

Minutes of the ARKANSAS NATURAL RESOURCES COMMISSION

July 21, 2010

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, July 21, 2010, at 9:30 a.m., at the Arkansas Natural Resources Commission, 101 East Capitol, Little Rock, Arkansas.

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

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; Earl Smith, Chief, Water Resources Management; Cynthia Bearden, Controller; Edward Swaim, General Counsel; Mark Bennett, Chief, Water Resources Development Division; Crystal Phelps, Associate General Counsel; Bob Fowler, Land Resource Specialist; Wesley Perry; Carla Hill; Dave Fenter, Marketing Manager; Darla Brooks, Financial Programs Manager; and Pat Smith, Executive Assistant.

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

A list of guests is attached to the minutes.

APPROVAL OF MINUTES: JUNE 17, 2010

Upon motion by Dr. Lamkin, second by Mr. Richardson, the Commission approved the minutes of the June 17, 2010, meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Reservoir Tax Credit Report - Mr. Young briefed the Commissioners on the Reservoir Tax Credit program. The program began in 1985, but was significantly revised in the mid-90s. The total value of the credits issued since 1996 is just short of \$21 million. Credits claimed are just over \$7 million. Water conservation in the state has been greatly impacted through this incentive program.

Mr. Young expressed his appreciation to Mrs. Wilson for doing a remarkable job administering the program.

STATUS OF FINANCIAL ASSISTANCE PROGRAMS

Mrs. Cynthia Bearden presented the financial assistance report. (Copy of report attached to the minutes). She also distributed a draft of guidelines to be used by the agency for financial reviews of water systems. The water systems will be selected based on various criteria. After a review, a report will be sent to the water system detailing findings and recommendations. She outlined each of the guidelines and invited Commissioners to offer their comments and suggestions.

Mr. Anderson inquired if the Commission needed to develop policies regarding contract terms to insure that water systems have funds set aside for Operation and Maintenance costs. Mrs. Bearden stated that if the water system's books do not reflect funds for O & M, the report would include a recommendation to set aside an average of what the O & M costs had been over a certain period of time. Mr. Swaim stated that the agency can include whatever terms are

reasonable in the agreement to protect the agency's investment. He stated that in the short term the agreements can be changed, and in the long term, the Commission may want to propose changes to Title 5.

Mrs. Bearden stated that systems not repaying their loans will be the first reviewed. The second would be systems not meeting the requirement of submitting an audit, and those systems that repeatedly request additional funding.

Mrs. Bearden noted that she and Mrs. Phelps are on the agenda for the upcoming Arkansas Rural Water Conference in September. At that time, she will give training to the attendees and alert them of plans to conduct financial reviews. After all the reviews are completed, she will bring her findings to the Commission in December.

Dr. Lamkin asked if the current agreement gives any authority to ANRC if systems fail to comply. Mr. Swaim advised that the law provides for those audits and Agreed Upon Procedures to be sent to the Legislative Audit. There is a dual requirement and violation of the legal requirement with Legislative Audit that can lead to sanctions, specifically, systems losing eligibility for financial assistance from the state.

Mr. Farmer stated that projects can get into difficulty for reasons of losing customers or poor management. He suggested identifying those project areas that are losing population.

Mrs. Bearden stated that the review will examine if the system's expenses exceed revenue and an analytical review will be done as to why the revenue is decreasing. This process should allow the Commission to make a more informed decision.

FINANCIAL ASSISTANCE

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); the Water Development Fund, (WDF); the Clean Water State Revolving Loan Fund (CWRLF); and the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (AWWDPAFGOBP).

Upon motion by Mr. Anderson, second by Mr. Farmer, the Commission approved the following recommendations, including the Change in Terms:

WESTWOOD VILLAGE SEWER FACILITIES BOARD (Garland County) **(WSSW)**

Up to \$51,500.00

PURPOSE OF FUNDS: *Rehabilitation of the sewer collection and treatment system, including without limitation to replacement of the media in the treatment plant filters.*

The Commission approved a grant for Westwood Village Sewer Facilities Board in an amount up to **\$51,500.00** from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$1,500.00 is to be retained by the Commission. Approval is contingent upon the Board establishing and maintaining a depreciation reserve fund.

LAFE (Greene County) WSSW)

Up to \$10,300.00

PURPOSE OF FUNDS: *To repair and improve the piping and electrical systems at the town's sewer treatment plant.*

The Commission approved a loan for Lafe in an amount up to **\$10,300.00** from the Water, Sewer and Solid Waste Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$300.00 is to be retained by the Commission. Approval is contingent upon the Town establishing and maintaining a depreciation reserve fund.

**HACT REGIONAL WASTEWATER DISTRICT (Lonoke County)
(WSSW)**

Up to \$10,300.00

PURPOSE OF FUNDS: *To make repairs to the sewer collection and treatment system, including, without limitation, pump station repairs and pump replacement.*

The Commission approved a grant for HACT Regional Wastewater District in an amount up to **\$10,300.00** from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$300.00 is to be retained by the Commission. The funds provided may be disbursed to Arkansas Rural Water Association to cover costs incurred by Rural Water for repairs to the system. Approval is contingent upon the District and member cities adopting the rates provided in the recent rate study.

**LITTLE RED RIVER REGIONAL IRRIGATION WATER DISTRICT (White County)
(WDF)**

Up to \$41,200.00

PURPOSE OF FUNDS: *To assist with expenses associated with the development of a water conservation plan for the district to submit to USDA Natural Resources Conservation Service. The district will seek funding for the plan under the USDA's Agriculture Water Enhancement Program.*

The Commission approved a grant for Little Red River Regional Irrigation Water District in an amount up to **\$41,200.00** from the Water Development Fund. An administrative fee in an amount up to \$1,200.00 is to be retained by the Commission. Approval is contingent upon the District coordinating the development of the plan with the Commission to insure that the plan is compliance with the Arkansas Water Plan.

**SOUTHWEST BOONE COUNTY WATER ASSOCIATION (Boone County)
(WDF)**

Up to \$20,600.00

PURPOSE OF FUNDS: *To pay a portion of the costs associated with the repair and replacement of water line damaged by landslide.*

The Commission approved a grant for Southwest Boone County Water Association in an amount up to **\$20,600.00** from the Water Development Fund. An administrative fee in an amount up to \$600.00 is to be retained by the Commission. Approval is contingent upon the Association establishing and maintaining a depreciation reserve fund.

**LARKIN CREEK IMPROVEMENT DISTRICT (St. Francis County)
(CWRLF)**

Up to \$500,000.00

PURPOSE OF FUNDS: *To pay a portion of the costs associated with the restoration of aquatic functions in the Lateral 1A drain of Larkin Creek by reducing sediment run-off and improving water quality. Other funds will be provided by a Section 319 grant.*

The Commission approved loan funds for Larkin Creek Improvement District in an amount up to **\$500,000.00** for the Larkin Creek Improvement District 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.

WEST PULASKI COUNTY PUBLIC WATER AUTHORITY (Pulaski County)
(AWWDPAFGOBP) Up to \$2,060,000.00

PURPOSE OF FUNDS: To develop and install a public water system in Dixie/Colvert and Studer Road areas of western Pulaski County. The system will be owned by the Authority. The water will be supplied and the system operated by Central Arkansas Water.

The Commission approved loan funding for the West Pulaski County Public Water Authority from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$2,060,000.00**.

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 negotiated 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.

OZARK MOUNTAIN REGIONAL PUBLIC WATER AUTHORITY
(Boone, Searcy and Newton Counties) (AWWDPAFGOBP) Up to \$5,922,500.00

PURPOSE OF FUNDS: To pay a portion of the costs associated with the development of the water treatment plant and water transmission line, including without limitation, necessary construction, engineering, rights-of-way and legal costs.

The Commission approved grant funding for Ozark Mountain regional Public Water Authority from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$5,922,500.00**. An administrative fee of three percent (3%) will be collected by the Commission.

CHANGE IN TERMS OF FINANCIAL ASSISTANCE:

EASTLAKE WATERWORKS FACILITIES BOARD (Crawford County)

DL-27-27-WDF	\$182,000.00
00050-WSSW-D	\$30,900.00

In 1999 and 2000, the Commission approved funding to the Eastlake Waterworks Facilities Board for the construction of a 20,000 gallon water storage tank, approximately 3.4 miles of distribution line and a pump station to provide public water service to 29 customers of the East Lake Water Users Association. At that time the Commission believed that the area had the potential for growth and approved the two above referenced deferred loans as a part of the funding. These loans have or will in the near future reach the end of the deferral period.

In 2002, the city of Fort Smith obtain by condemnation development rights in the area that will limit the construction of any new buildings on the property in the Eastlake service area. This will limit the addition of new customers to the system. Today, the system continues to have 29 customers.

The water rates necessary to repay the deferred loans will create a hardship on Eastlake's water customers. Therefore, DL-27-27-WDF and 00050-WSSW-D shall be converted to a grant and no repayment shall be required. Any accrued interest shall be waived. The terms of Bond-95B-15 will remain unchanged.

NORMAN (Montgomery County)

00764-WSSW-G	\$231,750.00
00765-WSSW-D	\$77,250.00

On September 30, 2009, the Commission approved the above referenced assistance to the town of Norman for the extension water service along Smokey Hollow Road and painting the town's water storage tank.

On or about June 11, 2010, a flash flood occurred in the Norman area resulting in the town's main water supply line being unearthed as it crosses Collier Creek. The town's engineer has recommended that the water line be relocated to a nearby bridge to cross Collier Creek. Also, the Arkansas Department of Health has requested that modifications be made to the town's water tank in addition to the painting. In addition to the purposes for which these funds were originally approved, the funds may be used to make the improvements indicated above.

REPORT ON AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) – Mr. Bennett distributed the funding chart that represented the final utilization of funds provided by the Act.

Mr. Bennett indicated that as of June 30, 2010, the Commission had utilized 49.6% of the approximately \$25.6 million of the Clean Water ARRA funds and 56.7% of the approximately \$24.5 million of the Drinking Water ARRA funds (Attachment "B").

UPDATE ON MARBLE FALLS

Mr. Bennett stated that the Commission had committed \$10,000 toward an emergency pump. Arkansas Rural Water was contacted and installed the pump. Arkansas Dept. of

Environmental Quality contacted the Attorney General's office imposing an injunction to stop selling water. ADEQ plans to undertake a dye test next week. If there is no indication that the sewer system is contributing to the problems in the river then the project cost should be significantly less than \$900,000 needed to build a new system for the entire area. Tests for fecal coliform have been done showing relatively low numbers. Presently, staff is working with USDA to provide additional funding.

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.

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

REAPPOINTMENTS

<i>Baxter County CD</i>	<i>Jim Turbo</i>
<i>Phillips County CD</i>	<i>Ernest Larry</i>
<i>Prairie County</i>	<i>Tim Devore</i>
<i>Columbia County CD</i>	<i>Dr. Mark Bryan</i>
<i>Columbia County CD</i>	<i>Steve Whitehead</i>
<i>Lincoln County CD</i>	<i>Bob Crain</i>
<i>Montgomery County CD</i>	<i>David McCarter</i>
	<i>Ed Givens</i>

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

APPOINTMENTS

<i>Poteau River CD</i>	<i>Marilyn Huddleston</i>
<i>Columbia County CD</i>	<i>Bart Emerson</i>

CONSERVATION DISTRICT ACTIVITY REPORT – Mr. Bob Fowler introduced Mrs. Mary Holland, District Manager and Water Quality Technician, with the Rich Mountain Conservation District. Mrs. Holland gave a report on activities conducted by the district. A Spring Farm Planning Day was held that brought producers and farm specialists together to get questions answered.

ACTIVITY REPORTS

Informational activity reports were presented by the following: Debbie Moreland, Arkansas Association of Conservation Districts, Tom Riley, Policy Director, U of A Division of Agriculture; and Bob Hotchkiss, Natural Resources Conservation Service.

Of special interest, Ms. Moreland stated that Ms. Alice Weeks ranked second in the nation for the MRBI proposal. A new program for migratory birds is available with funding of \$3.3 million. One portion of the program would provide funds for flooding farmland, and applications in the amount of \$10 million have already been submitted to Natural Resources Conservation Service.

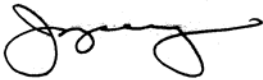
COMMISSION TRAVEL EXPENSE REIMBURSEMENT

Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission approved reimbursable expenses for the Chairman or his designated representative to attend the following:

1. NACD South Central Regional Meeting, August 16-18, 2010, Lubbock, Texas

ADJOURN

There being no further business, the meeting was adjourned.



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

September 15, 2010
Date