

**Minutes of the
ARKANSAS NATURAL RESOURCES COMMISSION**

May 15, 2013

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, May 15, 2013, at 9:30 a.m., at the office of the Arkansas Natural Resources Commission, 101 East Capitol, Suite 350, Little Rock, Arkansas.

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

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; Edward Swaim, Chief, Water Resources Management Division; Crystal Phelps, General Counsel; Adrian Baber, Chief, Conservation Division; Mark Bennett, Chief, Water Development Division; Gina Wilson; Darla Brooks, Financial Programs Manager; Dave Fenter, Marketing Manager; Deanna Ray, Associate General Counsel; Nancy Gambill, Engineer Supervisor; Tony Ramick, Supervisor; Blake Walters, Land Resource Specialist; Clay Durham, Land Resource Specialist; Bob Fowler, Land Resource Specialist; Todd Fugitt, Supervisor; Carla Hill, Administrative Assistant; and Pat Smith, Executive Assistant.

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

APPROVAL OF MINUTES; MARCH 27, 2013

Upon motion by Dr. Lamkin, second by Mr. Fowlkes, the Commission approved the minutes of the March 27, 2013, regular meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Report of the Red River Compact Commission's (RRCC) Annual Meeting – In the absence of Mr. Young, Edward Swaim presented an overview of the meeting held with Louisiana officials in advance of the regular RRCC meeting. Louisiana was invited to join ANRC and the Corps in getting the Southeast Arkansas Feasibility Study completed so that the project can be authorized and constructed. Louisiana officials were receptive to becoming a non-federal sponsor contributing funds to the study which proposes augmenting flows from the Arkansas River into the interstate streams flowing from Arkansas into Louisiana to provide surface water for agricultural irrigation purposes.

Report on the Red River Navigation Feasibility Study – Mrs. Phelps stated that in the final days of the Legislative Session, the Red River Trust Fund, that contained approximately \$10.5 million, was removed and reappropriated. This fund paid salary for personnel of the Red River Commission, as well as office and travel expenses, etc. As of July 1, the Red River Commission will have to close if operating funds are not found. Mr. Young has been in contact with Governor Beebe on how to keep the Commission viable.

Mr. Swaim added that in the past, area legislators had put their general improvement monies into that fund, but decided to remove and reappropriate toward two, two-year colleges in the area.

Report on the Ashley County Facilities Board Project in West Crossett - Mr. Bennett advised that he and Chairman Cash met with representatives of the Ashley County Facilities Board yesterday and toured the project. Staff suggested increasing rates to repay the loan, but the representatives indicated that that was not an option. Mr. Bennett recommended continuing negotiations with officials at present rather than the project going into receivership.

Mrs. Cash interjected that the initial customer base of 400, projected by the engineer, was incorrect and has contributed to the Board's financial problems. Mr. Bennett added that the project originated with the Arkansas Economic Development Commission and that agency had provided the major portion of funding. Mr. Bennett advised that septic tanks were not feasible, or any other type of treatment system. Most of the customers live in mobile homes or vintage homes priced in the \$60-70 thousand range.

STATUS OF FINANCIAL ASSISTANCE PROGRAMS

In the absence of Mrs. Cynthia Bearden, Mr. Jon Sweeney presented the financial assistance report. (Copy of report attached to the minutes).

LEGAL ISSUES

Update on Cabot Appeal of May 16, 2012 – Mrs. Phelps stated that Cabot appealed the Commission’s decision from last May to the Lonoke Circuit Court. All briefs have been filed and Cabot trusts the judge to set oral arguments.

Final Legislative Update – Mrs. Phelps advised that the Commission received legislative reports from the legal department every Friday during the session. She highlighted Acts, laws, or bills that were the most relevant to the Commission.

Report on Eoff Dam, Van Buren County - Mrs. Deanna Ray reported that the Eoff dam was built illegally. A letter was issued to Mr. Eoff requesting his signature on our guidelines in removal of the dam in compliance with ANRC’s rules. Mr. Eoff has chosen not to sign the letter and has not complied with other stated requirements. Mr. Eoff has hired an engineering firm to begin dewatering the dam.

A hearing will be held as part of the July Commission meeting which will be located in Van Buren County. The Commission will be asked to formally order Mr. Eoff to remove the dam according to a predescribed timeline and in a manner set forth by the Commission.

Nancy Gambill, Engineer Supervisor, with ANRC is working with the engineering firm to institute a reasonable timeline for removal of the dam.

Commissioner Lamkin asked if there was any risk to human life. Mrs. Ray stated that there was not. Dam failure will jeopardize the Clinton water system by overloading it with sediment.

Commissioner Richardson commented that the Clinton water system is currently being upgraded because it is experiencing a heavy sediment load.

SELECTION OF FINANCIAL ADVISOR AND BOND COUNSEL

Mr. Bennett stated that following the formal procurement procedure required by the state statute, staff has selected Raymond James as the financial advisor and Friday, Eldredge & Clark as bond counsel. A contract has been submitted to DF&A for review and approval. The Legislative Review should be completed by July 1st.

FINANCIAL ASSISTANCE

Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (Act 607 of 1997) Plan of Work for Fiscal Years Ending June 30, 2014 and June 30, 2015 - Mr. Bennett presented the Plan of Work for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program. The Act allows the Commission, upon authorization by the Governor, to issue Bonds up to \$60 million in any fiscal biennium. The plan requests the authority to issue up to \$60 million in one or more series of bonds.

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, 2014 and June 30, 2015 – Mr. Bennett presented the Plan of Work for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program. The plan requests the authority to issue up to the statutory limit of \$60 million during the fiscal biennium in one or more series of bonds.

Commissioner Anderson recused himself from the vote. Upon motion by Dr. Lamkin, second by Mr. Richardson, the Commission approved and authorized the submission of the two Plans of Work for Act 607 of 1997 and Act 631 of 2007 to the Governor for his consideration.

APPLICATIONS FOR FINANCIAL ASSISTANCE

Mr. Bennett presented staff recommendations for the referenced projects below requesting financial assistance from the Water, Sewer & Solid Waste Fund (WSSW), and the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (CGO).

Upon motion by Mr. Hunton, second by Mr. Fowlkes, the Commission approved the following recommendations:

CITY OF FISHER WASTEWATER SYSTEM

Mr. Bennett stated that he had met with mayors of Fisher and Hickory Ridge and other parties to discuss the proposed project to allow the transfer of the Fisher collection system to Hickory Ridge for operation and maintenance and the transport of the Fisher sewage to Hickory Ridge for treatment and discharge. The cities have provided the Commission staff with a draft agreement for the transfer to Hickory Ridge.

CARTHAGE (DALLAS COUNTY) (WSSW)

Up to \$20,600.00

PURPOSE OF FUNDS: Emergency repairs to the sewer collection system, including without limitation, a sewer line collapse.

The Commission approved a grant for Carthage in an amount up to **\$20,600.00** from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$600.00 is to be retained by the Commission. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund.

CAVE SPRINGS (BENTON COUNTY) (WSSW)

Up to \$154,500.00

PURPOSE OF FUNDS: To provide sewer service to approximately 70 additional sewer customers in the older areas of downtown.

The Commission approved a loan for Cave Springs in an amount up to **\$154,500.00** from the Water, Sewer & Solid Waste Fund. This loan is for twenty (20) years at three percent (3%) interest. An administrative fee in an amount up to \$4,500.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund. These funds will be supplemented with approximately \$1,100,000.00 in ACEDP grant funds.

DORCHEAT WATER ASSOCIATION (COLUMBIA COUNTY) (WSSW)

Up to \$618,000.00

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 a loan for Dorcheat Water Association in an amount up to **\$618,000.00** from the Water, Sewer & Solid Waste Fund. This loan is for ten (10) years at two and one-half percent (2.5%) interest. An administrative fee in an amount up to \$18,000.00 is to be retained by the Commission. Approval is contingent upon the association establishing and maintaining a depreciation reserve fund. Further, the funds may be used to refinance loan Bond 98A10 to resolve technical issues.

MARION (CRITTENDEN COUNTY) (WSSW)

Up to \$36,050.00

PURPOSE OF FUNDS: To cover additional work and closeout cost of Project No. WRD-003-738, Loan No. 00814-WSSW-D serving sewer collection to the James Mill area of Marion.

The Commission approved a loan for Marion in an amount up to **\$36,050.00** from the Water, Sewer & Solid Waste Fund. This loan is for ten (10) years at two and one-half percent (2.5%) interest. An administrative fee in an amount up to \$1,050.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

MARION (CRITTENDEN COUNTY) (CGO)

Up to \$9,270,000.00

PURPOSE OF FUNDS: To relocate wastewater plant discharge from current location in the west of Marion to east Marion so that discharge will be discharged into the Mississippi River reducing treatment costs and other wastewater system upgrades.

The Commission approved loan funding for Marion from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$9,270,000.00**.

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.

STARLIGHT ESTATES WATER ASSOCIATION (BAXTER COUNTY) (WSSW)

Up to \$15,450.00

PURPOSE OF FUNDS: To make tank repairs and upgrades, and other system improvements.

The Commission approved a grant for Starlight Estates Water Association in an amount up to **\$15,450.00** from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$450.00 is to be retained by the Commission. These funds will be used to match locally provided funds on a 1:1 ratio. Approval is contingent upon the association establishing and maintaining a depreciation reserve fund.

HICKORY RIDGE (CROSS COUNTY) (WSSW)

Up to \$51,500.00

PURPOSE OF FUNDS: Planning, design, rights-of-way and other costs associated with acquisition of the Fisher wastewater collection system, construction of transfer system to Hickory Ridge and modifications necessary for treatment at the Hickory Ridge treatment plant.

The Commission approved a grant for Hickory Ridge 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. Approval is contingent upon the cities entering a transfer agreement.

CONSERVATION DIVISION

APPOINTMENTS/REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS

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

APPOINTMENT

<i>Buffalo CD</i>	<i>Randal Rainbolt</i>
	<i>Ricky Reed</i>
<i>Calhoun County CD</i>	<i>Jeremy Martin</i>
<i>L'Aigle Creek CD</i>	<i>Tracy Savage</i>
<i>Miller County CD</i>	<i>Chase Groves</i>
<i>Washington County CD</i>	<i>Carolina Castaneda</i>

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

REAPPOINTMENTS

<i>Buffalo CD</i>	<i>Don Balentine</i>
<i>Lafayette County CD</i>	<i>Troy Odom</i>
<i>Miller County CD</i>	<i>Don Mitchell</i>
<i>Newton County CD</i>	<i>Waymon Villines</i>
<i>Woodruff County CD</i>	<i>Vance Thompson III</i>

FY 2014 DISTRICT FUNDING RECOMMENDATIONS

Mr. Baber presented FY2014 Line Item Funding recommendations for the Commission's consideration. Upon motion by Mr. Fowlkes, second by Dr. Lamkin, the Commission approved staff recommendations as presented for 2014 Line Item Funding (a copy is attached to Minutes).

Mr. Baber presented FY2014 Beaver Program Funding for the Commission's consideration. Upon motion by Dr. Lamkin, second by Mr. Carter, the Commission approved staff recommendations as presented for 2014 Beaver Program Funding (a copy is attached to Minutes).

CONSERVATION DISTRICT ACTIVITY REPORT – Mr. Bob Fowler introduced Mr. Billy Frank Williams, Board Chairman, with the Calhoun County Conservation District. Mr. Williams answered questions previously posed by the Commission at last month's meeting concerning the district's election process and vacancies. He stated 70% of the county is owned by timber companies and has a population of approximately 5,000; therefore board members are very hard to find because agriculture plays such a small role in the county. Mr. Williams stated that after the vacancy arose, an ad was run in the paper in accordance with the rules. Financial problems, along with the possibility of consolidation with another county factored into the decision not to fill the vacancy.

Employee Recognition - Mr. Young presented a twenty-year service certificate to Darla Brooks for her service to the State of Arkansas.

BREAK/RECONVENE

WATER RESOURCES MANAGEMENT DIVISION

Progress Report and Update on the Arkansas Water Plan - Mr. Swaim gave a presentation on the outreach efforts, sub-projects, and selected draft demand forecasts for the plan. He also recapped the many presentations made thus far at various meetings held in and out-of-state.

ACTIVITY REPORTS

Informational activity reports were presented by the following: Charles Glover, President, AACD; and Mike Sullivan, State Conservationist, USDA, NRCS.

Of special interest, Mr. Glover advised that most of the area meetings had been scheduled. Several events scheduled are the Cover Crop Conference, Southern Regional Forestry Clinic, Arkansas Envirothon, and the Water Resources Tour.

COMMISSION TRAVEL EXPENSE REIMBURSEMENT

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

April 22-23, 2013, Red River Compact Commission Annual Meeting, New Orleans, LA

Water Plan Meetings:

April 25 and May 6, Lonoke

June 3, 6:30 p.m., Arkadelphia, Henderson State University, Garrison Center Lecture Hall, 1045 McKnight Dr.

June 4, 8:30 a.m., Pine Bluff (Water Plan Presentation begins at 11:00 a.m.); Southeast Arkansas Association of Conservation Districts Meeting, Family Church, 2500 Hwy 104.

June 4, 6:30 p.m., Fort Smith, Fort Smith Convention Center, 800 Rogers Ave.

June 5, 1:30 p.m., Little Rock, Arkansas Game & Fish Commission Auditorium, No. 2 Natural Resources Dr.

June 6, 11:30 a.m., Russellville: West Central Area Association of Conservation Districts Meeting, Lake Point Conference Center, 227 State Road Hwy 333 South.

June 6, 6:30 p.m., Stuttgart, Phillips Community College, Grand Prairie Center, Salon B, 2709 Highway 165 South.

June 6, 6:30 p.m., Harrison, North Arkansas College, Durand Center, Durand B, 303 N. Main St.

June 11, 3:00 p.m. and 5:30 p.m., Fayetteville: Pauline Whitaker Animal Science Center, 1335 West Knapp St.

June 12, 3:00 p.m. and 5:30 p.m., Clinton: Annex Court House Room, 1414 Hwy 65 South.

June 13, 1:00 p.m., Searcy, Carmichael Community Center, 801 South Elm St.

June 17, 6:30 p.m., Jonesboro: ASU Convocation Center, Stadium Blvd.

June 18, 6:30 p.m., Forrest City: East Arkansas Community College, Fine Arts Center Banquet Hall, 1700 New Castle Rd.

June 19, 5:30 p.m., Heber Springs: Community Center, 201 Bobbie Jean Lane.

June 20, 6:30 p.m., Smackover: Arkansas Museum of Natural Resources, 3853 Smackover Hwy.

ADJOURN

There being no further business, the meeting was adjourned.



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

7-22-13

Date

Jon Sweeney, PE
Deputy Director/Chief Engineer
Acting for: J. Randy Young, PE