

# **Minutes of the ARKANSAS NATURAL RESOURCES COMMISSION**

**March 18, 2009**

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, March 18, 2009, at 9:30 a.m., at the Arkansas Natural Resources Commission, 101 East Capitol, Suite 350, Little Rock, Arkansas.

Commissioners in attendance were Chairman Robert White; Vice-Chairman Daniel Bryant, Alec Farmer, David Feilke, Ann Cash, Corbet Lamkin, Neal Anderson, and Sloan Hampton.

Commissioner Jerry Mitchell joined via telephone.

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; Earl Smith, Chief, Water Resources Management; Cynthia Bearden, Controller; Adrian Baber, Chief, Conservation Division; Crystal Phelps, Associate General Counsel; Mark Bennett, Chief, Water Resources Development Division; Todd Fugit, Geology Supervisor; Jim Battreal, Geologist; Joe Williams, Land Resource Specialist; Darla Brooks, Supervisor; Dave Fenter; and Pat Smith, Executive Assistant.

Chairman White called the meeting of the Arkansas Natural Resources Commission to order and congratulated Mr. Feilke on his reappointment to the Commission.

A list of guests is attached to the minutes.

## **APPROVAL OF MINUTES: FEBRUARY 4, 2009**

Upon motion by Mr. Farmer, second by Mr. Feilke, the Commission approved the minutes of the February 4, 2009, meeting.

## **REPORT OF THE EXECUTIVE DIRECTOR**

## **STATUS OF FINANCIAL ASSISTANCE PROGRAMS**

Mrs. Cynthia Bearden presented the financial assistance report. (Copy of report attached to the minutes).

## **LEGAL ISSUES**

**Report on Legislation by the General Assembly** – Mrs. Phelps highlighted proposed legislation of interest to the Commission. HB 1647 would allow a municipality to purchase rural water service facilities, and HB 2033 would create a Legislative Task Force on Water Quality. The task force will review and make recommendations about drinking water systems. One of the members of the task force is to be appointed by the Commission.

Chairman White thanked Mrs. Phelps for sending out the weekly legislative updates.

**White River Minimum Streamflow Rules** – Mrs. Phelps stated that a public hearing was held on February 24, 2009, at 2:00 p.m. in our office. Approximately 30 persons attended representing conservation groups and industry. A request to extend the comment period deadline was received and granted to April 9, 2009.

**FINANCIAL ASSISTANCE**

**RESOLUTION 2009-01**

**Consideration of Resolution 2009-01 Authorizing the Issuance of Up to \$15,500,000 State of Arkansas Water, Waste Disposal & Pollution Abatement Facilities General Obligation Bonds – Series 2009A** – Mr. Bennett presented the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds Resolution – Series 2009A Resolution. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission adopted the Resolution authorizing the issuance and sale of \$15,500,000 of State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds, Series 2009A.

**APPLICATIONS FOR FINANCIAL ASSISTANCE**

Mr. Bennett presented staff recommendations for the referenced projects below requesting financial assistance from the Water, Sewer and Solid Waste Fund (WSSW); the Water Development Fund (WDF); the Drinking Water State Revolving Fund (DWSRF); and the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (AWWDPAFGOBP).

Upon motion by Mrs. Cash, second by Dr. Lamkin, the Commission approved the written recommendations as follows:

**AUSTIN (LONOKE COUNTY) WSSW)**

**Up to \$309,000.00**

PURPOSE OF FUNDS: *To cover bid overruns for improvements to the water system including construction of a water storage tank, new master meter and vault, and necessary line work.*

The Commission rescinded the motion of September 28, 2005, which approved up to \$154,500.00 for the City of Austin from the Water, Sewer and Solid Waste Fund. Then approved up to **\$309,000.00** for the City of Austin from the Water, Sewer and Solid Waste Fund. This deferred loan is for thirty (30) years with a repayment schedule of twenty (20) years at five percent (5%) interest. Payment upon the principal is to be deferred for ten (10) years and interest is to be waived for ten (10) years. An administrative fee in the amount of \$9,000.00 is to be retained by the Commission. Approval is contingent upon the City establishing and maintaining a depreciation reserve fund and the availability of all other required funds. Approval is also contingent upon these deferred loan funds being the last funds used for the project.

**TUCKERMAN (JACKSON COUNTY) (WSSW)**

**Up to \$33,475.00**

PURPOSE OF FUNDS: *To pay a portion of the costs of emergency repair to the elevated water storage tank.*

The Commission approved a grant in an amount up to **\$33,475.00** for Tuckerman from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$975.00 is to be retained by the Commission. Approval is contingent upon the City establishing and maintaining a depreciation reserve fund and upon the grant funds being the last funds used for the project.

**TUCKERMAN (JACKSON COUNTY)\_(WSSW)**

**Up to \$33,475.00**

PURPOSE OF FUNDS: *To pay a portion of the costs of emergency repair to the elevated water storage tank.*

The Commission approved a deferred loan in an amount up to **\$33,475.00** for Tuckerman from the Water, Sewer and Solid Waste Fund. This deferred loan is for twenty-two (22) years with a repayment schedule of twenty (20) years at five percent (5%) interest. Payment upon principal is to be deferred for two (2) years and interest is to be waived for two (2) years. An administrative fee in an amount up to \$975.00 is to be retained by the Commission.

**WIDENER (ST. FRANCIS COUNTY) (WSSW)**

**Up to \$43,260.00**

PURPOSE OF FUNDS: *To replace a water line crossing the St. Francis River and pay the City of Forrest City for previously purchased wholesale water.*

The Commission approved a grant in an amount up to **\$43,260.00** for Widener from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$1,260.00 is to be retained by the Commission. Approval of the assistance to pay Forrest City is contingent upon the Town establishing and maintaining water and sewer rates sufficient to pay operation, maintenance and replacement of the system and any outstanding debt of the system. Funds for the line replacement shall be paid to Arkansas Rural Water. Funds for the previously purchased water will be paid directly to Forrest City.

**WIDENER (JACKSON COUNTY) (WSSW)**

**Up to \$20,600.00**

PURPOSE OF FUNDS: *To replace a second water line crossing the St. Francis River.*

The Commission approved a loan in an amount up to **\$20,600.00** for Widener from the Water, Sewer and Solid Waste Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$600.00 is to be retained by the Commission. Approval is contingent upon the Town establishing and maintaining a depreciation reserve fund. Funds for the line replacement shall be paid to Arkansas Rural Water.

**WHITE RIVER LEVEE DISTRICT (WDF)**

**Up to \$8,240.00**

PURPOSE OF FUNDS: *To update tax rolls and implement a GIS based system to allow more efficient management of the District's tax collections.*

The Commission approved a grant in an amount up to **\$8,240.00** for White River Levee District from the Water Development Fund. An administrative fee in an amount up to \$240.00 is to be retained by the Commission. For each \$1 provided by the Applicant, the Commission agrees to provide \$1 toward the project.

**LITTLE RUNNING WATER WATERSHED IMPROVEMENT DISTRICT (RANDOLPH COUNTY) (WDF)**

**Up to \$41,200.00**

PURPOSE OF FUNDS: *To remove sediment and debris in channels caused by flooding.*

The Commission approved a loan in an amount up to **\$41,200.00** for Little Running Water Watershed Improvement District from the Water Development Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$1,200.00 is to be retained by the Commission. Approval is contingent upon the District establishing and maintaining a reserve fund acceptable to the Executive Director.

**BIG RUNNING WATER WATERSHED IMPROVEMENT DISTRICT (RANDOLPH COUNTY) (WDF)**

**Up to \$41,200.00**

PURPOSE OF FUNDS: *To remove sediment and debris in channels caused by flooding.*

The Commission approved a loan in an amount up to **\$41,200.00** for Big Running Water Watershed Improvement District from the Water Development Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$1,200.00 is to be retained by the Commission. Approval is contingent upon the District establishing and maintaining a reserve fund acceptable to the Executive Director.

**NORTH PIKE COUNTY RURAL WATER ASSOCIATION (PIKE COUNTY) (AWWDPAFGOBP)**

**Up to \$500,000.00**

PURPOSE OF FUNDS: *To provide a second source of water for North Pike County Water Facilities Board by adding approximately 18,500 L.F. of 8" water line, controls, and instrumentation.*

The Commission approved loan funding from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program for North Pike County Rural Water Association in an amount not to exceed **\$500,000.00**.

The project approved in this resolution is to be funded from the proceeds of the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds (the "Bonds"). All documents evidencing the commitment for financing and completion of the project mentioned in this resolution shall be subject to modification, amendment for further conditions to comply with the rules and regulations (including all amendments thereto), which the Commission may adopt, from time to time in order to comply with the covenants concerning the Bonds.

The loan terms and interest rate are to be set by the Executive Director with a repayment schedule of up to thirty (30) years.

Staff is hereby directed to negotiate a "Memorandum of Agreement" with the above named applicant as provided for in the Section 502.1 of Title V, Administrative Rules and Regulations for Financial Assistance, within 60 days.

Approval is contingent upon the availability of any other required funds and upon completion of all statutory and regulatory requirements within a period of 180 days. An administrative fee of three percent (3%) will be collected by the Commission at loan closing.

**GLENWOOD (PIKE COUNTY) (DWSRF) ADDITIONAL**

**Up to \$900,000.00**

PURPOSE OF FUNDS: *To cover bid overruns on water project to serve Norman.*

The Commission approved additional loan funds in an amount up to **\$900,000.00** for City of Glenwood from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed thirty (30) years. The Executive Director will set the combined annual borrower rate and loan terms. An administrative fee of three percent (3%) will be collected at loan closing by the Commission. Approval is contingent upon the availability of the federal capitalization grant and the state match.

**DEOBLIGATION OF FUNDS**

Pursuant to Commission Rules, Mr. Bennett reported that the Executive Director deobligated funding for the following applicant:

(1) Cleveland County Rural Water Association	\$317,340.00
(2) City of Vilonia	\$3,500,000.00

**FINANCIAL ASSISTANCE APPROVED BY EXECUTIVE DIRECTOR**

Mr. Bennett reported that pursuant to the Commission's Title V Administrative Rules and Regulations for Financial Assistance, the Executive Director approved the following projects for financial assistance:

(1) Horatio (Sevier County) (AWWDPAFGOBP) Additional	Up to \$206,000.00
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**AMERICAN RECOVERY AND REINVESTMENT ACT**

Mr. Bennett reported that the State of Arkansas, acting through the Commission, will receive \$26 million for the Clean Water Revolving Loan Fund and \$24.7 million for the Drinking Water Revolving Loan Fund from the American Recovery and Reinvestment Act (ARRA). The funds will utilize the existing programs and the program procedures to utilize the funds. All the requirements of the Clean Water and Drinking Water Fund

still apply. Federal law allows transfer of up to thirty percent of the funds between funds. The staff is reviewing applications and is considering the transfer of Clean Water ARRA funds to the Drinking Water fund. Mr. Bennett highlighted some of the differences between ARRA funding and the normal program procedures:

- A. ARRA funding does not require a state match. Regular revolving fund match is 20 percent of the federal funds provided.
- B. ARRA provides that at least 50% of the funds provided be used to provide subsidy, or grant funding. The Arkansas General Assembly recently passed bills to allow ANRC to provide applicants either grant funding, negative interest rates, or principal forgiveness.
- C. The federal Davis-Bacon wage rate law has been applied to Clean Water projects. The ARRA requires federal wage rates on both Clean Water and Drinking Water project funded with ARRA funds.
- D. There is a 'Buy American' requirement for pipe and equipment funded with ARRA funds. The staff is current waiting on more specific requirements of the 'Buy American' requirement.
- E. All funds provided under ARRA must be under an awarded construction contract on or before February 17, 2010. Failure to have funds under contract will result in EPA withdrawing the funds not under contract and reallocation them to other states.
- F. ARRA has a requirement that at least 20% of the funds provided be used for 'Green Projects'. EPA has provided four types of projects that are considered 'Green': Energy Efficient; Water Efficient; Green Infrastructure that restore normal hydrology; and Environmentally Innovative that provide innovative approaches to manage water resources in a more sustainable way. The staff is seeking 'Green Projects' for this reserve. EPA has provided some guidance as to what should be considered a 'Green Project'.
- G. There is a 120-day goal to have half of the projects under construction. It is very important that we have 'shovel ready' projects. Ability to proceed will be a significant factor in selecting projects for ARRA funding.

Mr. Bennett reported that the Commission staff has begun the process to apply for the ARRA funds. The process includes making a grant application to EPA. A part of the application is an intended use plan (IUP) for both programs. The IUP includes a list of possible projects to be funded with the funds. Prior to submission of the IUPs a public hearing is required. The hearing is part of the normal process, because of the ARRA's transparency requirement the staff will make additional efforts to ensure that all eligible projects are considered.

#### **WAIVER OF TITLE XV DWSRF 1506.4A ADMINISTRATIVE FEE**

Mr. Bennett stated that he believes that the Drinking Water Revolving Loan fund has obtained sufficient size to operate in perpetuity. This perpetuity requirement is part of the Safe Drinking Water Act and a condition of Commission's agreement with EPA concerning operating the fund. One requirement is that the Commission has sufficient funds to operate the program in perpetuity without additional EPA administrative funds. Commission Rules 1506.4A require that applicants receiving funds from the Drinking Water Fund pay the Commission a fee of 3% of the loan amount at the time of closing. This fee was used to ensure that the Commission had sufficient funds available to operate the program in compliance with EPA requirements. Mr. Bennett requested that the Commission give the Executive Director authority to waive the fee contained in 1506.4A until amendments can be made to the rules. Upon motion by Mrs. Cash, second by Mr. Farmer, the Commission approved giving the Executive Director authority to waive the 3% upfront fee on projects funded by the Drinking Water SRF program.

**CONSERVATION DIVISION**

**APPOINTMENTS/REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS**

Mr. Adrian Baber presented the staff recommendations for appointments/reappointments for Conservation District Boards of Directors. Commission action is as follows.

Upon motion by Mr. Anderson, second by Mr. Farmer, the Commission approved the following reappointments:

**REAPPOINTMENTS**

<i>Greene County CD</i>	<i>Fred Gates</i>
<i>Fulton County CD</i>	<i>Bruce Dietsche</i>
<i>Cleveland County CD</i>	<i>Mack Johnson</i>
<i>Boone County CD</i>	<i>Wayne Crunkleton</i>
<i>Independence County CD</i>	<i>Ron Bell</i>
<i>Independence County CD</i>	<i>Ed Mabry</i>
<i>Cleburne County CD</i>	<i>Darrell Logan</i>
<i>Cross County CD</i>	<i>Robert Stacy</i>
<i>Cross County CD</i>	<i>Bryan Moery</i>
<i>Arkansas County CD</i>	<i>Johnny Holzaver</i>

Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission approved the following appointments:

**APPOINTMENTS**

<i>Cleveland County CD</i>	<i>Mike Stewart</i>
<i>Woodruff County CD</i>	<i>W. Payton Daniel III</i>
<i>Monroe County CD</i>	<i>Gary Bock</i>
<i>Pike County CD</i>	<i>Randy Stewart</i>

**CERTIFICATION OF 2009 ELECTION RESULTS – CONSERVATION DISTRICT BOARDS**

Mr. Baber presented for certification by the Commission, results of the Conservation District Boards of Directors election held March 3, 2009. Mr. Baber pointed out that election results have not been received from Saline County, and therefore are not certified. The county will be left off the official list until proper documentation is received. Dr. Lamkin noted that only two were named for Cleburne and Jefferson Counties and asked if the rules allowed the Commission to fill those vacancies. Mr. Baber answered in the affirmative. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission certified the results as presented by the staff (a copy is attached to minutes).

**BREAK/RECONVENE**

**CONSERVATION DISTRICT ACTIVITY REPORT** – Mr. Joe Williams introduced Mr. Rocky Harrell, with the Faulkner County Conservation District. Mr. Harrell introduced Ms. Angie Howard, Information/Education Specialist, who made a presentation on activities of the district. Ms. Howard has conducted several teacher training workshops and school assemblies.

**WATER RESOURCES MANAGEMENT DIVISION** – Mr. Smith introduced Mr. Todd Fugitt to present the annual Ground Water Report. Mr. Jim Battreal, continued the presentation on specific water level trends in Arkansas. The report is available on the agency's website, on CD, or in hard copy.

**UPDATE ON GRAND PRAIRIE IRRIGATION PROJECT** – Mr. Smith introduced Mr. Jim Lloyd, with the Memphis District Corps of Engineers. Mr. Lloyd stated that the FY09 appropriations are in place, but that

additional funding for construction of the project is dependent upon the approval of the stimulus plan. Mr. Greg Grugett stated that the pump station pumps were delivered to a storage facility in Memphis in January of 2008. The pump station motors are being fabricated and will be delivered in April of 2010. The inlet channel construction will begin June of 2009, and the pump station construction will begin in October of 2009.

Mr. Dennis Carman advised that the White River Irrigation District is in the process of hiring a company to handle land rights. The initial construction of a canal will begin in DeValls Bluff and end in Ulm. The district office will be moving to Hazen until the project is completed and then it will move its permanent office to Stuttgart. Currently, approximately 40% of water contracts have been signed, however, the goal is to have approximately 70% under contract.

### **ACTIVITY REPORTS**

Informational activity reports were presented by the following: Dennis Sternberg, Arkansas Rural Water Association; Andrew Wargo III, President, Arkansas Association of Conservation Districts; Tom Riley, U of A Cooperative Extension Service; and Kalven Trice, NRCS.

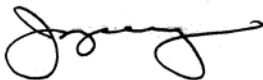
Of special interest, Mr. Sternberg reported that ANRC and ARWA partnered to purchase two mobile emergency response generators. When the January ice storms occurred, the ARWA staff responded to requests for generators from the northern part of the state which was hardest hit. Also, the states of Louisiana and Mississippi assisted with generators and staff.

Mr. Wargo stated that the AACD has planned to hold a series of chainsaw safety workshops around the state. Five workshops have been conducted in northeastern Arkansas.

Mr. Trice reported that NRCS is working with cities to address the debris removal associated with the ice storm. Approximately 126 sites have been identified. NRCS has sent in ten priority projects for potential stimulus funding and it is likely that the top three priorities will be funded. They are the Ozan Creek; the Upper Petit Jean Site 9; and the Poteau River Site 5.

### **ADJOURN**

There being no further business, the meeting was adjourned.



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J. Randy Young, P.E.  
Executive Director and Secretary

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May 5, 2009  
Date

# CONSERVATION DISTRICTS BOARD OF DIRECTORS

## 2009 Certification of Election Results

Adopted: March 18, 2009

The following persons, having received the largest number of votes in the election held in their respective districts on March 3, 2009, are certified as Conservation District Directors-Elect with a term of office to begin on April 1.

### BOONE COUNTY:

Randy Williams  
David Thompson  
Bill Burns

### BUFFALO COUNTY:

Sue Goodman  
Eugene Key  
Mary McIntire

### CARROLL COUNTY:

Pam Webb  
Gary Griggs  
Coy Huff

### CLARK COUNTY:

Samuel Harris  
Brian Kirksey

### CLAY COUNTY:

Gary Howell  
Freddie Brown  
Mike Morgan

### CLEBURNE COUNTY:

Kathy Bettis  
Sandy Watters

### CONWAY COUNTY:

James Hudson  
Wayne Martin  
Sam McCallie

### CLEVELAND COUNTY

George Boyd  
Jason Hall  
James Attwood

### COLUMBIA COUNTY:

Lance Albin  
Wayne Griffeth  
Larry Ray

### CRAWFORD COUNTY:

Bobby Neidecker  
James Arnold  
Randy Arnold

### CROSS COUNTY:

Corbin Brown  
Jerry Boeckmann  
Andy Boone

### FULTON COUNTY:

John Hartrick  
Larry LaRue  
Luis Covas

### GREENE COUNTY:

Joey Massey  
David Pigue  
Dereck Boiling

### JEFFERSON COUNTY:

Dr. Henry English  
Neal Ward

### LITTLE RIVER COUNTY:

Paul Hale  
Otto Cowling  
Dwayne Raper

### LONOKE COUNTY:

Bill Sandridge  
Billy Bennett  
Jimmy Austin

### POINSETT COUNTY:

Darin Mack  
Brian Mack  
Charles Glover

### POTEAU RIVER COUNTY:

Larry Free  
Harrell Cabe  
David Buford

### RICH MOUNTAIN COUNTY:

Allen Stewart  
Farrell D. Cole  
Jerry Johnson

### SALINE COUNTY:

Eileen Helmich  
Danny Tallent

### ST. FRANCIS COUNTY:

Caleb Jones  
Jim Hughes  
J. Brice Fletcher II

### WHITE COUNTY:

William Cook  
Diana Goad  
Verno McFalls

### WOODRUFF COUNTY:

Rob Davis  
Bari Cain  
Larry Ashburn

### YELL COUNTY:

Francis Lofland  
Jeff Gillespie  
Brad Wear