

OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

May 19, 2020

1. CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Chairman Robert L. Stallings, Jr., at 9:30 a.m. on May 19, 2020, in the second floor Board Room of the Oklahoma Water Resources Board located at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, 73118. 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 May 15, 2020, at 11:35 a.m., at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma, and provided on the agency's website.

A. Roll Call. Chairman Stallings called the meeting to order and stated this is the second meeting being conducted with social distancing and via Zoom Webinar. He asked for the roll call of members who participated in the meeting via video or telephone conferencing.

Board Members Present

Robert L. Stallings, Jr., Chairman
Stephen Allen, Vice Chairman
Bob Drake, Secretary
Jennifer Castillo
Charles Darby
Thomas A. Gorman
Suzanne Landess
Robert L. Melton
Matt Muller

Board Members Absent

None

Staff Members Present and Participating via Zoom Webinar

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Cleve Pierce, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Kent Wilkins, Chief, Planning and Management Division
Bill Cauthron, Chief, Water Quality Programs Division
Mary Schooley, Executive Secretary

The following persons participated via Zoom Webinar

Rebecca Veigo Nascimento, OWRB Water Quality Division

A.1. Introduction of New Board Member Thomas A. Gorman. Chairman Stallings introduced Mr. Gorman who is from Bartlesville, and served as mayor from 2006-2016, and served on the city's Water Resources Committee since 2003. Mr. Gorman has been involved in many organizations in the Bartlesville area, and has a family real estate business. Chairman Stallings invited Mr. Gorman to comment. Mr. Gorman stated he appreciated the opportunity to serve and looked forward to meeting the Members and staff when there doesn't have to be social distancing, hopefully soon.

B. Discussion, Amendments, and Vote to Approve Official Minutes of the April 21, 2020, Special Meeting. Chairman Stallings asked if there were any comments, proposed amendments, or a motion to approval of the April 21, 2020, special meeting minutes.

Mr. Darby moved to approve the minutes of the April 21, 2020, meeting, and Ms. Castillo seconded. There was no discussion. Chairman Stallings called for the vote.

AYE: Allen, Castillo, Muller, Melton, Drake, Landess, Darby, Stallings

NAY: None

ABSTAIN: Gorman

ABSENT: None

C. Executive Director's Report

Ms. Julie Cunningham, Executive Director, welcomed everyone and additionally welcomed Mr. Gorman saying she and General Counsel Sara Gibson had a briefing meeting with Mr. Gorman who has a background in public administration and finance. The agency plans to have recognition of Mr. Ford Drummond's service at some time in the future when people are able to gather in person again.

Ms. Cunningham began her report stating some drought is moving through the Panhandle and west central part of the state; flooding and other conditions are expected later in the week on the eastern side of the state. Regarding calendar items, Ms. Cunningham stated staff had been working with the Tulsa District US Army Corps of Engineer -- a partner with OWRB for many years -- and through Planning Assistance to the States funded the last edition of the Oklahoma Comprehensive Water Plan (OCWP) as well as the implementation work by the Board. She announced the Board was awarded \$250,000.00 that was requested to begin the 2025 update of the OCWP. The last plan took five years to complete; staff performed much of the work with communities to obtain the best estimate of supply and demand. She explained the OWRB will match the COE funding and the COE will contract with an engineering firm to complete the work. The first phase will include the scope of work, infrastructure needs assessment, and preliminary stakeholder engagement.

On May 13, Ms. Cunningham attended the House and Senate approval of a resolution recognizing state employees impacted by the 1995 Murrah Building Bombing. The OWRB was located across the street from the Murrah Building and two of the three state employees killed that day worked for the OWRB. Ms. Cunningham represented the OWRB, and was able to meet Ms. Gloria Chipman and the family of OWRB Bob Chipman who attended. National Memorial Director Kari Watkins coordinated the event for the 25th Anniversary.

Also on May 13, the USCOE met with staff regarding its strategic planning and this year the OWRB is interested in flood control, storage, infrastructure. On May 18, Ms. Cunningham attended a meeting with the Office of Management and Enterprise Services (OMES) which is outsourcing all desktop support to lower costs and improve security and the agency will be undergoing that transition, which was directed by SB 583 in 2019.

Ms. Cunningham updated the members on the agency's response to the COVID-19 pandemic by updating the Continuity of Operations Plan, and assisting the public through automation which is working very well. There is no interaction with the public or walk-in permitting; therefore, there have been a lighter number of permits. And, staff is able to provide the same level of assistance to communities seeking public finance. She said there are several teams of employees developing protocol for field safety and office safety. She is very proud of the employees' response to continue service.

The State Legislature adjourned on May 15 by resolution allowing the members to return if necessary; 150 bills were sent to the Governor, and the agency's budget will realize a 4% cut. The staff is excited about Senate Bill 1269, legislation that directs the Oklahoma Water Resources Board to develop a Statewide Flood Resiliency Plan. In addition, the law creates the State Flood Resiliency Revolving Fund to identify infrastructure needs, as well as future flood hazard mitigation projects. The agency will accept federal funding through FEMA and the USCOE to identify infrastructure needs, similar to the OWCP. The measure was signed into law by Governor Stitt on May 18. She applauded the Legislature and the Governor for moving forward with this important legislation.

There were no questions of Ms. Cunningham by the Board members.

D. Financial Update

1. Budget Report. Mr. Cleve Pierce, Administrative Services Division Chief, addressed the members and stated the budget report is for the time period ending April 30, 2020. He said for the time period, the agency has spent 76% of the appropriated budget, leaving 24%; has spent 56% of the revolving budget leaving 44%; and has spent 59% of federal dollars with 41% remaining. The overall budget remaining stands at 38% with 17% of the fiscal year remaining. He said the agency is at about 2.5% additional spend for this year; last year at this time was 3%.

Mr. Pierce referred to Ms. Cunningham's remarks regarding the budget, and the divisions are looking at that and making adjustments to their budgets. He said a draft version of the FY22 budget should be ready about May 30 and ready for review and finalized by June 30. He entertained questions from the Board members.

Mr. Muller asked if there are remaining funds that the agency will be able to carryover. Mr. Pierce answered the past four years the agency has been able to retain remaining funds especially the appropriated dollars, and this year there has not been any indication the funds will not be carried over. Mr. Allen asked if there were added expenses or savings realized because of the COVID-19. Mr. Pierce responded there have been additional expenses on salaries directed at planning and readjusting, and some equipment purchases but many employees have been using their own equipment at home.

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

2. **FINANCIAL ASSISTANCE DIVISION**

Prior to presenting the agenda items, Mr. Freeman updated the members on the overall functions of the Financial Assistance Division and current lending programs, and the results of a May 27 survey of borrowers and how they are doing administratively, governing, operations, construction and project status, and financial condition. He said 56% of borrowers responded by May 8, and answers were anonymous. Survey results regarding priority of concerns were as follows:

1. 57% health and safety
2. 45% lost revenue
3. 32% impact of shut off policies implemented
4. 30% no concerns
5. 28% conducting public meetings
6. 20% water and sewer operators becoming ill
7. 12% construction progress
8. 6% ability to make loan payments

In addition to these results, Mr. Freeman said that 77% of responders expressed they had experienced late water bill collections, 23% responded projects are delayed, but none had been cancelled, and 18% have projects under construction that have been delayed. Additionally, 58% responded they had continuity of operations plans in place prior to the pandemic, and 8% of borrowers without continuity plans said they had

disruptions for not having a plan. Mr. Freeman has been in contact with Mr. Mike Fina, Oklahoma Municipal League, and Mr. James Gammill, Oklahoma Rural Water Association, about the services their organization can provide, and Ms. Tonya White, OWRB Marketing and outreach Manager, is coordinating with these organizations and will distribute information about where to turn for assistance. Mr. Freeman stated he is receiving information from local trustee banks regarding borrower's loan payment status, and at this time there is no report of any serious problem.

There were no questions from the Board members regarding the survey or status of borrowers. Mr. Freeman continued with the presentation of agenda items for the Board's consideration.

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Town of Meeker, Lincoln County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that this first request is for a \$17,197.86 emergency grant application by the Town of Meeker, located in Lincoln County. He said the Town has applied for the grant because it had been experiencing sewer blockages and attempted to use its jetter to clear the line which was unsuccessful and instead caused the sewage to surge to the top of the ground causing an imminent health hazard. In order to remedy the situation, the Town proposed to repair the line which cost \$20,232.86 which would be funded by the OWRB emergency grant, and a 15% local match of \$3,035.00. Staff recommended approval of the emergency grant application.

Mr. Freeman said Meeker officials asked that he convey the Town's appreciation of the Board's previous support, and this grant will greatly benefit the town.

Chairman Stallings asked if there were any questions regarding the emergency grant application. There were no questions. Mr. Allen moved to approve the emergency grant to the Town of Meeker, and Ms. Castillo seconded.

AYE: Allen, Castillo, Muller, Melton, Drake, Landess, Darby, Gorman, Stallings
NAY: None
ABSTAIN: None
ABSENT: None

B. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Oklahoma City Water Utilities Trust, Oklahoma County. Recommended for Approval. Mr. Freeman stated this item is a \$4,650,000.00 loan request from the Oklahoma City Water Utilities Trust. The loan is being requested for two non-point source road improvement projects which will increase vegetation and minimize turbidity in two of the city's reservoirs. The first project will resurface two miles of shoreline road at Lake Stanley Draper, from the water plant road to south Westminster Road. The second project will resurface one and one-half miles of shoreline road at Lake Overholser from north County Line Road to northwest 36th Street. Mr. Freeman stated the loan will be funded through the Clean Water State Revolving Fund Loan Program, and he noted provisions of the loan agreement. Over the past ten years, the City's water connections have increased by 15% and sewer connections have increased by 17%; Oklahoma City currently has 13 loans with a combined principle balance \$258 million dollars. The debt coverage ratio stands at approximately 2.39-times. Staff recommended approval of the loan request.

Mr. Freeman shared the OCWUT's statement thanking the Board, on behalf of the citizens of Oklahoma City, for considering the proposed Clean Water SRF loan. The Trust has submitted proposals for Drinking Water SRF and FAP loans for consideration at the June Board meeting.

Chairman Stallings asked if there were any questions regarding the loan application by the Oklahoma City Water Utilities Trust. There were no questions, and he said he would entertain a motion to approve the request.

Mr. Melton moved to approve the Clean Water SRF funding request to the OCWUT, and Mr. Darby seconded.

AYE: Allen, Castillo, Muller, Melton, Drake, Landess, Darby, Gorman, Stallings
NAY: None

ABSTAIN: None
ABSENT: None

3. SUMMARY DISPOSITION AGENDA ITEMS

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board's staff, or any other person attending this meeting, may be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items. There were no requests to move items 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 Stallings asked if there were any questions about items on the Summary Disposition Agenda. There were no questions and no discussion. Chairman Stallings stated he would entertain a motion to approve the agenda.

Mr. Allen moved to approve the Summary Disposition Agenda, and Mr. Drake seconded. Chairman Stallings called for the vote.

AYE: Allen, Castillo, Muller, Melton, Drake, Landess, Darby, Gorman, Stallings
NAY: None
ABSTAIN: None
ABSENT: None

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>
EODD				
a.	FAP-20-0008-R	Taft Public Works Authority	Muskogee	\$99,999.00
SWODA				
b.	FAP-19-0018-R	Roosevelt Public Works Authority	Kiowa	Change of Scope

2. DWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	ORF-20-0027-DW	Okmulgee Municipal Authority	Okmulgee	\$700,000.00

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

1. Joint Funding Agreement between OWRB and the United States Geological Survey (USGS) for continued operation and maintenance of the Monitoring Program.

2. Interagency Agreement with the Oklahoma Department of Environmental Quality (DEQ) regarding the Drinking Water State Revolving Fund.

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

1. Lacey & Diana Weger, Bryan County, #2019-514
2. Jose & Deborah A. Montalvo, Cleveland County, #2019-549
3. Johnston Enterprises, LLC, Alfalfa County, #2020-504

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

1. Joseph L. "Lew" Meibergen Trust, Garfield County, #2008-517

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

None

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 Right to Use Groundwater:

None

J. Consideration of and Possible Action on Applications to for Term Permits to Use Surface Water:

1. Vinyard, Inc., Jackson County, #2020-004

K. Consideration of and Possible Action on Applications for Seasonal Permits to Use Surface Water:

1. Daniel R. Robinson, Canadian County, #2019-058

L. Consideration of and Possible Action on Applications for Regular Permits to Use Surface Water:

1. Hanson Aggregates, LLC, Johnston County, #2008-010
2. Trinity Operating, Pittsburg County, #2019-057

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

1. City of Tulsa (Tulsa River Parks), Tulsa County, #OK21620

N. Consideration of and Possible Action on Consent Order between the Oklahoma Water Resources Board and the City of Pawhuska, Pawhuska Lake Dam, OK11044, Osage County.

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

1. New Licenses, Accompanying Operator Certificates and Activities:
None
2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses

a. Licensee: EST, Inc.	DPC-0658
Operator: Andrew Kwak	OP-2315

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

None

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

None

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

A. Presentation and Discussion on Board Education Series, “Illinois River Study and Implementation.” Mr. Bill Cauthron, Chief, Water Quality Division Chief, stated he and Ms. Rebecca Veigo Nascimento (Water Quality Standards Section) would update the members on the status of work being conducted by the Water Quality Division staff in relation to the Illinois River. Mr. Cauthron provided an historical accounting of what had occurred regarding the Illinois River and how the agency arrived at this point, and Ms. Veigo Nascimento described the work that the agency has performed the past few years, all centered around the Illinois River Watershed Study and how the recommendations from the study would be implemented. Mr. Cauthron expressed appreciation to the Arkansas Department of Environmental Quality and in particular regarding the rulemaking process and moving forward with the OQWS (Oklahoma Water Quality Standards) and their assistance with vetting ideas and technical thoughts. (See PowerPoint presentation at www.owrb.ok.gov/board/presentations.)

Mr. Cauthron spoke about the five Oklahoma Scenic Rivers located in northeastern Oklahoma and one in southeastern Oklahoma, all jewels in the water crown of Oklahoma, and he explained how a river is designated as a scenic river in Oklahoma through the authorization of the 1970 Oklahoma Scenic Rivers Act, and creation of the Oklahoma Scenic Rivers Commission in 1977. Three of the rivers are the focus of the work done by the OWRB: Illinois River, Flint Creek, Barren Fork Creek. The Illinois River Watershed is shared equally between Oklahoma and Arkansas presenting unique challenges in regard to water quality standards management and the states work closely to improve water quality on the River. The River is the primary tributary to Tenkiller Lake, a jewel in the state's lakes.

Mr. Cauthron said the presentation today on phosphorous would only pertain to the Illinois River Watershed, and there is a long history of total phosphorous criteria and disagreement between the states. Litigation in the US Supreme Court in 1991 resulted in a ruling in 1992 relating to Oklahoma's WQS on the Illinois River and subsequently in 2002 the OWRB promulgated a total phosphorous criteria approved by the Board of 0.037 mg/L 30-day geo metric mean. Disagreements over the promulgation led to the first Statement of Joint Principles where the states agreed to coordinate activities in the watershed, non-point source controls, a joint monitoring program (did not occur), make changes as to point source discharges, and individual states would take action to reduce phosphorous. The concept to re-evaluate the number in 10 years was developed to determine the number's appropriateness, and in 2012 the OWRB conducted a technical evaluation and created a technical advisory group (TAG) and validated the 0.037 number. The 2013 Second Statement of Joint Principles (SJP) produced a study committee to look at phosphorous and algae as response variables to phosphorous. That study recommendations produced the 2018 Memorandum of Agreement between Oklahoma and Arkansas and outlined how the states would work together on various actions to improve water quality. Mr. Cauthron discussed the members of the 2013 SJP Committee appointed by the Governors and the final report and recommendations following the 2-year study issued in December 2016.

Ms. Veigo Nascimento, Environmental Program Manager in the Water Quality Standards Program, discussed the two recommendations of the Joint Study Committee regarding water quality criteria and ambient water quality monitoring; interagency cooperation; Oklahoma state and tribal agencies responsibilities and the Arkansas Division of Environmental Quality responsibilities. She discussed antidegradation, beneficial use, and water quality criteria; the new requirement of critical condition; critical condition analyses; rules changes, and stakeholder participation for rules to be promulgated in 2020 in OWRB rules Chapter 45 and Chapter 46. Ms. Veigo Nascimento outlined the next steps including technical work and stakeholder participation to achieve transparency and inclusiveness throughout the process over the summer and fall months, publishing the rules in December 2020 (rulemaking schedule November 2020-March 2022).

Mr. Cauthron concluded the presentation and addressed a question by the Chairman Stallings regarding the impact of the unresolved lawsuit and intent to move forward with the recommendations of the

Joint Study Committee agreed to by both states; Ms. Gibson stated that is a damages case which may affect Arkansas but will not impact this effort. Ms. Cunningham described the many hours the OWRB WQS Team has spent meeting with Arkansas on the recommendations and conducting research, developing the plan to set up the criteria and rulemaking and conducting the upcoming public meetings. Mr. Muller asked the focus of the study and the triggers for needed actions; the definition of clean and what the action is when it isn't clean. Mr. Cauthron said this will set the criteria the non-point source and point source programs will use within their statutory authority; there is a lot of activity that has been happening on both sides, and additional work is planned to improve water quality in the watershed. The MOA outlines activities the states are involved with other entities on implementing the MOA. Ms. Gibson added as with all the WQS, the OWRB will set the criteria and the other agencies are responsible for implementation and enforcement of non-point source and point source activities. Chairman Stallings asked if this number will also flow into other basins, and Mr. Cauthron said every basin is different, and it is too early to know; additional work is needed.

There were no other questions.

5. SPECIAL CONSIDERATION

- A. No items. There were no Special Consideration Items for the Board's consideration.
- B. Consideration of and Possible Action on Items Transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda.

6. NEW BUSINESS

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.

There were no New Business items for the Board's consideration. Ms. Cunningham reminded the members the Board typically conducts the election of officers at the June meeting.

7. ADJOURNMENT

There being no further business, Chairman Stallings adjourned the meeting of the Oklahoma Water Resources Board at 10:25 a.m., on May 19, 2020.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Robert L. Stallings, Jr., Chairman

Stephen B. Allen, Vice Chairman

Charles Darby

Robert L. Melton, Sr.

Jennifer Castillo

Suzanne V. Landess

Matt Muller

Thomas A. Gorman

ATTEST:

_____/signature stamp/_____
Bob Drake, Secretary

(SEAL)

Members voted to approve the May 19, 2020, meeting minutes at the June 16, 2020, Board meeting which was held via videoconference and were not present to sign the document.