

# OKLAHOMA WATER RESOURCES BOARD

## OFFICIAL MINUTES

### Regular Meeting

March 15, 2022

#### 1. CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Vice Chairman Charles Darby at 9:30 a.m. on March 15, 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 11, 2022, at 8:30 a.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. Vice Chairman Charles Darby welcomed everyone to the meeting and asked for the roll call of members. In the absence of Chairman Muller, Vice Chairman Darby facilitated the meeting.

#### **Board Members Present**

Charles Darby, Vice Chairman

Jennifer Castillo, Secretary

Ron Justice

Robert L. Stallings, Jr.

Suzanne Landess

#### **Board Members Absent**

Matt Muller, Chairman

Robert L. Melton

Bob Latham

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**

Jevin Presley, OMMA

Marla Peek, OK Farm Bureau  
Shannon Epps, Bank of Oklahoma  
Eddie Rhandour, DEQ  
Bennett Beard, OSEE  
Richard Landos, Landos Engineering

- B. Discussion, Amendments and Vote to Approve Official Minutes of the February 15, 2022 Regular Meeting. Vice Chairman Darby stated members were provided the draft minutes of the February 15, 2022 meeting and asked the Board's pleasure regarding the minutes. There were no comments or amendments. Ms. Castillo enters the Board room at 9:36a.m.

Mr. Stallings moved to approve the minutes of the February 15, 2022, Regular Meeting and Mr. Justice seconded. Vice Chairman Darby called for the vote.

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

C. Executive Director's Report

Ms. Julie Cunningham, Executive Director, welcomed everyone to the meeting. She started with the drought report which she stated is worsening with 87% of the state in moderate drought or worse, 12% in exceptional drought in the panhandle, south, extreme west and southwest. Ms. Cunningham talked with legislators this week on ARPA funding and was reminded of the different funding programs we have and specifically drought grants available through times of extreme conditions for drought relief. Ms. Cunningham states that the seasonal outlook shows that the western part of the United States looks like the drought will persist through May. Ms. Cunningham explains the issue is the temperatures look likely to be above average, especially since we have weather that sweeps the state from the south and west, while the precipitation is below average. So, the combination of these two factors is likely to cause issues while 26 counties are currently under a burn ban. Ms. Cunningham states that we work very closely with the Corps of Engineers and other agencies such as Emergency Management who have been around through the last major droughts. She explains that OWRB gets into situations when we must help water right holders manage their water especially on the stream water side of things.

Ms. Cunningham continues to the calendar in which she states the Joint Committee approved ARPA funding. The committee chair indicated that they had received over \$1.8 billion in requests specifically for water and sewer projects across the state. Ms. Cunningham states subcommittee and the Government Collaboration Work Group asked us to put together a proposal for what a part match grant program might look like which was mentioned last meeting. Since then, Ms. Cunningham has met with the Work Group several times and had a formal hearing with the Work Group on March 9<sup>th</sup> when it was presented. The presentation included the

history of the Water Board's programs and grants which would work exactly like a REAP grant program, with extra points for a local match and a ranking criterion, so it's not a committee deciding which ones would move forward. The original proposal was for a \$50 million for a Small System Construction Grant with priority points for lower affordability criteria and lower populations with the matching component. The next is a Small Systems Dam Rehabilitation Grant Fund. Ms. Cunningham explains that we work with FEMA ranking high hazard dams that fall out as poor or unsatisfactory conditions with a higher probability of downstream risk such as populations, large roads, houses downstream, etc. After ranking, 17 dams fit the criteria and will use the Small Systems Dam Rehabilitation Grant Fund for small systems to help with dam rehabilitation. Ms. Cunningham states these dams are critical as far as water storage, especially if it doesn't rain as we are experiencing right now and can't function without that storage. The last grant fund is a Mid and Large System Construction Grant Fund which will be a 50/50 match up to 2 million dollars. The grant funds were proposed and came back because they identified a couple different "tranches" of funding. The first one they are proposing \$50 million then waiting to see what other kind of federal money is available.

Ms. Cunningham states that OWRB was contacted by Senator Inhofe's office that has put in the Interior & Environment portion of the Appropriations Bill. They have included \$38 million for the congressional spending for Senator Inhofe's request which includes 8 projects and several of those would come through the Clean Water State Revolving Fund (CWSRF). Ms. Cunningham states that in addition to that there is the Bipartisan Infrastructure Law implementation which will be around \$50 million for the next five (5) years which will come through the State Revolving Fund (SRF). Ms. Cunningham explains that there is a significant amount of money but, the problem is the money is already earmarked for certain things, including addressing lead, emerging contaminants and a portion that is for principal forgiveness. Ms. Cunningham compliments Ms. Lori Johnson, Assistant Financial Assistance Division Chief, for a good job laying out the amount that would revolve and go permanently into the revolving fund. Ms. Johnson is currently working on a packet they requested which is being filed with the State Portal System and then it will go to a steering committee which is made up of members of the Governor's office and Legislators. Ms. Cunningham states that hopefully we can see that move forward quickly even though several months will be needed to leave it open so that the projects can be developed and have some preliminary engineering.

On March 10<sup>th</sup> Federal Emergency Management Agency (FEMA) officials came to Tulsa for an event with Mayor G.T. Bynum to celebrate Tulsa's promotion to a Class 1 Rating for the National Flood Insurance Program. Tulsa has moved from a Class 2 ranking to a Class 1, the highest possible ranking in the National Flood Insurance Program's Community Rating System, through adopting policies, flood warning and response, and public information to reduce flood loss. Tulsa is one of only two cities nationwide to achieve a Class 1 rating, out of more than 1,500 cities and counties that participate in the voluntary Community Rating System. With Tulsa's Class 1 rating, flood insurance policies will be discounted by 45% for homeowners and businesses within city limits starting in April 2022. Ms. Cunningham commends the City of Tulsa for this big accomplishment.

Ms. Cunningham continues to the hydrogen fuel hub update in which Oklahoma, Arkansas and Louisiana announced last week they have created a regional hydrogen hub with hopes of landing a billion dollars or more in federal funds to show the collaboration and capabilities of the states, led by Kenneth Wagner, Oklahoma's Secretary of Energy and Environment. Ms. Cunningham states that Secretary Wagner has been very busy in Washington D.C. and a champion of the effort trying to get this investment in Oklahoma for the hydrogen hub. The Department of Energy has a lot of money to invest in the potential of hydrogen fuel development at a large scale and they are looking to set up some hubs around the country. Ms. Cunningham states that there are other states and countries who are experts in this field and are supporting this effort.

Ms. Cunningham proceeds to the Flood Plan update, the Board will consider two (2) agreements with Oklahoma Emergency Management (OEM) and Oklahoma Department of Commerce (ODOC) for the funding for the inaugural Oklahoma Flood Plan. Through partnership with different state and federal agencies, OWRB is able to secure funding of more than \$1.3 million to develop the plan. Ms. Cunningham commends Yohanes Sugeng, Chief of Engineering and Planning Division, and our engineering group for working hard and securing that funding.

Ms. Cunningham gives an update on the legislative session where 1,400 bills remain alive out of the 4,800 bills that were filed. OWRB staff has been over at the Capitol and have been very involved in answering questions and helping with language as several senators are working on bills.

Lastly, Ms. Cunningham states that Water Day at the capitol is set for April 18<sup>th</sup> where OWRB invites water agencies and organizations to display booths at the State Capitol on the Second Floor Rotunda.

Ms. Julie Cunningham concludes her Executive Director's Report and Vice Chairman Charles Darby asks for any questions for Ms. Cunningham.

Mr. Stallings asks for a way to keep updated on water related bills that are going through the system. Mr. Stallings states how there was previously a way for the Board Members to stay informed to get real time updates of what is happening at the Capitol. Ms. Cunningham and Sara Gibson, General Counsel, answered that they can generate a memo on this request for Board Members to stay up to date and informed. Ms. Cunningham states that if there are any questions on specific bills or if the Board wants more information to please let her know.

Vice Chairman Charles Darby asks if there are any other questions for Ms. Cunningham and notes that there is a Bill Status Report in the back of all the Board Member binders.

#### D. Financial Update

1. Budget Report. Mr. Cleve Pierce greets the Board and states that the period being covered is through February 28, 2022. Mr. Pierce states that the agency has spent 40% of its appropriated budget, leaving 60% remaining. We have spent 44% of our revolving budget,

leaving 56% remaining. Overall, we have 60% of our budget remaining with 33% of the year remaining. Mr. Pierce refers back to last year when we had less budget remaining which was around 56%, because of appropriation funds that need to be shifted over to revolving fund we are to not expect that money, but that is why it appears higher than last year.

Mr. Pierce recalled that on January 13th, the agency received an email informing there will be an operational audit conducted by the State Auditor Inspector for the period of 1/1/2017 to 6/30/2021. OWRB has successfully submitted all the reports that are required from the initial questionnaire. The State Auditor Inspector is in the process of surveying employees as well as asking questions.

Ms. Cunningham asks for clarification from Mr. Pierce that the State Auditor Inspector will be asking questions and then meeting with us. Mr. Pierce answers that yes there is supposed to be an introductory meeting but due to scheduling this has not been possible yet. There will be some preliminary work to see what the scope of the audit will be. Ms. Cunningham states that after the last audit OWRB had the Audit Committee come to present their findings to the Board after the audit was conducted. She also states that OWRB will meeting with the Audit Committee next month. Mr. Pierce concludes the Financial Report and there were no questions.

## **2. FINANCIAL ASSISTANCE DIVISION**

- A. Consideration of and Possible Action on a Proposed Order Approving Drinking Water Funding Application for Porter Public Works Authority, Wagoner County. Recommended for Approval. Mr. Joe Freeman, Financial Assistance Division Chief, greets the Vice Chairman and Members of the Board. The first item Mr. Freeman presented is an \$890,000 loan request from the Porter Public Works Authority located in Wagoner County. They are requesting the loan for the rehabilitation of a ground water storage tank, an elevated storage tank, and a booster pump station. The rehab will include piping modifications to both tanks to provide a separate inlet and outlet. The piping between the ground storage tank and the booster pump station will also be modified. The loan will be funded through the Drinking Water State Revolving Fund with a fixed interest rate plus half point administrative fee. The loan will mature within 30 years of the completion of the project and will be secured with a lien on Porter's water, sewer, and sanitation system revenues as well as a mortgage. Porter has been a prior borrower of the Board's and their debt coverage ration stands at 5.24 times. Mr. Freeman states that staff recommends approval.

Vice Chairman Darby asked for a motion. Mr. Melton moved to approve the application and Ms. Castillo seconded. There were no questions or discussion and Vice Chairman Darby called for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: Gorman, Muller, Latham

- B. Resolution Authorizing the Issuance of Oklahoma Water Resources Board State Loan Program Revenue Bonds in an Aggregate Principal Amount not to Exceed \$150,000,000; at a Net Interest Cost not to Exceed Six Percent (6.0%); Providing for the Issuance of Said Bonds in One or More Series; Approving and Authorizing Execution of a Series 2022B Supplemental Bond Resolution and, if Deemed Advisable, an Additional Supplemental Bond Resolution for Each Additional Series; Waiving Competitive Bidding on the Bonds and Authorizing the sale Thereof by Negotiation and at a Discount Pursuant to the Terms of a Contract of Purchase Pertaining Thereto; Approving a Preliminary Official Statement with Respect to Said Bonds; Authorizing the Chairman or Vice Chairman to Deem Preliminary Official Statements for Additional Series of Bonds Final; Directing Deposit of Proceeds Derived from the Issuance of the Bonds in the State Treasury and Requesting the State Treasurer to Remit Such Proceeds to the Bond Trustee; Ratifying and Approving the Form of Promissory Note, Loan Agreement, and Note Purchase Agreement to be Executed by Borrowers in the State Loan Program; Authorizing Execution of Such Other and Further Instruments, Certificates and Documents as may be Required for the Issuance of the Bonds; Directing Payment of Costs of Issuance and Containing Other Provisions Relating to the Issuance of the Bonds. Recommended for Approval. Mr. Freeman requested that item 2.B. be pulled from the agenda and moved to next month's board meeting because only 6 members were present. This item requires a supermajority of 7 votes from the Board so it was withdrawn from consideration of approval.

### 3. SUMMARY DISPOSITION AGENDA ITEMS

All of the items listed below under this Summary Disposition Agenda are recommended for approval.

Any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board's staff, or any other person attending this meeting, 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. Vice Chairman Darby asked if there were any items being requested to be removed. There were no requests to remove items to the Special Consideration Agenda.
- B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Possible Action on Items Listed Below.

Vice Chairman Darby asked for motion for approval. Ms. Castillo moved to approve the application and Mr. Melton seconded. There were no questions or discussion and Vice Chairman Darby called for the vote.

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

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				

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-22-0007-DW	Rural Water District #1	Cherokee	\$430,000.00
b.	ORF-21-0008-DW	Welch Public Works Authority	Craig	\$450,000.00

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

1. Amendment to Interagency Agreement between OWRB and Central Oklahoma Master Conservancy District extending the expiration date of agreement to perform a core-flux study quantifying internal loading in Lake Thunderbird and related technical assessment.
2. Hazard Mitigation Assistance Grant Agreement between OWRB and Oklahoma Department of Emergency Management and Homeland Security to aid in the development of a statewide flood plan.
3. Agreement between OWRB and Oklahoma Ground Water Association to provide continuing education services for well drillers and pump installers.
4. Resolution between OWRB and Oklahoma Department of Commerce authorizing an application for funding assistance to develop a comprehensive state flood plan.

5. Amendment to Professional Services Agreement between OWRB and Carollo Engineers, Inc. extending the date of service and increasing the budget of the previous agreement that provides for completion of Phase I and further efforts for Phases II, III, and IV of the Update of the 2025 Oklahoma Comprehensive Water Plan.
- E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:
    1. L & E Farms, Inc., Dewey County, #2018-563
    2. Braden & Raegan Cunningham, Greer County, #2021-509
  - F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
    1. Wayne & Joan Schrock, Custer County, #1991-550
    2. Ferril & Phyllis Williamson, Seminole County, #1994-525
  - G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:
    1. Town of Seiling, Major County, #2021-507
    2. Yunxiang, LLC, Seminole County, #2021-523
    3. Black Pearl Properties, LLC, Love County, #2021-534
  - 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:
    1. Town of Seiling, Major County, #1939-089D
  - 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 Well Driller and Pump Installer Licensing:
    1. New Licenses, Accompanying Operator Certificates and Activities:

a.	Licensee: ConeTec, Inc.	DPC-1008
	Operator: Patrick Cargill	OP-2394

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

- |    |   |          |
|----|---|----------|
| a. | Licensee: Aqua Well Drilling, Inc.            | DPC-0708 |
|    | Operator: James Speers                        | OP-2393  |
| b. | Licensee: Wade Drilling and Pump Service, LLC | DPC-0923 |
|    | Operator: Alan Wade                           | OP-2088  |
| c. | Licensee: Summit Holding, Inc.                | DPC-0363 |
|    | Operator: Austin Lindsay                      | OP-2395  |
| d. | Licensee: Wait Pump Service                   | DPC-0771 |
|    | Operator: Colton Wait                         | OP-2396  |
|    | Operator: Bryce Bolton                        | OP-2397  |
| e. | Licensee: Environmental Works                 | DPC-0667 |
|    | Operator: Anthony Love                        | OP-2398  |

M. Consideration of and Possible Action on Default Judgment of Well Drillers Violation:

1. Mike's Water Service, DPC-0700, OP-1468

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:

1. Oklahoma Department of Transportation, Texas County, #FP-2022-01

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

1. Christopher Gdanski, City of Fairview, FPA-028
2. Gary McGee, Town of Fort Gibson, FPA-029
3. Jeff Reeves, Delaware County, FPA-030
4. Kim Reynolds, Town of Slaughterville, FPA-031

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

- A. No Items.

## 5. SPECIAL CONSIDERATION

### A. Consideration of and Possible Action in the Matter of Carel #1 Dam (OK30538), Canadian County, Oklahoma:

#### 1. Summary –

Mr. Yohanes Sugeng, Chief of Engineering and Planning Division, greets the Vice Chairman and Board Members. Mr. Sugeng presents a proposal order for Carel #1 Dam owned by Mr. Ron Carel. The Board is proposing several items to bring Carel # 1 dam into compliance. Requirements for this proposal include the initial application and other supporting documents by April 30, 2022. The second requirement is the construction of the dam should be completed within six (6) months of the Board’s approval. The third requirement is a \$200 a day penalty if it does not comply with orders.

#### 2. Discussion and presentation by parties

Vice Chairman Darby asks if there is a respondent present and there is not. Vice Chairman Darby also asks if there are any questions concerning this agenda item.

Mr. Stallings asks for clarification that the owner does in fact want to fix this dam. Mr. Sugeng answers that yes, Mr. Carel does want to fix the dam, he was present at the hearing and agreed to submit the application and all supporting documents as well as meet the other requirements.

Vice Chairman Darby reiterated that Mr. Carel will have six (6) months to fix the dam after approval by the Board today. Mr. Sugeng states that yes, he will have six (6) months to construct. Vice Charmain Darby asked for any more questions.

Ms. Jennifer Castillo asked if there was a sense that Mr. Carel can complete this within the six (6) month timeframe. Ms. Castillo wants to ensure that (6) months is a sufficient amount of time to complete the construction of the dam. Mr. Sugeng answers that he has reviewed the drawings and believes that this is possible and Mr. Carel has agreed to the order.

#### 3. Possible Executive Session

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of “[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act”.

(a) Vote on whether to hold Executive Session. 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.

(b) Designation of person to keep written minutes of Executive Session, if authorized.

(c) Executive Session, if authorized.

#### 4. Return to open meeting and possible vote or action on any matter discussed in the Executive Session, if authorized.

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

Vice Chairman Darby entertained a motion for the order. Mr. Stallings motioned to approve the changes and Ms. Castillo seconded. There were no questions or discussion and Vice Chairman Darby called for the vote.

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

NAY: None

ABSTAIN: None

ABSENT: Gorman, Muller, Latham

B. Consideration of and Possible Action on items Transferred from 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 which could not have been reasonable 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. ADJORNMENT**

Vice Chairman Darby stated the next meeting will be held April 19, 2022 at 9:30 a.m. in the Oklahoma Water Resources Board's second floor board room.

There being no further business, Vice Chairman Darby adjourned the regular meeting of the Oklahoma Water Resources Board at 10:01 a.m. on March 15, 2022.

OKLAHOMA WATER RESOURCES BOARD

\_\_\_\_\_  
Abstain  
Matt Muller, Chairman

\_\_\_\_\_  
/s/  
Charles Darby, Vice Chairman

\_\_\_\_\_  
/s/  
Robert L. Melton, Sr.

\_\_\_\_\_  
/s/  
Suzanne V. Landess

