

# ***Oklahoma Water Resources Board***

## ***Hearing Procedures***

**Bob Sandbo**  
**Water Rights Permitting Section Head**  
**Oklahoma Water Resources Board**





# OWRB Hearings

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- OWRB may hold hearings on any matter within the Board's jurisdiction
- Follow Title 82 of the Oklahoma Statutes and the Oklahoma Administrative Procedures Act (set forth in 75 O.S. 1981, 301 et seq.)
  - Water right permitting
  - Dam safety
  - Water quality
  - Floodplain
  - Rule Making (public comments)



# OWRB Hearings

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## ◆ Who may be Hearing Examiners?

- ◆ Board Member
- ◆ Executive or Assistant Director
- ◆ Authorized Board Staff Member
- ◆ Staff Attorney
- ◆ Attorney General or Assistant Attorney General
- ◆ Any other Board authorized person

## ◆ Authority

- ◆ Supervise, direct, preside over and conduct hearing proceedings, make rulings, and anything else necessary to complete the hearing
- ◆ May designate Board Staff to assist

# Locations

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- ◆ Hearings may be held at any location designated by the hearing examiner.
- ◆ Because of budget cuts, all hearings are now being held in the Oklahoma City office



# Record of Hearings

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- ◆ All testimony and evidence given at hearings is recorded electronically
  - ◆ May request a written transcript (fee)
  - ◆ Court reporter may be requested at the expense of the parties requesting the reporter
  - ◆ Copies of the tapes may be requested at any time (fee)
    - ◆ All information is subject to an open records request



# Pre-hearing Options

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- ◆ Mediation in an attempt to find a compromise or settlement of a protest
- ◆ Pre-hearing Conference to facilitate and simplify issues presented



# Who May File and Requirements

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- ◆ Any interested person may file a written protest, objection or comment
  - ◆ Form letters and petitions are not accepted
- ◆ Requirements for valid protest
  - ◆ Name, telephone number, email (if available) and postal address of interested person
  - ◆ The application number to which a protest relates
  - ◆ Specific information to show how approval of the application, petition or action may directly and adversely affect legally protected interest of the person filing the protest
  - ◆ Statement of relief sought by the interested person
- ◆ All other letters received are considered letters of comment and not official protests

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- ◆ Must file valid protest to become a party at the hearing
  - Protest letters must be also sent to applicant
- ◆ Hearing examiner may allow presentations by others
- ◆ General comment letters are made part of the permanent file
- ◆ Continuances may be requested by any party in order to gather additional info



# Conduct of Hearings

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- ◆ Hearing examiner opens the hearing stating place, time and purpose
- ◆ Enters into the record evidence and exhibits
  - ◆ Application, notice, publication affidavits, protests, rules and other documents as needed



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## ◆ Must determine if proper notice was given

- Newspaper, surrounding landowners, other notice as specified in the original notice of application

## ◆ All parties sworn in and acknowledged

- Anyone who failed to attend hearing that filed a protest letter is in default and the protest is no longer recognized
- Must perfect protest by attending or having representation at the hearing

# Continued...

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## ◆ Presentation of evidence and examination of witnesses

- All interested parties are allowed to present testimony, evidence, expert witnesses, etc.
- Board staff may be called by either side under subpoena or at the request of the hearing examiner
- Parties may appear on their own behalf, have council present, or have another person represent them at the hearing

## ◆ Evidence

- Must be relevant and material to the subject matter of the application

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- ◆ Hearing examiner may waive the necessity of oral testimony
  - May accept letter on behalf of protestant that was unable to make the hearing (with previous notice)
- ◆ Objections to evidence may be made and the hearing examiner has authority to “sustain” or “overrule”



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## ◆ Continuances, adjournments and leaving the record open

- Hearing examiner has discretion to continue or adjourn to another date to allow for additional testimony or evidence to be presented
- Continuances may be requested by any party
- If all testimony and evidence is received and no further requests have been made for more time, hearing examiner will close the hearing



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## ◆ Water Rights Permitting

- Hearing examiner must determine the following
  - For Groundwater Applications:
    - The applicant owns or leases or has some other sufficient interest in the surface of the land dedicated to the application
    - The land overlies a fresh groundwater basin or sub-basin
    - The use to which the applicant intends to put the water is a beneficial use
    - Waste by depletion or waste by pollution will not occur
  - For Surface Water Applications
    - There is unappropriated water available in the amount applied for
    - The applicant has a present or future need for the water
    - The intended use is beneficial
    - The proposed use will not interfere with domestic/existing appropriative uses

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## ◆ Conclusion of Hearing

- Hearing examiner takes all the evidence and testimony heard and prepares a proposed order of the findings and facts
- Proposed order reviewed by staff for accuracy
- Proposed order must be received by all parties no later than 15 days prior to presentation to the 9 member Board
- Parties may file exceptions to the order prior to the Board meeting
- Proposed order recommends approval or denial of application and possible conditions to be placed on approval

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## ◆ Board Action

- Board may approve, deny, modify, table, or remand order at the regular scheduled Board meeting
- Each party is allowed to present case in front of Board members (no new evidence may be submitted)
- Final Board order as voted on is sent to all parties





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## ◆ Appeals

- Any party or the Board may request rehearing, reopening or reconsideration of any final Board action or decision
- Any final order or decision of the Board may be appealed to district court no later than 30 days following Board action





*Discussing Water Rights, A Western Pastime*



# Questions????

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## Contact Information:

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