

**Minutes of the
ARKANSAS NATURAL RESOURCES COMMISSION**

March 19, 2014

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, March 19, 2014, at 10:00 a.m., at the Lake Point Conference Center, 171 Lake Point Lane, Russellville, Arkansas.

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

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; 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; Todd Fugitt, Senior Geologist; Blake Walters, Land Resource Specialist; Tony Ramick, Supervisor; 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; JANUARY 29, 2014 AND FEBRUARY 27, 2014

Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission approved the minutes of the January 29, 2014, and February 27, 2014, regular and telephonic meetings respectively.

REPORT OF THE EXECUTIVE DIRECTOR

Red River Compact Commission Meeting – Mr. Young advised that Arkansas will host the annual meeting of the Red River Compact Commission in Hot Springs on April 21-22, 2014. This compact involves the states of Arkansas, Oklahoma, Texas, and Louisiana. He stated that Mr. Swaim and his staff are continuing to work with officials from Louisiana to determine compact compliance on water allocation between the states of Arkansas and Louisiana. A big part of resolving this problem is adequate gaging stations on the interstate streams to quantify how much water is flowing into Louisiana.

Mr. Young suggested commissioners from that part of the state attend, particularly the engineering committee meeting on the afternoon of April 21st.

STATUS OF FINANCIAL ASSISTANCE PROGRAMS

Mrs. Cynthia Bearden presented the financial assistance report dated February 28, 2014. (Copy of report attached to the minutes).

Mr. Young announced that the General Assembly approved the Commission's budget. In June, staff should know if the funding level will allow the funding of the Arkansas Red River Commission.

LEGAL ISSUES

Update on Dan Eoff Case - Mrs. Ray stated that the Arkansas Attorney General's office will be representing ANRC in the Arkansas State Claims Commission's case filed by Mr. Dan Eoff. They will be filing answers on behalf of ANRC Friday. The answer will include a motion to dismiss and a request for a hearing. If a decision is made in our favor, Mr. Eoff can appeal to the state legislature, and if in his favor, ANRC can appeal to the state legislature.

Mr. Carter asked for Mrs. Ray's opinion on the pleading they filed on this case. Mrs. Ray stated that it is a very good pleading.

Mr. Hampton asked if this filing was within the normal scope for the Arkansas State Claims Commission. Mrs. Ray has read many of the cases brought before the Claims Commission and believes this one to be unusual. If the Claims Commission finds that the Commission acted unfairly against Mr. Eoff, then they can award him monetarily, but there are limits on what they can award without legislative approval.

Motion to Intervene by EPA – Mrs. Ray advised that EPA is pursuing Mr. Eoff both civilly and criminally. EPA has tentatively begun discovery in the civil case, and has contacted our staff and is scheduled to talk with Commissioner Richardson tomorrow. The Attorney General's office has filed a Motion to Intervene, which EPA does not contest. Mr. Eoff's counsel, however, will probably oppose the intervention.

The basis for the Attorney General filing that Motion to Intervene is that if they do not intervene, they cannot protect the state's interest in preventing pollution should the dam fail. Essentially, it is a public nuisance claim and it's based on approximately five factors. They have also requested for the dam to be removed with minimum impact to South Fork of the Little Red River and to downstream landowners; minimal impact to the wildlife in the river, and attorney fees and costs from Mr. Eoff.

Mr. Feilke asked if the Attorney General's office will take the lead. Mrs. Ray advised that EPA will still be the main player, but this will allow the Attorney General's office a seat at the table in the case. Mr. Feilke asked if this procedure happened very often, and Mrs. Ray answered that it did.

FINANCIAL ASSISTANCE

APPLICATIONS FOR 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); the Arkansas Drinking Water State Revolving Loan Fund (DWSRF), and the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (CGO).

For the record Mr. Feilke and Mr. Anderson recused themselves from the vote. Upon motion by Mrs. Cash, second by Mr. Hampton, the Commission approved the following recommendations:

BALD KNOB (WHITE COUNTY) (WDF)

Up to \$1,133,000.00

PURPOSE OF FUNDS: Provide a new booster pump station, construct a new 144,000 gallon water tank and repaint the existing tank.

The Commission approved a loan for Bald Knob in an amount up to **\$1,133,000.00** from the Water Development 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 \$33,000.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

VICTORIA (MISSISSIPPI COUNTY) (WDF)

Up to \$139,050.00

PURPOSE OF FUNDS: Installation of approximately 4 miles of water pipeline to connect Victoria to Osceola to allow the purchase of wholesale water by the water system and abandon its existing well.

The Commission approved a loan for Victoria in an amount up to **\$139,050.00** from the Water Development Fund. This loan is for thirty (30) years at four percent (4%) interest. An administrative fee in an amount up to \$4,050.00 is to be retained by the Commission. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund.

VICTORIA (MISSISSIPPI COUNTY) (WDF)

Up to \$139,050.00

PURPOSE OF FUNDS: Installation of approximately 4 miles of water pipeline to connect Victoria to Osceola to allow the purchase of wholesale water by the water system and abandon its existing well.

The Commission approved a grant for Victoria in an amount up to **\$139,050.00** from the Water Development Fund. An administrative fee in an amount up to \$4,050.00 is to be retained by the Commission. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund, and upon these grant funds being the last funds used for the project.

STRONG (UNION COUNTY) (DWSRF)

Up to \$1,400,000.00

PURPOSE OF FUNDS: Replace water mains and appurtenances with PVC pipe to reduce water loss, repaint the existing water tank, and replace water meters.

The Commission approved funds for the City of Strong in an amount up to **\$1,400,000.00** of which the total amount will be in the form of a loan with principal forgiveness for Strong 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.

STRONG (UNION COUNTY) (DWSRF)

Up to \$250,000.00

PURPOSE OF FUNDS: Replace water mains and appurtenances with PVC pipe to reduce water loss, repaint the existing water tank, and replace water meters.

The Commission approved loan funds in an amount up to **\$250,000.00** for the City of Strong 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.

Mr. Dennis Carman gave a brief overview of the progress of project construction and funding. Discussion followed.

WHITE RIVER REGIONAL IRRIGATION DISTRICT (ARKANSAS, PRAIRIE, LONOKE, AND MONROE COUNTIES) (CGO)

Up to \$22,800,000.00

PURPOSE OF FUNDS: To provide local funds to match federal funds for construction of the Grand Prairie Irrigation Project including without limitations construction costs, lands easements and rights of way, utility relocations, and to refinance existing District debt.

The Commission approved a deferred loan for the White River Regional Irrigation District from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount of **\$22,800,000.00**. Interest at the rate of five percent (5%) per annum will begin to accrue on June 1, 2046 with the first semi-annual principal and interest payment being due December 1, 2046. The repayment period shall be five years. Disbursements of loan proceeds will be made incrementally on an as needed basis. Funds provided shall be from proceeds of a federally taxable CGO Series. The Commission will not collect an administrative fee on these funds.

BAYOU METO IRRIGATION PROJECT (BAYOU METO BASIN ELEMENT OF THE GRAND PRAIRIE REGION AND BAYOU METO BASIN, ARKANSAS PROJECT) (LONOKE, JEFFERSON, PRAIRIE, & ARKANSAS COUNTIES) (CGO) **Up to \$13,000,000.00**

PURPOSE OF FUNDS: To pay for legal, land rights, planning and design, utility relocation, construction costs and other costs associated with the project.

The Commission approved the expenditure of up to **\$13,000,000.00** for Bayou Meto Irrigation Project from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program for costs associated with the project. These funds may be disbursed to Bayou Meto Regional Irrigation Water Distribution District or US Army Corps of Engineers as payment of costs associated with the project or reimbursement of funds previously expended for construction of the project. Funds will be provided from federally taxable bond issue proceeds. No administrative fee will be collected.

LAMAR (JOHNSON COUNTY) (WSSW) **Up to \$103,000.00**

PURPOSE OF FUNDS: Installation of a membrane filtration system to their sewer treatment plant.

The Commission approved a grant for Lamar in an amount up to **\$103,000.00** from the Water, Sewer and Solid Waste Fund. The grant will be utilized in a ratio of 1/4 with loan 00969-WSSW-L. An administrative fee in an amount up to \$3,000.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund and meeting rate level requirements.

Chairman Lamkin is concerned about low water rates of entities coming before the Commission and suggested setting a minimum standard based upon certain criteria. Mr. Bennett explained that there is criterion for grants and loans currently in place. He indicated to Chairman Lamkin that Mr. Carter has requested that he examine project depreciation reserve funds. Chairman Lamkin stated that there needed to be more consistency with the rules.

Mr. Young suggested the Commission hear staff's report regarding depreciation reserve funds before taking any action.

AUTHORITY TO TRANSFER FUNDS BY EXECUTIVE DIRECTOR

Mr. Bennett reported that he and Director Young continued working with local officials to allow the existing customers of the Beulah Grove Water Association to be served by another system. Parker's Chapel and El Dorado Water Utilities would be the most likely options. On November 21, 2013, the Commission approved grant 00963-WDF-G to Parker's Chapel to upgrade and provide service to the Beulah Grove area. At that time, El Dorado was not interested in serving the area.

After discussion with Director Young, El Dorado expressed interest in serving the area. Preliminary review indicates that the area would be better served by El Dorado. Mr. Bennett requested that the Commission authorize the Executive Director to transfer grant 00963-WDF-G to El Dorado if he determines that service by El Dorado would be in the best interest of the Beulah Grove residents. Upon motion by Mrs. Cash, second by Mr. Feilke, the Commission approved authorizing the Director to transfer grant funds to El Dorado.

DEOBLIGATION OF FUNDS BY EXECUTIVE DIRECTOR

Mr. Bennett reported that the Executive Director has deobligated funds for the following:

(1) Bauxite (Saline County) (00895-WSSW-L) **Up to \$103,000.00**

BREAK/RECONVENE

CONSERVATION DIVISION

APPOINTMENTS AND REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS

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

APPOINTMENTS

Miller County CD

John L. Turner Jr.

Upon motion by Mr. Feilke, second by Mr. Richardson, the Commission approved the following reappointments:

REAPPOINTMENTS

Independence County CD

Debbie Stroud

Mississippi County CD

Mark Bryles

CERTIFICATION OF 2014 ELECTION RESULTS – CONSERVATION DISTRICT BOARDS

Mr. Baber advised that the elections were conducted on March 4th; however, several district elections were postponed because of inclement weather. Those counties are Benton, Crittenden, Independence, Jackson, and Mississippi. Chairman Lamkin asked if Johnson County had only two people running. Mr. Walters answered in the affirmative. One was not eligible to run for re-election because the candidate did not meet the meeting requirements. He is working to get a new board member to fill that position. Mr. Richardson pointed out that Johnson County had only three votes. He would like to have a reason why there was such a low voter turnout.

Mr. Baber stated that there were more contested elections this year than he had ever experienced. Desha, IZard, Lawrence, Madison were contested, and the upcoming Benton and Mississippi elections were contested as well. Mr. Baber presented results of the Conservation District Boards of Directors elections held March 4, 2014, for certification by the Commission.

Mr. Hampton stated that people questioned why they needed to vote if the people were unopposed. He suggested that the polls be open more than one day to allow for more voter participation. Mr. Feilke inquired about Sebastian County. Mr. Baber said that there was a miscommunication between this agency and the district concerning a candidate. Mr. Young stated that the board is aware that they need to make a recommendation for appointments to fill those two vacancies.

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

CHART SHOWING NUMBER OF VOTES IN CONSERVATION DISTRICT ELECTIONS 2010 to 2014

Mr. Baber presented an attachment showing number of votes in each conservation district per Mr. Carter's previous request.

WATER RESOURCES MANAGEMENT DIVISION

Update on Arkansas Water Plan – Mr. Swaim announced that a Water Plan meeting will be held this afternoon in this facility at 1:00 p.m. for the West Central planning region. Currently, work is being done on issue identification and prioritization by region. Following the regional meetings, those recommendations will be used in the statewide meeting on the 29th of April, and eventually brought before the Commission for consideration in November.

The regional meetings have been well attended and have been productive. One subject that has been repeatedly of interest in the meetings is water use reporting. Our agency has a very good water use reporting system in place, but there is still a lot of doubt concerning the accuracy of the numbers reported by users.

There has also been confusion about the definition of excess surface water and what that excess determination means. One of the main findings is that people need more education concerning water issues. Participants in the process universally agree that additional data is needed for all aspects of water needs and availability.

COMMISSION TRAVEL EXPENSE REIMBURSEMENT

Approval of Travel Reimbursement – Upon motion by Mr. Anderson, second by Mr. Richardson, the Commission approved reimbursable expenses for the Chairman or his designated representative to attend the following:

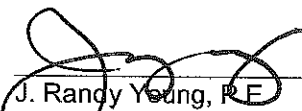
- (1) Red River Compact Commission Meeting, April 21-22, Hot Springs, Arkansas

ANRC MAY MEETING

Chairman Lamkin presented a preliminary itinerary for the May meeting that will be held in Magnolia, Arkansas.

ADJOURN

There being no further business, the meeting was adjourned.



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

5-19-14
Date

CONSERVATION DISTRICTS BOARD OF DIRECTORS

2014 Certification of Election Results

Adopted: March 19, 2014

The following persons, having received the largest number of votes in the election held in their respective districts on March 4, 2014, are certified as Conservation District Directors-Elect with a term of office to begin on April 1.

Arkansas County: 30

- ❖ Brandon Bauman
- ❖ Lester McKinley
- ❖ James Phillips

Ashley County: 9

- ❖ Randy Haynes
- ❖ James Meeks Jr
- ❖ Liz Taunton

Chicot County: 5

- ❖ Ronnie Berkmeier
- ❖ Keith Hunter
- ❖ Joe Mencer

Crooked Creek County: 22

- ❖ Kevin Flippin
- ❖ Terry Ott
- ❖ Carla Shipman

Desha County: 48

- ❖ Shirley Dunnahoe
- ❖ Lou Ann Sales
- ❖ Danny Wilson

Drew County: 15

- ❖ Frank Appleberry
- ❖ Mar Miles
- ❖ Eric Stevens

Franklin County: 7

- ❖ Ken McFerran
- ❖ Martin Mershon

Grant County: 12

- ❖ Jerry Hamilton
- ❖ Billy Holloway
- ❖ John Mitchell

Hot Spring County: 14

- ❖ Larry Guin
- ❖ Alvin Starkey
- ❖ Jerry Whatley

Izard County: 109

- ❖ Gary Hutson
- ❖ Brenda Marlin
- ❖ Bryan Phillips

Johnson County: 3

- ❖ Charlie Plugg
- ❖ Steve Stephan

L'Aigle County: 6

- ❖ Thomas Frazer
- ❖ Steve Parnell

Lafayette County: 5

- ❖ Glenn Brackman
- ❖ Smead Grimmett
- ❖ Tim Kitchens

Lawrence County: 44

- ❖ David Foley
- ❖ Roger Tinsley
- ❖ Vincent Wright

Lee County: 22

- ❖ Steve Higgonbothom
- ❖ Barry Jones
- ❖ Scotty Stepp

Lincoln County: 17

- ❖ Kevin Blagg
- ❖ L.E. Branson Jr.
- ❖ John McGraw

Madison County: 104

- ❖ Larry Easterling
- ❖ Rick McCoy
- ❖ Ronnie Villines

Miller County: 15

- ❖ Calvin Clark
- ❖ Barbara Sutton
- ❖ Nedra Turney

Mine Creek County: 4

- ❖ Kirk Bell
- ❖ Archie Cothren
- ❖ John Jamison

Montgomery County: 11

- ❖ Steve Irwin
- ❖ Matt Rae
- ❖ John Standridge

*Red numbers denote votes