

## **Stigler News Sentinel June 17, 2010**

### *Southeastern Oklahoma water storage contract transferred to Oklahoma City*

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In a move that angered many residents, tribal leaders and state lawmakers of Southeastern Oklahoma, the Oklahoma Water Resources Board voted Friday to transfer the water storage contract rights for Sardis Lake to Oklahoma City.

Amid disgruntled mutters and some snickers from stakeholders against the transfer, first Rudy Herrmann, OWRB chairman, and then J.D. Strong, Oklahoma Secretary of the Environment, told those present that the special board meeting was only about the transfer of water storage rights and was not about the issuance of water permits. Neither Strong nor Herrmann addressed the fact that the Oklahoma City Water Utilities Trust had submitted a permit application to receive 136,000 acre feet of water per year from Sardis Reservoir, roughly 90 percent of the lake's annual available water.

"One thing you can't separate is storage rights and who receives the permit applications," said Sen. Jerry Ellis of Valliant. "You've already gone down the road when you've set the storage rights."

Sardis Lake, a Corps of Engineers lake located in Southeastern Oklahoma, has been the focus of controversy and multiple lawsuits for decades. And for at least the last 15 years, Oklahoma City has been working to gain access to the water of Sardis Lake, acknowledged City Manager Jim Couch.

More than 70 onlookers — the majority of them against the transfer — filled chairs and lined the walls of the OWRB meeting room in Oklahoma City. Some brought folders of information to support their arguments; others brought photos of low water levels and heavily littered shores along Atoka Lake, a Southeastern Oklahoma lake owned and used by Oklahoma City for water.

Strong sat with the board and outlined the history of Sardis Reservoir. He ticked off facts that most of those present agreed had led them to that room on the morning of June 11: Sardis Reservoir was a joint project between the federal government and the state of Oklahoma built for the purposes of flood control and water supply for municipalities and industrial customers within the state; through a 1974 contract, Oklahoma was obligated to pay 100 percent of the water supply storage costs associated with the construction of Sardis Reservoir, along with maintenance costs of the lake and dam; the state paid approximately \$7 million dollars of the \$38.4 million dollar reservoir bill before it stopped making payments; and, in September, a federal court ruled that Oklahoma must make a lump sum payment of more than \$27.8 million dollars by July 1, or make one of five annual payments of at least \$5.2 million by July 1 toward the debt it owes for the lake.

Last fall, the OCWUT and Oklahoma City offered to purchase the water storage contract rights to Sardis Lake in exchange for paying off that debt plus an additional \$15 million. That offer was backed by Gov. Brad Henry, State Treasurer Scott Meacham, President Pro Tempore of the Oklahoma Senate Glenn Coffee and Speaker of the House Chris Benge. The OCWUT offer, however, was not the only one on the table. Earlier this year, Chief Gregory Pyle of the Choctaw Nation, in conjunction with Gov. Bill Anoatubby of Chickasaw Nation, offered to make the July 1 \$5.2 million payment to the federal government in order to give state officials time to complete the state's 50-year comprehensive water study before making any decisions about Sardis Lake.

Strong did not mention any offer from the Choctaw and Chickasaw Nations when he first spoke; he went on to detail the Oklahoma City offer to pay the debt and take over annual maintenance costs. According to Strong, the OCWUT offer equates to \$270 million of debt off the backs of Oklahoma taxpayers when future maintenance costs and use payments are calculated. He did not address the assertion by hydrologists and Rep. Brian Renegar that future water rights to Sardis Lake could be worth billions of dollars to whoever owns them.

Couch was the only onlooker present at Friday's meeting who spoke in favor of the transfer. The city manager recapped what Strong had said, including the assertion that the issue at hand was only about water storage contract rights and that there was no assumption the issuance of water permits by the OWRB to Oklahoma City would follow. "We will have no need of this water for decades and decades," Couch said. "There isn't going to be much change down there. It's going to be a long time before central Oklahoma has need of this water."

Next, several stakeholders against the transfer of Sardis Lake water storage rights spoke. One by one, they came to the microphone — tribal chief, state senators and representatives, water activist and attorney — to dismantle arguments posed by Couch and Strong.

Pyle spoke first. He praised the legislature for passing a bill four years earlier authorizing a comprehensive water study for the entire state of Oklahoma. That plan will develop strategies for managing Oklahoma's present and future water resources, including balancing water supply and demand, and also addressing water sale and transfer issues.

"I am mystified," Pyle said, "On why we would make a decision on water for the entire state without waiting another year for that study." Pyle reminded the board that if money was an issue, the Choctaw and Chickasaw tribes were willing to make the July 2010 payment of \$5.2 million to give the state a year to complete the water study.

Sen. Ellis questioned the transfer of storage rights and the pending Oklahoma City water permit when a Clayton County permit and a Sardis Lake Water Authority permit, both submitted in 1993, had been ignored for 17 years. "This deal is being rushed by term limited politicians," Ellis said. "This deal is also cloaked in secrecy, lacks transparency and carries a terrible odor."

"There is a pretty good chance we have gotten to this point, not by accident, but by design," said Sen. Jay Paul Gumm of Durant "That's why we're here today and that's why we are seeing special meetings and an acceleration to this process right now." Gumm also added that he knew of several attempts by some in the legislature to deal with lapsed payments on Sardis Lake.

Rep. Renegar gave a specific example of one of those attempts. In 2008, on the last day of the session, the legislature passed a bond package that, among other things, had \$25 million earmarked to pay for low-water dams along the Arkansas River, an issue defeated a year earlier by Tulsa County voters who either didn't want the project or deemed the proposed tax to pay for the package too expensive. House Speaker Chris Bengtson was among the Tulsa-area legislators who backed the state's footing of the bill. "The people of Tulsa County who voted this down wound up paying for it anyway. Along with the rest of us from Oklahoma," Renegar said. "So Neil Brannon, Ed Cannaday, R.C. Pruett and I approached the Speaker and asked for payment of Sardis Lake to be put in that bond issue he backed, but we were told, 'No, that's already being worked out.'"

Larry Derryberry, former Attorney General for Oklahoma, serves as legal counsel to Oklahomans for Responsible Water Policy, a grassroots water activist organization against the transfer of Sardis Lake storage rights. In April, Derryberry filed a request with the OWRB, pursuant with the Oklahoma Open Records Act, asking for copies of documents and correspondence the board might have related to the Sardis Lake deal. To date, Derryberry has yet to receive a single document. There are two possible reasons the OWRB would ignore his request, Derryberry said. "One, they are so busy they cannot follow the law. Two, they do not wish the public to see the documents we requested."

Derryberry addressed the board, reminding them he had asked for those documents and advising them they were "in trouble on the Open Records Act." He also warned the board that failure to act in a responsible manner on the Sardis Lake issue would most likely result in lawsuits.

Each speaker against the transfer urged OWRB members to delay making a decision until the state's comprehensive water study was complete. The board ignored those requests, and voted 5-2 to approve the transfer the Sardis Lake water storage rights to Oklahoma City.

"It was a done deal. They had their minds made up before they even came there," said Karen Weldin, president of Lake Eufaula Save Our Water.

"Of course they already decided," Renegar said. "Think about it. They didn't ask Couch a single question when he spoke for the transfer. And even though they asked us questions, they didn't take the time to discuss the issue among themselves afterwards. They just voted on it. "

Those against the transfer will not accept the board's decision without a fight, Derryberry said. "A lawsuit will be filed in the near future. Either by the Oklahomans for Responsible Water Policy or by individuals within that organization."

"I worked the first three years I served in the House to deal with Lake Sardis," Renegar said. "I filed bills that were never heard. For the board to say the legislature did not deal with this is not the truth."

"Somebody felt that it was in their better interest or their district's better interest to create a crisis," Gumm said. "To have somebody ride in on a white horse that has lots of money and a large population and a potential water need down the road to save the day."