

**Minutes of the
ARKANSAS NATURAL RESOURCES COMMISSION**

July 18, 2012

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, July 18, 2012, at 8:30 a.m., at the Lodge at Mount Magazine, 16878 Highway 309 South, Paris, Arkansas.

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

Staff members participating included: Randy Young, Executive Director; Crystal Phelps, General Counsel; Mark Bennett, Chief, Water Development Division; Cynthia Bearden, Agency Controller; Edward Swaim, Chief, Water Resources Management Division; Adrian Baber, Chief, Conservation Division; Blake Walters, Land Resource Specialist; Deanna Ray, Associate General Counsel; and Pat Smith, Executive Assistant.

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

A list of guests is attached to the minutes.

APPROVAL OF MINUTES; MAY 16, 2012

Upon motion by Ms. Cash, second by Dr. Lamkin, the Commission approved the minutes of the May 16, 2012, regular meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Proposed 2013 Legislation: - Mr. Young reported that three legislative initiatives have been submitted to Governor Beebe. Mr. Jon Moran, Governor's Liaison, will be reviewing those with Mr. Harriman, the Governor's Chief of Staff, and the Governor tomorrow. Mr. Young requested that Ms. Phelps outline those initiatives.

Ms. Phelps began with legislation regarding the Arkansas Water Well Construction Commission's (AWWCC) apprenticeship program. The AWWCC currently requires a person applying for certification to have completed the AWWCC apprenticeship program, to hold a valid certification from AWWCC within the last ten years, or to provide valid certification of experience from another state. This bill would omit obsolete language in Ark. Code Ann. §17-50-301(a) (4) that references 2 years of experience as the minimum requirement for a person seeking certification as a water well driller or pump installer.

Ms. Phelps referred to legislation regarding de minimis water transfers across state lines. This legislation would amend Ark. Code Ann. § 15-22-303 to exempt de minimis water transfers from the requirements of review by the General Assembly and entry into an interstate compact. Neither one of these initiatives will result in any excess cost to AWWCC or ANRC.

Fiscal Division Presentation – Ms. Cynthia Bearden presented the second in a series of ANRC division presentations to the Commission. She gave an overview of activities conducted by the Fiscal Division.

Update on Financial Reviews of Water and Sewer Systems – Ms. Bearden stated that in 2010, 65 entities were reviewed. Since that time, an employee has been hired and is conducting financial reviews year round to ensure that all expenditures are for legitimate business purposes. These entities are selected if delinquent on loan payments, if not in compliance with submission of financial statements or agreed up procedures, or if the debt service reserve funds and depreciation funds are low. Rates and the customer base are also documented.

To date, twenty-two entities have been reviewed in 2012. The biggest finding was the misuse of public funds. An office manager and another employee were the only signatures on checks that required two signatures. That entity was referred by letter to the senator and representative in their district requesting that a legislative audit investigation be conducted.

STATUS OF FINANCIAL ASSISTANCE PROGRAMS

Ms. Bearden presented a summary of the financial assistance report. (Copy of report attached to the minutes).

LEGAL ISSUES

Legislation Proposed by the Conservation Delivery System Committee – Ms. Phelps presented proposed 2013 legislation from the Conservation Delivery System Committee chaired by Commissioner Lamkin, and comprised of other commissioners and conservation representatives. This legislation adds a new subchapter to the existing conservation district's law. This bill establishes statutory indicators of fiscal distress. ANRC will require a district meeting these indicators to identify and adopt measures designed to counter the distress. If the district is unable to overcome the distress after repeated outreach by ANRC, ANRC may require the district to combine with another district or order it to dissolve. Other notable items were outlined in the bill.

Chairman Hampton asked what incentives districts would have if consenting to accept merger with fiscally distressed district. Mr. Young stated that the appropriation for that district would be transferred to the sustainable district. Mr. Young briefed the Commission on steps yet to be taken for submitting this legislation. This legislation is currently in draft form. Today, the Committee is seeking direction from the Commission on whether to proceed with this process. Governor Beebe had a schedule for all agencies to submit proposed legislation for his review and that has been done. The Committee wants a consensus between the Commission and the Arkansas Association of Conservation Districts to support this before going forward with the process.

Dr. Lamkin thanked the Commissioners and the AACD officials that served on the committee. He stated that the task was not an easy one. Several meetings took place involving frank discussions. He also thanked the ANRC staff for all the information provided to the committee. Most helpful, was a color chart provided by the staff showing the graphical representative of what occurs during the distress process. There was a lot of hard work that went into the drafting of the bill. The committee is waiting to hear from AACD.

Mr. Anderson asked if this agreement addresses assets of the district in fiscal distress. Ms. Phelps stated that the bill does address assets owned by the distressed district. Dr. Lamkin noted that some of the districts lease property from the USDA. One of the concerns is what the district that is housed in a federally owned building will do if that agency closes the office. That would be one of the things that could cripple a district into financial distress.

Mr. Young stated that this proposed legislation is in a form of a recommendation from the Committee for the Commission's approval. Mr. Richardson made a motion to accept staff recommendation, second by Mrs. Cash, that the Commission accept staff recommendation as presented. Mr. Young added that there could be some additional fine-tuning.

Ms. Phelps stated that she will send the color chart to each of the Commissioners.

Commission Determination Granting Tract A to Ward Appealed by Cabot – Ms. Phelps updated the Commission on the status of the determination granting Tract A to Ward. Cabot has appealed this decision to the circuit court. Ms. Ray filed the record with the circuit court along with Commission's response to Cabot's petition to overturn the decision. Ward intervened and will be a party to this appeal.

Resolution to Commend Speaker of the House, The Honorable Robert S. Moore, Jr. – Upon motion by Ms. Cash, second by Mr. Anderson, the Commission approved staff to draft a Resolution commending the Speaker, in the form of a plaque, for his work and friendship to the Commission. Upon adoption at the regular meeting in September, the plaque will be presented to Speaker Moore at that time.

Mr. Young stated that Speaker Moore provided leadership in the House during the last session that led to the appropriation of \$4 million to update the Arkansas Water Plan.

FINANCIAL ASSISTANCE

CONSIDERATION OF SERIES RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$44 MILLION STATE OF ARKANSAS WATER, WASTE DISPOSAL AND POLLUTION ABATEMENT FACILITIES GENERAL OBLIGATION BONDS – SERIES 2012B

Mr. Bennett introduced Mr. Jim Fowler with Morgan Keegan & Company, Inc., to give a briefing on the sale. Mr. Fowler stated that rating presentations were prepared prior to the sale for Moody, and Standard & Poors. The bonds received a Double A from Standard & Poors and Double A1 from Moody. The Notice of Sale was sent out to the market and the sale took place on July 10, 2012. There was national attention to these bonds because of the good rating. The bonds have a final maturity in July 2047.

Upon motion by Dr. Lamkin, second by Mr. Hunton, the Commission adopted the Series Resolution for the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds Series 2012B in the amount of \$44,000,000 as presented.

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).

Upon motion by Dr. Lamkin, second by Mr. Carter, the Commission approved the following recommendations:

ANTHONYVILLE (Crittenden County) (WSSW)

Up to \$12,360.00

PURPOSE OF FUNDS: Repairs to the sewer force main that transfers sewage to Edmondson for treatment.

The Commission approved a grant for Anthonyville in an amount up to **\$12,360.00** from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$360.00 is to be retained by the Commission. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund.

NAIL-SWAIN WATER ASSOCIATION (Newton County) (WSSW) (Additional Funds)

Up to \$51,500.00

PURPOSE OF FUNDS: Emergency well modification and pump replacement.

The Commission approved an additional grant for Nail-Swain Water Association in an amount up to **\$51,500.00** from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$1,500.00 is to be retained by the Commission. The funds are to be used in conjunction with the funds approved on May 18, 2011. Approval is contingent upon the association establishing and maintaining a depreciation reserve fund.

Mr. Bennett noted that staff will be conducting an audit on each of these projects.

DEOBLIGATION OF FUNDS BY EXECUTIVE DIRECTOR

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

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| <u>Mount Ida (Montgomery County) (WDF-L/G)</u> | \$24,647.90 |
| <u>Running Lake (Randolph County) (CGO-L)</u> | \$437,750.00 |
| <u>Wrightsville (Pulaski County) (WSSW-L)</u> | \$87,550.00 |

CHANGE IN TERMS OF FINANCIAL ASSISTANCE

Upon motion by Mrs. Cash, second by Dr. Lamkin, the Commission approved the following Change in Terms:

LONOKE-WHITE PUBLIC WATER AUTHORITY (Lonoke and White Counties)
(CGO) (WRD-003-791) **Up to \$30,900,000.00**

Mr. Woody Bryant appeared before the Commission on behalf of the Lonoke-White Public Water Authority. He gave an overview of the project and thanked the staff and Commission. Mr. Howard Williams also thanked the Commission for funding this project.

This project was approved for funding in the September 21, 2011 Commission meeting. At that time the authority was to be charged a fee of three percent (3%) of the loan amount. The authority has worked with the Commission staff to minimize the cost of holding funds reducing the cost to the Commission. After the project was bid it has been determined that the authority will require the entire loan amount. The authority has asked the Commission to reevaluate the fee amount to be charged. Because of the work by the authority in reducing cost of holding funds, the Commission will reduce the fee amount to \$600,000. The additional \$300,000 may be used for other project expenses.

SCRANTON (Logan County) (DWSRF) (WRD-003-823) **Up to \$5,000,000.00**

In the May 16, 2012 meeting, the Commission approved financial assistance to Scranton from the Drinking Water State Revolving Loan Fund (DWSRF). The assistance was for a period of up to twenty (20) years. At the request of the city and submission of additional information, the Commission determined that the systems median household income qualifies it as a disadvantaged system under the DWSRF rules and can obtain up to a thirty (30) year loan repayment. Also, the system is in need of a water storage tank that the city requested potential funding for under the DWSRF program. The approval of May 16, 2012 is amended to the following:

PURPOSE OF FUNDS: To construct large diameter water lines and water storage tank to meet the systems water needs and to allow the purchase of treated water from Clarksville. The existing water supply contract with Paris will end in 2014.

The Commission approved loan funds in an amount up to **\$5,000,000.00** for the City of Scranton 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. The loan repayment schedule will not exceed thirty (30) years.

LINCOLN (WASHINGTON COUNTY) (CWSRF) (WRD-003-805)

Up to \$2,369,000.00

In the March 21, 2012 meeting, the Commission approved financial assistance to Lincoln from the Clean Water State Revolving Loan Fund (CWSRF). After review of the time needed to complete the project under the CWSRF, the city has determined that there is not sufficient time to make the improvements in order to keep the sewer in compliance with environmental regulations. Lincoln has requested that the project be considered for funding under the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program. Based upon this request, the approval of March 21, 2012 is amended to the following:

PURPOSE OF FUNDS: Improvements to the wastewater treatment plant, including without limitation improvements to remove phosphorous and nitrogen.

The Commission approved loan funding for Lincoln from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$2,369,000.00**.

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.

MADISON COUNTY WATER FACILITIES BOARD (CGO) (WRD-003-798) Up to \$1,442,000.00

PURPOSE OF FUNDS: Construction of Alabam Phase II/Highway 74 water distribution improvements.

In order to minimize the amount of general revenue needed for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (CGO program), the Commission has maintained a small balance in CGO program funds and only issued bonds when necessary. The Arkansas Water Development Fund has a sufficient balance to provide funding for the Madison County Water Facilities Board Alabam Phase II project that was approved for financial assistance from the CGO program on December 6, 2011. Therefore, the Executive Director may utilize funding from the Arkansas Water Development Fund to provide financial assistance for the project. Prior to using this authority, the Executive Director shall consider the Commission's ability to fund other projects from the Arkansas Water Development Fund that could not be funded elsewhere. The Executive Director shall report any funding under this discretionary authority to the Commission at its next regular meeting.

**LAKE CATHERINE WATERWORKS AND SEWER FACILITIES
BOARD OF GARLAND COUNTY (WSSW) (WRD-003-790)**

\$1,900,000.00

Mr. Bennett reported that the Executive Director funded Lake Catherine Facilities Board project WRD-003-790 in the amount of **\$1,900,000** from the Water, Sewer and Solid Waste Fund. The loan was closed on May 24, 2012.

INCREASE IN FINANCIAL ASSISTANCE

Mr. Bennett reported that the Executive Director increased funding for the following project:

(1) **NORMAN (Montgomery County) (DWSRF) (PF)**

\$210,000.00

CONSERVATION DIVISION

APPOINTMENTS/REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS

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

APPOINTMENTS

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|-------------------------|-----------------------|
| <i>Dallas County CD</i> | <i>David Brazeale</i> |
| <i>Nevada County CD</i> | <i>Matt Wingfield</i> |
| <i>Grant County CD</i> | <i>Josh Hardin</i> |
| <i>Sharp County CD</i> | <i>Robert Murphy</i> |

Upon motion by Ms. Cash, second by Mr. Carter, the Commission approved the following reappointments:

REAPPOINTMENTS

| | |
|---------------------------|-------------------------|
| <i>Clark County CD</i> | <i>Ted Hunnicut Jr.</i> |
| <i>Crawford County CD</i> | <i>Wanda Meadors</i> |
| | <i>Gene Robertson</i> |
| <i>Lee County CD</i> | <i>Bill Gerrard III</i> |
| <i>Lonoke County CD</i> | <i>Neal Anderson</i> |
| | <i>Robert Bevis</i> |
| <i>Poinsett County CD</i> | <i>Tommy Wimpy</i> |
| <i>Randolph County CD</i> | <i>Al DeClerk</i> |
| <i>Union County CD</i> | <i>Johnny Loftin</i> |

2012 ELECTION FOR CLAY COUNTY CONSERVATION DISTRICT BOARD

Mr. Baber presented results of the Clay County Conservation District Board of Directors election held June 26, 2012, for certification by the Commission. Mr. Baber stated that a total of four votes were cast. Upon motion by Ms. Cash, second by Mr. Hunton, the Commission certified the election of the Clay County Conservation District board election (a copy is attached to minutes).

CONSERVATION DISTRICT ACTIVITY REPORT – Mr. Blake Walters introduced Mr. Bob Neidecker of the Crawford County Conservation District to present the activity report. Mr. Neidecker outlined the many activities of the district.

WATER RESOURCES MANAGEMENT DIVISION

Update on Arkansas Water Plan - Mr. Edward Swaim gave an update on the water plan. He stated that outside interest is increasing and that several requests have been received to speak around the state.

The terms of the contract with CDM Smith have been agreed upon and the final cost will be \$2.75 million, which is well within the budget. The contract will be reviewed by the Legislative Council in August. After review, and approval, work will begin under the contract with CDM Smith.

The last element of the scoping process with the Corps of Engineers under the 50/50 match agreement is going to finish up next week with a meeting on July 25th. The meeting will be held at the Cooperative Extension Service office in Little Rock at 9:00 a.m. Approximately 140 announcements were e-mailed. The result of that meeting will be deliverables for the Corps of Engineers since they are actually the contracting agent.

The University of Arkansas is also working with ANRC on opportunities toward outreach, education, and studies such as agricultural water use projections. The University is also interested in doing a small research project to assist with general policy issues related to agricultural water use.

COMMISSION TRAVEL EXPENSE REIMBURSEMENT

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

- (1) All Arkansas Water Plan Technical Advisory Committee Meetings

REPORT BY ARKANSAS ASSOCIATION OF CONSERVATION DISTRICTS

Debbie Moreland reported that she attended a meeting in Washington, DC and met with Chief White with NRCS. One of the topics discussed was the drought in Arkansas. The areas of Point Remove and counties of Faulkner, Van Buren, Pope, and Prairie Counties are in an exceptional drought. He was asked to consider an RBI project in the areas as a drought initiative to assist landowners. Chief White was very positive with the idea, but limited the project to those areas.

Dr. Lamkin reported that the Tipton 85 grass that is so drought stressed actually emitted a toxic poison that resulted in the death of 13-14 head of cattle out of a herd of 15 in Louisiana. Ms. Moreland stated that she had heard of two deaths in Arkansas resulting from cattle ingesting Johnson grass. Mr. Young added that his neighbor had lost five head. Ms. Moreland stated another result of the drought is feral hogs are coming out of their normal habitat to eat farm crops.

OTHER BUSINESS

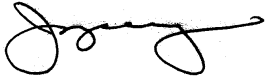
Mr. Hunton stated that hundreds of farm plans have to be written for farms in Benton and Washington Counties. He stated that the technicians writing the plans and performing soil testing are overloaded and requested financial assistance for the hire of extra staff. Mr. Baber stated that there are currently two technicians in Washington County and one in Benton County. Mr. Young stated that two employees handled the Eucha-Spavinaw area.

Mr. Young informed the Commission that a continuing level of budget has been submitted for that program. Mr. Young suggested that Mr. Moran give the information to the governor as soon as possible. Mr. Anderson inquired to the possibility of University of Arkansas agri students being trained and certified to handle the farm plans. Mr. Young said that would be explored.

Mr. Young will request that Benton and Washington Counties assess the workload.

ADJOURN

There being no further business, the meeting was adjourned.



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

September 19, 2012
Date

CONSERVATION DISTRICT BOARD OF DIRECTORS
2012 Certification of Election Results
Adopted: July 18, 2012

The following persons, having received the largest number of votes in the election held in Clay County on June 26, 2012, are certified as Conservation District Directors-Elect with a term of office to begin immediately.

Clay County

- ❖ Gary Howell
- ❖ Fred Brown
- ❖ Mike Morgan