

**Minutes of the
ARKANSAS NATURAL RESOURCES COMMISSION**

December 6, 2011

The regular meeting of the Arkansas Natural Resources Commission was held Tuesday, December 6, 2011, at 8:00 a.m., at the Wyndham Riverfront, Silver City I, 2 Riverfront Place, North Little Rock, Arkansas.

Commissioners in attendance were Chairman Alec Farmer, Vice-Chair Sloan Hampton, Ann Cash, Jerry Mitchell, Mike Carter, Don Richardson, Neal Anderson, Corbet Lamkin, and David Feilke.

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; Edward Swaim, Chief, Water Resources Management; Crystal Phelps, General Counsel; Adrian Baber, Chief, Conservation Division; Mark Bennett, Chief, Water Development Division; Cynthia Bearden, Agency Controller; Bob Fowler, Land Resource Specialist; Dave Fenter, Marketing Manager; Deanna Dorrough, Associate General Counsel; Carla Hill, Administrative Assistant; Clayton Durham; Todd Fugitt, Senior Geologist; Ron Redman; Ken Brazil, Engineer Supervisor; Blake Walters, Land Resource Specialist; and Pat Smith, Executive Assistant.

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

APPROVAL OF MINUTES; SEPTEMBER 21, 2011

Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission approved the minutes of the September 21, 2011, regular meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Proposed 2012 Commission Meeting Schedule - Mr. Young presented the proposed 2012 Commission meeting schedule for the Commission's consideration. Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission approved the 2012 Commission meeting schedule.

STATUS OF FINANCIAL ASSISTANCE PROGRAMS

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

Mrs. Bearden updated the Commission on the financial reviews of the Conservation Districts. This year nine student interns were hired to conduct the reviews. Mrs. Bearden was pleased to report that there were no major findings. There were a few housecleaning issues, but no misuse of funds. The average cost to each district for the financial reviews will only be \$225. The use of interns is of great benefit to districts and students.

LEGAL ISSUES

Authority to Repeal Rules and Procedures for Claiming Tax Credit, Title 9 – Mrs. Phelps requested repealing the Rules and Procedures for Claiming Tax Credit pending legislative review next week. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission approved repealing Title 9, Rules and Procedures for Claiming Tax Credit, through the Arkansas Administrative Procedure Act.

Authority to Adopt Final Draft of the “Premium Biosolids Marketing Incentive Cost Share Program”, Title 9 – Mrs. Phelps requested adoption of the Premium Biosolids Incentives

Cost-Share Program. Mrs. Phelps stated that several comments on the rules were received following the meeting in September. She highlighted some of those changes that are included in this revision. Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission adopted the final draft of the Premium Biosolids Marketing Incentive Cost Share Program, Title 9. This will replace the former Title 9 rules.

FINANCIAL ASSISTANCE

APPLICATIONS FOR FINANCIAL ASSISTANCE

Mr. Bennett introduced Mr. Stephen Lagasse, who replaced Mr. Jerry Virden, with USDA Rural Development.

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

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

GILMORE (Crittenden County) (WSSW) **Up to \$65,920.00**

PURPOSE OF FUNDS: Repairs of sewer treatment plant, including without limitation levee repair, control system and pump upgrades, and installation of baffle curtain.

The Commission approved a deferred loan for Gilmore in an amount up to **\$65,920.00** from the Water, Sewer and Solid Waste Fund. This loan is for twenty-five (25) years with a repayment schedule of twenty (20) years at five percent (5%) interest. Payment upon principal is to be deferred for five (5) years and interest is to be waived for five (5) years. An administrative fee in an amount up to \$1,920.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

GILMORE (Crittenden County) (WSSW) **Up to \$98,880.00**

PURPOSE OF FUNDS: Repairs of sewer treatment plant, including without limitation levee repair, control system and pump upgrades, and installation of baffle curtain.

The Commission approved a grant for Gilmore in an amount up to **\$98,880.00** from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$2,880.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

RECTOR (Clay County) (WSSW) **Up to \$77,250.00**

PURPOSE OF FUNDS: Repairs and upgrades to sewer treatment plant, including without limitation filter improvements.

The Commission approved a loan for Rector in an amount up to **\$77,250.00** from the Water, Sewer and Solid Waste Fund. This loan is for twenty (20) years at five (5%) percent interest. An administrative fee in an amount up to \$2,250.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

WRIGHTSVILLE (Pulaski County) (WSSW) **Up to \$87,550.00**

PURPOSE OF FUNDS: Repairs at sewer plant, including without limitation pond levee upgrade and repairs.

The Commission approved a loan for Wrightsville in an amount up to **\$87,550.00** from the Water, Sewer and Solid Waste Fund. This loan is for twenty (20) years at five (5%) percent interest. An administrative fee in an amount up to \$2,550.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

LONOKE WHITE PUBLIC WATER AUTHORITY (Lonoke & White Counties) (WDF) **Up to \$150,000.00**

PURPOSE OF FUNDS: Costs associated with rights-of-way acquisition for the water line portion of the project previously approved.

The Commission approved a loan for Lonoke White Public Water Authority in an amount up to **\$150,000.00** from the Water Development Fund. This loan is for five (5) years or until permanent financing is in place. No interest will be charged on this loan. No administrative fee will be charged on this loan.

MADISON COUNTY WATER FACILITIES BOARD (WDF) **Up to \$206,000.00**

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

The Commission approved a deferred loan for Madison County Water Facilities Board in an amount up to **\$206,000.00** from the Water Development Fund. This loan is for twenty five (25) years with a repayment schedule of twenty (20) years at five percent (5%) interest. Payment upon principal is to be deferred for five (5) years and interest is to be waived for five (5) years. An administrative fee in an amount up to \$6,000.00 is to be retained by the Commission. Approval is contingent upon the board establishing and maintaining a depreciation reserve fund and upon the deferred loan funds being the last funds used for the project.

MADISON COUNTY WATER FACILITIES BOARD (CGO) **Up to \$1,442,000.00**

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

The Commission approved loan funding for Madison County Water Facilities Board from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$1,442,000.00**.

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.

DORCHEAT WATERWORKS FACILITIES BOARD OF COLUMBIA COUNTY (CGO)
Up to \$515,000.00

PURPOSE OF FUNDS: Water production system replacement and upgrades, including without limitation replacement of two existing water wells and installation of a generator.

The Commission approved loan funding for Dorcheat Waterworks Facilities Board of Columbia County from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$515,000.00**.

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.

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SALEM WATER USERS ASSOCIATION PUBLIC WATER AUTHORITY (Saline County) (CGO)
Up to \$2,832,500.00

PURPOSE OF FUNDS: Various waterline extensions, including without limitation Tyson Road extension, transmission line from water supply improvements, water disinfection improvements and system controls improvements.

The Commission approved loan funding for Salem Water Users Association Public Water Authority from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$2,832,500.00**.

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.

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OLD BELLA VISTA PROPERTY OWNERS ASSOCIATION (Benton County) (DWSRF)
Up to \$600,000.00

PURPOSE OF FUNDS: Water supply connection to Bentonville.

The Commission approved funds for Old Bella Vista Property Owners Association in an amount up to **\$600,000.00** of which the total amount will be in the form of a loan with principal forgiveness for Old Bella Vista Property Owners Association from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. Approval is contingent upon the property owners association establishing and maintaining a depreciation reserve fund.

Mr. Carter questioned Mr. Bennett concerning various projects contributing to and maintaining depreciation reserve funds. Mr. Bennett advised that the vast majority have been maintaining a depreciation reserve fund, but some have not. Mr. Anderson questioned by what authority do officials spend the depreciation reserve fund to construct new lines for new customers, or repair old infrastructure. Mr. Bennett stated that old systems built in the '60s had 50% federal assistance and today those same systems would cost four times more. Mrs. Cash asked if Mr. Bennett had any suggestions to remedy the problem.

Mr. Bennett stated that if the systems could take care of the small expenditures that would be a major step forward. Mr. Farmer stated that there is a difference between repairs versus upgrades and improvements. He added that some of these projects need better management, but some of these projects had 500 customers when funded, but today may be down to 300 customers.

Mr. Young stated that this problem has been around for a number of years and staff has identified it as a significant problem that needs to be addressed by the Commission as the State Water Plan is updated. He asked Mr. Carter to directly engage with staff to work on options to solve this problem.

DEOBLIGATION OF FUNDS BY EXECUTIVE DIRECTOR

The Executive Director reported that he has deobligated funds for the following:

<u>PERRY</u> (Perry County) (CGO-L)	<u>\$257,500.00</u>
<u>GRAVETTE</u> (Benton County) (CWRLF-L)	<u>\$9,000,000.00</u>
<u>CLARENDON</u> (Monroe County) (WSSW-L)	<u>\$103,000.00</u>
<u>SWEET HOME, HIGGINS & RED OAK SEWER FACILITIES BOARD</u> (Pulaski County) (WSSW-G)	<u>\$7,490.41</u>
<u>WEST SALINE WATER USERS ASSOCIATION</u> (Cleveland County) (WSSW-G)	<u>\$139,421.00</u>

CHANGE IN TERMS OF FINANCIAL ASSISTANCE

Upon motion by Mr. Mitchell, second by Mr. Feilke, the Commission approved the following change in terms:

MILLTOWN-WASHBURN PUBLIC WATER AUTHORITY **\$113,300.00**
(Sebastian County) (00877-WDF-D)

On September 21, 2011, the Commission approved a deferred loan (No. 00877-WDF-D) in an amount up to **\$113,300.00** for the Milltown-Washburn Water Association. Subsequent to the approval, the association converted to a public water authority. The Commission will transfer the assistance previously provided to the association to the Milltown-Washburn Public Water Authority. All terms and conditions of the assistance remain unchanged.

**REPORT ON THE SALE OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY
REVOLVING LOAN FUND REVENUE BONDS SERIES 2011C**

Mr. Bennett was pleased to report that the bonds will be used to fund, in whole or in part, Drinking Water and Clean Water loans and to fund underwriter's compensation. The SRF had previously been rated by S & P, and upon the advice of the financial advisor obtained a rating by Fitch. The bids were competitive, with eight bidders participating. J.P. Morgan Securities LLC had the winning bid. The total bonds sold were over \$57 million and the sale raised about \$66 million.

UPDATE ON ARRA PROJECTS – Mr. Bennett reported that the Environmental Protection Agency visited each project and reviews are being received. The only project that has any significant funding remaining is Batesville. The projects for the Clean Water Fund are 98.84% complete, and the projects for the Drinking Water are 100% complete.

STATUS REPORT ON PROJECTS BID SINCE JANUARY 2011

Mr. Bennett reported that it is a good time to be building projects.

CONSERVATION DIVISION

Mr. Baber introduced new employees hired in the Conservation Division; Ms. Tina Clark and Mr. Clayton Durham.

APPOINTMENTS TO CONSERVATION DISTRICT BOARDS

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

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

APPOINTMENTS

<i>Lawrence County CD</i>	<i>Tony Teel</i>
<i>Lafayette County CD</i>	<i>Roger Tinsley</i>
<i>Chicot County CD</i>	<i>Tim Kitchens</i>
	<i>Paul Dunavant</i>
	<i>Grady Keith</i>
<i>Ouachita County CD</i>	<i>Ed Mooneyham</i>

CONSERVATION DISTRICT ACTIVITY REPORT – Mr. Blake Walters introduced Mr. Bill Deaton with the Conway County Conservation District. Mr. Deaton gave an overview of activities conducted by the district.

BREAK/RECONVENE

WATER RESOURCES MANAGEMENT DIVISION

Update on Arkansas State Water Plan – Mr. Swaim gave a brief overview of the process and status of the Arkansas State Water Plan. Staff has been working with the Arkansas Game & Fish Commission (AGFC) to obtain funds to assist in financing the water plan. A Memorandum of Agreement is being drafted between ANRC and AGFC, with conditions that approval be received from the US Fish & Wildlife Service. This approval is necessary because funds from AGFC will be generated from gas leases on land purchased by AGFC with federal grant funds.

The 'Request for Qualifications' (RFQ) for professional services is being drafted. The RFQ will be available to contract for engineering and environmental studies to update basin reports that are about 25 years old. Plans are to integrate that information into a new digitized format. Also, studies will be done to project future resources, future needs, population, and to study the current infrastructure for depreciation, replacement and repair costs.

Work is also being coordinated with the Corps of Engineers (COE) on 'Planning Assistance for States' which is a 50/50 match program. The COE will prepare a proposal for scoping project probably this week.

State Versus Private Wetland and Stream Mitigation Banks – Mr. Swaim introduced Steve Whitehead to discuss private mitigation banks. Mr. Whitehead said he could not compete with ANRC for the sale of wetland and stream mitigation credits because the agency prices are below private banks and because the state does not have to pay taxes. He said that state banks were established as a bridge until private banks could be established. He stated that several banks are now open and that he would like to see a moratorium put in place whereby the state cannot develop new banks or sell future credits. He would also like the issue to be addressed by committee or by the legislature.

Upon motion by Mr. Mitchell, second by Mr. Anderson, the Commission approved forming a committee to study the private vs. state wetland mitigation banks. Chairman Farmer suggested that the new chairman work out the specifics of the committee.

Mr. Young stated that the Commission, under regulation, cannot take any action to end its mitigation program without a public hearing.

Construction and Update on Bayou Meto Irrigation Project – Chairman Farmer recognized Mr. Gene Sullivan. Mr. Sullivan advised that it had been a long time since the Commission had been updated on the progress of the Bayou Meto Irrigation Project. There are three components to the project; aquifer protection, agriculture water supply and flood control, and water fowl management. The total cost of the project will be over \$600 million.

Mr. Tom Fortner gave a presentation on the project's progress. Mr. Sullivan invited the Commissioners to tour the area at any time.

COMMISSION TRAVEL EXPENSE REIMBURSEMENT

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

- (1) National Association of Conservation Districts Annual Meeting, January 28-31, 2012, Las Vegas, Nevada

OTHER BUSINESS

NOMINATING COMMITTEE REPORT; 2012 ELECTION OF OFFICERS – Mrs. Cash, Committee Chair, presented the recommendations of the committee as follows:

Mr. Sloan Hampton, Chairman
Mrs. Ann Cash, Vice-Chair

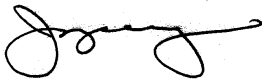
For the record, Mrs. Cash recused herself. Upon motion by Mr. Carter, second by Mr. Richardson, the Commission approved the recommendations of the nominating committee as presented. The term of office for the new officers will begin January 1, 2012 and expires December 31, 2012.

Mr. Farmer advised that his and Mr. Mitchell's appointments expire this year and neither have requested reappointment. He expressed appreciation to Mr. Young and the ANRC staff. He said that his term had been a wonderful experience and thanked everyone. Mr. Mitchell also expressed his appreciation to Mr. Young and staff. He said that he had enjoyed hearing the presentations brought before the Commission. He thanked Governor Huckabee for appointing him to the position and wished the Commission his best as it works through the State Water Plan process.

Mr. Young stated that Mr. Farmer and Mr. Mitchell had distinguished themselves with their service to the Commission and that he appreciated their efforts. Resolutions will be presented recognizing the service of both and each will be invited to return to personally accept at a future Commission meeting.

ADJOURN

There being no further business, the meeting was adjourned.



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

January 18, 2012
Date