



Performance Audit
Oklahoma Water
Resources Board

June 28, 2001 through June 30, 2006



Office of the Oklahoma State Auditor and Inspector
Jeff A. McMahan, CFE

**OKLAHOMA WATER
RESOURCES BOARD**

PERFORMANCE AUDIT

JUNE 28, 2001 THROUGH JUNE 30, 2006



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

June 28, 2007

**TO THE HONORABLE BRAD HENRY
GOVERNOR OF THE STATE OF OKLAHOMA**

Transmitted herewith is the performance audit over the Oklahoma Water Resources Board. The procedures we performed were at your request in accordance with 74 O.S., § 213.2.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of the engagement.

The Office of the State Auditor and Inspector is committed to serving the public interest by providing independent oversight and issuing reports that serve as a management tool to the state to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

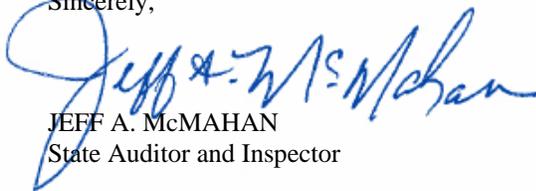

JEFF A. McMAHAN
State Auditor and Inspector

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OKLAHOMA WATER RESOURCES BOARD

PERFORMANCE AUDIT SUMMARY

JEFF A. MCMAHAN, CFE

**OFFICE OF THE STATE
AUDITOR & INSPECTOR**

Why the audit was performed

This performance audit was conducted at the request of Governor Henry in accordance with 74 O.S., § 213.2.

The objectives of the audit were to determine whether:

- I) the OWRB involves agency staff and management in contested permit proceedings.
- II) the OWRB processed the application from the Rural Development Foundation for the use of water from Lake Eufaula in accordance with Oklahoma Administrative Code 785: 20-1 through 11.
- III) the OWRB processed the surface water application filed in 2004 under the name of the Board of County Commissioners of Coal County in accordance with Oklahoma Administrative Code 785: 20-1 through 11.
- IV) surface water applications submitted by non-governmental entities, where the intent is for water to be sold, are processed in a different manner than other applications?
 - Does the application process provide sufficient information to allow OWRB to determine instances where the intent of surface water permit applications is to sell water for profit?
 - What state statutes or OWRB regulations govern the sale of water by a non-governmental entity?
 - Are permits transferable to a third party? If so, is the OWRB made aware of such transfers and is the original purpose specified in the application still valid?

- All users of surface water and groundwater, other than domestic users, must submit an application for a permit to the OWRB. State law requires the applicant to provide notice of their application. In response to the application an interested person may file a protest. The protests are primarily handled by one staff attorney of the OWRB through hearing proceedings. The staff attorney, also known as the hearing examiner, reviews relevant data presented by all interested parties and creates a “Finding of Fact, Conclusions of Law and Board Order” report which is provided to all interested parties and submitted to the OWRB for their final decision as to whether to grant or deny the application for a permit. The staff attorney serving as the primary hearing examiner presided in 94% of the hearings from fiscal years 2004 through 2006. Additional staff should be cross-trained in this role to obtain the required knowledge and skills to effectively serve as an examiner in the future.- pages 8-9
- OWRB management does not track certain data (i.e. acre-feet, beneficial use) related to applications prior to and after a protest hearing. This could prove to be a valuable tool in monitoring the number of applications deemed complete by staff that are modified during the hearing process and ultimately approved by the OWRB. – page 20
- Lake Eufaula held a sufficient amount of water for the Rural Development Foundation (RDF) permit to be issued; however, the *water supply pool* did not have a sufficient amount of water to support a storage contract with the Corps in the full amount permitted to RDF. We noted the application process does not disclose that there may not be storage space available in the Corps water supply pool for the amount permitted by OWRB. –page 11-12
- A permit holder may transfer the rights of a permit to another holder as long as the specifics of an application remain constant. However, if a permit holder transferred, or possibly sold, the permit to another entity/person and did not notify the OWRB of the transaction, they would be unaware it had occurred unless specifically alerted to the situation. A monitoring system should be developed including on-site verification of usage as specified in the permit. Ideally, a program could be implemented where water usage is metered on a sample basis or risk-based approach. The OWRB is aware of the risks related to not monitoring water use and in 2006 proposed an administrative fee be assessed on all permits that are issued. This fee was proposed in an effort to develop, among other things, a monitoring system. However, the proposal was voted down in House Joint Resolution 1072. – page 20
- State law requires an applicant to publish notice of a pending permit. Various citizens interviewed thought the current process in place was inadequate due to the legal tone of the notice and its placement in a newspaper’s classified section. We recommend the OWRB develop a location on their website for identifying pending surface water and groundwater permits. – page 22

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BACKGROUND

Created in 1957 to manage and protect the water resources of the state and plan for Oklahoma’s long range water needs, the Oklahoma Water Resources Board (OWRB) consists of nine members from the Congressional districts of the state:

Name	Position	City	Represents	Term Expires
Rudolf John Herrmann	Chairman	Tulsa	Industrial	May 2007
Jess Mark Nichols	Vice Chairman	Altus	Irrigation	May 2011
Bill Secrest	Secretary	Broken Arrow	Rural Residential	May 2007
Ford Drummond	Member	Bartlesville	Agricultural	May 2013
Lonnie Farmer	Member	Oklahoma City	Agricultural	May 2011
Ed Fite	Member	Tahlequah	Recreation	May 2008
Jack W. Keeley	Member	Ada	Municipal	May 2010
Kenneth K. Knowles	Member	Arnett	Soil Conservation	May 2012
Richard Sevenoaks	Member	Tulsa	Municipal	May 2009

All users of surface water and groundwater, other than domestic users, must submit an application for a permit to the Planning and Management Division of the OWRB. Surface (stream) water is publicly-owned water in a definite stream and includes, but is not limited to, water in ponds, lakes and reservoirs (See map in Appendix C). Groundwater is considered private property that belongs to the overlying surface owner (see map in Appendix D).

The surface or groundwater permit application identifies a certain amount of acre-feet¹ of water requested. A surface water permit is issued by the OWRB if the application and other evidence demonstrate the following:

- Unappropriated water is available in the amount applied for;
- A present or future need exists and the use is beneficial;
- The use does not interfere with domestic or existing appropriative uses;
- The use does not interfere with existing or proposed beneficial uses within the stream system if the water is being transferred outside of the stream system.

A permit for groundwater is issued if the following are met:

- Applicant owns or leases the land from which the water will be withdrawn;
- The dedicated land overlies a groundwater basin;
- The water will be put to a beneficial use;
- Waste of the water will not occur.

¹ Amount of water to cover one acre of land one foot deep or 325,851 gallons

OKLAHOMA WATER RESOURCES BOARD
PERFORMANCE AUDIT

SCOPE This audit was conducted pursuant to 74 O.S., § 213.2 and was performed in accordance with *Government Auditing Standards*. The audit period is June 28, 2001 through June 30, 2006.

OBJECTIVES Based on the Governor's request and the OWRB's concerns, the objective of the audit was to answer the following questions:

- I) Does the OWRB involve agency staff and management in contested permit proceedings?
- II) Did the OWRB process the application from the Rural Development Foundation for the use of water from Lake Eufaula in accordance with Oklahoma Administrative Code 785: 20-1 through 11?
- III) Did the OWRB process the surface water application filed in 2004 under the name of the Board of County Commissioners of Coal County in accordance with Oklahoma Administrative Code 785: 20-1 through 11?
- IV) Are surface water applications submitted by non-governmental entities, where the intent is for water to be sold, processed in a different manner than other applications?
 - Does the application process provide sufficient information to allow OWRB to determine instances where the intent of surface water permit applications is to sell water for profit?
 - What state statutes or OWRB regulations govern the sale of water by a non-governmental entity?
 - Are permits transferable to a third party? If so, is the OWRB made aware of such transfers and is the original purpose specified in the application still valid?

KEY ACRONYMS Oklahoma Water Resources Board (OWRB)
Oklahoma Administrative Code (OAC)
U. S. Army Corps of Engineers (Corps)
Department of Environmental Quality (DEQ)

I. Does the OWRB involve agency staff and management in contested permit proceedings?

CONCLUSION Based on procedures performed, it appears the OWRB does involve staff and management in contested permit proceedings.

METHODOLOGY The following procedures were performed:

- We reviewed OAC 785: 4 - 1 through 11;
- We reviewed 82 O.S. , § 105.11;
- We interviewed a staff member of the OWRB who serves as the primary hearing examiner;
- We interviewed staff and management to document the process used by the OWRB in a contested permit proceeding;
- We requested a listing of all applications for permits received during fiscal years 2004 through 2006, as well as number of the applications that were protested;
- We sent a survey to various applicants and protestants asking their opinion of the current protest process.

How are pending applications for ground or surface water protested?

OBSERVATIONS State law and OAC requires a permit applicant to provide notice of their application and pending permit. For surface water, 82 O.S., § 105.11 states in part:

...the Board shall instruct the applicant to publish, within the time required by the Board, a notice thereof, at the applicant's expense, in a form prescribed by the Board in a newspaper of general circulation in the county of the point of diversion, and in a newspaper of general circulation published within the adjacent downstream county and any other counties designated by the Board once a week for two (2) consecutive weeks. Such notice shall give all the essential facts as to the proposed appropriation, among them, the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant, the hearing date, time and place if a hearing is scheduled by the Board before instructions to publish notice are given, and the manner in which a protest to the application may be made...Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest.

For groundwater, OAC 785: 30-3-4 (a) states in part:

...such notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where each existing or proposed well is located. Notice shall also be provided by certified mail to all surface estate owners of lands located within one-thousand three hundred twenty feet (1,320') from actual locations of existing or proposed wells shown the application plat...

(See our recommendation related to the notification process in the Other Items Noted section of this report.)

An interested person may file a protest to an application by providing the following in writing:

- Name, telephone number, e-mail (if applicable), and address;
- The application to which the protest relates;
- Specific information to indicate how approval of the application proposed may directly and adversely affect legally protected interest of the person filing the protest;
- A statement of relief sought by the interested person.

Once a valid protest is received, a staff attorney at the OWRB, serving as the primary hearing examiner, is notified. Hearing examiners are authorized to supervise, direct, preside over and conduct the hearing proceedings. The hearing examiner will notify all parties involved (applicant and protestant(s)) and schedule a hearing.

Each party has the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses on any matter relevant to the issues during the hearing. Interested parties may appear personally, by authorized representative and/or legal counsel. However, failure of an interested party to appear at a hearing constitutes default and abandonment of interest.

After the completion of the hearing, the examiner creates a proposed final order known as “Findings of Fact – Conclusions of Law and Board Order” which identifies the proposed results of the hearing. This is mailed to all parties at least 15 days prior to the next scheduled board meeting. According to OAC 785:4-9-1(b), the OWRB must consider the examiner’s proposed order in a regular open session and determine the appropriate course of action.

In an effort to determine if staff other than the hearing examiner was involved in the protest process, we inspected documentation supporting 10 of the 50 protest hearings held during fiscal years 2004 through 2006. We judgmentally selected the 10 hearings and inspected the documentation to determine if communication between the hearing examiner and staff was documented. No documentation of this communication is required by state law or OAC, and there was none noted. However, staff (including the hearing examiner) confirmed that interaction between them does occur on an as needed basis.

Is the Hearing Examiner Required to be a Member of OWRB Staff?

OBSERVATIONS

82 O.S., § 1085.10 authorizes the OWRB to designate a hearing examiner or examiners who shall have the power and authority to conduct such hearing in the name of the OWRB at any time and place subject to the provisions of this section and any applicable rules and regulations or order of the OWRB. The statute implies the examiner does not have to be a member of the staff. We discussed with management alternatives to having the examiner be a member of staff. Management’s opinion was that there are three other options possible:

- The OWRB’s Board itself could conduct administrative hearings. However, such a procedure would lead to having the OWRB members schedule a public meeting under the Open Meeting Law for each hearing date, and casting a vote on each legal motion and evidence objection during the hearing. Furthermore, the OWRB members would have to spend many hours per month to conduct such hearings. Considering the difficulties,

time commitments and coordination required, this option has never been utilized by the OWRB.

- The OWRB could hire outside counsel to act as a hearing examiner for hearings. The OWRB has used this option twice in the last few years. However, the staff of the OWRB, including the primary examiner, spent a significant amount of time assisting those hearing examiners, both of whom were retired appellate court judges. Based on the number of hours spent on the hearing process by OWRB's primary examiner, and the assumed rate of \$100 per hour, the cost of hiring private practice lawyers to conduct hearings would be approximately \$125,000. It is management's opinion that staff would have to assist these lawyers even more.
- The OWRB could use non-legal staff to conduct the hearings. Before the primary examiner was hired in 1985, lawyers for the OWRB acted as "legal advisors" for technical staff employees who had been designated to act as hearing examiners. As water use controversies grew over the years and more lawyers started participating in the hearings, the "legal advisor" role became primary in the hearing process, with the technical staff hearing examiner providing only input for factual issues and questions at hearings. The transition to having a lawyer act as the hearing examiner most of the time resulted in fewer allegations and appeals of OWRB orders based on procedural errors.

While the objectivity of the examiner may be questioned by some since he is a staff member, it appears management and the OWRB have considered various options and concluded the current method satisfies the mandates set by law.

We thought it was important to bring to management's attention the hearing examiners' role in the protest process. The primary examiner (examiner A) presided in 94% (47/ 50) of the hearings from fiscal year 2004 through 2006. Management believes examiner A is used the majority of the time because he is intimately familiar with the legal requirements of the Administrative Procedures Act (Act), court cases interpreting provisions of the Act, the complex legal requirements contained in the statutes and in the rules concerning the use of water and permits for the use of water. He has conducted the majority of the hearings for the OWRB for nearly 20 years.

While management has considered various options for conducting hearings, it appears management has not planned for the primary examiner's absence, e.g. the examiner is suddenly unable to work or finds another job.

RECOMMENDATION

We recommend management consider exposing additional staff to the hearing examiner role. This cross-training would allow other employees to obtain the required knowledge and skills to effectively serve as hearing examiners in the future.

VIEWS OF RESPONSIBLE OFFICIALS

OWRB staff understands that the question to which Objective 1 relates was presented because an attorney involved in a protested proceeding on an application to use groundwater did not agree with an interlocutory ruling made by the OWRB hearing examiner who had discussed the situation and request with staff of the OWRB. The Oklahoma Administrative Procedures Act that applies to OWRB hearings on contested permit proceedings authorizes a hearing examiner use the assistance of agency staff to evaluate evidence presented by parties and to have the aid and advice of one or more personal assistants. Such

input and involvement by agency staff is necessary to ensure that all appropriate matters have been addressed before consideration by the nine members of the OWRB. In any event, training of additional staff in hearing examiner role as recommended in the report would provide opportunity to speed up the less complex proceedings.

OBSERVATIONS

To assist in gauging the objectivity and involvement of staff, we randomly selected 25 permits that were protested from fiscal years 2004 through 2006 and sent a survey to the 25 applicants and 255² protestants to determine their opinion of the current protest process used by OWRB. The results were presented to the OWRB and management for their use and consideration.

II. Did the OWRB process the application from the Rural Development Foundation for the use of water from Lake Eufaula in accordance with Oklahoma Administrative Code 785: 20-1 through 11?

CONCLUSION

Based on the procedures performed, it appears the OWRB processed the application for Rural Development Foundation (RDF) in accordance with OAC 785: 20-1 through 11 with the exception of OAC 785: 20-3-9 (d).

OAC 785: 20-3-9 (d) requires the OWRB to deem an application withdrawn if corrections are requested on an application and the applicant does not initiate contact within six months. OWRB staff requested additional information in October 2001 and a response was not received until February 2003. The application should have been withdrawn and RDF should have been required to submit a new application.

METHODOLOGY

The following procedures were performed:

- We reviewed OAC 785: 20-1 through 11;
- We reviewed the original application submitted by the RDF as well as correspondence and documentation between the OWRB and the RDF related to the application;
- We interviewed OWRB staff members who were assigned the RDF application;
- We interviewed a representative from the Corps regarding the Lake Eufaula reservoir;
- We interviewed OWRB management regarding the application;
- We interviewed the Chairperson of the RDF.

Certain portions of OAC 785: 20-1 through 11 were determined significant and procedures related to these rules were developed. The sections we applied to the RDF application in an effort to determine compliance can be seen in their entirety in Appendix A. A brief summary of each rule as it pertains to this application follows:

- Unappropriated water is available in the amount applied for – OAC 785:20-5-4 (a) (1) (82 O.S., § 105.12 A. 1.)
- The applicant has a present and future need and the proposed use is beneficial – OAC 785: 20-5-4-(a) (2) (82 O.S., § 105.12 A. 2.)

² There were 257 protestants alone for permit # 2003-543. We randomly selected 50 protestants from this permit plus the two individuals who attended the Board meeting when the permit was approved to sample.

- The proposed use will not interfere with domestic or existing appropriative uses – OAC 785:20-5-4 (a) (3) (82 O.S., § 105.12 A. 3.)
- If water is being transported outside the stream system of origin, it will not interfere with existing/proposed uses within the stream system and pending applications to use water within the stream system shall first be considered – OAC 785:20-5-4 (a) (4) (82 O.S., § 105.12 A. 4.)
- If additional information is requested of the applicant to deem the application complete, no more than 6 months shall pass after last contact with the Board or the application shall be deemed withdrawn – OAC 785:20-3-9 (d)
- Notice of application was provided – OAC 785: 20-5-1
- Construction of works commenced within 2 years of the date the permit was issued – OAC 785:20-9-1 (a) (82 O.S., § 105.15 A.)
- Notice of completion of works was filed with the OWRB – OAC 785:20-9-1(d).
- OWRB inspected the completed works – OAC 785:20-9-1 (e) (82 O.S., § 105.25)

Was there a sufficient amount of unappropriated water available in Lake Eufaula? (82 O.S., § 105.12 A. 1.)

OBSERVATIONS

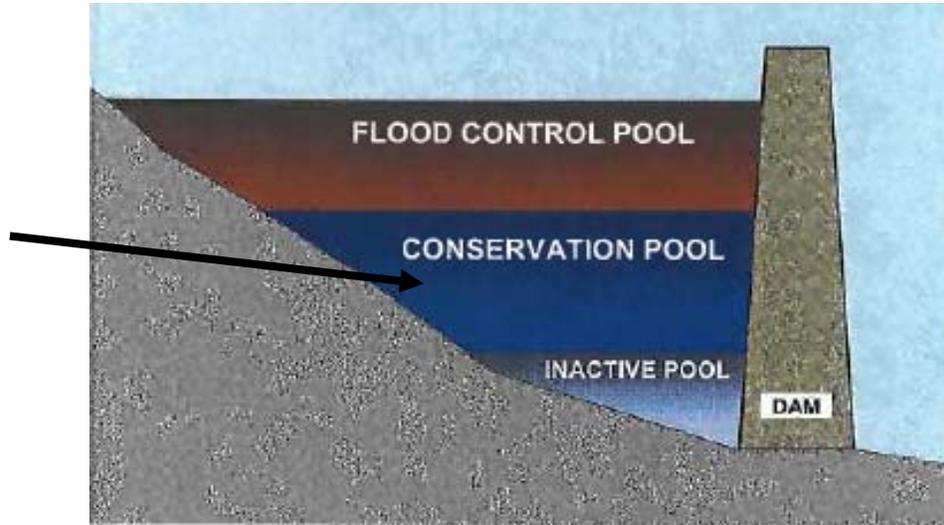
On February 12, 2003, a letter was sent by the Indian Nation Water Resources Corporation to OWRB staff indicating the name on the application should be changed to the Rural Development Foundation, while correspondence a month later requested the original diversion point³ on Lake Eufaula be changed, the requested acre-feet reduced from 280,000 to 76,730, and the proposed use modified to municipal water supply.

For a permit to be issued, OAC 785: 20-5-4 (a) (1) requires unappropriated water to be available in the amount applied for. In reviewing supporting documentation where staff addressed this requirement, we found an OWRB generated report which indicated there is a conservation pool with a capacity of 1,465,000 acre-feet which includes a 1,409,000 acre-feet pool available for hydropower and 56,000 acre-feet pool available for water supply. These pool amounts were determined by the U.S. Army Corps of Engineers (Corps).

See the illustration on the next page for further explanation of Lake Eufaula's conservation pool.

³ Point at which the water is withdrawn from the lake.

The water in this area represents 1,465,000 acre-feet. 1,409,000 is designated for hydropower (generation of electricity) and the remaining 56,000 acre-feet is for water supply.



SOURCE: U.S. Army Corps of Engineers

If a permit for water from a federal reservoir is issued, OAC 785:20-7-5 requires the permit holder to enter into a storage repayment contract with the Corps within two years of the date the permit was issued. If no storage contract is entered into within this time period, the permit becomes invalid. According to Corps records, as of June 2003 (the date the RDF permit application was deemed complete by OWRB staff) the Corps had storage contracts for approximately 26,000 acre-feet meaning approximately 30,000 acre-feet of available storage remained in the water supply pool. Through discussions and inquiries of management, we noted that the OWRB did not know the acre-feet under storage contract with the Corps. We also noted that while a permit holder is required to enter into a storage contract with the Corps to retain an active permit, there was nowhere in the application process that disclosed there may not be storage space available in the Corps water supply pool for the amount permitted by OWRB.

We asked a Corps representative what would have happened if the RDF had wanted a contract for their permitted 76,000 acre-feet. She stated she advised them they could only contract for the portion of the pool not under contract, which was approximately 30,000 acre-feet. To contract for more than this amount would require the acre-feet in the water supply pool to be increased. An increase is done through a reallocation study by the Corps to determine if water from another authorized project purpose, such as flood control or hydropower, could be reallocated to water supply storage.

While the *conservation pool* at Lake Eufaula held a sufficient amount of water for the permit to be issued, the *water supply pool* did not have a sufficient amount of water to support a storage contract with the Corps in the full amount permitted to RDF.

RECOMMENDATION

We recommend the OWRB:

- Monitor the amount of water under storage contract at federal reservoirs;
- Disclose in its application process that regarding federal reservoirs, even though a permit may be issued for specific acre-feet, the actual amount of acre-feet available for storage contract with the Corps may be less than this amount.

**VIEWS OF RESPONSIBLE
OFFICIALS**

The OWRB agrees that it should coordinate more closely with the Corps of Engineers regarding amounts of storage space for which contracts have been entered to enable the OWRB to provide storage space availability information to applicants that propose use of water from storage in reservoirs operated by the Corps. The OWRB could also use this information to advise such applicants of the need and potential additional costs of seeking reallocation of storage if the storage originally designated for water supply is fully contracted. With adequate funding and staffing, the OWRB will implement database development and additional coordination on the issue.

Did the applicant identify a present and future need and was the proposed use beneficial? (82 O.S., § 105.12 A. 2.)

OBSERVATIONS

As stated earlier, the RDF indicated on their revised application the proposed use was municipal water supply. OAC 785: 20-5-5 (c) gives the OWRB broad discretion in determining present or future need such as reviewing the efficiency of the works⁴ proposed or population projections. The OWRB and staff determined a present and future need, as well as a beneficial use, was documented by the RDF in their submittal of a very general plan in which they proposed transporting and selling water to communities in seven counties in eastern and central Oklahoma. Using current and future water usage from the OWRB's Comprehensive Water Plan, the RDF showed potential use approaching 76,000 acre-feet. Although not required by the OAC, it appears some additional due diligence may have been warranted on the proposal such as RDF's plan for financing the works and interest levels from municipalities. OWRB considered this because prior to deeming the application complete, staff requested contracts/letters of interest from the targeted communities. However, these documents were never provided. Conversations with all nine board members indicate support for the idea of requiring staff to obtain additional proof of an applicant's intentions.



Lake Eufaula Dam – Courtesy of U.S. Corps of Engineers

RECOMMENDATION

We recommend the OWRB develop and implement procedures requiring staff to validate various portions of data submitted with the application when the intent is to sell the water. This could include verifying the secured financing plans as well as level of interest from potential parties involved with the applicant.

**VIEWS OF RESPONSIBLE
OFFICIALS**

OWRB rules could be amended so at the front end of the process (application review stage), the OWRB staff will more fully scrutinize proposed uses that entail water sales, including financial aspects of infrastructure needed. However, the schedule of use and after-the-fact (after permit issuance) provisions of the appropriation laws were enacted to address such issues of viability of the

⁴ Infrastructure used in diverting the water from the source.

OKLAHOMA WATER RESOURCES BOARD
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proposed systems to put the water to use. Another after-the-fact provision states that on failure to comply with such statutory requirements that are included as permit conditions, the permit either expires by its own terms or is lost for failure to beneficially use according to the schedule of use that is made part of the permit. Additionally, the statutory requirements that a permittee provide notice of completion of works, that the OWRB is to inspect such works for capacity and safety, and to issue a Certificate of Completion limiting such works to actual capacity are after-the-fact safeguards against speculation in water rights that might deter others from using water.

Will the proposed use interfere with domestic or existing appropriative uses including if the water is diverted outside of the stream system? (82 O.S., § 105.12 A. 3. and 82 O.S., § 105.12 A. 4.)

OBSERVATIONS In supporting documentation related to the application, OWRB staff addressed this requirement by stating “since the water will be diverted from a reservoir, there will not be any interference regarding domestic use since there is still 1,384,197 acre-feet per year available from the hydropower pool storage for appropriation even after the diversion of 76,730 acre-feet. Because of these statistics, there is no anticipated interference”. Using OWRB’s methodology discussed earlier, there would appear to be sufficient water available to not interfere with existing appropriative or domestic uses. However, that methodology is dependent on a reallocation study by the Corps since only 30,000 acre-feet were available for contract.

Did the OWRB consider the application to be withdrawn if additional requested information was not provided within six months? OAC 785: 20-3-9 (d)

OBSERVATIONS An application for a stream water permit to withdraw surface water from Lake Eufaula for power, industrial, commercial and municipal purposes was submitted to the OWRB by the Indian Nation Water Resources Corporation (INWRC) on June 28, 2001. As previously discussed, the name was later changed to Rural Development Foundation. The requested amount was 280,000 acre-feet. Correspondence between the OWRB staff and INWRC occurred through October 2001. At this point, staff requested additional information from the applicant, yet did not receive a response until February 2003. OAC 785: 20-3-9 (d) requires the OWRB to deem an application withdrawn if corrections are requested on an application and the applicant does not initiate contact within six months; however, this application was not considered withdrawn. According to management, OWRB does not have procedures in place to track this time requirement.

RECOMMENDATION We recommend OWRB management develop and implement procedures to track the status of applications to ensure compliance with 785: 20-3-9 (d).

VIEWS OF RESPONSIBLE OFFICIALS

With sufficient funding, the Planning and Management Division staff will implement a comprehensive tracking system for applications and provide notice of withdrawal of applications after the six month period of inactivity (failure to prosecute).

Did the RDF provide appropriate notice of application? OAC 785: 20-5-1

OBSERVATIONS Based on review of supporting documentation , it appears the RDF provided notice of application in accordance with OAC 785:20-5-1 and more specifically 82 O.S. , § 105.11.

Did the RDF commence their construction of works within two years of the date the permit was issued? (82 O.S., § 105.15 A.)

OBSERVATIONS Based on review of supporting documentation, it appears on September 7, 2005, OWRB management notified RDF their records did not indicate compliance with two conditions of the permit: a contract for storage with the Corps and beginning construction of the works. In a November 7, 2005, letter to the RDF, OWRB management stated the permit expired on its own terms due to the items mentioned above.

The remaining sections of the OAC requiring the RDF to file a notice of completion of the works and the OWRB to subsequently inspect the works were not applicable since the permit expired based on the conditions identified previously.

III. Did the OWRB process the surface water application filed in 2004 under the name of the Board of County Commissioners of Coal County in accordance with Oklahoma Administrative Code 785: 20-1 through 11?

CONCLUSION Based on the procedures performed, it appears this application never progressed past the initial stages of the process. Information was requested from the applicant on May 19, 2004, and was never provided. Therefore, the only applicable section of the OAC we were able to test was OAC 785: 20-3-9 (d), which requires the OWRB to deem an application withdrawn if corrections are requested on an application and the applicant does not initiate contact within six months. The application should have been considered withdrawn.

METHODOLOGY The following procedures were performed:

- o We reviewed OAC 785: 20-1 through 11;
- o We reviewed the original application submitted by Coal County as well as correspondence between the OWRB and the County related to the application;
- o We interviewed OWRB staff members who were assigned the Coal County application;
- o We interviewed two Coal County Commissioners and the Coalgate City Manager;
- o We interviewed a consultant to the Coal County Commissioners who assisted them in completing the application.

OBSERVATIONS Certain portions of OAC 785: 20-1 through 11 were determined significant and procedures related to these rules were developed. The sections we attempted to apply to the Coal County application in effort to determine compliance can be seen in their entirety in Appendix A. A brief summary of each rule as it pertains to this application follows:

- o Unappropriated water is available in the amount applied for – OAC 785:20-5-4 (a) (1) (82 O.S., § 105.12 A. 1.)
- o The applicant has a present and future need and the proposed use is beneficial – OAC 785: 20-5-4-(a) (2) (82 O.S., § 105.12 A. 2.)
- o The proposed use will not interfere with domestic or existing appropriative uses – OAC 785:20-5-4 (a) (3) (82 O.S., § 105.12 A. 3.)

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- If water is being transported outside the stream system of origin, it will not interfere with existing/proposed uses within the stream system and pending applications to use water within the stream system shall first be considered – OAC 785:20-5-4 (a) (4) (82 O.S., § 105.12 A. 4.)
- If additional information is requested of the applicant to deem the application complete, no more than 6 months shall pass after last contact with the Board or the application shall be deemed withdrawn– OAC 785:20-3-9 (d)
- Notice of application was provided – OAC 785: 20-5-1
- Construction of works commenced within 2 years of the date the permit was issued - OAC 785:20-9-1 (a) (82 O.S., § 105.15 A.)
- Notice of completion of works was filed with the OWRB – OAC 785:20-9-1(d).
- OWRB inspected the completed works- OAC 785:20-9-1 (e) (82 O.S., § 105.25)

On April 19, 2004, the OWRB received an application from the Board of Commissioners for Coal County for a speculative permit to use stream water from the McGee Creek Reservoir. The application was submitted by Commissioner Johnny D. Ward on behalf of the Coal County Commissioners and requested a regular permit for 2,000 acre-feet of water. In a cover letter submitted with the original application, Commissioner Ward indicated the County had intentions of placing ads in the Dallas Morning News and the Wall Street Journal advertising secured rights to high quality water in hopes of luring new industry to the area.

On April 23, 2004, OWRB staff notified Commissioner Ward that, among other items, portions of the application were incomplete; there were no calculations or methodologies submitted supporting the need for 2,000 acre-feet, no indication how the water would be used, and no description on the proposed diversion point on McGee Creek. Correspondence between Commissioner Ward and staff on May 14, 2004, clarified some of the issues in question. However, a memo from staff to Commissioner Ward on May 19, 2004, requested him to sign an authorization form allowing the OWRB to make changes to his application as he requested in his previous letter. The signed authorization form was not returned to the OWRB. This was confirmed through conversation with Commissioner Ward.

OAC 785: 20-3-9 (d) requires the OWRB to deem an application withdrawn if corrections are requested on an application and the applicant does not initiate contact within six months; however, this application was not considered withdrawn, as evidenced by additional correspondence between Coal County and OWRB beginning on February 1, 2005. According to management, the OWRB had no procedures in place to track this time requirement. In conversations with the Coal County Commissioners, the Coalgate City Manager, and OWRB management, the County is not currently pursuing this application.

RECOMMENDATION We recommend that the OWRB management develop and implement procedures to track the status of applications to ensure compliance with OAC 785: 20-3-9 (d).

VIEWS OF RESPONSIBLE OFFICIALS

With sufficient funding, the Planning and Management Division staff will implement a comprehensive tracking system for applications and provide notice of withdrawal of applications after the six-month period of inactivity (failure to prosecute) in all cases. As staff understands the situation, the issue to which Objective 3 is addressed was presented in part because a person stating to represent the Coal County Commissioners was not formally or officially designated to represent the County in pursuing an appropriation permit from the OWRB. The initial application indicated on its face that the use was "speculative" use to attract industries. However, as discussed under Objective 2B above, statutes relating to appropriation permits were enacted specifically to prevent persons from speculating in water rights in fear that obtaining a water right could be used to prevent others that have an actual need for the water from getting a water right. In any event, OWRB staff has informally worked with the Coal County Commissioners, through Commissioner Johnny Ward, in an effort to assist the Commissioners to ultimately help the City of Coalgate obtain water rights that could be use for future needs to attract industries.

IV. Are surface water applications submitted by non-governmental entities, where the intent is for water to be sold, processed in a different manner than other applications?

- *What state statutes or OWRB regulations govern the sale of water by a non-governmental entity?*
- *Does the application process provide sufficient information to allow OWRB to determine instances where the intent of surface water permit applications is to sell water for profit?*
- *Are permits transferable to a third party? If so, is the OWRB made aware of such transfers and is the original purpose specified in the application still valid?*

CONCLUSION Based on the procedures performed, it appears surface water applications submitted by non-governmental entities, where the intent is for water to be sold, are not processed in a different manner than other applications.

VIEWS OF RESPONSIBLE OFFICIALS

Applications for permits to use water for commercial sale are not processed in a different manner than other applications because the statutes and rules promulgated to implement that statutes do not make a distinction. If the proposed use is beneficial and the OWRB determines that the other statutory requirements are met, the statutes require (no discretion) the OWRB to issue the requested permit. A similar requirement applies to the proposed use of groundwater as well as surface water. If the Legislature had intended that applications for permits to sell water be treated differently, the statutes would have so indicated. Distinctions on what type of use constitutes a "sale" of water would have to be made. For instance, raw water sales could be distinguished from treated water sales. It could be said that municipalities and rural water districts obtain permits and "sell" water to their customers, typically after the water is treated. There is one provision in the law to address large uses of water

that being the schedule of use approval authority in lieu of the usual seven-year normal requirement on first use.

METHODOLOGY

The following procedures were performed:

- We interviewed the general counsel of the OWRB regarding state statutes and/or OWRB rules that govern the sale of water by non-governmental entities.
- We reviewed state laws regarding the sale of water by non-governmental entities.
- We interviewed OWRB staff and asked if they are able to determine a non-governmental applicant's intent for surface water they are allocated.
- We reviewed a blank surface water application.
- We reviewed OACs related to transferring permits.
- We interviewed OWRB management regarding transferring permits.

What state statutes or OWRB regulations govern the sale of water by a non-governmental entity?

OBSERVATIONS

We asked the OWRB General Counsel to provide a listing of all state statutes and/or OWRB rules related to selling water. His representation was 82 O.S., § 1085.2 (2); 82 O.S., § 1 B; 82 O.S., § 1324.10 (B); 11 O.S., § 37-117 through 119; and 11 O.S., § 37-127. Since the last three statutes cited involve rural water districts and/or municipalities, they will not be discussed. There are no OWRB rules related to this subject.

82 O.S. § 1085.2 (2) states:

...The Oklahoma Water Resources Board shall also have the authority:

2. To make such contracts and execute such instruments as in the judgment of the Board are necessary or convenient to the exercise of any of the powers conferred upon it by law. Provided, however, no contract shall be made conveying the title or use of any waters of the State of Oklahoma to any person, firm, corporation or other state or subdivision of government, for sale or use in any other state, unless such contract be specifically authorized by an act of the Oklahoma Legislature and thereafter as approved by it;

82 O.S. § 1 B states:

A. In order to provide for the conservation, preservation, protection and optimum development and utilization of surface water and groundwater within Oklahoma, the Legislature hereby establishes a moratorium on the sale or exportation of surface water and/or groundwater outside this state pursuant to the provisions of this section. Unless otherwise repealed or revoked by the Oklahoma Legislature, the moratorium shall be in effect for a five-year period beginning on the effective date of this act or until such time as the State of Oklahoma conducts and completes a comprehensive scientific hydrological study of the water resources of this state.

B. Subject to the moratorium set by subsection A of this section, no state agency, authority, board, commission, committee, department, trust or other instrumentality of this state or political subdivision thereof, nor elected or appointed officer, member of any governing body or other person designated to act for an agency or on behalf of the state, or a political subdivision thereof shall contract for the sale or exportation of surface water or groundwater outside the state, or sell or export surface water or groundwater outside the state without the consent of the Oklahoma Legislature specifically authorizing such sale or export of water.

C. Nothing in this section shall be construed as affecting or intending to affect:

1. Any contract for the sale or exportation of surface water or groundwater outside the state executed prior to the effective date of this act which has received legislative approval or was executed pursuant to law, provided such sale or exportation of surface water or groundwater does not exceed eight million (8,000,000) gallons of water per month; or

2. Water contained in agricultural crops, animal and dairy products, beverages, or processed or manufactured products or to products transported in cans, bottles, packages, kegs, or barrels.

Does the application process provide sufficient information to allow OWRB to determine instances where the intent of surface water permit applications is to sell water for profit?

OBSERVATIONS

An application for a permit to use surface water requires the applicant to provide the purpose for which water will be used (see excerpt from surface application below). Although the applicant may identify “municipal water supply” as the purpose on the application, it may not necessarily indicate the water will be sold.

4. PURPOSE(S) FOR WHICH WATER WILL BE USED

a. List the purpose or purposes for which the water would be used if the permit is granted and list the number of acre-feet for each purpose. Be sure that the sum of the amounts listed below equals the total acre-feet in #3 above. If the water is to be used to irrigate crops, list IRRIGATION as the purpose and list the sum total acre-feet for all crops.

_____ acre-feet of water will be used for _____
 _____ acre-feet of water will be used for _____
 _____ acre-feet of water will be used for _____
 _____ acre-feet of water will be used for _____

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b. If the water requested is for irrigation purpose, state the total number of acres that will be irrigated. The land to be irrigated must be shown on plat(s) attached to the application. The amount of water requested should be based on types of crops to be grown and cropping patterns proposed. The Board will use appropriate publications and information the applicant submits in determining amount of water needed.

_____ acres of land are proposed to be irrigated. The proposed crops are _____

OWRB management indicated their correspondence (due diligence related to beneficial use/present and future need) with the applicant prior to deeming the application complete would inform them of the intent to sell the water. However, as noted earlier in this report under Objective 2, validation of key aspects of the proposed plan submitted on the application is not performed

**OKLAHOMA WATER RESOURCES BOARD
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CONCLUSION Based on review of a surface water application, there is nothing that requires the applicant to state whether they intend to sell the water. However, even though the intent is not specifically stated on the application, management stated they would be aware of an applicant's intention to sell water for profit by the time a permit was deemed complete by staff and sent to the OWRB for approval. While management may be aware of this intention, there is not a mandate in state law or the OAC requiring them to address this specifically.

VIEWS OF RESPONSIBLE OFFICIALS With adequate funding, additional staff time will be devoted to interview applicants during the application preparation stage to obtain additional and more specific information about proposals to sell water for a profit.

Are permits transferable to a third party? If so, is the OWRB made aware of such transfers and is the original purpose specified in the application still valid?

OBSERVATIONS OAC 785:20-9-4 (f) states in part:

- (1) Any permit to appropriate water may be assigned, but no assignment shall be binding, except upon the parties thereto, unless filed for record in the office of the Board...
- (3) Upon transfer of any water rights, the transferee shall furnish to the Board a notarized notice of transfer containing the name and address of the transferee and a statement that the transfer has been properly completed...

Management stated a non-governmental entity with a surface water permit may transfer the rights of the permit to another holder based on OAC 785:20-9-4 (f) as long as the use, place of diversion, storage, etc. remains the same. Otherwise, the notice and hearing process is triggered as if it was a new application.

CONCLUSION Based on review of the OWRB's rules and conversation with management, it appears permits are transferable as long as the specifics of the application remain constant. However, without a permit monitoring system in place, misuse of Oklahoma's water resources may occur including affecting other permit holders' water rights. See further discussion of monitoring in the *Other Items Noted* section of this report.

VIEWS OF RESPONSIBLE OFFICIALS With adequate funding, OWRB will conduct on-site visits and conduct surprise inspections of the operations of permit holders to insure that the use authorized by a permit is the actual use taking place to reduce the potential of misuse of Oklahoma's water resources that could affect others' rights.

Other Items Noted

Does the OWRB monitor the number of applications that were modified after they were protested?

As discussed briefly in Objective I, fifty hearings (3 stream water and 47 groundwater) were held from fiscal year 2004 through 2006 where a proposed "Findings of Fact – Conclusions of Law and Board Order" was submitted to and ultimately approved by the OWRB. However, 5 of the 50 were appealed to their respective district courts. We asked management to provide the number of applications that were modified due to the protest. For example, 25,000 acre-feet for water supply was deemed sufficient by staff yet after the hearing examiner heard the protest, the amount of water was reduced to 10,000 acre-feet. We

were told this information was not in a readily available format. Staff would have to sort through multiple hard copy documents related to each application and determine this manually.

RECOMMENDATION We recommend OWRB management develop and implement procedures for tracking certain data (i.e. acre-feet, beneficial use) related to applications prior to and after the hearing. This would be a valuable tool to the OWRB, as well as potentially the Legislature and citizens, for monitoring the number of applications deemed complete by staff that are modified during the hearing process and ultimately approved by the OWRB.

VIEWS OF RESPONSIBLE OFFICIALS With sufficient funding, the Planning and Management Division staff will implement a comprehensive tracking system for applications to provide the information as recommended.

How does the OWRB monitor water usage, including unauthorized and/or overuse?

As discussed previously in Objective IV, a permit holder may transfer the rights of a permit to another holder based on OAC 785: 20-9-4 (f). However, if the permit holder transferred, or possibly sold, the permit to another entity/person and did not notify the OWRB of this transaction, the OWRB would be unaware this occurred unless specifically alerted to the situation. Consequently, the new permit holder may be using the water for unintended purposes as well as using more than the allocated amount. A potential, mitigating control for identifying a new permit holder and monitoring water usage may be OAC 785:20-9-5 (a) (1) which states in part:

- (1)Water use reports will be mailed during January of each year to every holder of a valid water right. These reports must be completed and returned with the annual file maintenance fee to the Board within 30 days of receipt...Willful failure to complete and return such report with the appropriate filing fee may be considered by the Board as nonuse of water under a water right...

While this report may alert the OWRB to a new permit holder (transferred permit), it does not presently provide assurance to management regarding water usage, because this usage is reported on the honor system. The OWRB does not require a meter reading to report usage, and there is no verification by staff of the data submitted. Management indicated that, although they would like to perform an analysis on the reports, it is currently not done due to staffing issues. Therefore, if a permit were sold to another entity without the OWRB's knowledge, the new or original permit holder could simply report an amount consistent with the original purpose identified on the permit.

OWRB management is aware there is a problem with the current system used to monitor usage. In the spring of 2006, a proposal was sent to the Governor, the House of Representatives, and the Senate requesting an annual administrative fee of \$100 be assessed on all permits that are issued. A portion of this fee would be used to fund costs to investigate unauthorized and overuse of water. Management indicated the agricultural lobbyist effort was opposed to the additional administrative fee because they felt it was unfair to farmers using water for irrigation since they make up the majority of the permit holders (79%

of groundwater and 64% of surface⁵). The fee increase proposal was voted down in House Joint Resolution 1072.

RECOMMENDATION In an effort to protect Oklahoma’s water resources and the rights of existing and future permit holders, we recommend a monitoring system be developed. This could include on-site verification of usage as specified in the approved permit. Ideally, the OWRB would implement a program where water usage is metered and the monitoring system could include verifying meter readings on-site as well as ensuring water is being used as authorized. This could be done on either a sample basis or risk-based approach. In order to implement internal controls over monitoring that would help mitigate this risk of improprieties occurring; we recommend the OWRB continue to seek additional sources of funding.

VIEWS OF RESPONSIBLE OFFICIALS Staff agrees with this recommendation. With sufficient funding, the Planning and Management Division staff will implement a comprehensive tracking system to include on-site visits to track and verify construction of works and actual water use after works are constructed.

Is the pending permit notification process adequate?

OBSERVATIONS As previously discussed in this report under Objective 1, 82 O.S., § 105.11 A. states in part:

...the Board shall instruct the applicant to publish, within the time required by the Board, a notice thereof, at the applicant's expense, in a form prescribed by the Board in a newspaper of general circulation in the county of the point of diversion, and in a newspaper of general circulation published within the adjacent downstream county and any other counties designated by the Board once a week for two (2) consecutive weeks. Such notice shall give all the essential facts as to the proposed appropriation, among them, the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant, the hearing date, time and place if a hearing is scheduled by the Board before instructions to publish notice are given, and the manner in which a protest to the application may be made...Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest.

Of the various citizens interviewed, many thought the current process in place for notifying interested parties of a pending surface water permit was inadequate. They thought the legal language of the notice was such that a typical citizen may not understand. Additionally, the notice is placed in the legal section of the classifieds, which many citizens may not read.

RECOMMENDATION In addition to the current requirements outlined by law, we recommend the OWRB consider developing a location on their website for identifying pending surface water and groundwater permits. This could provide an opportunity for a wider audience to have knowledge of potential permits in their areas.

⁵ OWRB proposal for fee increase

**VIEWS OF RESPONSIBLE
OFFICIALS**

Staff agrees with this recommendation. With sufficient funding, the Planning and Management Division will work with the Information Services Section of the OWRB to develop website capability to include all notices of applications filed, with search capability by legal description, county or by clickable map.

Are funds received by the OWRB adequately safeguarded prior to deposit?

OBSERVATIONS

Government Auditing Standards requires auditors to consider risks due to fraud that could significantly affect the objectives and results of the audit. As a follow-up procedure to an identified risk, we met with an OWRB accountant concerning the procedures used by the OWRB when funds are received with an application for a permit. She stated all applications with funds come through the front desk via mail or in person. Based on conversation with the front desk receptionist, cash and checks are accepted as payment; however, cash is rare. The funds received for the day are maintained on top of the receptionist's desk until the accountant retrieves them in the afternoon to prepare the deposit.

RECOMMENDATION

An effective internal control system provides adequate safeguarding of funds received. We recommend the OWRB staff adequately secure the funds in a locked filing cabinet or safe until they are retrieved by the accounting department.

**VIEWS OF RESPONSIBLE
OFFICIALS**

Staff agrees with this recommendation and will initiate the process to obtain a locking file cabinet or box to provide the additional safety and security measure.

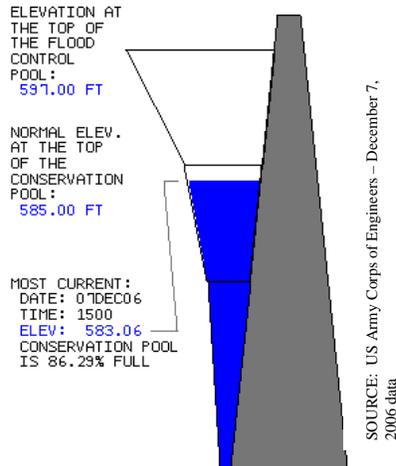
Should the Lake Eufaula conservation pool elevation be raised?

OBSERVATIONS

During the course of fieldwork related to the RDF permit (which is discussed in this report under Objective 2), we heard a concern from citizens regarding the amount of water in the conservation pool at Lake Eufaula. As noted in the following graphic, the conservation pool elevation is capped at 585 NGVD (National Geodetic Vertical Datum)⁶

⁶ NGVD are vertical datums that reference mean sea level from a select set of initial locations. This initial reference level is then established across a national network using differential leveling procedures and the placement of reference benchmarks

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PERFORMANCE AUDIT



These concerns were expressed to the Corps and were addressed in a letter from the District Commander of the Tulsa Corps office back to these citizens. The parties agreed to work on drafting Water Resource Development Act (WRDA) legislation which would include establishing a conservation pool management plan. The plan would, among others things, increase the conservation pool level to 587 NGVD as well as apply certain restrictions on hydroelectric power generation should the pool level fall to two established levels. In May of 2006, the Corps approved a seasonal pool plan from May 31 through July 16 which increased the conservation pool level to 587 NGVD. The conservation pool elevation of Lake Eufaula is an issue outside of the control of OWRB.

Oklahoma Water Resources Board
Performance Audit
Portions of OAC 785: 20-1 through 11 Deemed Significant to Objectives II and III
Appendix A

Certain aspects of OAC 785: 20-1 through 11 were determined significant and procedures related to these rules were developed. The significant portions were as follows:

OAC 785: 20-5-4 (a) (1-4)

- (a) Before taking final action on the application, the Board shall determine from the evidence presented whether:
- (1) Unappropriated water is available in the amount applied for;
 - (2) The applicant has a present or future need for the water and the use to which applicant intends to put the water is a beneficial use. In making this determination, the Board shall consider the availability of all stream water sources and such other relevant matters as the Board deems appropriate, and may consider the availability of groundwater as an alternative source [82:105.12(A)(2)] as set forth in 785:20-5-5(c);
 - (3) The proposed use does not interfere with domestic or existing appropriate uses [82:105.12(A) (3)] as set forth in 785:20-5-5(d); and
 - (4) If the application is for the transportation of water for use outside the stream system wherein the water originates, [82:105.12(A) (4)] the provisions of Section 785:20-5-6 are met.

OAC 785: 20-3-9 (d)

(d) If an applicant does not correct an application or publish notice as instructed by the Board, and no further proceedings are initiated by the applicant for six months or more after last contact with the Board, the application shall be deemed withdrawn. The Board shall provide notice to the applicant that the application has been deemed withdrawn.

OAC 785:20-5-1

- (a) **Application notice.** Notice of the application, including hearing date, time and place if scheduled prior to notice, shall be provided by the applicant as required by law and Board instructions. Accuracy and adequacy of notice shall be the responsibility of the applicant.
- (b) **Proof of notice.** Adequate proof that notice was provided as instructed by the Board shall be submitted to the Board by the applicant within fifteen days after the last date of publication or as otherwise directed by the Board. Such proof shall show the dates on which said notice was published in the newspaper.
- (c) **Failure to give adequate notice.** If adequate proof of notice is not provided by the applicant, the application may be dismissed and the application fee forfeited.
- (d) **Revised published notice of application.** The Board may require a revised notice to be published at the applicant's expense in case material error is made, or if the applicant makes substantial revisions to his application after notice of the original application.

OAC 785: 20-9-1 (a)

(a) **Time for beginning of construction.**

(1) Any regular, term or seasonal permit issued by the Board shall expire unless the applicant commences construction of the works within two (2) years of the issuance of the permit. If the Board does not receive a written notice of commencement of works or request to extend time within thirty (30) days after the end of the two-year period, the permit shall be deemed expired after written notice to the applicant. [82:105.15]. The commencement of construction shall be deemed to consist of the commencement of any of the following activities: land acquisition, preparation of the land, the acquisition of equipment, or construction of the dam or diversion works. Within ten (10) days after beginning actual construction of a project, the permit holder shall file in a written statement with the Board showing that such work was begun within the time limit allowed in the permit.

OAC 785: 20-9-1 (d)

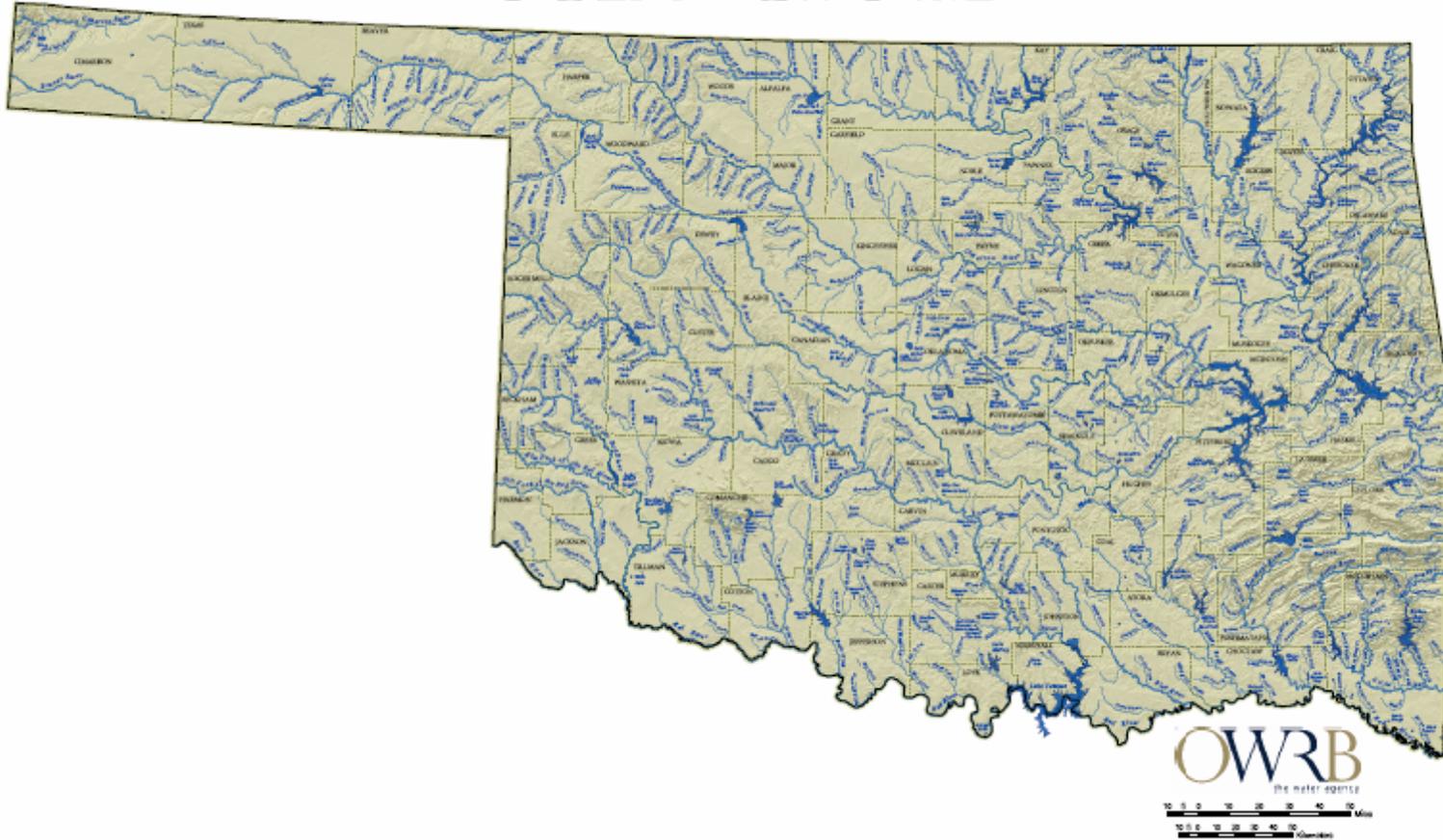
(d) **Notice of completion of works.** Within ten (10) days following completion of the works, a regular, seasonal or term permittee shall give notice on forms previously provided by the Board, that the work has been completed. If the works were constructed prior to obtaining a permit to appropriate, the permittee shall file a notice of completion of works within ten (10) days after receiving the permit and notice form.

OAC 785: 20-9-1 (e)

(e) **Inspection of works.** Upon due notice of completion by the owner, the Board shall make an inspection of the works *which shall be thorough and complete in order to determine the actual capacity of the works and their safety and efficiency.* [82:105.25] Inspections of dams are governed by the provisions of Chapter 25 of this Title. Inspection fees shall be as set forth in Chapter 5 of this Title and shall be due on the date set forth in the invoice sent to the permittee.

Oklahoma Water Resources Board
Map of Oklahoma's Stream Water Resources
Appendix B

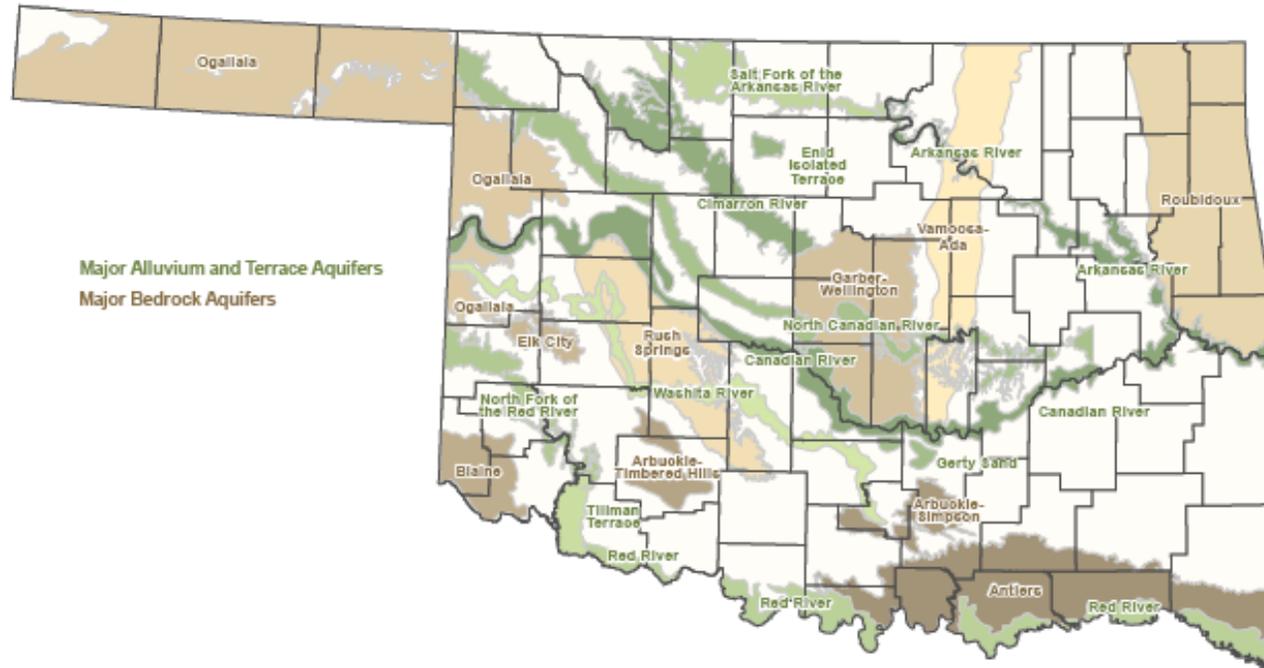
OKLAHOMA



SOURCE: www.owrb.state.ok.us

PREPARED BY THE OKLAHOMA WATER RESOURCES BOARD

Oklahoma Water Resources Board
Map of Oklahoma's Stream Water Resources
Appendix B



Major Alluvium and Terrace Aquifers
Major Bedrock Aquifers



SOURCE: www.owrb.state.ok.us

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