

OKLAHOMA WATER RESOURCES BOARD

OFFICIAL MINUTES

Special Meeting

March 21, 2022

1. CALL TO ORDER

The Special Meeting of the Oklahoma Water Resources Board was called to order by Chairman Matt Muller at 1:00 p.m. on March 21, 2022 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 March 17, 2022, at 12:00 p.m. at the Oklahoma Water Resources Board's office at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma and provided on the agency's website.

- A. Roll Call. Chairman Matt Muller called the meeting to order and asked for the roll call of members.

Board Members Present

Matt Muller, Chairman
Charles Darby, Vice Chairman
Jennifer Castillo, Secretary
Ron Justice
Bob Latham
Robert L. Stallings, Jr.

Board Members Absent

Robert L. Melton
Suzanne Landess
Thomas A. Gorman

Staff Members Present

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Joe Freeman, Chief, Financial Assistance Division
Bill Cauthron, Chief, Water Quality Programs Division
Cleve Pierce, Chief, Administrative Services Division

Others Attending

Tom Elkins, Cherokee Nation
Chris Browning, OKWUT
Justin Jackson, Rancher
John Roberts, Co. Commissioner, Pushmataha Co.

Shawnda Cox, ORWP
Ken Roberts, KRLA
Tommy McDaniel, ORWP
Mike Thomas, DEQ
James Jackson, Muskogee Creek Nation

2. FINANCIAL ASSISTANCE DIVISION

None.

3. SUMMARY DISPOSITION AGENDA ITEMS

None.

4. VOTING ON PROPOSED NEW AND AMENDED PERMANENT RULES OF THE BOARD

No Items.

5. SPECIAL CONSIDERATION

Chairman Muller stated that this is a Special Meeting with only one item on the agenda for “consideration and possible action on amendment to extend time for the State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation, City of Oklahoma City Water Settlement” (Settlement Agreement). Mr. Muller introduced Sara Gibson, General Counsel OWRB, to present a summary. Ms. Gibson thanked the chairman and board members for returning today.

Ms. Gibson states in August 2016, the parties entered into a settlement agreement regarding the use of water in Sardis Lake and principles applying to the water in 22 counties in the Chickasaw and Choctaw Nation area, generally. The settlement agreement contained terms of how the permit process and permitting terms for the City of Oklahoma City’s permit to use water from Sardis Lake, and future use terms how it would consider permits from areas in southeast Oklahoma. It also contained conditions precedent to enforceability, so things had to be achieved before the entire agreement became enforceable. That included the amended storage contract transfer agreement between the State and the Oklahoma City Water Utilities Authority and the Corps of Engineers, modification of the federal court orders, filing documentation of the Kiamichi Basin hydrologic model, the funding of the Atoka and Sardis conservation projects fund and certain other wavers by the tribes. Upon completion of those conditions’ precedent, the Secretary of Interior will file a notice that all those conditions precedent have been satisfied and the agreement will then be enforceable. The original enforceability date was for September of 2020, at that time the only thing remaining was the final issuance of the water and use permit for Oklahoma City to use water from Sardis Lake. At that time, it was still in litigation and is currently still in litigation waiting on the opinion of the State Supreme Court. We have executed a first extension that expires March 31, 2022, the parties have agreed to extend for another 2 years, which is the agreement in front of the Board today. Ms. Gibson stated that she is happy to clarify or answer any questions.

Vice Chairman Darby asked if there would be an impact on the agreement if the parties weren’t able to agree and there wasn’t an extension or the meeting of the conditions.

Ms. Gibson clarified that there would be an impact on the agreement, and it would be rolled back. This includes the storage transfer agreement, the litigation with the United States, the Corps of Engineers and all parties that have worked for 5 years to reach this agreement. The parties have significant interest in continuing this agreement and all have signed the agreement, except the Secretary of Interior who will sign last.

Chairman Muller provided a summation stating, “the parties involved in finalizing the agreement before the State Supreme Court because the State Supreme Court has not issued their opinion, they have all agreed for an extension”. Adding that we are just one piece of the puzzle in granting the extension timeframe to let the State Supreme Court finalize what these parties are arguing about.

Ms. Gibson confirmed that his summation is correct.

Vice Chairman Darby asked if they would have to have a hearing again on the permit.

Ms. Gibson answered that if there was not an agreement met today then there would be a roll back of the settlement agreement and starting over from scratch.

Mr. Muller stated that he thinks no one would want to start over this agreement.

Mr. Muller asked for any other questions or comments from the Board members, there were none.

Chairman Muller asked the Board’s pleasure regarding this agenda item. Ms. Castillo moved to approve the extension and Mr. Latham seconded. There were no questions or discussion and Charmain Muller called for the vote.

AYE: Latham, Stallings, Justice, Castillo, Muller

NAY: Darby

ABSTAIN: None

ABSENT: Landess, Gorman, Melton

6. ADJORNMENT

There being no further business, Chairman Muller adjourned the special meeting of the Oklahoma Water Resources Board at 1:07 p.m. on March 21, 2022.

OKLAHOMA WATER RESOURCES BOARD

_____/s/
Matt Muller, Chairman

_____/s/
Charles Darby, Vice Chairman

Abstain
Robert L. Melton, Sr.

Abstain
Suzanne V. Landess

_____/s/
Robert L. Stallings, Jr.

_____/s/
Thomas A. Gorman

_____/s/
Ron Justice

_____/s/
B. Latham

ATTEST:

_____/s/
Jennifer Castillo, Secretary
(SEAL)