

Oklahoma Regional Water Utility Trust

Public Forum Series on
Sustainable Water
Resources for Our Future
April 1, 2010

Background

- February 2001 – Norman 2040 Strategic Water Supply Plan
 - Examined 17 possible water resource alternatives
 - Evaluated each alternative based on quality, location, storage capacity, yield, cost policy, etc.
 - Identified the Southeast Oklahoma alternative as best mid- and long-term solution for Norman
- 2007 – NUA adopts R-0708-55 expressing its intent to participate in a regional water utility; area cities begin work on a draft trust indenture establishing the utility

Background

- 2008 – NUA approves funding for Regional Raw Water Supply Study for Central Oklahoma
 - Participating Cities – Goldsby, Oklahoma City, Midwest City, Moore, Seminole, Chickasha, Del City, Edmond, Shawnee, COWRA (Mustang, El Reno, Piedmont, Yukon, Calumet, and Union City)
 - Camp, Dresser, McKee (CDM) hired to complete study
- May 2009 – CDM presents study findings to Council
 - Identified 4 potential source waters in Southeastern Oklahoma (Atoka, Lake Sardis, McGee Creek, and Lake Hugo)
 - Estimated capital costs for raw water transportation alternatives
 - Estimated O & M costs
 - Costly undertaking for all area cities, either directly or indirectly

What is a Trust?

- A Trust is an entity that creates a fiduciary relationship in which Trustees hold the title to property (the trust estate or trust property) and act as authorized in relation to the property for the benefit of another (the beneficiary).
- Provides an avenue by which the representatives from multiple cities/utilities can engage in the day to day activities associated with securing long term water supply from Southeastern Oklahoma without putting the participating cities at risk for debt, loss, or liability.

Oklahoma Public Trust Law

- Exist for the public benefit
- Exist as legal entities separate and distinct from municipal beneficiaries
- Act on behalf and in furtherance of a public function
- Created for purpose of issuing debt and entering into financial obligations for the sale of real or personal property.
- Power of eminent domain

Requirements of a Public Trust

- 2/3 approval of participating governing bodies before issuing debt or entering into financial obligations for real or personal property
- Annual financial report to be filed with each beneficiary
- Annual audits conducted and results filed with State Auditor and each beneficiary
- Competitive bidding for construction, labor, equipment, material or repairs > \$25,000
- Must comply with Open Records Act and Open Meetings Act

Oklahoma Regional Water Utility Trust

- Creates a utility made up of metro-area cities desiring to participate in obtaining water from Sardis Lake.
- Purposes:
 - Acquire water storage rights in Sardis Lake
 - Fund and construct infrastructure necessary to bring the water to the area

The Trust Estate

- Each Trustor will contribute funds to trust to buy water storage rights in Sardis Lake
- Trustors will receive water rights in proportion to the amount of the contribution
- The proportion will dictate each Trustor's responsibility for additional and annual contributions to cover operational, maintenance, and other infrastructure costs.
- Contribution also important in determining whether a quorum is present at a meeting of the Trustees

The Trust Estate

- What happens if the Trust is unsuccessful in obtaining water rights?
 - If not obtained within a year of the initial deposit of the funds, each city may withdraw its contribution (not including interest) and its participation in the trust.
- What happens if a city is unable to pay its annual contribution?
 - City will be suspended from trust automatically
 - If no payment within 180 days of due date, the city will be released from the trust and its water rights sold.
 - City will receive proceeds from sale up to the amount of its initial contribution (not including interest)
 - Other payments to the trust for studies, operation and maintenance expenses, etc will be forfeited.

Trustees

- Each participating city (“beneficiary” and “trustor”) represented by one Trustee
- Manage and control the affairs of the Trust
 - Financing
 - Investing
 - Contracting
- Our Trustee would be Chairperson of the NUA or his/her designee

Meetings of the Utility Trustees

- Open to the public
- Quorum – The number of trustees representing cities whose cumulative water storage rights total not less than 2/3 of the net water storage rights
- Simple majority required to approve most actions
- 2/3 majority vote required to approve adoption or amendment of budget, approval of debt and issuance of bonds, and amending the Trust Indenture

Trust Timeline

- Negotiations for water rights in Lake Sardis are ongoing
- Once the price is identified, cities will determine their buy-in (portion of purchase price dictates proportion of water rights)
- Trust Indenture will move forward for approval by participating cities

Questions/Comments?

