selection of Bond Counsel. He said based upon ability and previous experience as bond counsel to the FAP Loan Program, staff recommended the Centennial Law Group be selected as Bond Counsel for the upcoming FAP bond issue.

Board Finance Committee Chair Tom Buchanan commented there were not many responses, but the Board had done business with these companies in the past and feels very comfortable with the recommendation. Mr. Sevenoaks asked if they were Oklahomans, and Mr. Freeman responded they are located in Duncan, Oklahoma.

There were no other questions, and Chairman Lambert stated she would entertain a motion to approve the Centennial Law Group as bond counsel.

Mr. Tom Buchanan moved to approve Centennial Law Group, and Mr. Drummond seconded. Chairman Lambert called for the vote.

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

B. Consideration of and Possible Action on Selection of Investment Bankers(s) 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 for the consideration of the resolution for selection of Investment Bankers for the FAP Loan Program. He stated that staff received proposals for Senior Manager from Citi, BOSC, Stifel, and Stephens. Staff received a proposal from Wells Nelson to serve as Co-Manager only. Based on experience, marketing capability, fees, advice from the State Bond Advisor, and after discussions with the Board's Finance Committee, Mr. Freeman stated staff presents the following recommendation: (1) For bond transactions of less than \$15 million dollars, BOSC will serve as sole investment banker; (2) for transactions greater than \$15 million dollars up to \$25 million dollars, BOSC will serve as Senior Manager, and Stifel as Co-Manager; and, (3) for transactions greater than \$25 million, BOSC will serve as Senior Manager, Stifel as Co-Manager, and Wells Nelson as Co-Manager.

There were no comments or questions by the Committee members. Mr. Drummond asked if these are the same advisors as the Board has had previously, and Mr. Freeman answered the only change is the addition of Stifel as a Co-Manager for issues above \$15 million.

Chairman Lambert stated that if there were no questions or comments, she would entertain a motion to approve the selection of Investment Bankers.

Mr. Buchanan moved approval for the selection of Investment Bankers, and Mr. Allen seconded.

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

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 Lambert stated there are no requests for items to be withdrawn or deferred to the Special Consideration Agenda.

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

Chairman Lambert stated she would entertain a motion to approve the Summary Disposition Agenda.

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

There were no questions or comments and Chairman Lambert called for the vote.

AYE: Buchanan, Fite, Sevenoaks, Allen, Drummond, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drake, Feaver, Hitch

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>
None				

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

1. Contract between OWRB and Department of Environmental Quality to provide laboratory services for implementation of water quality monitoring.

2. Interagency Agreement between OWRB and Oklahoma Department of Agriculture, Food, and Forestry ("ODAFF") for the collection of water samples from monitored wells at licensed managed feeding operations.

3. Interagency Agreement between OWRB and the Grand River Dam Authority ("GRDA") to complete Phase I of the development of the Grand Lake Comprehensive Water Plan, in partnership with the U.S. Army Corps of Engineers, to protect and enhance the beneficial uses of surface and groundwater resources in the Grand River Basin.

4. Intergovernmental Agreement between OWRB and the City of Tulsa to provide hydrologic and hydraulic modeling and floodplain mapping for Brookhollow Creek, Brookhollow Tributary Creek, and Little Haikey Creek.

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

1. Kent L. & Beth Switzer, Custer County, #2016-521

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

1. Andy & Tonya Brown, Okfuskee County, #1994-601

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

1. Hill Brothers Farms, L.L.C., Beaver and Texas Counties, #2016-512

2. Tyler & Amanda Kamp, Beaver County, #2016-523

- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:
None
- I. Consideration of and Possible Action on Applications to Amend Prior Rights to Use Groundwater:
1. Grady County RWS&SWMD No. 6, Caddo County, #1957-273A
- J. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
1. Calvin & Judith Feild, Grady County, #2015-037
- K. Consideration of and Possible Action on Applications to Amend Permits to Use Stream Water: None
- 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: Environmental Drilling, Inc.	DPC-0936
1. Operator: Tom Nowak	OP-2161
b. Licensee: H2O Pump and Wells Service	DPC-0938
1. Operator: Kyle Mason	OP-2162

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

a. Licensee: Geotechnology, Inc.	DPC-0866
1. Operator: Bryan Steiner	OP-1924
- 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, Kingfisher County, #FP-15-42
2. Oklahoma Department of Transportation, Kingfisher County, #FP-16-01
3. Oklahoma Department of Transportation, Nowata County, #FP-16-02
4. Oklahoma Department of Transportation, McCurtain County, #FP-16-03
5. Oklahoma Department of Transportation, McCurtain County, #FP-16-04
6. Oklahoma Department of Transportation, Kay County, #FP-16-05
7. Oklahoma Department of Transportation, Texas County, #FP-16-07
8. Oklahoma Department of Transportation, Bryan County, #FP-16-08
9. Oklahoma Department of Transportation, Beckham County, #FP-16-09
10. Oklahoma Department of Transportation, Rogers County, #FP-16-11
11. Oklahoma Department of Transportation, Cleveland & McClain Counties, #FP-16-12
12. Oklahoma Department of Transportation, Kay County, #FP-16-17
13. Oklahoma Department of Transportation, Comanche County, #FP-16-18
14. Oklahoma Department of Transportation, Latimer County, #FP-16-22
15. Oklahoma Department of Transportation, Custer County, #FP-16-28
16. Oklahoma Department of Transportation, Harmon County, #FP-16-31
17. Oklahoma Department of Transportation, Sequoyah County, #FP-16-32
- O. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:
1. Chad Denson, CFM, City of Choctaw, #FPA-685
2. William (Chip) H. Cohrs, III, City of Coweta, #FPA-686
3. Travis P. Ary, City of Lexington, #FPA-687
4. Sandy R. Settle, Washita County, #FPA-688

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

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

5. SPECIAL CONSIDERATION

A. Consideration of and Possible Action on Proposed Findings of Fact, Conclusions of Law and Board Order on Alleged Violations of Well Driller Regulations by Respondent Scott Drummond, DPC-0849, OP-1876:

Prior to presentation of the agenda item, Mr. Ford Drummond stated to the Chairman and members that he would recuse himself from the discussion on this item. He said he fully supported the Well Drilling Program, and staff recommendation, but because he is related to the respondent in this item, he would abstain.

1. Summary – Ms. Julie Cunningham stated this item is for the consideration of an action on an alleged violation of well driller regulation by respondent Scott Drummond. The Board's rules governing well construction states the well driller and/or owner are responsible for taking reasonable action to guard against waste and contamination of groundwater. On October 8, 2015, staff responded to a complaint that respondent driller had never completed a well on the complainant's property. Upon investigation, staff found the wells were not capped and the casing was inadequate according to minimum construction standards, and multi-purpose complete reports were not received by the Board within the sixty days for either of the wells. Ms. Cunningham stated the Board may, after notice of hearing, implement administrative penalties up to \$5,000.00, and revoke, suspend, or deny renewal of any license or operator certification for each violation. Here, the hearing examiner determined the respondent did not produce evidence to support denial of the violation, therefore, staff recommended approval of the proposed findings of fact, conclusions of law, and Board order as proposed with conditions and actions to be taken by August 31, 2016. These actions include: drill out Plummer well #1, after performing remedial measures submit outstanding multipurpose completion reports, and pay a fine in the amount of \$1,100.00 as according to the administrative fines schedule.

Chairman Lambert confirmed the respondent was not in attendance at the meeting, and Ms. Cunningham stated that is correct. Chairman Lambert asked for questions from the members. Mr. Sevenoaks asked if the driller had a drillers' license, and does the Board require a bond. Ms. Cunningham stated yes, he had been licensed since 2012. Mr. Kent Wilkins, Assistant Division Chief, explained the drillers pay into the Well Drillers' Indemnity Fund, which is used to correct violations if the driller does not. Mr. Allen asked about other recourse, and Ms. Cunningham responded that staff will use the fund, then bill the well driller for expenses. If there is no payment, the Board may seek action through the District Attorney's office and District Court.

There were no other questions by the Board members.

2. Discussion and presentation by parties. There was no discussion or presentation by the parties.

3. Possible Executive Session; and 4. Return to open meeting and possible vote or action 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, vote on any other action or decision relating to the Proposed Order.

Chairman Lambert stated she would entertain a motion to approve staff recommendation. Mr. Buchanan moved to approve staff recommendation, approving proposed finding of fact, conclusion of law, and Board order, and Mr. Sevenoaks seconded.

Chairman Lambert called for the vote.

AYE: Buchanan, Fite, Sevenoaks, Allen, Lambert

NAY: None

ABSTAIN: Drummond

ABSENT: Drake, Feaver, Hitch

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.

Chairman Lambert announced a participant in the proposed Executive Session had not yet arrived, and she stated the Board would recess its Regular Session until that person is present. The Board recessed at 9:58 a.m.

6. PROPOSED EXECUTIVE SESSION

Chairman Lambert

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(4) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding in the public interest.

Pursuant to this provision, the Board proposes to hold an executive session for the purpose of discussing Chickasaw Nation and Choctaw Nation v. Fallin, et al., and Oklahoma Water Resources Board v. United States on behalf of the Choctaw Nation et al.

Chairman Lambert called the Board back to Regular Session at 10:12 a.m., and asked General Counsel Singletary to make a statement.

Statement by legal counsel advising on whether disclosure of the discussion of the litigation will seriously impair the ability of the Board and State to conduct the present and proposed litigation in the public interest.

Mr. Robert Singletary, OWRB General Counsel, stated to the members in regard to the proposed Executive Session under agenda item 6., and pursuant to Section 307(b)(4) of the Open Meetings Act, it is his advice as General Counsel that the disclosure of the communications and discussions that are proposed under this agenda item, related to the pending litigation referenced in the item on the agenda, would seriously impair the ability of the Board to conduct the pending litigation in the public interest.

A. Vote on whether to hold Executive Session upon determination that disclosure of the discussion of the litigation will seriously impair the ability of the Board and State to conduct the present and proposed litigation in the public interest. Before it can be held, the Executive Session must be authorized by a majority vote of a quorum of members present and such vote must be recorded.

Chairman Lambert asked for a motion that the Board move into Executive Session, and to appoint Mary Schooley to keep written minutes.

Mr. Buchanan so moved the Board enter Executive Session and designate Ms. Schooley to keep minutes, and Mr. Sevenoaks seconded. Chairman Lambert called for the vote.

AYE: Buchanan, Sevenoaks, Allen, Drummond, Lambert

NAY: None

ABSTAIN: None

ABSENT: Fite, Drake, Feaver, Hitch

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

Executive Secretary Mary Schooley kept written minutes of the session.

C. Executive Session, if authorized.

The Board entered Executive Session at 10:14 a.m.

Mr. Fite returned to the meeting in Executive Session at 10:15 a.m.

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

At 11:17 a.m., Chairman Lambert stated she would entertain a motion to return to Regular Session.

Mr. Fite moved to return to Regular Session, and Mr. Buchannan seconded. Chairman Lambert called for the vote.

AYE: Buchanan, Fite, Sevenoaks, Allen, Drummond, Lambert

NAY: None

ABSTAIN: None

ABSENT: Drake, Feaver, Hitch

The Board returned to Regular Session and did not vote or take action on any matter discussed in the Executive Session.

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.

There were no New Business items for the Board's consideration.

8. ADJOURNMENT

There being no further business, Chairman Lambert adjourned the meeting of the Oklahoma Water Resources Board at 11:17 a.m. on July 19, 2016.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Linda P. Lambert, Chairman

_____/s/_____
F. Ford Drummond, Vice Chairman

_____/s/_____
Edward H. Fite

_____/s/_____
Marilyn Feaver

_____/s/_____
Richard Sevenoaks

_____/s/_____
Bob Drake

_____/s/_____
Tom Buchanan

_____/s/_____
Stephen B. Allen

ATTEST:

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