

**Minutes of the
ARKANSAS NATURAL RESOURCES COMMISSION**

July 16, 2014

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, July 16, 2014, at 9:30 a.m., at the office of the Arkansas Natural Resources Commission, 101 East Capitol, Suite 350, Little Rock, Arkansas.

Commissioners in attendance were Chairman Corbet Lamkin; Vice-Chairman David Feilke; Neal Anderson; Mike Carter; Don Richardson; Sloan Hampton; Fred Fowlkes; Jerry Hunton; and Ann Cash.

Staff members participating included: Randy Young, Executive Director; Mark Bennett, Chief, Water Development Division; Crystal Phelps, General Counsel; Adrian Baber, Chief, Conservation Division; Edward Swaim, Chief, Water Resources Management Division; Cynthia Bearden, Agency Controller; Deanna Ray, Associate General Counsel; Bob Fowler, Land Resource Specialist; Blake Walters, Land Resource Specialist; Clayton Durham, Land Resource Specialist; Debby Davis, Lynn Wallace, Darla Brooks, Ken Brazil, Marylen Smith, Keith Sander, Patrick Fisk, Lori Scott-Nakai, Carla Hill, and Pat Smith, Executive Assistant.

Chairman Lamkin called the meeting of the Arkansas Natural Resources Commission to order.

A list of guests is attached to the minutes.

APPROVAL OF MINUTES; MARCH 19, 2014

Upon motion by Mr. Anderson, second by Mr. Richardson, the Commission approved the minutes of the March 19, 2014, regular meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Red River Compact Commission Meeting – Mr. Young advised that Arkansas hosted the annual meeting of the Red River Compact Commission (RRCC) in Hot Springs on April 21-22, 2014. The Commissioners from Louisiana are continuing to express concern that Louisiana is not receiving entitled water from streams in south Arkansas in accordance with the compact. The Engineering and Legal Committees were assigned the task of drafting procedures for the accounting of water. A 90-day deadline was established for those committees to report back to the RRCC. Mr. Young stated that he will update our Commission at the July meeting.

Mrs. Cash also attended the meeting, and commented that at certain times of the year the Boeuf River goes dry, and that the Louisiana Commissioners were concerned about the weirs in the river. She stated that she is looking forward to working with Louisiana to resolve the issue of flows, and hopes this exercise will help both Louisiana and the Boeuf-Tensas Irrigation Project.

Resolution 2014-01 to Recognize Pearlie S. Reed for His Contributions to the State of Arkansas – Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission adopted Resolution 2014-01 for Mr. Pearlie S. Reed. Mr. Young was pleased to present Mr. Reed, former Assistant Secretary of Agriculture, with the resolution recognizing him for his accomplishments nationally and internationally. He never forgot his Arkansas roots and would always listen to calls for help from home and delivered results that provided long lasting environmental and economic development benefits to Arkansas (Copy of resolution attached to the minutes).

Mr. Reed expressed his appreciation for the plaque and thanked the Commission.

STATUS OF FINANCIAL ASSISTANCE PROGRAMS

Mrs. Cynthia Bearden presented the financial assistance report dated April 30, 2014. (Copy of report attached to the minutes).

LEGAL ISSUES

Request for Permission to Revise Title 17, Rules Governing Water Authorities - Mrs. Phelps stated that the original rules only referred to public entities that provided drinking service. Since adoption of the rules, the legislature has changed the Water Authority Act to include entities that provide services such as solids or industrial waste collectors. These entities can construct projects more efficiently because they will be able to get better rates on their bonds. Rule 17 also stresses that any water authority that wishes to serve another geographical service area will have to go through Water Plan Compliance.

Mr. Carter asked if stronger language could be added to the rules regarding the entities fulfilling their loan repayment obligations.

Mrs. Phelps stated that language could be added to the rules, but noted that the main impact of these rules is to certify that water authorities must go through Water Plan Compliance for any changes to service areas.

Upon motion by Mr. Carter, second by Mr. Anderson, the Commission authorized staff to proceed with the initiation of the rulemaking process for Title 17, Rules Governing Water Authorities.

Eoff Claims Commission Case Update – Mrs. Ray received a ruling from the Arkansas Claims Commission and it unanimously granted our motion to dismiss Mr. Eoff's claim for reimbursement for legal fees. Mr. Eoff has 40 days to appeal to the Commission, or he can appeal directly to the General Assembly.

Mr. Young stated that he will provide notice to the Commission if Mr. Eoff appeals to the Legislative Claims Subcommittee, and encouraged the commissioners to attend.

FINANCIAL ASSISTANCE

Mr. Bennett presented staff recommendations for the referenced projects below requesting financial assistance from the Water, Sewer & Solid Waste Fund (WSSW); the Water Development Fund (WDF); and the Arkansas Drinking Water State Revolving Loan Fund (DWSRF).

Upon motion by Mr. Hunton, second by Mrs. Cash, the Commission approved the following recommendations and Change in Terms:

CASH (CRAIGHEAD COUNTY) (WSSW)

Up to \$257,500.00

PURPOSE OF FUNDS: Upgrades to wastewater treatment level to comply with ADEQ consent administrative order.

The Commission approved a loan for Cash in an amount up to **\$257,500.00** from the Water, Sewer and Solid Waste Fund. This loan is for twenty (20) years at three and nine tenths percent (3.9%) interest. An administrative fee in an amount up to \$7,500.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

CASH (CRAIGHEAD COUNTY) (WSSW)

Up to \$257,500.00

PURPOSE OF FUNDS: Upgrades to wastewater treatment level to comply with ADEQ consent administrative order.

The Commission approved a grant for Cash in an amount up to **\$257,500.00** from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$7,500.00 is to be retained by the

Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund and upon grant funds being the last funds used for the project.

MONTROSE (ASHLEY COUNTY) (WDF)

Up to \$41,200.00

PURPOSE OF FUNDS: To make emergency repairs to Boydell well to allow proper water disinfection.

The Commission approved a loan for Montrose in an amount up to **\$41,200.00** from the Water Development Fund. This loan is for twelve (12) years with interest only for the first two (2) years at two and three-quarters percent (2.75%) interest. An administrative fee in an amount up to \$1,200.00 is to be retained by the Commission. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund.

TRI-COUNTY RWDD (POPE COUNTY) (WDF)

Up to \$382,000.00

PURPOSE OF FUNDS: To serve new water customers along and near Griffin Flat Road and Churchill Lane.

The Commission approved a loan for Tri-County RWDD in an amount up to **\$382,000.00** from the Water Development Fund. This loan is for thirty (30) years at four and one-quarter percent (4.25%) interest. An administrative fee in an amount up to \$11,126.00 is to be retained by the Commission. Approval is contingent upon the district establishing and maintaining a depreciation reserve fund.

TRI-COUNTY RWDD (POPE COUNTY) (WDF)

Up to \$273,000.00

PURPOSE OF FUNDS: To serve new water customers along and near Griffin Flat Road and Churchill Lane.

The Commission approved a grant for Tri-County RWDD in an amount up to **\$273,000.00** from the Water Development Fund. An administrative fee in an amount up to \$7,951.00 is to be retained by the Commission. Approval is contingent upon the district establishing and maintaining a depreciation reserve fund, and upon these grant funds being the last funds used for the project.

THORNTON (CALHOUN COUNTY) (DWSRF)

Up to \$925,000.00

PURPOSE OF FUNDS: Replace much of the water distribution system to reduce the system's high water loss.

The Commission approved funds in an amount up to **\$925,000.00** of which the total amount will be in the form of a loan with principal forgiveness for Thornton from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

THORNTON (CALHOUN COUNTY) (DWSRF)

Up to \$1,125,000.00

PURPOSE OF FUNDS: Replace much of the water distribution system to reduce the system's high water loss.

The Commission approved loan funds in an amount up to **\$1,125,000.00** for the City of Thornton from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed twenty (20) years. The combined rate will be established by the Executive Director at the time of loan closing. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

CHANGE IN TERMS:

BRADLEY COUNTY WATERWORKS FACILITIES BOARD (CORINTH VALLEY COMMUNITY)

(00113-WSSW-D)

\$154,500.00

The Bradley County Waterworks Facilities Board (Corinth Valley) system was placed in service in 2005 at a cost of \$353,365.98. The system purchases wholesale treated water from Warren and is located southwest of Warren along Arkansas State Highways 4 and 8.

The Commission approved the Executive Director be authorized to convert 00113-WSSW-D loan to a grant with the condition that Bradley County Waterworks Facilities Board (Corinth Valley) agree to establish and maintain water rates that provide sufficient revenue to pay debt service on Bond-98A16 for the life of the primary loan, operate, maintain and replace the system, including, without limitation 6 percent depreciation reserve.

CONSERVATION DIVISION

APPOINTMENTS AND REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS

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

APPOINTMENTS

<i>Lonoke County CD</i>	<i>Billy Bennett</i>
	<i>Robby Bevis, Jr.</i>
<i>Saline County CD</i>	<i>Mike Drakle</i>
	<i>Gary Sartin</i>
<i>White County CD</i>	<i>John Paul Freepon</i>
<i>Hot Spring County CD</i>	<i>Blake Phillips</i>

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

REAPPOINTMENTS

<i>Calhoun County CD</i>	<i>Frank Stevenson, Jr.</i>
<i>Carroll County CD</i>	<i>Larry Harp</i>
<i>Clay County CD</i>	<i>Louis Ahrent</i>
<i>Crittenden County CD</i>	<i>Marshall Levy</i>
<i>Franklin County CD</i>	<i>Paul Whittington</i>
<i>Izard County CD</i>	<i>Larry Arnold</i>
<i>Lawrence County CD</i>	<i>Ray Mosley, Jr.</i>
<i>Mine Creek CD</i>	<i>Joe Martin</i>
<i>Montgomery County CD</i>	<i>Jonathan Rowland</i>
<i>Pike County CD</i>	<i>Johnny Hale</i>
<i>Franklin County CD</i>	<i>Joe Powell</i>

CERTIFICATION OF 2014 ELECTION RESULTS – CONSERVATION DISTRICT BOARDS

Mr. Baber presented election results of the Conservation District Boards of Directors for certification by the Commission. These elections were postponed because of the ice storm in March.

Upon motion by Mr. Anderson, second by Mrs. Cash, the Commission approved certification of the 2014 election results (a copy is attached to minutes).

GRANTS TO DISTRICTS FUNDING RECOMMENDATIONS

Mr. Baber presented grants to districts funding recommendations for FY15. Mr. Hunton had a question concerning the differences in monetary recommendations between counties. Mr. Baber stated that the differences depended upon the projects or technical support requested by each county. Upon motion by Mrs. Cash, second by Mr. Hampton, the Commission approved the Grants to Districts Funding as presented for FY15.

CONSERVATION DISTRICTS LINE ITEM FOR 2015

Mr. Baber presented the budgets for administration in each conservation district. The Land Resource Specialists completed the assessments of the districts and the results were presented as listed. Upon motion by Mr. Carter, second by Mr. Feilke, the Commission approved the Line Item Funding as presented for FY15.

BEAVER PROGRAM FUNDING FOR FISCAL YEAR 2015

Mr. Baber presented funding recommendations for the Beaver Program for the conservation districts. Mr. Hampton asked how to increase district funding for the program. Mr. Young advised that he intends to request more funding in the agency's budget being prepared in July.

Mr. Anderson stated that the program is underfunded and that he hopes the legislature will award more funds for the program. The program is difficult to administer because it pays so little for the bounty. Mr. Anderson asked Mr. Mike Armstrong if there was a possibility that a cooperative agreement could be entered with the Arkansas Game & Fish for matching funds for the program. Mr. Armstrong stated that he recognized the beaver problem and that his agency had spent a lot of money on eradication as well. He will have his director call Mr. Young to discuss.

Mrs. Cash suggested that each commissioner contact Game and Fish to reinforce the need for more funds.

Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission approved the Beaver Program funding as presented for FY15.

CONSERVATION DISTRICT ACTIVITY REPORT – Mr. Bob Fowler introduced Ms. EveAnn George with the Union County Conservation District. Ms. George gave an overview of the wetland project conducted at the El Dorado High School. The school had to get a Corps of Engineers 404 permit because of the wetland area on the property. Grant monies were used from an Urban Conservation Grant to buy trees that were suggested to plant. The project was used as an educational tool for her students.

A rain garden is being built on the property to catch stormwater runoff from the school parking lot. Rain gardens are a popular landscape feature in Arkansas because they are relatively inexpensive, beautiful and provide many environmental benefits.

REPORT ON SEBASTIAN COUNTY CONSERVATION DISTRICT – Mrs. Bearden and Mr. Walters made numerous visits to the district office to assist with the district's financial operations. Mrs. Bearden did an extensive financial review which found inappropriate office methods of bookkeeping and timekeeping.

Mrs. Bearden has recommended that the Water Quality Tech assume the responsibilities of accounting for the district. She will train the Tech if the Conservation District approves her recommendations.

Mr. Walters sought the help of the Commission in resolving personnel and district board chairman irregularities.

Mr. Carter plans to attend the district board meeting next Tuesday. Dr. Lamkin suggested deferring all recommendations until after the meeting of the board next week and requested that a report be sent to the commissioners.

Mrs. Cash asked if ever there had been a case of impeachment of a board member. Mr. Young stated that no one had ever been impeached. Mr. Anderson stated that a new board may have to be appointed if the situation doesn't improve. Mr. Hampton asked about that process. Mr. Walters said that appointed directors can be removed for malfeasance.

WATER RESOURCES MANAGEMENT DIVISION

Report on the Arkansas Water Plan – Mr. Swaim stated that the Issues and Recommendations phase was attended by hundreds of participants and a final report will be available by the end of May. The use and decline of ground water was one of the major issues discussed. Those issues and recommendations will be put into an adoptable plan to present to the Commission for approval.

Mr. Swaim requested the Commission's continued assistance with the water plan.

Annual Ground Water Report – Mr. Fugitt distributed the annual report and noted that it was also available on the agency's website. He said that there was a lot of new information available in the report. He stated that a five-county area in south Arkansas has had a ten-year increase in the Sparta aquifer.

Fish and Wildlife Flow Recommendation – Mr. Mike Armstrong, Deputy Director, with the Arkansas Game & Fish Commission, discussed the importance of the fish and wildlife flow in streams of Arkansas with regard to the Arkansas Water Plan. He has been working with ANRC staff over the past 18 months on this issue. A consistent theme is the need for good and accurate quantification of surface water that is available to meet off-stream needs for irrigation, industry, and municipal water supply. Part of determining surface water availability is stream flow that will keep rivers and streams healthy.

That plan would leave the flow in the streams so that the aquatic community could sustain itself into the far future. Healthy rivers are not just important for fish and wildlife but also for the livelihoods and well-being of Arkansans using them. Fish and wildlife species have adapted well to disturbances in flow, so the goal is to craft a fish and wildlife flow that mimics the hydrograph reflected over the years.

A number of methods have been used to determine the best flow. Most of the methods have largely been built out west where they have critical water situations. Those systems are dependent on snow melt. Here in the east, it's different. Arkansas is dependent on weather systems coming up with moisture from the Gulf, and cold fronts coming down from Canada. The systems out west are probably not the best for needs in the east, but they have been adapted.

The Arkansas Method used currently and in the past best mimics the natural hydrograph by taking a proportion of the mean monthly flow. If that amount remains in the river, then it can protect the aquatic community. It's a good method and is a good foundation to begin.

Mr. Armstrong stated that he desires to stay engaged with our agency in moving forward with the water plan for Arkansas.

Mr. Hampton asked Mr. Armstrong to comment on the Rabbitfoot mussel. Mr. Armstrong stated that the mussel has been added to the endangered species list in the last 12 months or so. His agency measures habitat and provides information to the Federal Fish and Wildlife Service, then it makes the decision of what it considers critical habitat. The concern being expressed for the mussel is legitimate.

ADJOURN

There being no further business, the meeting was adjourned.

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

Date

CONSERVATION DISTRICTS BOARD OF DIRECTORS

2014 Certification of Election Results

Adopted: May 16, 2014

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

Benton County: 68

- ❖ William Haak
- ❖ James A. Singleton
- ❖ Frank L. Walker

Crittenden County: 3

- ❖ Walter Bloodworth
- ❖ James Sharp II
- ❖ Jimmy Sharp

Independent County: 9

- ❖ Eddie Wagoner
- ❖ Parmer Hankins
- ❖ Tom Vanenburg

Jackson County: 12

- ❖ Kenneth Clark
- ❖ Carey Robertson
- ❖ Gary Shumate

Mississippi County: 49

- ❖ Jason Cole Hawkins
- ❖ Kenny Jackson
- ❖ Russ Thomason

*Red numbers denote
votes