

State Water Plan: 2011 End Game in Flux

We recently emailed you a DRIP GRIP which provided a good overview of the August OWRB Board meeting. However, there were several developments of vital interest to municipalities which were not adequately covered by the news article. These wildcards by the OWRB Board impact the final stages of the Statewide Water Plan process. Specifically:

- Changing OWRB staff's 2011 timeline for Board review of the Plan.
- Study of the 2010 Academy Town Hall report for omitted recommendations.
- Possible rulemaking on water plan topics in 2010 or 2011.
- Potential Board changes to the plan following the 2011 regional "feedback meetings".
- Establishing the maximum amount of Arbuckle-Simpson groundwater available for use.

Roadmap: 2007 to 2012. As you know, city and town officials and League staff have been participating in various activities in this multi-year, multi-million dollar project since the first round of 42 meetings around the state in 2007. The planning process is a marathon with the three-day 2010 Town Hall at the Oklahoma Academy the most recent event. Those carrying the municipal banner into the fray described frustrations over the Town Hall's process which was echoed by OWRB board members at last week's meeting. The municipal experience in the water plan process and many more helpful water/environmental issues will be prominent at the November 19, 2010 OML/OMUP Water and Environment Summit.

When is the OWRB Final Report Final? In discussing next year's steps leading to the presentation of the Statewide Water Plan at the 2011 Governor's Water Conference, the Board informed OWRB staff that they wanted the Plan finalized and to them months earlier than the original staff plan. Instead of getting the final report in October, with little time to weigh in, the Board wants the report as early as May. It is anticipated there will be more discussion on the way forward at the September Board meeting.

After all, it is the OWRB plan for the next 50 years. They may well make the final decision as to the plan's contents. However, this leaves open a key question: At the end, in the fifth year of this five year process, will the Board revise the Plan differently than the recommendations developed by the participants? If so, will there be any ability for major water users to voice support or opposition, prior to its presentation at the 2011 Governor's Water Conference?

Revising Academy Report? Board members pointed out that there were issues which had repeatedly been brought up at the 2007, 2008 and 2009 events that did not make it into the 2010 Academy Town Hall Report. Although no specific issues were identified, we know that in-stream flows and conjunctive use were flashpoints at this year's event. Municipal officials, along with other major water users, worked hard to influence the report to protect current and future water stream and groundwater rights.

Rule-Making Prior to Presentation to Legislature? The OWRB board discussed the need for their Rules Committee to get ready for rule-making coming out of the "public input" portion of the water plan. No time frame was identified, but for the past two years the Board drafted rules in the fall and adopted them in January/February.

While the timing is unknown, rule-making in the fall of 2010 would be prior to the final drafting of the plan. Next year's regional "feedback sessions" are designed to review the draft plan. Rulemaking in the fall of 2011 would be prior to the presentation of the plan to the Governor and Legislature in early 2012.

A Turn Toward Lobbying. The board discussed that the Legislature in 2012 will not vote on the Statewide Water Plan. OWRB will simply deliver the final plan to the Governor and legislative leaders. Then, it was voiced that they needed to start talking to legislators before “special lobbying groups” weighed in with opinions on the plan.

Although the major water users were not named, an example was given earlier in the meeting of the work of the Oklahoma Farm Bureau in opposing the fee increases proposed by the Board in 2009 and obtained in 2010. As you recall the 2010 rejection effort fell short when the House of Representatives rejected the Board’s rules – but it wasn’t brought up for a Senate vote.

Arbuckle Simpson’s Maximum Annual Yield. It was one year ago that OWRB held a public forum in Ada following the completion of the multi-year study of the Arbuckle Simpson Aquifer. OWRB presented numerous scientific findings on the groundwater available for use under the statutory conditions imposed on access to these water resources, which particularly impact public water systems.

This meeting was billed as a preliminary meeting to announcing the maximum annual yield which was rumored to result in the loss of 90 percent of currently available groundwater - creating a massive artificial shortage for the area. As a result, the City of Ada began exploring the economic and environmental feasibility of building a lake to recoup lost water resources.

Then, nothing happened for months until recently rumors started circulating that the multi-million dollar study, along with the maximum annual yield number, would be released after the November 2010 elections. One version had state officials rejecting the study’s results in which the underlying assumption, upon which the science was based, measured the water needs for aquatic life. For additional information on the original study, see the above attachment for OML General Counsel Diane Pedicord’s paper presented to the 2009 OML Water Summit.

At the August OWRB Board meeting the Arbuckle Simpson study was brought up for discussion and staff was encouraged to release the study and set the amount of groundwater available for use. In the words of the acting executive director, the folks in the area are ready and staff will consequently “get off the dime” on this issue.

Are the rumors true? Will the study’s results be rejected? Or, will the study’s results be announced resulting in a significant loss of available water? We simply don’t know – stay tuned.

Prepared by: Sue Ann Nicely
OML Associate General Counsel