

# OKLAHOMA WATER RESOURCES BOARD

## OFFICIAL MINUTES

December 21, 2021

### 1. CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Chairman Matt Muller, at 9:30 a.m. on December 21, 2021, 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 December 17, 2021, at 11:00 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 Matt Muller welcomed everyone to the meeting and asked for the roll call of members.

#### **Board Members Present**

Matt Muller, Chairman  
Charles Darby, Vice Chairman  
Jennifer Castillo, Secretary arrived at 9:45  
Ron Justice  
Suzanne Landess  
Robert L. Melton

#### **Board Members Absent**

Thomas A. Gorman  
Bob Latham  
Robert L. Stallings, Jr.

#### **Staff Members Present**

Julie Cunningham, Executive Director  
Sara Gibson, General Counsel  
Joe Freeman, Chief, Financial Assistance Division  
Monty Porter, Assistant Chief, Water Quality Programs Division  
Chris Neel, Chief, Planning and Management Division  
Cleve Pierce, Chief, Administrative Services Division  
Stephany Lively, Executive Secretary

#### **Others Attending**

Dale Burke, ISC Engineering  
John Browne, City of McAlester  
Peter Stasiak, City of McAlester  
Jerin Presley, Oklahoma Medical Marijuana Authority  
Tim Young, City of Tuttle  
David Perryman, City of Tuttle  
James Perryman, City of Tuttle  
Bud Ground, Environmental Federation of Oklahoma  
Cindy Arnold, City of Broken Arrow  
Ben Oglesby, Municipal Finance Services, Inc.  
Eddie Rhandour, Oklahoma Department of Environmental Equality

Emily Rowland, City of Broken Arrow  
Rachel Brookins, Oklahoma Department of Environmental Equality  
Justin Hodge, Oklahoma Department of Environmental Equality  
Bodie Bachelor, Centennial Law  
Bennet Beard, Oklahoma Secretary of Energy and Environment  
Allan Brooks, Public Finance Law Group  
Nate Ellis, Public Finance Law Group

B. Discussion, Amendments, and Vote to Approve Official Minutes of the November 16, 2021 Regular Meeting. Chairman Matt Muller stated members were provided the draft minutes of the November 16, 2021, meeting and asked the Board's pleasure regarding the minutes. There were no comments or amendments.

Mr. Darby moved to approve the minutes of the November 16, 2021, Regular Meeting, and Mr. Melton seconded. Chairman Muller called for the vote.

AYE: Landess, Justice, Melton, Darby

NAY: None

ABSTAIN: Muller

ABSENT: Stallings, Latham, Gorman, Castillo

C. Executive Director's Report. Ms. Julie Cunningham, Executive Director, welcomed everyone and began her report by providing the drought update. She stated statistically, an estimated 95% of the state is experiencing abnormally dry conditions. Also, according to the Mesonet, the state is experiencing significant below normal precipitation in the last 30 days.

Director Cunningham next provided agency updates stating that meeting dates for 2022 Board meetings have been filed with the Secretary of State's office. Board meetings will be held the third Tuesday of every month and are posted on the Secretary of State's website. Some meetings may be combined but there must be a total of 9 Board meetings for the year 2022.

Next, Ms. Cunningham advised the Board that the agency had been awarded the Top Workplace Award. She stated this award is awarded through participation of agency staff. Staff was given an online questionnaire through a private company and 87% of agency staff participated. Only 84 companies received this award, and the Water Board was the only state agency to be recognized.

Also of note, Ms. Cunningham stated there is an article in the "Oklahoma Magazine" featuring the agency. The magazine requested interviews with Director Cunningham and Bill Cauthron, Division Chief of the Water Quality Programs Division. The title of the article is "The True Hydration Station; The Oklahoma Water Resources Board".

Regarding calendar updates, Ms. Cunningham advised the Board that on December 1, 2021, the ceremonial delivery of the Hydrogen Production Transportation and Infrastructure Task Force report to the Governor took place. This report is assessing the viability of every angle of the hydrogen industry in the state. She stated the same day the report was delivered, the Ardmore newspaper published a story about the Ardmore Development Authority's recently announced plans for green hydrogen production facility.

Ms. Cunningham stated the Governor's Water Conference also began on December 1. She thanked the Board members who were able to attend and said due to the original venue closing, the event was moved to the Capitol in their new multipurpose media room. Ms. Cunningham expressed her appreciation for the abundant sponsorship support. She stated there was a great line up including seven legislators, including the Chairman for the House Appropriations Committee, Senator Thompson and Natural Resources Appropriation Chairs Representative Newton. In addition, Representative Simms who is a proponent for flood control, spoke at the conference. Senator Paddock and Representative Rohn were invited to speak about the longevity and history of the previous Water Plan.

On December 13, 2021 Director Cunningham presented the agency's annual budget request to the budget committee. She stated there is now a statewide template all state agencies must use to present their budget requests that includes; goals, accomplishments, challenges, budget requests and staffing levels. She

stated she will share that information with the Board at their request but also the video of the budget hearing is available on the legislator's website.

Director Cunningham advised the Board that she and Mr. Joe Freeman met with Senator Thompson and the American Rescue Plan Act (ARPA) Committee and Ms. Cunningham presented to the Government Transformation and Collaboration Committee. The Committee requested the agency's assistance in to clarify funding inquiries. OWRB proposed with part of the state funding, three different funding programs; one for small communities, one for dams that need rehabilitated and another for mid/larger systems that could potentially be matched with local funds.

Ms. Cunningham updated the Board on the legislative deadlines stating the deadline to request drafting of bills is January 10, 2022, and the deadline for filing bills is January 20, 2022, and session begins February 7, 2022.

Director Cunningham concluded her report. Chairman Muller asked if there were any questions. There were no questions. Chairman Muller then offered his congratulations to the agency on receiving the Top Workplace Award.

#### D. Financial Update

1. Budget Report. Mr. Cleve Pierce presented the budget report for the period ending November 30, 2021. He said for the period, the agency has spent 24% of the appropriated budget, leaving 76%; has spent 25% of the revolving budget leaving 75%; and has spent 12% of federal dollars with 88% remaining. Overall, the total budget remaining is 75% with 58% of the fiscal year remaining. He stated he anticipates spending to slightly increase over the next 6 months

Mr. Pierce concluded his report and Mr. Muller asked if anyone had any questions. There were none.

## 2. **FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Okmulgee Municipal Authority, Okmulgee County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members that the first item is a \$1,350,000 loan request from the Okmulgee Municipal Authority. He advised they are requesting the loan proceeds for laying approximately 11,000 linear feet of water line.

Mr. Freeman stated the loan will be funded through the drinking water SRF loan program, noted the provisions of the loan agreement, and said the debt coverage ration stands at 1.65. Staff recommended approval of the loan request.

Mr. Freeman advised the Mayor of Okmulgee, Richard Larabee, provided a statement to the board saying, "Okmulgee appreciates the OWRB's help in providing funds for the water line project. Okmulgee has used the Board's loan programs in the past which allowed Okmulgee to improve its system at competitive rates and terms."

There were no questions and Chairman Muller asked the Board's pleasure. Mr. Darby moved to approve the loan, and Mr. Castillo seconded. There were no further questions or discussions and Mr. Muller called for the vote.

AYE: Landess, Justice, Castillo, Melton, Darby, Muller

NAY: None

ABSTAIN: None

ABSENT: Stallings, Latham, Gorman

B. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for New Cordell Utilities Authority, Washita County. Recommended for Approval. Mr. Freeman stated to the members that the next item is a \$2,250,000 loan request from the New Cordell Utilities Authority located in Washita County. He advised they are requesting the loan to replace aging water lines in various areas of the town and to rehabilitate a water storage tank. Mr. Freeman advised the improvements will reduce

line failure frequency and water loss resulting in adequate water pressure and volume. He stated the loan will be funded through the Drinking Water SRF Loan Program, noted the provisions of the loan agreement, and said the debt coverage ratio stands at 5.63 times. Staff recommended approval of the loan request.

Mr. Freeman advised the Mayor, Richard Jerry Beech, provided a statement to the board saying, “The water lines and storage facilities will go a long way in providing adequate water for the city’s residents and commercial customers. As a first-time borrower from the Board’s loan programs, we have seen first-hand the value the Board brings to small communities such as ours.” Mr. Melton then asked Mr. Freeman if staff recommends and Mr. Freeman confirmed, they do.

Mr. Melton moved to approve the loan, and Ms. Landess seconded. There were no further questions or discussions and Chairman Muller called for the vote.

AYE: Landess, Justice, Castillo, Melton, Darby, Muller

NAY: None

ABSTAIN: None

ABSENT: Stallings, Latham, Gorman

C. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for the Tuttle Public Works Authority, Grady County. Recommended for Approval. Mr. Freeman stated the next item is a \$6,390,000.00 loan request from the Tuttle Public Works Authority. He advised the city currently operates a 6-well wastewater lagoon system and has experienced dramatic growth which has caused them to meet capacity of their system. Mr. Freeman advised the Board they propose to construct a new wastewater treatment plant that will serve the east side of the community and the current lagoons will continue to serve the western portion of the city. He stated the loan will be funded through the Clean Water SRF Loan Program, noted the provisions of the loan agreement, and said the debt coverage ratio stands at 1.59 times. Staff recommended approval of the loan request.

David Perry, the City attorney then stood to thank the Board for the opportunity and to ask if the Board had any questions. Chairman Muller asked Mr. Perry if he this project will be able to handle continued growth and Mr. Perry confirmed, responding, “Yes.”

There were no further questions and Mr. Muller asked the Board their pleasure. Ms. Castillo moved to approve, and Mr. Justice seconded. There were no further questions or discussions and Mr. Darby called for the vote.

AYE: Landess, Justice, Castillo, Melton, Darby, Muller

NAY: None

ABSTAIN: None

ABSENT: Stallings, Latham, Gorman

D. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Broken Arrow Municipal Authority, Tulsa County. Recommended for Approval. Mr. Freeman stated the next item is a \$16,285,000.00 loan request from the Broken Arrow Municipal Authority. He stated they are requesting the loan to complete planning and design for the Haikey Creek wastewater treatment plant, the Expressway Lift station and force main improvements, for rehabilitation of the Lynn Lane east clarifier and disinfection system, demolishing the South Park lift station, for approximately 2,000 feet of wastewater collection line, for rehabilitation of the Adams Creek basin, and continue construction of the Haikey Creek trunk sewer by performing a slip line rehabilitation of about three quarters of a mile of sewer line. He said the loan will be funded through the Clean Water SRF Loan Program, noted the provisions of the loan agreement, and said the debt coverage ratio stands at 2.45 times. Staff recommended approval of the loan request.

A representative from the city of Broken Arrow, Cindy Arnold, addressed the Board thanking them for consideration of their loan request and expressed her great appreciation for the Board’s support.

Chairman Muller asked the Board if there were any questions for Ms. Arnold. There were no questions and Mr. Darby moved for approval. Mr. Melton seconded. Mr. Muller called for the vote.

AYE: Landess, Justice, Castillo, Melton, Darby, Muller  
NAY: None  
ABSTAIN: None  
ABSENT: Stallings, Latham, Gorman

E. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for Ardmore Public Works Authority, Carter County Recommended for Approval. Mr. Freeman stated Agenda Item E is a \$30 million loan request from the Ardmore Public Works Authority. He advised the dams at Ardmore's City Lake and Mountain Lake each have several issues that need correction. The gates at Mountain Lake Dam will be replaced and upgraded as well as some other minor repairs. At City Lake, leakage in the spillway and the intake structure will be corrected as well as raising the elevation of the dam. Inflow and infiltration issues throughout their wastewater collection system will be addressed. He advised the loan will be funded through the Clean Water SRF Loan Program, noted the provisions of the loan agreement and said the debt coverage ratio stands at 1.75 times. Staff recommended approval.

Mr. Freeman provided a statement from Kevin Boatright, Ardmore's City Manager, he said, "Ardmore appreciates the efforts of the Board and staff in providing financing for infrastructure improvements across Oklahoma. This loan will allow Ardmore to make needed dam and spillway improvements at both lakes as well as address inflow and infiltration issues."

Mr. Melton asked Mr. Freeman if elevating the dam increases holding capacity of the lake or if that is to meet federal safety regulations? Mr. Freeman directed the question to OWRB staff member Yohaness Sugeng who advised elevating the dam is for safety precautions.

There were no further questions and Mr. Muller asked the Board's pleasure. Ms. Castillo moved to approve, and Ms. Landess seconded. There were no further questions or discussions and Mr. Muller called for the vote.

AYE: Landess, Justice, Castillo, Melton, Darby, Muller  
NAY: None  
ABSTAIN: None  
ABSENT: Stallings, Latham, Gorman

F. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for McAlester Public Works Authority, Pittsburg County. Recommended for Approval. Mr. Freeman stated the next item on the agenda is a \$32.5 million loan request from the McAlester Public Works Authority. He advised they are requesting the loan to replace approximately 148,500 feet of 6-to-24-inch water transmission and distribution lines throughout the city and to rehabilitate 3 water storage tanks. He stated the loan will be funded through the Drinking Water SRF Loan Program, noted the provisions of the loan agreement and said the debt coverage ratio stands at 2.08 times. Staff recommended approval.

Mr. Freeman advised the Board that city of McAlester representatives, John Brown and Pete Stasiak were in the audience. Mr. Stasiak thanked the Board for their consideration and advised over the last few years they have had catastrophic outages due to their transmission lines. He stated this loan request will go a long way to address the problem. He stated the sales tax increase was approved by approximately 80% of voters. Mr. Melton asked a question of Mr. Stasiak asking if in his opinion if the public is aware of the value of water and water handling at a higher level. Mr. Stasiak responded stating it is his belief that the 80% approval percentage shows the public is aware of this need. There were no further questions.

Mr. Darby moved to approve, and Mr. Justice seconded, and Mr. Muller called for the vote.

AYE: Landess, Justice, Castillo, Melton, Darby, Muller  
NAY: None  
ABSTAIN: None  
ABSENT: Stallings, Latham, Gorman

G. Report of the November 16, 2021 Board Audit Committee Meeting Including Oklahoma Water Resources Board State Loan Program Revenue Bonds and Clean Water State Revolving Fund Program (CWSRF) Financial Statements as of June 30, 2021 and 2020, Audits of the VWSRF Administrative Fund and the Drinking Water Treatment Loan Administrative Fund as of June 30, 2021 and 2020. Mr. Freeman stated the last item is the report of the Board's Audit Committee which met following last month's Board meeting. He advised the members are the committee are Mr. Darby, Mr. Gorman and Mrs. Landess. He said the following areas were covered during the meeting:

1. The committee reviewed the auditor's management letter and audits by our auditors from Arledge and Associates along with the most recent EPA annual evaluations of the SRF loan program
2. The committee discussed was the arbitrage rebate reports and that they are all current and in good standing.
3. The committee reviewed borrower's annual audited debt coverage ratio report and were able to report that based on the borrowers last audits that 98% of borrowers are meeting their debt coverage ratio requirements.
4. The committee reviewed the continuing disclosure policy and standard operating procedure for disclosure.
5. The committee reported that the loan document exceptions outstanding at the end of September were 8%. These are borrower loan agreement items such as borrowers maintaining property insurance, workers comp coverage, that they have licensed operators, and annual audits.
6. The committed reported that we do not have any loan payment defaults in any of the three loan programs.
7. The committee reviewed the debt service reserve balances.
8. The committee reviewed the Board's investment portfolio (reserves, defeasances, operating funds, second round loan funds).
9. In addition, the committee discussed bond rating standards and Poor's and Fitch and the FAP bond rating standard and Poor's.

Mr. Freeman advised that Jake Winkler from Arledge and Associates would review the Fiscal Year End 2021 Audit Summary with the Board.

Jake Winkler began by thanking Mr. Freeman and the Board for the opportunity to serve as the auditor for the fiscal year 2021 audit. He continued giving special thanks to Joe, Laura, Lori, and their team stating the audit went incredibly smooth. He further stated the team was responsive with their requests and information was timely and accurate. Mr. Winkler advised the Board that 6 different audit reports were completed and provided a summary for the Board members. Mr. Winkler was happy to report that their audit did not find any adjustments and they did not have any deficiencies to report. He stated the audit is a "no news, which is great news" audit. Mr. Winkler advised the Board there is a post audit communication letter summarizing the results of the audit stating there are no other findings or issues and no disagreements with management to report. Mr. Winkler concluded by asking if there were any questions. Mr. Muller called for questions and there were none.

Mr. Freeman concluded by reminding Mr. Muller and Ms. Castillo their signatures will be needed for documentation following the meeting.

Chairman Muller applauded Mr. Freeman, Julie and staff on receiving a clean audit report.

### **3. SUMMARY DISPOSITION AGENDA ITEMS**

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

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items. There were no requests to transfer items to the Special Consideration Agenda.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Action on Items Listed. Chairman Muller asked if there were changes to the Summary Disposition Agenda. There were none; he asked the Board's pleasure regarding the Summary Disposition Agenda items.

Mr. Darby moved to approve the Summary Disposition Agenda items, and Ms. Castillo seconded. Chairman Muller called for the vote

AYE: Landess, Justice, Castillo, Melton, Darby, Muller

NAY: None

ABSTAIN: None

ABSENT: Stallings, Latham, Gorman

The following items were approved:

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

1. Rural Economic Action Plan (REAP) Applications:

| <u>Item No.</u> | <u>Application No.</u> | <u>Entity Name</u> | <u>County</u> | <u>Amount Recommended</u> |
|-----------------|------------------------|--------------------|---------------|---------------------------|
| None.           |                        |                    |               |                           |

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-20-0012-DW         | The Comanche Public Works Authority | Stephens      | \$ 200,000.00             |
| b.              | ORF-21-0024-DW         | Rural Water District #4             | Okmulgee      | 300,000.00                |

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

1. Interagency agreement between OWRB and Office of the Secretary of Energy & Environment providing funding for the State of Oklahoma's supplemental water quality monitoring initiative.
2. Joint Funding Amendment Agreement between USGS and OWRB increasing the funding for the Hydrogeologic Framework, Numerical Simulation of Groundwater Flow, and Effects of Water Use and Drought on the Groundwater Resources in the Boone-Roubidoux Aquifers of northeastern Oklahoma.

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

1. Truman and Laura Shrock, Custer County, #2021-519
2. Preston and Candy Masquelier Living Trust, Blaine County, #2021-533

- 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:  
None.
- H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:  
1. Charlene Wartchow Revocable Living Trust, Pontotoc County, #1985-602B
- 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 Stream Water:  
None
- K. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:  
None.
- L. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:  
None
- M. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:  
1. New Licenses, Accompanying Operator Certificates and Activities:  
a. Licensee: Cascade DPC-0983  
Operator: Dusty Rae OP-2389  
b. Licensee: Whiterock Resources DPC-1067  
Operator: Phil Kelley OP-1963  
2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:  
1. Licensee: TTL, Inc. DPC-1065  
Operator: Travis Timmermann OP-2390
- N. Consideration of and Possible Action on Dam and Reservoir Construction:  
None.
- O. Consideration of and Possible Action on Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:  
None.
- P. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:  
1. Levi Bickford, Texas County, #FPA-021  
2. Valerie Potter, Roger Mills County, #FPA-024  
3. Bill Smith, Town of Coyle, #FPA-462



#### 4. QUESTIONS AND DISCUSSION BY THE BOARD ABOUT AGENCY MATTERS AND OTHER ITEMS OF INTEREST

A. Presentation from Jerin Presley, Oklahoma Medical Marijuana Authority's Manager of Interagency Collaboration Regarding Their Agency's Licensing Practices: Mr. Presley began his presentation by introducing himself as the agency liaison for the Oklahoma Medical Marijuana Authority (OMMA). Mr. Presley advised the Board his presence at the meeting was to discuss their current licensing practices as well as possible legislation. He provided a printout to the Board outlining what OMMA's current licensing practices are and what the agency is hoping to move toward.

Mr. Presley stated that OMMA currently requires proof of residency, two forms of identification, a background check, a good standing certificate from the Secretary of State, a certificate of compliance from the County Commissioner, a tax permit, a list of persons and/or entities that have interest in the entity and trade name documentation to obtain a license. He said OMMA has seen some entities complete the checklist with their agency and believe they are ready to "set up shop" and that is not the case. Mr. Presley advised that OMMA's goal is to work with the Fire Marshall, OWRB, DEQ, Department of Agriculture, etc. to remedy the issue. He advised there is a working group meeting scheduled for January 6, 2022.

Mr. Presley shared with the Board that the legislator is in favor of OMMA's action to develop more licensing constraints and he feels confident the legislation they are proposing will be well received. He continued stating the agency is hoping to move to a 2-tier licensing system. He explained what that would look like saying, entities would still need to complete the checklist in place but then would have 90 days to obtain additional documentation i.e., a water permit, a building inspection, or Fire Marshall approval. Mr. Presley said OMMA would like to support other state agencies to ensure permits, inspections and approvals are taken care of with their respective agency.

Mr. Presley asked the Board if they had any questions and advised the Board that OMMA has doubled in staff which includes many inspectors that will be beneficial to ensure businesses are operating correctly.

Ms. Castillo asked if businesses will be able to operate during the 90-day period when they are obtaining additional licenses. Mr. Presley advised that yes, that is the proposal. He further stated that once the initial requirements are met, a business would be able to operate while obtaining their required permits and an OMMA inspector would return to the business at the end of the 90-day period to confirm all permits and documentation had been completed. The agency's hope is to include the Fire Marshall in this process to perform a joint inspection of the business. He stated if the correct permits, etc. are not obtained by the business, OMMA would revoke their license.

Director Julie Cunningham addressed the Board and Mr. Presley stating the OWRB has previously worked with the Corporation Commission to add a "check box" to their application that asks entities about their water rights permits. She advised she would like to work with OMMA to devise something similar on their licensing application as well as educate the businesses on what water permits are required. Ms. Cunningham advised that through interim studies she's been involved with there is an issue that an entity will have a well for domestic use, which does not require a permit, and then grow into a commercial operation, which does require a permit. She stated she would like to see OMMA put processes in place to aid with this issue. Mr. Presley responded stating that is OMMA's goal is to put process in place that will help agencies support one another.

Chairman Muller thanks Mr. Presley for speaking to the Board and Mr. Presley concluded his presentation.

B. Presentation from Chris Neel, Chief Planning and Management Division, OWRB, Regarding Chapter 5 Fee Changes and Chapter 35 Well Drillers Program Changes (Intent-to-Drill Rules): Mr. Neel began by providing the Board with copies of the proposed changes to Chapter 5 fees and Chapter 35 intent to drill rules.

Regarding the increase in Chapter 5 fees, he stated the agency has been looking at fee changes to the water rights program for almost a year and said fees have not been updated in 4 to 5 years. Mr. Neel advised that the OWRB has conducted research in several other states, gathering statistics on what other states charge for water rights fees when considering this change.

Mr. Neel stated over the years appropriations have been cut and personnel costs are increasing. Additionally, he said revenue from provisional and temporary permits are significantly decreasing due to the downturn in the oil and gas industry. In the past, these funds would supplement the program but are now unreliable due to the current economy. Also, he advised the Board that an increase in fees would aid in staff retention. He continued saying, water rights applications are also increasingly more difficult and time consuming to process as well as becoming more controversial. Because the applications are becoming more controversial, Mr. Neel said OWRB has had to hire a hearing examiner from the Attorney General's office increasing the cost of processing applications.

Mr. Neel said staff has analyzed the cost of the water rights program at \$1.1 million dollars and in an average year, Chapter 5 fees have generated \$657,000.00 or 61% of the cost of the program.

Chairman Muller asked Mr. Neel what the expectation is from the legislature in regard to fee increases and Mr. Neel responded saying it is his opinion that due to lack of appropriations the legislature should expect fee increases. Director Julie Cunningham added the agency has the authority to charge what is considered a reasonable fee for administration of the program. She continued saying the program had relied on funding from the oil and gas industry's temporary permitting to fund the program and now that money is no longer available the fee increase is deemed necessary to supplement funding. She also restated Mr. Neel's comments about the program cost increasing due to the controversy surrounding some applications that may involve the need to hire legal counsel. General Counsel, Sara Gibson, responded to Chairman Muller's original question saying, some legislators are supportive of fee changes, while some are not.

Mr. Muller then stated to Mr. Neel he would like the agency and the Board to keep in consideration the differentiation in ground water and surface water regarding property rights when looking at increasing fees. Mr. Neel responded that once a landowner secures a water permit the water rights are theirs and protected making the application fee well worth it. Director Cunningham added that there is a scale based on water and volume and from an agency perspective, just as much staff time goes into each application regardless of volume.

Chairman Muller then asked the same question to board member Mr. Justice regarding the expectation of the legislature. Mr. Justice responded that it is his opinion that many of the legislators view fee increases the same as they view tax increases and are opposed. He further stated, this makes it very difficult for an agency. Mr. Melton asked Mr. Justice if he thought the legislature would rather small fee increases as needed or the increase as suggested by the agency. Mr. Justice replied saying he believes the agency had done a good job researching these increases.

Director Cunningham and Mr. Neel then directed the Board to line item "f" on the handout relating to applications for stream water use for the purpose of enhanced recovery of oil and gas fee. Mr. Neel advised the Board that this fee was added and is \$4,500 but stated there are only one or two of those applications per year. Director Cunningham reiterated that these applications are very uncommon but take a lot of extra work. Chairman Muller asked Mr. Neel if the oil and gas companies are able to use marginal quality water for enhanced recovery and Mr. Neel advised he believes they can but finding it is somewhat problematic. Also, he stated marginal water can wear down the company's equipment.

Sara Gibson, General Counsel then advised the Board there will be a fee justification form in the January Board meeting packet. This form has to be submitted to the legislature prior to any fee increase.

Mr. Neel asked the Board if there were any more questions. There weren't any more questions and Mr. Neel moved to his second topic which is an intent to drill well system proposal. He stated under the proposed system, a well driller would submit a form stating where they are going to drill a well, what their

well specifications are, etc. He said this is for several reasons one of them being that the medical marijuana grow houses are increasing and the agency is receiving complaints about illegal well drilling.

Mr. Neel provided the Board with the 1972 statute regulating well drilling and stated that an intent to drill system will protect well drillers as well. He stated for instance, a well driller may not know when they get to a location if the proper permits have been obtained and an intent to drill well system would help with that issue. Mr. Neel said this system will also ensure that domestic wells show up in the agency database.

Mr. Neel advised the Board that the agency is working with the Well Drillers Advisory Council on the proposed intent to drill rules. Mr. Muller asked if they had seen a copy of the proposed rules and Mr. Neel said they had. Chairman Muller asked what their feedback was, and Mr. Neel stated they have some concerns. He stated Director Cunningham is set to meet with the Council in upcoming months to address those concerns.

Mr. Neel said most surrounding states already have an intent to drill system in place.

Chairman Muller asked with the proposed rules, will there be stepped up enforcement? Director Cunningham responded saying the Well Driller Advisory Council approached the OWRB requesting them to put a new fining system in place.

Mr. Neel added that this intent to drill system will provide seamless operations and make staff communication more efficient.

Director Cunningham added that she is committed to meeting with the Advisory Council because it is the agency's main goal to get projects permitted and for people to begin using water and get in business quickly.

Chairman Muller asked Mr. Neel what the processes are to get these proposals approved and Sara Gibson advised the proposed rules had been posted to the website and filed with the Secretary of State's office on December 15, 2021. She said there will be a public hearing before the Board at the January 18, 2022 Board meeting and written comments will be received until that date as well. She advised depending on how much revision is necessary to the proposals, they could be ready for a vote by the Board at the February Board meeting, or there can be further discussion in February and a vote in March. She said March is the latest the Board will be able to vote on the rules because they have to be to the legislature by April 1, 2022.

Ms. Gibson then confirmed that the November 18, 2021 public hearing is not an interaction between the public and the Board but rather a time for the public to address their concerns for the Board to assess when looking at the proposed changes. She stated there will be a document addressing every comment the agency received and that the Board would receive a copy of this document prior to a vote being taken. Chairman Muller asked if there any other questions for Mr. Neel. There were no further questions.

## **5. SPECIAL CONSIDERATION**

A. No Items.

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

## **6. NEW BUSINESS**

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

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

**7. ADJOURNMENT**

There being no further business, Chairman Matt Muller adjourned the Regular Meeting of the Oklahoma Water Resources Board at 11:12 a.m., on December 21, 2021.

**OKLAHOMA WATER RESOURCES BOARD**

                  /s/                    
Matt Muller, Chairman

                  /s/                    
Charles Darby, Vice Chairman

                  /s/                    
Robert L. Melton, Sr.

                  /s/                    
Suzanne V. Landess

                  /s/                    
Robert L. Stallings, Jr.

                  /s/                    
Thomas A. Gorman

                  /s/                    
Ron Justice

                  Abstain                    
B. Latham

***ATTEST:***

                  /s/                    
Jennifer Castillo, Secretary  
(SEAL)