

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

**July 15, 2009**

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, July 15, 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-Chair Daniel Bryant, David Feilke, Alec Farmer, Ann Cash, Neal Anderson, Jerry Mitchell, Corbet Lamkin, and Sloan Hampton.

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; Cynthia Bearden, Controller; Earl Smith, Chief, Water Resources Management; Bob Fowler, Land Resource Specialist, Crystal Phelps, Associate General Counsel; Darla Brooks, Financial Programs Manager, Richard Dawson, Engineering Supervisor; Carla Hill, Administrative Assistant; Gina Wilson, Administrative Assistant; Patrick Fisk; Wesley Perry; Ken Brazil, Engineering Supervisor; Dewania Coleman-Jones, Administrative Assistant; Jayne Dooley; Jeff Hall; Jessica Campbell; and Pat Smith, Executive Assistant.

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

A list of guests is attached to the minutes.

## **APPROVAL OF MINUTES; MAY 20, 2009**

Upon motion by Mr. Anderson, second by Mr. Feilke, the Commission approved the minutes of the May 20, 2009, meeting.

## **REPORT OF THE EXECUTIVE DIRECTOR**

Mr. Young introduced Mrs. Carla Hill to the Commissioners. She is the new administrative assistant in the legal division.

## **STATUS OF FINANCIAL ASSISTANCE PROGRAMS**

Mrs. Cynthia Bearden presented the financial assistance report and a report on the Clean Water and Drinking Water Revolving Funds (A copy of the reports are attached to the minutes).

**September Commission Meeting Date Change** – Mr. Young stated that the September 16<sup>th</sup> meeting date of the Commission conflicts with the annual meeting of the National Association of State Conservation Agencies. Mr. Young proposed changing the date to the last Wednesday of the month. Upon motion by Mr. Anderson, second by Mr. Farmer, the Commission approved changing the meeting date to September 30<sup>th</sup>.

## **LEGAL ISSUES**

**Appointment to the Task Force on Water Source Protection** – Mrs. Phelps informed the Commission that the Task Force on Water Source Protection was established by the 2009 Legislature and requires that the Commission appoint one member. The task force is

charged with producing a report by December 31, 2009, that will include recommendations for possible changes to Arkansas law for the preservation of water quality of lakes that are operated by public utilities for drinking water. Upon motion by Dr. Lamkin, second by Mr. Farmer, the Commission appointed Mr. Randy Young to represent the Commission on the task force.

**Consideration to Adopt White River Minimum Streamflow Rules** – Mrs. Phelps stated that the public comments, a summary of the comments, the staff's response to the comments, proposed revisions to the rules, and a revised summary were made available to the Commissioners for their review. Mrs. Phelps highlighted the proposed revisions to the rules for consideration by the Commission. Upon motion by Mrs. Cash, second by Mr. Mitchell, the Commission adopted the White River Minimum Streamflow Rules as presented.

**Revised Arkansas Phosphorus Index** – Mrs. Phelps advised that Titles 20 and 22 in the Nutrient Management rules define the Arkansas phosphorus index and are used in writing nutrient management plans.

Mr. Young stated that an Advisory Panel, consisting of approximately 40 persons from the state, federal and private sector, has spent two years reviewing the index and has reached a consensus for the revised phosphorus index. The proposed index is more restrictive compared to the current Arkansas index, but includes additional best management practices for the landowner which will be more protective of water quality. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission authorized the staff to initiate the rulemaking process for the Nutrient Management Rules.

Dr. Lamkin congratulated Mr. Young in reaching a consensus with the panel.

**USDA Approval of the Illinois River CREP Application** – Mr. Young reported that ANRC submitted an application for a \$30 million conservation program for the Illinois River Watershed. The Walton Family Foundation has approved a \$1 million grant, and \$500,000 has been pledged by poultry integrators, as cost-share toward meeting the match for the program.

**Construction of the Grand Prairie Irrigation Project** – Mr. Young stated that legal hurdles have been cleared to continue the project. The Corps of Engineers previously developed a financing plan for the project that was based on a 7-year construction period. To meet that schedule, it will be necessary to appropriate \$50 million a year up to the completion of construction. The final action by Congress on the Senate mark for the FY10 appropriation was \$10 million which falls short of meeting the 7-year financing plan.

Staff plans to meet with Mr. Dennis Carman to revisit the financing plan and to refigure the cost of selling water to farmers by the district. That work should be completed prior to the next Commission meeting and may require a special Commission meeting to discuss the financing plan. Mr. Young voiced concerns because the state is currently paying debt service on general obligation bonds on loans to the district with deferment on payment of principal and interest until the project is constructed.

#### **APPLICATIONS FOR FINANCIAL ASSISTANCE**

Mrs. Brooks presented staff recommendations for the referenced projects below requesting financial assistance from the Water, Sewer and Solid Waste Fund (WSSW); the Drinking Water State Revolving Fund (DWSRF); and the Clean Water State Revolving Loan Fund.

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

**WHELEN SPRINGS (CLARK COUNTY) (WSSW)**

**Up to \$257,500.00**

PURPOSE OF FUNDS: *To serve approximately 24 customers in the Hart's Chapel and Gator Road area of Clark County.*

The Commission approved a grant in an amount up to **\$257,500.00** for Whelen Springs from the Water, Sewer and 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 Town establishing and maintaining a depreciation reserve fund.

**BEAR CREEK WASTEWATER FACILITIES BOARD OF LEE COUNTY (WSSW)**

**Up to \$25,750.00**

PURPOSE OF FUNDS: *To pay for repairs to sewer pump station and make other repairs to the system.*

The Commission approved a grant in an amount up to **\$25,750.00** from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$750.00 is to be retained by the Commission. Approval is contingent upon the Board establishing and maintaining a depreciation reserve fund. These funds may be paid directly to Arkansas Rural Water Association to repay ARWA for costs associated with the repairs to the pump station.

**HORSESHOE LAKE (CRITTENDEN COUNTY) (WSSW)**

**Up to \$97,850.00**

PURPOSE OF FUNDS: *Replacement of existing pressure tank to improve capacity and reliability of water quality.*

The Commission approved a grant in an amount up to **\$97,850.00** for Horseshoe Lake from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$2,850.00 is to be retained by the Commission. Approval is contingent upon the Town establishing and maintaining a depreciation reserve fund.

**HORSESHOE LAKE (CRITTENDEN COUNTY) (WSSW)**

**Up to \$30,900.00**

PURPOSE OF FUNDS: *Replacement of existing pressure tank to improve capacity and reliability of water quality.*

The Commission approved a loan in an amount up to **\$30,900.00** for Horseshoe Lake from the Water, Sewer & Solid Waste Fund. This loan is for up to thirty (30) years at five percent (5%) interest. An administrative fee in an amount up to \$900.00 is to be retained by the Commission. Approval is contingent upon the Town establishing and maintaining a depreciation reserve fund.

**WILLISVILLE (NEVADA COUNTY) (WSSW)**

**Up to \$149,350.00**

PURPOSE OF FUNDS: *Construction of a replacement water well. The current well will be abandoned in conformance with Arkansas Water Well Construction Commission regulations.*

The Commission approved a grant in an amount up to **\$149,350.00** for Willisville from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$4,350.00 is to be retained by the Commission. Approval is contingent upon the Town establishing and maintaining a depreciation reserve fund and upon the grant funds being the last funds used for the project.

**WILLISVILLE (NEVADA COUNTY) WSSW)**

**Up to \$180,250.00**

PURPOSE OF FUNDS: *Construction of a replacement water well. The current well will be abandoned in conformance with Arkansas Water Well Construction Commission regulations.*

The Commission approved a loan in an amount up to **\$180,250.00** for Willisville from the Water, Sewer & Solid Waste Fund. This loan is for up to thirty (30) years at five percent (5%) interest. An administrative fee in an amount up to \$5,250.00 is to be retained by the Commission. Approval is contingent upon the Town establishing and maintaining a depreciation reserve fund.

**BEEBE (WHITE COUNTY) DWSRF)**

**Up to \$500,000.00**

PURPOSE OF FUNDS: *To make water and wastewater improvements which include water distribution mains and wastewater collection mains.*

The Commission approved loan funds in an amount up to **\$500,000.00** for Beebe 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 Executive Director will set the combined annual borrower rate and loan terms. Approval is contingent upon the availability of the federal capitalization grant and the state match.

**BEEBE (WHITE COUNTY) (CWSRF)**

**Up to \$2,500,000.00**

PURPOSE OF FUNDS: *To make water and wastewater improvements which includes water distribution mains and wastewater collection mains.*

The Commission approved loan funds in an amount up to **\$2,500,000.00** for Beebe from the Arkansas Clean Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed twenty (20) years. The Executive Director will set the combined annual borrower rate and loan terms.

**CONWAY (FAULKNER COUNTY) (CWSRF)**

**Up to \$70,000,000.00**

PURPOSE OF FUNDS: *Construction of the new Tupelo Wastewater Treatment Plant, improvements to the Tucker Creek Wastewater Plant and system improvements, including new Central and Donnell Ridge Road Pump Stations.*

The Commission approved loan funds in an amount up to **\$70,000,000.00** for the City of Conway from the Arkansas Clean Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed twenty (20) years. The Executive Director will set the combined annual borrower rate and loan terms.

**DEOBLIGATION OF FUNDS**

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

- (1) Tri-City Utilities, Inc. (Randolph County) (WSSW) \$77,250.00

**Consideration of the State of Arkansas Water, Waste Disposal & Pollution Abatement Facilities General Obligation Bond Program (Act 631 of 2007) Plan of Work** - Mr. Ryan Bowman with Friday, Eldredge & Clark, acting as bond counsel, presented the Plan of Work. Before bonds can be issued a plan of work must be approved by the Commission before submission to the Governor. The Governor will review the plan of work and by proclamation approve the plan of work before the issuance of the bonds by this Commission. This plan of work sets forth certain criteria, the need for the projects, benefits to be achieved, and lists the projects that have been identified by the Commission staff for funding. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission adopted the State of Arkansas Water, Waste Disposal & Pollution Abatement Facilities General Obligation Bond Program (Act 631 of 2007) Plan of Work.

**Consideration of the General Resolution for the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities Development Programs (Act 631 of 2007)** – Mr. Ryan Bowman with Friday, Eldredge & Clark, acting as bond counsel, presented the general resolution that provides for the issuance of the general obligation bonds. The resolution sets forth provisions that apply to all series of bonds before issuance. This resolution includes the authorization to issue bonds to finance irrigation facilities. Upon motion by Mr. Feilke, second by Dr. Lamkin, the Commission adopted the General Resolution for the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities Development Programs (Act 631 of 2007).

**Consideration of Resolution 2009-05, Authorization of the Issuance of Up to \$40 Million in the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program** – Mr. Ryan Bowman with Friday, Eldredge & Clark, acting as bond counsel, presented Resolution 2009-05 authorizing the sale of the general obligation bonds. Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission adopted Resolution 2009-05 authorizing the issuance of up to \$40 million in the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds.

**UPDATE OF THE AMERICAN RECOVERY AND REINVESTMENT ACT** – Mr. Dawson reported \$50 million has been received from the Environmental Protection Agency regarding the stimulus package, or American Recovery and Reinvestment Act. These funds will be received through the Drinking and Clean Water Revolving Loan Funds. The application process has been completed, projects have been approved, and should be under binding contract by February 17, 2010. The solicitation process will be reopened for the Drinking Water ‘green’ projects.

#### **STATUS REPORT OF PROJECTS BID SINCE JANUARY 2009**

Mr. Dawson submitted an updated status report of bid under runs and overruns.

#### **BREAK/RECONVENE**

#### **CONSERVATION DIVISION**

#### **APPOINTMENTS/REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS**

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

For the record, Mr. Neal Anderson recused himself. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission approved the following reappointments:

**REAPPOINTMENTS**

<i>Logan County CD</i>	<i>James Hawkins</i>
<i>Greene County CD</i>	<i>Wesley Lange, Jr.</i>
<i>Mine Creek CD</i>	<i>Mark Millwood</i>
<i>Lonoke County CD</i>	<i>Neal Anderson</i>
<i>Lonoke County CD</i>	<i>Robert Bevis</i>
<i>Lawrence County CD</i>	<i>Bill Rainwater</i>
<i>Randolph County CD</i>	<i>Al DeClerk</i>
<i>Union County CD</i>	<i>Johnny Loftin</i>
<i>Crawford County CD</i>	<i>Wanda Meadows</i>
<i>Crawford County CD</i>	<i>Gene Robertson</i>

Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission approved the following appointments:

**APPOINTMENTS**

<i>Washington County CD</i>	<i>Richard Shumate</i>
<i>Phillips County CD</i>	<i>Chris Carnathan</i>
<i>Clark County CD</i>	<i>Larry Manning</i>
<i>Clark County CD</i>	<i>Ted Huneycutt, Jr.</i>
<i>Lee County CD</i>	<i>Bill Gerrard, III</i>
<i>Logan County CD</i>	<i>Brent Woolley</i>

**CONSERVATION DISTRICT ACTIVITY REPORT** – Mr. Bob Fowler introduced Mr. Neal Ward and Ms. Tess Calhoun with the Jefferson County Conservation District. Ms. Calhoun highlighted activities of the district that include: conducting twelve education projects with the local schools; sponsoring a fishing derby; and conducting an outdoor classroom at the junior high school in White Hall. Ms. Calhoun also has streamlined the water well registration process using electronic mail.

Mr. Ward thanked the Commission for its support of the conservation district.

**ACTIVITY REPORTS**

Informational activity reports were presented by the following: Andrew Wargo III, President, Arkansas Association of Conservation Districts; Tom Riley, U of A Cooperative Extension Service; and Bob Forest, Natural Resources Conservation Service.

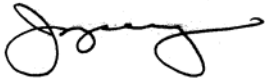
**COMMISSION TRAVEL EXPENSE REIMBURSEMENT**

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

- (1) NACD South Central Regional Meeting, August 12-14, 2009, Baton Rouge, Louisiana
- (2) Water Resources Conservation Legislative Tour of Designated Areas in Southeast Arkansas, September 29, 2009

**ADJOURN**

There being no further business, the meeting was adjourned.



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

October 13, 2009  
Date