

CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Madam Chair Jennifer Castillo, on April 16, 2024, at 9:31 a.m. at the Oklahoma Water Resources Board located at 3800 N. Classen Blvd. 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 April 12, 2024, at 1:00 p.m., at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

A. Roll Call. Madam Chair Castillo welcomed everyone to the meeting and asked for the roll call of members.

Board Members Present

Ron Justice
Robert L. Stallings, Jr.
Matt Muller
Bob Latham
Darren Cook
Jennifer Castillo

Board Members Absent

Tom Gorman

Staff Members Present

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Robby Short, Communication and Marketing Coordinator
Tamara Lilly, Executive Administrator
Joe Freeman, Chief, Financial Assistance Division
Bill Cauthron, Chief, Water Quality Programs Division
Chris Neel, Chief, Planning and Management Division
Cleve Pierce, Chief, Administrative Services Division

Others Attending

Mary Stallings
Nathan M., City of Norman
Darrel Pyle, City of Norman
DeCarlo Harris, R3 Realty Group
Buddy Hokit, City of Duncan
Larry Jones, City of Duncan
Leslie Lewis, HALFF
Shawn Dewees, Foss Reservoir MCD
Kara Taylor, Foss Reservoir
Jennifer Puckett, Salt Creek Rock Club
Charlie Swinton, BancFirst
Anthony F., City of Norman
Randy M., BancFirst
Sandra Benelli

B. Discussion, Amendments and Vote to Approve Official Minutes of the March 19, 2024, Regular Meeting. Madam Chair Castillo inquired if all members reviewed the minutes of the March 19, 2024, meeting and if no questions, or changes, requested a motion to approve. No comments or amendments; Mr. Stallings motioned to approve, and Mr. Justice seconded the motion. Madam Chair Castillo called for the vote.

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

C. Executive Director's Report:

It's been a dry month in the Panhandle (40% normal precipitation) and North Central OK (30% normal). Over 157,000 Oklahoma residents are in areas of moderate drought according to the drought monitor, covering 15.41% of the state in area. The seasonal drought outlook shows no drought or drought improvement is likely across the state over the next few months. NOAA's outlook shows above normal chances for rain for the eastern half of the state through June. No burn bans are in effect.

The Oklahoma Water Resources Board is pleased to announce the third in a series of stakeholder input meetings, at locations across the state, focused on the 2025 update of Oklahoma's Comprehensive Water Plan (OCWP). While anyone may attend, we request participation from local officials, water utility suppliers, regulated industry, commercial agricultural producers, economic development entities, and representing organizations.

Legislative Session:

Last week was a deadline week with house bills and Joint resolutions needing to advance out of Senate committee – now just 450 still alive with 300 missing the deadline. The first week of April was the filing period for elected offices and House and Senate have not come together on the budget yet, so some aspects of session have slowed over the last two weeks but should pick up this week and next. Previous sessions saw both chambers dedicate the last couple of weeks to budget negotiations, but the senate implemented a new system this year, opting for public hearings during the first month of session.

D. Financial Update

Mr. Cleve pierce, Chief Administrative Services Division, presents the budget report for the period ending March 2024. Mr. Pierce reports the agency has spent 73 % of it appropriated budget leaving 27 %; spent 44% of its revolving budget, leaving 56%; has spent 28% of its federal budget, leaving 72%. Overall, the total budget remaining is 56% with 25% of the year remaining.

2. **FINANCIAL ASSISTANCE DIVISION**

A. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for The Duncan Public Utilities Authority, Stephens County, Oklahoma. Recommended for Approval.

This is a \$4.8 million loan request from the Duncan public utilities authority located in Stephens County. They are requesting the loan for wastewater treatment plant improvements including a new chlorination/ dichlorination system, a new chemical building, and for repair or replacement of manholes and sewer lines. The loan will be funded through the clean water SRF loan program with a fixed interest rate plus a 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 Duncan's water, sewer, sanitation, and electric system revenues. Duncan has been a long-time loan customer of the boards and they currently have 9 outstanding loans with a combined principal balance of \$49.7 million.

Madam Chair Castillo asked for additional questions, discussion, or motion. A motion for approval was made by Mr. Justice and Mr. Stallings seconded the motion; Madam Chair Castillo called for the vote.

AYE: Latham, Stallings, Justice, Landess, Muller, Cook, Castillo
NAY: None
ABSTAIN: None

ABSENT: Gorman

B. Consideration of and Possible Action on a Proposed Order Approving Clean Water Funding Application for the Norman Utilities Authority, Cleveland County, Oklahoma. Recommended for Approval.

This is a \$5 million loan request from the Norman Utilities Authority to go along with a \$4.6 million congressionally directed grant for improvements to their water reclamation facility. The improvements include replacing dewatering centrifuges with a new hydraulic drive centrifuge system, replace blowers, renovate the administration building and construct a new storage building. If the congressional grant funds are not available in time Norman will use approximately \$3.7 million in local funds for the project and the administration and storage building projects will be deferred. The loan will be funded through the clean water SRF loan program with a fixed interest rate plus a half point administrative fee. The loan will mature within 25 years of the completion of the project and will be secured with a lien on Norman's water and sewer system revenues. Over the last ten years Norman's water connections have increased by 26% and wastewater connections by 41%. Norman has also been a long-time loan customer of the boards and they currently have 5 outstanding loans with a combined balance of \$51.8 million and their debt coverage ratio stands at 2.1 times.

Madam Chair Castillo asked for additional questions, discussion, or motion. A motion for approval was made by Mr. Latham and Ms. Landess seconded the motion; Madam Chair Castillo called for the vote.

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

3. SUMMARY DISPOSITION AGENDA ITEMS

All 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.

Request to transfer items from Summary Disposition to the Special Consideration Agenda and Action on whether to transfer such items.

Discussion, questions, and responses pertaining to any items remaining on Summary Disposition agenda and possible action items listed below.

- A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda and Action on Whether to Transfer Such Items.
- B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Possible Action on Items Listed Below.
- C. Consideration of and Possible Action on Financial Assistance Division Items:
 - 1. Emergency Grant Applications:
None.
 - 2. Rural Economic Action Plan (REAP) Grant Applications:
None.

3. CWSRF Principal Forgiveness Loan Applications:
None.
4. DWSRF Principal Forgiveness Loan Applications:
None.
5. Sewer Overflow and Stormwater Reuse Municipal Grants (“OSG”)
None.
6. American Rescue Plan Act (ARPA) Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	ARP-23-0029-DTG	The Eufaula Public Works Authority	McIntosh	\$ 400,000.00
b.	ARP-23-0295-G	City of Anadarko	Caddo	\$ 600,000.00
c.	ARP-23-0160-G	City of Sallisaw	Sequoyah	\$ 626,461.00
d.	ARP-23-0106-G	Rural Water District No. 3, Delaware County	Delaware	\$ 660,000.00
e.	ARP-23-0143-G	Pawnee Public Works Authority	Pawnee	\$ 999,993.63
f.	ARP-23-0230-G	The Eufaula Public Works Authority	McIntosh	\$ 1,000,000.00
g.	ARP-23-0164-G	Town of Bromide	Johnston	\$ 1,000,000.00
h.	ARP-23-0020-DPG	Foss Reservoir Master Conservancy District	Custer	\$ 1,409,648.00
i.	ARP-23-0291-G	The Lawton Water Authority	Comanche	\$ 2,000,000.00
j.	ARP-23-0267-G	City of Sand Springs	Tulsa	\$ 2,000,000.00
k.	ARP-23-0012-DPG	River Parks Authority	Tulsa	\$ 4,200,000.00

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

1. Resolution authorizing an application for funding assistance through the Environmental Protection Agency’s Sewer Overflow and Stormwater Reuse Municipal Grant Program to provide assistance in the form of sub-awards to address infrastructure needs for combined sewer overflows, sanitary sewer overflows, and stormwater management.
2. Interagency Agreement between the Department of Environmental Quality and OWRB to complete a pre-TMDL study for Boomer Lake, located in Stillwater, Ok. This will be a 2-year monitoring project to collect data needed to complete a TMDL. Work will be done on the lake and in the watershed.

3. Interagency Agreement between the Department of Environmental Quality and OWRB for bathymetric mapping of lakes currently listed as impaired for Dissolved Oxygen. This work is a continuation of that done in previous years. The agreement is for two fiscal years.
- E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:
 1. Olive Tree Realty, LLC, McClain County, 2023-580
 2. Theodore Calvin and Amy Nicole Koehn, Dewey County, 2023-587
- 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. Jessie H. Hoskins, Blaine County, 2008-528
- 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/Seasonal 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: W5 Waterwell Service, LLC	DPC-1038
1. Operator: Colton Wear	OP-2525
Activities: groundwater wells	
b. Licensee: Vanguard Well Resources	DPC-1040
2. Operator: Jacob Friessen	OP-2526
Activities: Groundwater wells	
 2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:

a. Licensee: Layne Christensen	DPC-0123
1. Operator: Jason McKinney	OP-2508
Activities: Groundwater wells and monitoring wells	
b. Licensee: Layne Christensen	DPC-0123
2. Operator: Bobby Roberts	OP-2509
Activities: Groundwater wells and monitoring wells	
c. Licensee: Layne Christensen	DPC-0123
3. Operator: Cody Lotze	OP-2510
Activities: Groundwater wells and monitoring wells	
d. Licensee: Northwest Waterwell Service	DPC-0845
4. Operator: Hunter Reihm	OP- 2527
Activities: Groundwater wells and pump installation	
e. Licensee: Vista GeoScience, LLC	DPC-0788
5. Operator: Theodore Stockwell	OP-2521
Activities: Monitoring wells	
f. Licensee: Vista GeoScience, LLC	DPC-0788
6. Operator: Luka Pavlakis	OP-2522
Activities: Monitoring wells	

- g. Licensee: Vista GeoScience, LLC DPC-0788
7. Operator: Benjamin Alcox OP-2523
Activities: Monitoring wells
- h. Licensee: Vista GeoScience, LLC DPC-0788
8. Operator: Noah Willoughby OP-2524
Activities: Monitoring wells
- h. Licensee: May Waterwell Drilling DPC-0615
9. Operator: Keith May OP-2528
Activities: groundwater wells and pump installation
- h. Licensee: May Waterwell Drilling DPC-0615
10. Operator: Larry Williams OP-2529
Activities: Groundwater wells and pump installation

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

- 1. Whittington Dam, Love County, OK10248

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. Shannon Lee, Garfield County, #FPA-817
- 2. Linda Garcia, Kingfisher County, #FPA-705
- 3. Sean Fairbairn, Grady County, #FPA-843
- 4. Stephen Hendricks, Major County, #FPA-28
- 5. Cody Gilbert, McCurtain County, #FPA-629

Madam Chair Castillo asked for additional questions, discussion, or motion. A motion for approval was made by Mr. Muller and Mr. Stallings seconded the motion; Madam Chair Castillo called for the vote.

- AYE: Latham, Stallings, Justice, Landess, Muller, Cook, Castillo
- NAY: None
- ABSTAIN: None
- ABSENT: Gorman

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

Chairman Jennifer Castillo

- A. No Items

5. SPECIAL CONSIDERATION

Chairman Jennifer Castillo

A. Consideration of and Possible Action on Application for a Temporary Groundwater Right No. 2022-526, R3 Realty Group, LLC, Love County, Oklahoma:

- 1. Summary – Mr. Chris Neel:
R3 Realty Group, LLC, c/o DeCarlo Harris whose address is 6409 S. Western Ave., Oklahoma City, OK 73139 has filed an application, #2022-526, with the Oklahoma Water Resources Board (Board) for a permit to use 40 acre-feet of groundwater per year. The groundwater is proposed to be used for Irrigation and Agriculture uses (annual grass and medical marijuana) and taken from 40 acres located in the S2 NE of Section 32, T8S, R2EIM in Love County. The water is to be withdrawn from five (5) wells located as follows: three (3) wells in the NE SE NE, one (1) well in the NW SE NE, and one (1) well in the NE SW NE all in Section 32, T8S, R2EIM in Love County. Wells and dedicated lands are located over the Red River Alluvium and Terrace groundwater basin. The applicant gave proper Public Notice, the application was

protested, and an administrative hearing was held on September 21, 2023. The hearing examiner recommends approval.

The proposed use of the groundwater is for agriculture and irrigation of the land dedicated to the permit. The intended use is to grow annual grass and medical marijuana. There was no evidence introduced to indicate that Applicant use of the groundwater was not for agriculture and irrigation of land dedicated to the permit.

Protestant McCage, Protestant Jones, Protestant Dunn, and Protestant Mansfield protested the Application and were made parties herein.

Protestant Mansfield testified (in summary) that he is protesting the issuance of the Application because he believes the amount of water being requested by the Applicant is an extreme amount of water and a greater amount than needed. That Applicant's use of water is reducing the water pressure and negatively impacting the water depth. That in an April 26, 2022, application the Applicant only stated annual grass, and, in the June 6, 2022, Application the Applicant added marijuana and increased the quantity of water. That he does not currently have access to city water. That he is using well water as primary source of water. That he has cattle, previously chicken, and is building a house that is not complete. That the water table in his pipe previously was forty (40) feet and is now eighteen (18) feet and that he had to turn up the water pressure to max to water his yard. That he does not have a meter in his well. That after Applicant's water wells were drilled and water spraying started that he noticed that water pressure was dropping. That he did not know if Applicant was in fact using city water or not.

The depth to water in feet below land surface in Protestant Dunn's well was around 28 feet in February 2020, increased to a peak of around 22 feet in June of 2020, and then decreased steadily to around 30 feet in October of 2023. Protestant Exhibit No. 1. No information was provided for the time after October of 2023. Protestant Dunn was not at the hearing and is believed to be deceased. Protestant Mansfield testified (in summary) that Protestant Dunn's well has a meter in it, that the well is adjacent to Applicant's property located on the E section of page 4 of 5 of OWRB Exhibit No. 4, that the data is monitored by the OWRB, and that he obtained Protestant Exhibit No. 1 from the OWRB. Whether Protestant Exhibit No. 1 was provided by the OWRB was not verified by the OWRB at the hearing.

A Cease-and-Desist Unauthorized Use of Stream/Ground Water was issued July 14, 2022, to the Applicant for using groundwater for non-domestic use to commercially grow medical marijuana without a permit to do so.

A Cease-and-Desist Unauthorized Use of Stream/Ground Water was issued January 9, 2023, to the Applicant for using groundwater for non-domestic use to commercially grow medical marijuana without a permit to do so.

2. Discussion and presentation by parties:

A question and discussion was had by Board members regarding enforcement of unpermitted wells and ramifications of not abiding by the Cease-and Desist letters.

Discussion was had regarding the actual need for 40-acre feet of water use. Or if applicant can sell the water for other usage.

A motion was made by Mr. Stallings to table this Special Consideration; Mr. Stallings withdrew the motion for tabling.

Discussion was had regarding well spacing. It was determined there are no well spacing requirements in this area due to the maximum annual yield study being incomplete at this time. Future spacing could come into play and would be set at 660 feet but is not set at this time. It was determined the wells are approximately 1700 apart per an aerial photograph. In theory, if there was a well spacing requirement, the applicant would be within well spacing parameters.

3. Possible Executive Session:

Madam Chair Castillo asked for further discussion, a motion for Executive Session or a vote on the matter. A motion was made to go into Executive Session by Mr. Stallings and seconded by Mr. Justice.

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

Staff members requested to remain for Executive Session are Sara Gibson, Tamara Lilly, Julie Cunningham, and Chris Neel.

Madam Chair Castillo asked for a motion to move out of Executive Session and to resume Regular Session. Mr. Muller made a motion and was seconded by Mr. Justice.

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

Regular session has resumed, and Madam Chair Castillo asked for a motion regarding this application. Mr. Latham made a motion to approve with the following conditions: 40-acre feet to be granted but will lose one quarter of that 40 acre feet if the medical marijuana license lapses or the grow ceases to exist on the property. The motion was seconded by Mr. Muller.

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

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.

B. Consideration of and Possible Action on Application for a Stream Water Right No. 2022-024, Salt Creek Duck Club, LLC, Pottawatomie County, Oklahoma:

1. Summary – Mr. Chris Neel:

Notice is hereby given from Salt Creek Duck Club LLC, c/o Keenen Taylor whose address is 1217 Fairview Farm Rd, Edmond, OK 73013 has filed an application, #2022-024, with the Oklahoma Water Resources Board (Board) for a permit to use no more than 25 acre-feet of stream water per year at a diversion rate not to exceed 800 gallons per minute from one point of diversion on Salt Creek located as follows: NW SE NW of Section 9, T7N, R4EIM, Pottawatomie County. The water is proposed to be used for recreation/fish and wildlife (wetlands) on 25 acres located as follows: 3 acres in SW SE NW, 9 acres in NW NE SW, and 13 acres in the N2 NW; all in Section 9, T7N, R4EIM, Pottawatomie County, the application was protested, and an administrative hearing was held on February 21, 2024. The hearing examiner recommends approval.

This individual proceeding arose from the application of Salt Creek Duck Club, LLC. c/o Keenan Taylor (“Duck Club” or “Applicant”) for a regular stream water permit to use 25 acre-feet of stream water per year from one (1) point of diversion (the “DP”) on Salt Creek in Pottawatomie County, Oklahoma. The proposed use for the stream water was for recreation, fish, and wildlife (habitat production for waterfowl). After notice of the application was published in The Seminole Producer in April and May of 2023, protests were filed with the Oklahoma Water Resources Board (OWRB) by the following entities and individuals, each of whom claimed, without submission of any supporting documentation, to be members of the Citizen Pottawatomie Tribe, entitled to the benefit of superior vested rights in stream water through a Tribal Treaty of 1887, that they claimed covered most of Pottawatomie County, without submitting any supporting documentation.

2. Discussion and presentation by parties: A discussion was had by the Board members noting the applicant is represented by legal counsel who is present, but the actual applicants are not. Also noted the protestants are not present nor represented by legal counsel. Question was asked by the Board if the applicant has any idea how long it would take them to consume 25-acre feet with their estimation of pumping 800 gallons per minute? The question was not able to be answered by applicant’s legal counsel. What is the intended use of the water? Is it to for some quasi wetland for waterfowl? The answer is that is correct, via legal counsel.

Board questioned whether the applicant would be willing to meter the stream water as it could be very easy to go over their allotted permitted amount. Discussed whether if there is any precedent of the Board requiring a permit as part of a stream water use application. It would not be a violation if the Board required it, but there are no meters on stream water that we are aware of as it doesn’t fall under the same rules as groundwater.

Madam Chair Castillo asked for additional questions, discussion, or motion. A motion was made for approval as is by Mr. Latham and was seconded by Ms. Landess.

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

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.

C. Consideration of and Possible Action on Items Transferred from Summary Disposition, if any.

6. **New Business**

Chairman Jennifer Castillo

No 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.

7. **ADJOURNMENT**

There being no further business, Madam Chair Castillo adjourned the regular meeting of the Oklahoma Water Resources Board at 10:52 a.m. on April 16, 2024. The next regular meeting of the Oklahoma Water Resources Board will be held on Tuesday May 21, 2024, at 9:30 a.m., at the Oklahoma Water Resources Board located at 3800 N. Classen Blvd., Oklahoma City, Oklahoma 73118.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

Thomas Gorman, Vice Chairman

Matt Muller

Darren Cook

Ron Justice

Bob. Latham

Robert L. Stallings, Jr.

ATTEST:

Suzanne Landess, Secretary (SEAL)

