

# Minutes of the ARKANSAS NATURAL RESOURCES COMMISSION

May 18, 2011

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, May 18, 2011, at 9:30 a.m., at the Arkansas Natural Resources Commission, 101 East Capitol, Little Rock, Arkansas.

Commissioners in attendance were Chairman Alec Farmer; Ann Cash; Corbet Lamkin; Neal Anderson; Don Richardson, and Mike Carter.

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; Jessica Wallace, Fiscal Manager; Mike Chandler; Gina Wilson; Ken Housh, Land Resource Specialist; Wesley Perry; Darla Brooks, Financial Programs Manager; Bob Fowler, Land Resource Specialist; Dave Fenter, Marketing Manager; and Pat Smith, Executive Assistant.

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

## **APPROVAL OF MINUTES; APRIL 21, 2011**

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

## **REPORT OF THE EXECUTIVE DIRECTOR**

**Employee Recognition** – Mr. Young presented a twenty-year service certificate to Mike Chandler for his service to the State of Arkansas. He also recognized employees who could not be present; Mike Borengasser for thirty-years, Sue Filat-Alami for ten years of service with ANRC; and Cathey Mueller for ten years of service with the Arkansas Red River Commission.

Mr. Young introduced Ms. Jessica Wallace, the new Fiscal Manager, who replaced Garry Kuykendall. Ms. Wallace has worked with the Department of Finance & Administration as a budget analyst.

**Report on the Red River Compact Commission Meeting** - Mr. Young attended the Red River Compact Commission meeting held in Oklahoma City, Oklahoma. Mr. Young stated that one of the significant accomplishments of the meeting was adoption of the Rules that institute monitoring and data collection programs in northern Louisiana and southern Arkansas to determine equitable share of water.

Louisiana legislators introduced a Resolution in their session encouraging the Governor of Arkansas, the Compact Commission, and the Natural Resources Commission to take action to ensure equitable share of water for Louisiana. Arkansas currently is in compliance with the Compact.

**Arkansas Conservation Partnership's Strategic Retreat** – Mr. Young announced that he and Mr. Baber have been working with the Arkansas Association of Conservation Districts and the Natural Resources Conservation Service to host a Conservation Partnership's Strategic Retreat on July 27-28 to address the long-term vision for conservation needs in Arkansas. He invited all of the Commissioners to participate.

## **STATUS OF FINANCIAL ASSISTANCE PROGRAMS**

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

### **LEGAL ISSUES**

**Request Authority to Amend Rules Implementing the Water Resources Conservation and Development Incentive Act, Title 14** – Mrs. Phelps requested authority to initiate the rulemaking process to amend the Water Resources Conservation and Development Incentive Act rules. During the 2011 legislative session an act was passed that revised the Water Resources Conservation and Development Incentive Act. Those revisions occurred due to a lawsuit by landowners claiming that **each** member of a partnership was entitled to the total amount of credit available to the partnership for construction of a water reservoir. The judge ruled in favor of the plaintiffs and the plaintiffs received twice as much credit as the Commission intended. In order to prevent misinterpretation of the law and premature depletion of the tax credit program, certain definitions have been clarified. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission approved initiating the rulemaking process to amend the Water Resources Conservation and Development Incentive Act rules.

**Request for a Declaratory Order on Wye Mountain Construction Bid** – Mrs. Phelps stated that the Wye Mountain Public Facilities Board solicited bids for construction of improvements to its delivery system. After awarding the contract to the low bidder, another bidder protested the award. The parties involved in the lawsuit requested a declaratory order from the Commission to determine whether the Commission had authority to resolve the parties' dispute and protest. The Commission sent a response to the Petitioner advising that the request does not concern the applicability of a statute, rules, or order over which the Commission has authority.

### **FINANCIAL ASSISTANCE**

**Presentation of the 2010 Drinking Water State Revolving Fund Award for Sustainable Public Health Protection – City of Glenwood** – Mr. Bennett stated that EPA instituted a biennial award program whereby entities can nominate participates in the Clean Water and Drinking Water Programs. ANRC made nominations for both the Clean Water and Drinking Water projects for consideration for the award in 2010. EPA chose the City of Glenwood for recognition under the Drinking Water Program. Mr. Mark Voan, City Councilman, was present to receive the award.

The City of Glenwood was chosen because of construction of transmission lines to the City of Norman thereby increasing regionalization. The City of Glenwood also participated in the American Recovery and Reinvestment Act program based on its submission of a 'green' project. Under that project, the city can instantaneously determine the location of water leaks through a telemetering system potentially saving large amounts of water.

Mr. Voan thanked the Commission for making the water projects possible. He stated that the 'green' project not only conserves water, but fuel, and manpower, saving the city thousands of dollars.

**Report on Sale of Arkansas Development Finance Authority Revolving Loan Fund Revenue Bonds – Series 2011A and 2011B** - Mr. Bennett reported that the Commission and the Arkansas Development Finance Authority had conducted the sale of Series 2011A and 2011B Bonds. The sale met with the Commission's goal to (1) reduce debt service costs, (2) refund all bonds outstanding under the prior General Resolution, and (3) minimize the impact of the refunding on loan portfolio cash flows so that the maximum amount of additional bonds could be issued to provide funds for construction of additional water and waste water facilities. The Series 2011A bonds in the approximate amount of \$11,825,000 will be issued with a final maturity in 2015 and yields of .80 to 1.43% . The federally taxable Series 2011B in the

approximate amount of \$19,400,000 will be issued with a final maturity in 2013 and yields of 0.75 to 1.20%. Mr. Bennett indicated that the issues would close on May 26, 2011.

Mr. Bennett expressed his appreciation to Arkansas Development Finance Authority and its staff and the Commission and staff for putting together the refinancing in a very short time period. First Southwest represented the Authority and Commission as financial advisor and the Rose Law Firm served as bond counsel. Morgan Keegan was the bond underwriter.

**Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (Act 631 of 2007) Plan of Work for Fiscal Years Ending June 30, 2012 and June 30, 2013** - Mr. Bennett presented the Plan of Work for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program. The Plan of Work requests authority to issue \$60 million in state general obligation bonds including approximately \$11 million in bond proceeds for state match in the Drinking Water Program and \$6.2 million in the Clean Water Program. Because the availability of funds under the Clean Water, Drinking Water and United States Department of Agriculture financial assistance programs are being reduced, it is anticipated that the bond program will play a larger role in funding Arkansas water and sewer projects. Also, there has been a renewed interest in flood and drainage control projects that could be funded through this program. Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission adopted the Plan of Work for fiscal years June 30, 2012 and June 30, 2013 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 Mr. Carter, second by Mrs. Cash, the Commission approved the following recommendations:

#### **EL DORADO RURAL PUBLIC WATER AUTHORITY (Union County) (WSSW) Up to \$309,000.00**

**PURPOSE OF FUNDS:** *To provide funds for completion of a pressure sewer system for areas just outside El Dorado city limits.*

The Commission approved a deferred loan for El Dorado Rural Public Water Authority in an amount up to **\$309,000.00** from the Water, Sewer and Solid Waste Fund. This deferred loan is for thirty (30) years with a repayment schedule of twenty (20) years at five per cent (5%) interest. Payment upon principal is to be deferred for ten (10) years and interest is to be waived for ten (10) years. An administrative fee in an amount up to \$9,000.00 is to be retained by the Commission. Approval is contingent upon the Executive Director determining that no other funds for the project are available and the Authority establishing and maintaining a depreciation reserve fund. The ANRC deferred loan will be used after the application of grant money received from Rural Development, Delta Regional Authority, or other sources is exhausted.

#### **MARBLE FALLS WATER, SEWER AND SOLID WASTE DISPOSAL SID NO. 1. PHASE II (Newton County) (WSSW) Up to \$123,600.00**

**PURPOSE OF FUNDS:** *To make wastewater plant repairs and upgrades and to pay other expenses associated with compliance with Phase II of the Consent Judgment entered into by the District.*

The Commission approved a grant for Marble Falls Water, Sewer and Solid Waste Disposal SID No. 1 Phase II in an amount up to **\$123,600.00** from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$3,600.00 will be retained by the Commission. Approval is contingent upon the District establishing and maintaining a depreciation reserve fund and upon the ANRC grant funds being the last funds used for the project.

**MARBLE FALLS WATER, SEWER AND SOLID WASTE DISPOSAL SID NO. 1. PHASE II (Newton County) (WSSW)**

**Up to \$51,500.00**

PURPOSE OF FUNDS: *To make wastewater plant repairs and upgrades and to pay other expenses associated with compliance with Phase II of the Consent Judgment entered into by the District.*

The Commission approved a loan for Marble Falls Water, Sewer and Solid Waste Disposal SID No. 1 Phase II 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 will be retained by the Commission. This loan is for twenty (20) years at five percent (5%) interest. Approval is contingent upon the District establishing and maintaining a depreciation reserve fund.

The Commission requested a letter to accompany approval expressing concerns of the viability of the entity and frequency of funding requests.

**MILLER COUNTY PUBLIC WATER AUTHORITY (Miller County) (WSSW)**

**\$103,000.00**

PURPOSE OF FUNDS: *For costs associated with design and right-of-way acquisition for a new water system to serve over 300 customers southeast of Texarkana.*

The Commission approved a deferred loan for Miller County Public Water Authority in an amount up to **\$103,000.00** from the Water, Sewer and Solid Waste Fund. This deferred loan is for a maximum of three (3) years and shall be repaid with the proceeds of the permanent financing at the time of permanent financing loan closing. No interest will be charged. An administrative fee in an amount up to \$3,000.00 is to be retained by the Commission. Approval is contingent upon the Authority establishing and maintaining a depreciation reserve fund.

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

**Up to \$87,550.00**

PURPOSE OF FUNDS: *Emergency funds for expenses associated with repair/replacement of the existing well motor/pump and electrical system.*

The Commission approved a grant for Nail-Swain Water Association an amount up to **\$87,550.00** from the Water, Sewer and Solid Waste Fund. An administrative fee in an amount up to \$2,550.00 will be retained by the Commission. Approval is contingent upon the Association establishing and maintaining a depreciation reserve fund.

**DEOBLIGATION OF FUNDS BY EXECUTIVE DIRECTOR:**

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

(1) Town of Bigelow (Perry County) (WSSW - L)	\$7,050.00
(2) Town of Deer (Newton County) (WSSW - L)	\$9,592.00
(3) City of Lamar (Johnson County) (WSSW - G)	\$12,215.00
(4) Town of Sunset (Crittenden County) (WSSW - G)	\$2,663.50
(5) City of Swifton, (Jackson County) (WSSW - G)	\$6,919.00
(6) Mt. Sherman Water Association (Newton County) (WSSW - L)	\$41,200.00
(7) Nashville Rural Water Association (Howard County)	
a. (WSSW - D/L)	\$66,950.00
b. (WSSW - G)	\$66,950.00
(8) City of Newport (Jackson County) (CWRLF - L)	\$885,000.00

**CONSERVATION DIVISION**

**APPOINTMENTS/REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS**

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

Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission approved the following reappointments:

**REAPPOINTMENTS**

<i>Mine Creek CD</i>	<i>Joe Martin</i>
<i>Hempstead County CD</i>	<i>Bobby Webb</i>
<i>Calhoun County CD</i>	<i>Frank Stevenson, Jr.</i>
<i>Lawrence County CD</i>	<i>Ray Mosley, Jr.</i>
<i>Franklin County CD</i>	<i>Paul Whittington</i>
<i>Carroll County CD</i>	<i>Larry Harp</i>
<i>Crittenden County CD</i>	<i>Marshall Levy</i>
<i>Izard County CD</i>	<i>Lawrence Arnold</i>

Upon motion by Mrs. Cash, second by Mr. Anderson, the Commission approved the following appointment:

**APPOINTMENT**

<i>Fulton County CD</i>	<i>Luis Covas</i>
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**CERTIFICATION OF 2011 ELECTION RESULTS – CONSERVATION DISTRICT BOARD**

Mr. Baber presented for certification by the Commission, results of the Conservation District Board of Directors election held March 22, 2011, for Lawrence County. Mr. Baber pointed out that election results had not been received by the March 16<sup>th</sup> Commission meeting and could not be certified.

Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission certified the results as presented by the staff (a copy is attached to minutes).

**DISTRICT FUNDING RECOMMENDATIONS**

Mr. Baber presented FY 2012 Grants to Districts Funding recommendations for the Commission's consideration. Upon motion by Mrs. Cash, second Mr. Anderson, the Commission approved staff recommendations as presented for 2012 Grants to Districts Funding (a copy of each is attached to Minutes).

**WATER QUALITY TECHNICIANS**

Mr. Baber presented FY 2012 Water Quality Technician Funding recommendation for FY 2012. Upon motion by Mrs. Cash, second by Mr. Richardson, the Commission approved staff recommendations as presented for Water Quality Technician funding for FY 2012 (a copy of each is attached to Minutes).

**CONSERVATION DISTRICT ACTIVITY REPORT** – Mr. Bob Fowler introduced Mr. Thomas Frazer, with the L'Aigle Creek Conservation District. Mr. Thomas stated that the district had been

proactive in Bradley County to initiate an engineering study for a surface water impoundment to alleviate water usage from the Sparta aquifer.

### **WATER RESOURCES MANAGEMENT DIVISION**

Mr. Swaim stated that public education would be vital in initiating the Arkansas Water Plan Comprehensive Update. He outlined several major steps necessary to the process. He recommended using \$2,880,000 from the Water Development Fund to begin the update. Upon motion by Mr. Anderson, second by Mrs. Cash, the Commission approved funding for the Arkansas Water Plan Comprehensive Update from the Water Development Fund in the amount of \$2,880,000.

### **BREAK/RECONVENE**

**WATER PLAN STEERING COMMITTEE** – Mr. Young asked if commissioners would be interested in serving on the Water Plan Steering Committee which would meet periodically throughout the planning process. After discussion, it was agreed that all of the commissioners would serve on the committee.

### **ACTIVITY REPORTS**

Informational activity reports were presented by the following: Steve Jacks, USDA, Natural Resources Conservation Service and Dave Freiwald, United States Geological Survey.

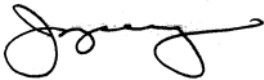
### **COMMISSION TRAVEL EXPENSE REIMBURSEMENT**

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

- (1) Conservation Partnership Strategic Retreat, Mount Magazine Lodge, July 27-28, 2011
- (2) Conservation District Delivery System Committee Meeting, Little Rock, Arkansas, May 18, 2011

### **ADJOURN**

There being no further business, the meeting was adjourned.



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

July 20, 2011  
Date

## CONSERVATION DISTRICTS BOARD OF DIRECTORS

### 2011 Certification of Election Results

Adopted: May 18, 2011

The following persons, having received the largest number of votes in the election held in their respective districts on March 22, 2011, are certified as Conservation District Directors-Elect with a term of office to begin on April 1.

#### LAWRENCE COUNTY:

- ❖ Larry Jones
- ❖ Tony Teel
- ❖ David Foley