



JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The Ottawa Reclamation Authority audit was performed pursuant to the Attorney General's request in accordance with 74 O.S. 2001, § 18f.



Ottawa Reclamation Authority
Special Audit
July 1, 2000 – June 30, 2006

Audit Summary:

- ✓ ORA sold property after Senate Bill 1463 had terminated ORA. **Pages 7 & 8.**
- ✓ Lease records maintained were insufficient and contradictory. It was impossible to determine the amount and location of ORA land leased to the PDA Chairman. **Pages 9 - 11.**
- ✓ Although it appears ORA still owns part of the Zincville property, there appears to be an issue concerning the ownership percentages. **Pages 12 & 13.**
- ✓ ORA expended \$18,281.92 for various projects benefiting the school and various parks. Although commendable, these expenditures do not appear to fall within the purposes of ORA. **Pages 14 & 15.**
- ✓ One former ORA Board Member purchased land from the ORA Board, while serving on the Board, which appears to be in violation of Oklahoma State Statutes. That Board Member is now deceased. **Pages 17 & 18.**

**OTTAWA RECLAMATION AUTHORITY
SPECIAL AUDIT
JULY 1, 2000 THROUGH JUNE 30, 2006**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

October 19, 2006

Honorable Drew Edmondson
Attorney General – State of Oklahoma
Room 112, State Capital
Oklahoma City, Oklahoma 73105

Transmitted herewith is the Special Audit Report of the Ottawa Reclamation Authority. We performed our special audit in accordance with the requirements of **74 O.S. 2001, § 18f**.

A report of this type is critical in nature; however, we do not intend to imply that our report failed to disclose commendable features in the present accounting and operating procedures of the Ottawa Reclamation Authority.

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

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,



JEFF A. McMAHAN, CFE
State Auditor and Inspector

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Ottawa Reclamation Authority

Paul Thomas..... Chairman
William Lake..... Member
Jeff Reeves Member
Raymond Smith Member
A.L. "Soupy" Suman..... Member

Executive Director
Benny Miller



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Mr. Larry Rice, Chairman
Lead Impacted Communities
Relocation Assistance Trust
P.O. Box 96
Picher, Oklahoma 74360

Dear Mr. Rice:

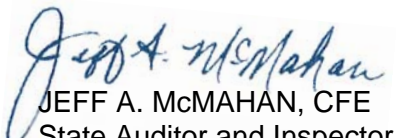
Pursuant to the Attorney General's request and in accordance with the requirements of **74 O.S. 2001, § 18f**, we performed a special audit with respect to the Ottawa Reclamation Authority, for the period July 1, 2000 through June 30, 2006.

The objectives of our special audit primarily included, but were not limited to, concerns expressed by the Attorney General. Our findings and recommendations are presented in the accompanying report.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Ottawa Reclamation Authority. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Ottawa Reclamation Authority.

This report is intended solely for the information and use of the Attorney General and Administration of the Lead Impacted Communities Relocation Assistance Trust and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)**, and shall be open to any person for inspection and copying.

Sincerely,


JEFF A. McMAHAN, CFE
State Auditor and Inspector

September 13, 2006

Introduction:

The Ottawa Reclamation Authority (ORA) was created in 1969 by the authority provided in Oklahoma State Statutes **45 O.S. § 801**, and in accordance with the Oklahoma Sunset Law, was to continue operations until July 1, 2009.

Under the provisions of the statute, the ORA was created as a “governmental agency and a body politic and corporate” with the authority to acquire control, restore, preserve, and reclaim, within the boundaries of the ORA, hazardous lands in order that said lands may be made safe and suitable for use by or sale to the public.

The boundaries for the ORA are described as “that part of this state which is included within the boundaries of those counties having hard metal mines and mining”.

In June 2006 Senate Bill 1463 (SB 1463) was enacted. SB 1463 provided for the termination of the ORA and that upon dissolution of the ORA all of the assets and records of the ORA “shall be transferred to the state beneficiary trust created pursuant to the Lead-Impacted Communities Relocation Assistance Act”.

The State Auditor and Inspector conducted a special audit of the Ottawa Reclamation Authority, limited to records related to specific concerns expressed by the Attorney General’s Office. The results of the special audit are in the following report.

I. Concern:

- The sale of ORA interest in the Gordon property and chat.
-

Finding:

- The ORA Board did not have the authority to sell the property.
-

This concern consists of two parts:

- Did ORA violate any laws concerning the sale of the property?
- Did ORA have the authority to sell the property after the enactment date of Senate Bill 1463?

Did ORA violate any laws concerning the sale of the property?

The concern, as expressed, was that the Ottawa Reclamation Authority (ORA) had an undivided 7/16th interest in land containing a chat pile, known as the Gordon chat pile. A husband and wife ("Fosters") are owners of the remaining 9/16th interest.

Chat was being sold from the chat pile with the proceeds being distributed, proportionately, to ORA and the Fosters. ORA and the Fosters had a verbal agreement in which ORA would sell its interest in the land to the private parties at the conclusion of chat sales.

On February 1, 2003 ORA entered into an agreement with Bingham Sand & Gravel for the purchase of chat. The agreement reflected an ending date of January 31, 2008 with an optional five-year extension ending January 31, 2013.

On June 23, 2006 the ORA Board considered and approved the sale of the chat pile to the Fosters. The minutes reflect the following:

The request that was submitted by Lester and Vicki Foster to purchase the Reclamation undivided interest in 160 acres located in Sec 18 Twp 29 RNG 23 (Par-Num 0000-18-029-023-0-001-00 and 0000-18-029-023-0-004-00) was reviewed by the Board Members. This request was made in February 2003 and the price of \$1,000 was agreed upon at that time. Motion by: R. Grimes to sell the Authority's undivided interest to Lester and Vicki Foster for the above price. Seconded by: W. Lake Vote: J. Reeves-Yes.

The ORA meeting minutes dated June 19, 2003 reflected a discussion concerning the proposed sale of the Gordon chat to Bingham Sand & Gravel. We found no discussion of the sale of the property to the Fosters. The meeting minutes, concerning the Gordon chat pile are as follows:

In the ORA records we found an undated document addressed "To Whom it may concern" that appears to be a written confirmation of a verbal agreement by ORA to sell the ORA interest in the Gordon land and chat pile to the Fosters "upon completion of the removal of the gravel".

Each Board Member was given a copy of the proposed contract from Bingham Sand & Gravel for the royalty agreement on the Gordon Chat Pile. The Reclamation Authority owns 7/16 or 44% of the Gordon chat pile with Lester Foster owning the balance of 9/16 or 56%. As stated in the proposal the chat is to be used only for EPA approved purposes. The proposal was for \$.40 per ton for a three-year period and \$.50 per ton for the balance of the agreement. After discussion: Motion by J. Reeves for B. Miller to contact Bingham Sand and Gravel to have proposal increased to \$.50 per ton for entire contract. Second: W. Lake. Vote: A. Suman Yes R. Grimes-Yes.

On June 26, 2006 ORA deeded its interest in the Gordon land and chat pile to the Fosters. ORA receipt #2514, dated June 28, 2006, in the amount of \$1,000.00, was issued to the Fosters. This receipt appears to be for the payment of the Gordon land and chat pile.

On September 6, 2006 we interviewed an official with the Bingham Sand & Gravel Company who stated that he had a telephone conversation with an ORA official advising him that ORA was deeding its interest in the Gordon chat pile to the Fosters. Accordingly, Bingham Sand & Gravel Company would need to pay the Fosters for the chat being taken from the pile.

As of the date of this interview, Bingham Sand & Gravel Company is continuing to purchase gravel from the Gordon chat pile. The last payment issued by Bingham Sand & Gravel, for the purchase of chat in July 2006 was \$4,497.19. This payment was made to the Fosters.

While ORA records reflect there was some type of verbal agreement concerning the sale of the Gordon land and chat pile property to the Fosters, the written confirmation of the verbal agreement suggests that the sale was to occur only after the conclusion of chat sales to Bingham Sand & Gravel Company.

It appears, based on the documentation, that ORA voted to sell the property to the Fosters although chat was, and continues, to be sold to Bingham Sand & Gravel.

ORA's authority to sell the property after the effective date of SB 1463.

Senate Bill 1463, (Title 27A O.S., § 2207, Chapter 226, Section 5, Oklahoma Session Laws 2006, Second Regular Session) enacted on June 6, 2006, states, in relevant part:

On the effective date of this act, the Ottawa Reclamation Authority, created pursuant to Section 801, et seq., of Title 45 of the Oklahoma Statutes, shall be terminated, and all activities of the Authority shall cease, notwithstanding the provisions of the Oklahoma Sunset Law.

It appears, based on the language provided for in Senate Bill 1463, ORA was terminated prior to the June 23, 2006 sale of the Gordon property to the Fosters.

Recommendations:

We recommend the appropriate authority review these findings to determine what action, if any, may be necessary. We recommend contracts and agreements should be in writing, as opposed to written confirmations of verbal agreements. We further recommend meeting minutes should accurately reflect items discussed, agreements reached, and votes taken.

II. Concern:

- Can we determine prior interests in land purchased by the PDA Chairman during the time the land was under control of ORA?
-

Finding:

- Lease records maintained by ORA were insufficient and contradictory.
 - We were able to determine the PDA Chairman had a prior interest in land that was owned by ORA.
-

The ORA deeded land to the Picher Development Authority (PDA). Subsequently the PDA Chairman purchased some of the land. This concern, as expressed to us, was to determine if we could determine whether the PDA Chairman had a prior interest in the land he purchased during the time the land was under ORA control.

ORA leased land in the City of Picher, including land in an area known as 'Kenoyer'. According to the ORA Executive Director ORA did not maintain lease agreements. We examined the ORA records that had been turned over to the Lead Impacted Communities Relocation Assistance Trust (LICRAT). Based on those records it appears that ORA had executed written leases in the past, but that practice was apparently stopped in the 1980's.

ORA maintained a three-ring notebook reflecting amounts owed for land leases. This book contained a ledger sheet style record of payments owed to ORA for leased property. The ledger sheet for the PDA Chairman reflected "5 lots". The listing contains no reflection of where the five lots are located.

The ledger contains three entries reflecting that land had been transferred from previous leaseholders to the PDA Chairman between the 1993 and 1997 (Attachment A). The transfers included the name of the person who was transferring the land to the PDA Chairman.

Transfer #1, 700 Cherokee Street:

This transfer was not dated, however the following date listed on the ledger was 1/1/1993. The records reflect the previous leaseholder had three (3) lots. The address reflected on the records for the previous leaseholder was 700 S. Cherokee.

Transfer #2, 412 College Street:

ORA records reflect a transfer on 1/1/1996. This parcel of property was transferred four (4) times before being transferred to the PDA Chairman. The first leaseholder appears to have had three lots; the records for the subsequent three (3) leaseholders reflect two (2) lots. Based on the records it appears that two lots were transferred to the PDA Chairman.

Transfer #3, 531 Cherokee Street:

ORA records reflect a transfer on 1/1/1997. The lease records for this property reflect the previous leaseholder had three (3) lots.

308 College Street:

In addition to the transfer of what appears to have been eight (8) lots, the PDA Chairman provided documentation reflecting the purchase of a residential structure located at 308 S. College Street. According to the PDA Chairman he purchased this structure at an estate auction and provided the name of the former owner. The ORA records do not reflect this property as having been transferred to the PDA Chairman because the rent was 'paid up' and the former leaseholder was deceased.

ORA records reflected the same name provided to us by the PDA Chairman, at the same address. ORA records reflect that the former owner had four (4) lots leased.

629 S. Ottawa Street.

During a previous audit performed by the State Auditor and Inspector we obtained records reflecting that the PDA Chairman had paid a water deposit, in 2001, for the address 629 S. Ottawa. According to the PDA Chairman he had made an agreement with the ORA Executive Director to lease this property in exchange for cleaning up the property and removing a junk trailer house.

In the ORA records we found a letter, dated 6/24/1997, in which ORA informed the leaseholder that the lease was being terminated because the trailer on the property had been condemned.

ORA records reflect this parcel as having been two (2) lots at the time it was leased to the individual named in the letter.

416 College Street:

The PDA Chairman stated that another parcel he had leased was located on College Street. According to the PDA Chairman there was a burned out house on the property.

According to the PDA Chairman he had a verbal agreement with ORA to allow the PDA Chairman to lease the property in exchange for tearing down and removing the remains of the burned out house.

ORA records reflect that a previous owner had leased three (3) lots at this location. The ORA records also included the notation, "No further statements house burnt". Additionally we identified a letter, dated 6/10/1999, informing the previous owner that the property was in violation of health codes and "Since your rent is 18 months past due your lease at 416 S. College has been cancelled..."

532 / 534 College Street:

The PDA Chairman stated that he had this property leased from ORA in exchange for cleaning up the property. The PDA Chairman provided the name of the previous leaseholder and we were able to identify ORA lease records reflecting that the previous leaseholder had leased two (2) lots at this location.

Additionally we noted that the last payment made by the previous leaseholder appears to have been in 1998. The records contained the notation, "Sent no statement. House condemned by City of Picher".

In addition we found two documents in ORA records reflecting that the PDA Chairman was the leaseholder of property located at 6th and College, 7th and Cherokee, 7th and Ottawa and 412 S. College. These documents do not contain any further description of the property.

ORA Records Are Inconsistent:

The ledger sheet reflecting the lots leased by the PDA Chairman reflects “5 lots”. However by following the lease transfers reflected on the same ledger sheet it appears the PDA Chairman had eight (8) lots leased.

Based on interviews with the PDA Chairman, which appear to be corroborated to some degree by the ORA records, it appears that in addition to those eight (8) lots, the PDA Chairman may have had an additional eleven (11) lots leased, by virtue of cleaning up certain parcels, for a total of nineteen (19) lots.

Moreover, the ledger sheets that appear to be used to keep track of leased properties and amounts owed reflect addresses that appear to be billing addresses rather than the address where lots are leased.

Some of the ledger sheets, for example, reflect “3 lots” while the only other descriptive information contained on the sheet is the lease holders name and a post office box address (Attachment B). One record reflected a leaseholder having “2 lots” with a descriptive address of “South College”.

Moreover we interviewed the former ORA Executive Director who stated that in addition to the records obtained, the former PDA Chairman also maintained property on College Street where he had deer. These lots are not reflected in the ORA records.

Conclusion:

The lease records maintained by ORA were found to be inconsistent and unreliable for the purposes of determining the amount and location of the land leased by the PDA Chairman.

However, it does appear that the PDA Chairman may have had some previous interest in somewhere between eight (8) and nineteen (19) lots leased from ORA.

The ORA has dissolved and is, therefore, no longer leasing land. The functions of the ORA Board have been turned over to the Lead Impacted Community Relocation Assistance Trust (LICRAT).

Recommendation:

ORA has been terminated. All ORA records have been turned over to the Lead Impact Community Relocation Assistance Trust (LICRAT), therefore we have no recommendation.

III. Concern:

- Disposition of forty (40) acres of ORA land in Zincville.
-

Findings:

- It appears that ORA still has an ownership interest in the property.
 - There may be some legal issues surrounding ownership interests.
-

This concern centers on eighty (80) acres of land owned by the ORA in Zincville. According to the LICRAT Vice Chairman, forty (40) acres were transferred to the Picher Development Authority. The concern, as related to us, was the disposition of the remainder of the eighty (80) acres that were not transferred to PDA.

We met with the former ORA Executive Director who stated the remainder of the land was retained by ORA. The former Executive Director stated that there may be some confusion over the disposition of the land because he had advised the LICRAT Vice Chairman that ORA only had one piece of land (not this property), however he was referring to land that currently had residents.

The 9/25/2004 ORA meeting minutes reflect the following:

Review of land in Zincville and discussion with Mayor Sam Freeman about the transfer or sale of this tract of land to the Picher Development Authority of the City of Picher. After discussion Motion made by: R. Grimes. To sell to the Picher Development Authority the north portion of this tract of land, more or less 40 acres, with the effective date of the sale September 25, 2004 and to authorize the Picher Development Authority to utilize the balance of this tract not purchased by the Authority for the cleanup of this area subject to Federal and State requirements.

We noted the meeting minutes reflect that a motion was made, however the minutes do not reflect a motion second or any vote taken by the Board.

Oklahoma State Statutes **25 O.S. § 312A**, states, in part:

The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body.

Oklahoma State Statutes **25 O.S. § 305** states:

In all public meetings of public bodies, the vote of each member must be publicly cast and recorded.

On 10/18/2004 ORA deeded a tract of land to the Picher Development Authority. The deed contains the following description:

The North 787.3 feet of the West 879.7 [feet] of the S ½ of the SW ¼ of Section 15, Township 29, Range 23 East, Ottawa County, Oklahoma.

Based on the description of the deed it appears the ORA deeded approximately 16 acres to the PDA leaving 64 acres of land in the South ½ of the SW ¼ of Section 15, Township 29, Range 23 East.

Records obtained from the Ottawa County Assessors office reflect ownership of the remaining 64 acres as follows:

- 224/370th, or 60% (undivided), is owned by ORA.
- 73/370th, or 20% (undivided), is owned by a private individual.
- 72/370th, or 20% (undivided), is unknown.

We obtained copies of deeds from the Ottawa County Recorders office reflecting that one (1) of the two (2) 73/370th parcels, cited above, was deeded to the ORA on 12/26/1985.

Additionally we identified three (3) deeds, all executed on 12/29/1986, deeding the same property to ORA. All three deeds, all executed on 12/29/1986, contain the following language:

WITNESSETH, that the said parties of the first part, in consideration of the covenants and agreements hereinafter set forth do hereby quit claim, grant and convey by donation all their right, title and interest unto the said party of the second part [...]

Although the deeds appear to convey “all their right, title and interest unto the said party”, we are unable to determine if these three (3) deeds convey 100% of the remaining 73/370th undivided interest to the ORA.

Based on the statements and documents we were able to obtain, it appears that the ORA retained, and still owns, all or part of the remaining 64 acres.

Recommendations:

We recommend meeting minutes should reflect actions taken by the Board and should include recording votes as required by State Statutes.

We recommend LICRAT, as the successor to ORA, should obtain a legal opinion concerning the remaining 73/370th undivided interest in the property.

We recommend the appropriate authority review these findings to determine what action, if any, may be required.

IV. Concern:

- The Ottawa Reclamation Authority spent money on land it did not own.
-

Finding:

- ORA expended funds to improve property it did not own.
 - These expenditures also appear to be contrary to the statutory purpose of ORA.
-

The powers and duties of the Authority are set forth in **45 O.S. § 802** which provides in relevant part:

The district is hereby authorized to exercise the following powers, rights, and privileges:

(a) To acquire control, restore, preserve, and reclaim within the boundaries of the district certain hazardous lands in order that said lands may be made safe and suitable for use by or sale to the public or members thereof;

(b) To prevent or aid in the prevention of damage to any person or property as the result of any usage of any lands belonging to said district;

(c) To acquire by purchase, lease, gift or devise and to maintain, use and operate any and all property of any kind, real, personal or mixed, or any interest therein, and to own, construct, operate and maintain any project or works or equipment in conjunction or jointly with any other department or agency of the State of Oklahoma or the United States of America or any department or agency thereof within the boundaries of the district necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this act. Nothing in this act shall be construed as granting to the district the power of eminent domain or condemnation;

(d) Subject to the provisions of this act from time to time to sell, lease or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the district;

(e) To construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges and functions;

In addition, **45 O.S. § 808** provides in relevant part:

The board shall establish and collect rates and other charges for the sale or use of any of the land owned by it within the district as in its judgment it deems reasonable and proper for the adequate and efficient restoration and reclamation of any lands owned by it.

The board is further authorized:

(a) To pay from available funds all expenses necessary to the operation and maintenance of the properties and facilities of the district;

This concern stems from operating expenses that were categorized in the annual audits as Reunion Park expenses. In 2002, ORA appeared to deed over Reunion Park, the ballparks and school property. This is evidenced by the deed obtained by the City for Reunion Park and the November 21, 2002 minutes that provide in relevant part:

B. Miller informed the Board that the deeds to the Soccer Field, Picher School, Picher Softball Association and City of Picher(Reunion Park), has been completed. No Action Required.

**OTTAWA RECLAMATION AUTHORITY
SPECIAL AUDIT
JULY 1, 2000 THROUGH JUNE 30, 2006**

While reviewing ORA expenditures for calendar years 2004 and 2005, we noted expenditures for improvements related to property that appeared to have been deeded over in 2002. Therefore, it appears that ORA was expending funds to improve property it did not own.

Date	Issued to	Check	Amount	Purpose
1/8/04	Keith Cochran	1147	\$4,206.00	Concrete elementary school
2/21/04	Hart Trucking	1149	\$1,112.92	Concrete pumping at park
2/21/04	NEO Concrete	1150	\$6,727.29	Concrete at grade school
5/21/04	Riverton Building Supply	1156	\$332.75	Park Supplies
6/18/05	Lowes	1184	\$345.61	Repairs softball park
8/5/05	Picher Schools	1188	\$4,824.75	Playground equipment
11/2/05	Wayne Grimes	1196	\$732.60	Reimbursement park repairs
			\$18,281.92	

State statutes indicate that the general function of ORA is to acquire and restore hazardous property to a condition in which such property is suitable for use or sale to the public. Although it is commendable for ORA to assist with projects that benefit the community, it appears expenditures of this nature are contrary to the intended purpose of ORA as defined by State statutes.

Recommendation:

We recommend the appropriate authority review this finding to determine whether expenditures of this nature are contrary to the statutory function of ORA.

V. Concern:

- What was the Oklahoma Reclamation Authority using their funds for?
-

Finding:

- The ORA used its funds for general operating expenses and payments to a landowner for his share of chat sales.
-

Based on our review of the calendar years 2004 and 2005 ORA expenditures are summarized as follows:

Operating expenses reflected in the calendar year 2004 audit:

Operating Expenses:	
Administration and office	3,801.75
Contract services	4,300.00
Depreciation expense	1,174.61
Professional services	3,802.17
Reunion Park expense	12,378.96
Total Operating Expenses	<u>25,457.49</u>

Operating expenses reflected in the calendar year 2005 audit:

Operating Expenses:	
Administration and office	4,038.80
Contract services	2,100.00
Depreciation expense	1,051.52
Professional services	950.00
Reunion Park expense	5,902.96
Total Operating Expenses	<u>14,043.28</u>

We reviewed ORA expenditures for calendar years 2004 and 2005 to obtain additional details of the expenditures. The administrative and office expense amount for both years consists primarily of \$300.00 per month compensation and travel expenses paid to the former Executive Director.

The contract service expense consists primarily of expenses incurred cleaning up ORA owned property. The professional services expense amount consists of annual audit and legal fees. The Reunion Park expense amount appears to consist of expenses incurred for renovation at ballparks and playground equipment (see table, page 17).

In addition to the operating expenses, the ORA shared a undivided interest in parcel of land containing a chat pile. ORA issued payments to the other owner for their portion of the chat sales. These payments were categorized in the annual audits as "Cost of Goods Sold".

Recommendation:

No recommendation necessary.

VI. Concern:

- An ORA Board member purchased land from the ORA.
 - Daughters of two ORA Board member purchased land from the ORA.
-

Findings:

- An ORA Board member was allowed to purchase land he was leasing after he was diagnosed with terminal cancer.
 - The ORA Board member was appointed to the ORA Board subsequent to the daughter purchasing land from ORA.
 - The daughter of an ORA Board member inherited the land after parents were deceased.
-

Part 1 of this concern refers specifically to one ORA Board member purchasing property from the ORA. We obtained the July 23, 2002 warranty deed in which ORA deeded property to the Board member.

The Constitution of Oklahoma, **Article X § 11** states:

The receiving, directly or indirectly, by an officer of the State, or of any county, city, or town, or member or officer of the Legislature, of any interest, profit, or perquisites, arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for the State, city, town, district or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

Oklahoma State Statutes **62 O.S. § 371** states, in relevant part:

Except as otherwise provided in this section, no board of county commissioners, nor city council, nor board of trustees of any town, nor any district board of any school district in this states, nor any board of any local subdivision of this state shall make any contract with any of its members, or in which any of its members shall be directly or indirectly interested. All contracts made in violation of this section shall be wholly void.

Oklahoma State Statutes **60 O.S. § 178.8** states, in relevant part:

Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

Oklahoma State Statutes **21 O.S. § 344** states, in relevant part:

Except as otherwise provided in this section, every public officer, being authorized to sell or lease any property, or make any contract in his or her official capacity, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of a misdemeanor.

In an interview, the former ORA Executive Director indicated that the land sold to the Board member was land he had been leasing for approximately 50 years. Also, in the interview, the former ORA Executive Director stated that after it was discovered that the Board member was diagnosed with terminal cancer, the Board voted to allow him to purchase his property for same price charged to all others. He also stated that the Board member purchasing the land abstained from the vote. We were unable to locate any discussion of this matter in the ORA Board meeting minutes.

Part 2 of this concern relates to land purchased by the daughter of an ORA Board member. In an interview, the former ORA Executive director stated that at the time of the purchase of the land in question, the parent was not a member of the ORA Board.

The warranty deed for the land ORA sold to the daughter was dated June 26, 1995. Based on a review of ORA Board minutes, the parent was appointed to the ORA Board on July 25, 1997. Therefore, the transaction occurred prior to the appointment of the parent to the ORA Board.

The second concern related to a Board member's daughter purchasing land from ORA stemmed from an ORA document. The document appears to reflect land sold to the daughter of the now deceased former ORA Board member. According to the ORA Executive Director this land was not purchased by the daughter but, rather, was inherited upon the death of the former ORA Board member.

Recommendation:

We recommend the appropriate authority review this finding to determine what action, if any, may be necessary.

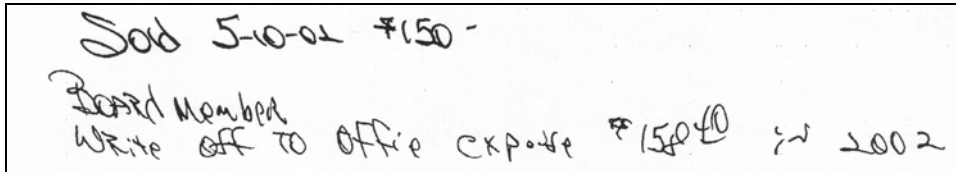
VII. Concern:

- Write off of Board member land lease accounts.

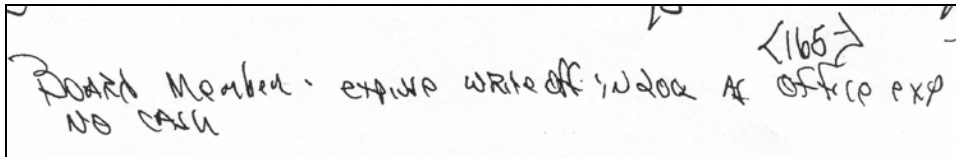
Finding:

- Account balances were written off in lieu of issuing an annual \$15.00 check for Board member's compensation.

This concern is derived from account ledgers for two Board members that showed balances for leasing of land were written off. Leasing of land by the Board Members appears to be in violation of the Oklahoma Constitution **Article X §11**, and Oklahoma State Statutes **62 O.S. § 371, 60 O.S. § 178.8** and **21 O.S. § 344**, previously cited in this report.



Job 5-10-02 \$150 -
Board Member
write off to office expense \$150.00 in 2002



Board Member - expense write off in 2002 at \$165 office exp
NO CASH

In an interview, the former ORA Executive Director indicated that there was a verbal agreement in 1969 that Board members would receive \$15.00 a year for serving on the Board. We found no provisions allowing for compensation to be paid to Board Members.

One of the two Board members was paying \$14.40 to the ORA for land leased. Since the annual compensation to this Board member was roughly equivalent to the annual lease amount owed, an accounting method was used in lieu of issuing checks to this Board member. This Board member is deceased.

A similar situation occurred with the second Board member, however, it was later learned that although he had been paying ORA for leased property, it was ultimately discovered that the property he was leasing did not belong to ORA.

Recommendation:

We recommend the appropriate authority review this finding to determine what action, if any, may be necessary.

* * * *

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that any of the entities, agencies or individuals named in this report acting on behalf of any of the agencies or entities named in this report have violated any statutory requirements or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the entities policies, procedures or practices should be modified or discontinued, and to independently evaluate whether or not the recommendations made by this Office should be implemented.

Attachment A

		F-4K	
Site River Picher OKIA Transferred FROM R-8PK		(5 lots TOTAL) FRAN Redden	
1-93		36	36
1-94		36	72
5-94	PAID Receipt 1415 check		0-
1-95		36	36-
1-96		36	72
1-96	FROM KOROW K-2K	24-	96-
1-97		24-	120-
1-97	FROM C. HOW H15-K	36-	156-
7-97	PAID Receipt 1730 check		226
1-98		50	<70>
1-99		50-	<10>
7-99	PAID Receipt 1815 check		50
1-00		50-	0-
0-00		50-	50-
0-00		50-	100-
0-00		50-	150-
0-00		50-	200-
0-00		50-	250-
0-00	PAID # 2412 check		0-
		240-	

Attachment B

		C-11-K		
	Box 232 Picheur CKIA } Lot 5			
7-1-95	Rent started - first year	18-		18-
8-2-95	paid Receipt 1549 - May 2000		18	- 6 -
1-1-96	Not A Recurable Transfer	30		30
To	[Redacted] R-14-K			

Attachment C

[REDACTED] South College		H-5K	
2 lots			
H86 1-89	Due 85-86	48-	48-
3-89	Paid Receipt 940 - CASH - (FOR 1200)	24-	72-
	Balance Due 48	24-	48-
H88 2-89	Paid Receipt 1018 CASH	24	72-
H89 1-89		24-	48-
	ASK FOR WRITE OFF IN 1989		72-
House Condemned on September 7, 1989 To Be Removed			