

**Minutes of the
ARKANSAS NATURAL RESOURCES COMMISSION**

September 21, 2011

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, September 21, 2011, 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 Chairman Alec Farmer, Vice-Chair Sloan Hampton, Ann Cash, Jerry Mitchell, Mike Carter, Don Richardson, and David Feilke.

Staff members participating included: 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; Gina Wilson; Wesley Perry; Darla Brooks, Financial Programs Manager; Bob Fowler, Land Resource Specialist; Dave Fenter, Marketing Manager; Deanna Dorrough, Associate General Counsel; Danielle Gray, Scott Savoy, Carla Hill, Administrative Assistant; and Pat Smith, Executive Assistant.

Chairman Farmer called the meeting of the Arkansas Natural Resources Commission to order, and Mr. Sweeney welcomed guests in the absence of Mr. Young.

APPROVAL OF MINUTES: JULY 20, 2011

Upon motion by Mr. Feilke, second by Mr. Richardson, the Commission approved the minutes of the July 20, 2011, regular meeting.

REPORT OF THE EXECUTIVE DIRECTOR

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 Repeal Rules and Procedures for Claiming Tax Credit, Title 9 – Mrs. Phelps stated that Title 9 was obsolete and had been replaced by Title 14. Mrs. Phelps requested authority to begin rulemaking procedures to repeal Title 9. Upon motion by Mrs. Cash, second by Mr. Carter, the Commission authorized repealing Title 9, Rules and Procedures for Claiming Tax Credit, through the Arkansas Administrative Procedure Act. This Title number will be re-used for the new Premium Biosolids Incentives Cost-Share Program upon approval by the Commission.

Request Authority to Initiate Rulemaking for Premium Biosolids Incentives Cost-Share Program, Title 9 – Mrs. Phelps requested authority to initiate rulemaking for the Premium Biosolids Incentives Cost-Share Program. This program is intended to provide financial incentives to reduce the amount of sludge in Arkansas landfills. She advised that legislation was enacted during the 2011 Legislative Session (Act 333 of 2011) to encourage wastewater treatment plants in Arkansas to invest in infrastructure necessary to manufacture premium biosolids for resale. Upon motion by Mrs. Cash, second by Mr. Carter, the Commission approved the request to initiate rulemaking for the Premium Biosolids Incentives Cost-Share Program, Title 9.

Status Report on City of Fisher – Mrs. Phelps reported that the City of Fisher is in non-compliance with its loan agreement PAB-90A09, as well with its requirement to adequately

maintain the waste water treatment system. As of September 1, 2011, the total arrearage is \$14,699.63. By letter, the Department of Finance and Administration has been directed to garnish turn-back funds that Fisher would otherwise be entitled to receive.

Commissioner Carter suggested staff investigate options to remedy non-payment.

FINANCIAL ASSISTANCE

APPLICATIONS FOR FINANCIAL ASSISTANCE

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

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

Mr. Bennett introduced Mr. Woody Bryant, Project Manager of the Lonoke White Public Water Authority who expressed his appreciation to the Commission for its assistance. He stated that this project consisted of eight rural and city water systems. Representatives of those systems were introduced as well as the project engineer, Mr. Tommy Bond. He added that approximately 100,000 customers are going to be served by the project. Mr. Bennett advised that 40 miles of the 60 miles of rights-of-way have been acquired.

LONOKE WHITE PUBLIC WATER AUTHORITY **(Lonoke & White Counties) (CGO)**

Up to \$30,900,000.00

PURPOSE OF FUNDS: Construction of new water treatment plant on Greers Ferry Lake and large diameter transmission line to serve eight public water systems. Total project cost estimated to be \$50 million. Balance to be funded by USDA Rural Development.

The Commission approved loan funding for Lonoke White Public Water Authority from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$30,900,000.00**.

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.

EAST LAKE WATERWORKS FACILITIES BOARD **(Crawford County) (WDF)**

Up to \$10,300.00

PURPOSE OF FUNDS: Replace piping and repairs at water pump station.

The Commission approved a grant for East Lake Waterworks Facilities Board in an amount up to **\$10,300.00** from the Water Development Fund. An administrative fee in an amount up to \$300.00 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 for costs associated with repairs to the water pump station.

GRADY
(Lincoln County) (WDF)

Up to **\$206,000.00**

PURPOSE OF FUNDS: Repair and upgrade to existing elevated water storage tank.

The Commission approved a loan for Grady in an amount up to **\$206,000.00** from the Water Development Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$6,000.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

MILLTOWN-WASHBURN WATER ASSOCIATION
(Sebastian County) (WDF)

Up to **\$113,300.00**

PURPOSE OF FUNDS: Water pump station upgrade and distribution lines to serve seven new customers.

The Commission approved a deferred loan for Milltown-Washburn Water Association in an amount up to **\$113,300.00** from the Water Development Fund. This deferred loan is for twenty-three (23) years with a repayment schedule of twenty (20) years at five percent (5%) interest. Payment upon principal is to be deferred for three (3) years and interest is to be waived for three (3) years. An administrative fee in an amount up to \$3,300.00 is to be retained by the Commission. Approval is contingent upon the association establishing and maintaining a depreciation reserve fund.

MOUNT IDA
(Montgomery) (WDF)

Up to **\$51,500.00**

PURPOSE OF FUNDS: Emergency replacement of water line crossing Twin Creek.

The Commission approved a loan for Mount Ida in an amount up to **\$51,500.00** from the Water Development Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$1,500.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

MOUNT IDA
(Montgomery) (WDF)

Up to **\$25,750.00**

PURPOSE OF FUNDS: Emergency replacement of water line crossing Twin Creek.

The Commission approved a grant for Mount Ida in an amount up to **\$25,750.00** from the Water Development Fund. An administrative fee in an amount up to \$750.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**LAKE CATHERINE WATERWORKS AND SEWER
FACILITIES BOARD OF GARLAND COUNTY (CGO)**

Up to \$2,060,000.00

PURPOSE OF FUNDS: Acquisition of the Diamondhead Development water and sewer system by purchase from Riviera Utilities and making necessary improvements.

The Commission approved loan funding from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program for Lake Catherine Waterworks and Sewer Facilities Board of Garland County 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 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.

**PARKERS CHAPEL PUBLIC WATER AUTHORITY
(Union County) (CGO)**

Up to \$515,000.00

PURPOSE OF FUNDS: Construction of a new 500 gallon per minute water well.

The Commission approved a loan funding for Parkers Chapel Public Water Authority 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.

The loan terms and interest rate are to be set by the Executive Director with a repayment schedule of up to ten (10) 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.

WHITE RIVER DRAINAGE DISTRICT
(Phillips County) (CGO)

Up to \$2,678,000.00

PURPOSE OF FUNDS: Rehabilitate drainage system to original design. Funds provided will be utilized with CDBG disaster funds to complete the project.

The Commission approved loan funding for White River Drainage District from the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program in an amount not to exceed **\$2,678,000.00**.

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.

PREMIUM BIOSOLIDS INCENTIVES COST-SHARE PROGRAM

\$100,000.00

The Commission approved the reservation of funds from the Water Development Fund for the Premium Biosolids Incentive Cost-Share Program. The Executive Director is authorized to utilize these funds in furtherance of the program as contained in Arkansas Code Ann. §15-20-1401 through 1406 and Title IX of the Commission Rules.

BREAK/RECONVENE (State Authorized Fire Drill)

ACTIVITY REPORTS

Informational activity reports were presented by the following: Debbie Moreland, Association of Conservation Districts; Dr. Mike Daniels, U of A Division of Agriculture; and Steve Jacks, USDA, Natural Resources Conservation Service.

Of special interest, Mrs. Moreland reported that a Strategic Retreat was held at Mt. Magazine for members to identify areas of weakness and to form a strategy to strengthen the partnership. She also advised that the Poultry Lighting Project had been very successful in the Cossatot District.

Dr. Mike Daniels gave a presentation on the seven Discovery Farms located throughout the state. The latest farm is in Desha County to study cotton production practices.

Mr. Mark Bennett brought the following Resolutions before the Commission for consideration:

CONSIDERATION OF RESOLUTION 2011-02

Upon motion by Mrs. Cash, second by Mr. Mitchell, the Commission approved Resolution 2011-02 approving the Adoption by the Arkansas Development Finance Authority of a "Resolution Authorizing the Offering of up to \$75 million of Arkansas Development Finance Authority Revolving Loan Fund Revenue Bonds, Capital Improvement Series 2011C for Public Sale; Approving the Forms of an Official Notice of Sale, Official Bid Form, and Preliminary Official Statement; and Providing for Other Matters in connection with the Sale of the Bonds" and a "Series Resolution Authorizing the issuance of \$75 million Revolving Loan Fund Revenue Bonds, Capital Improvement Series 2011C"; Approving Offering the Bonds for Public Sale the Issuance of the Bonds by ADFA; Approving a Continuing Disclosure Agreement; and Prescribing Other Matters Pertaining Thereto. Mr. Bennett stated that he would report on the sale at the December meeting.

CONSIDERATION OF RESOLUTION 2011-03

Upon motion by Mrs. Cash, second by Mr. Carter, the Commission approved Resolution 2011-03 authorizing issuance of up to \$60 million in the State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds pursuant to the Commission's authority under Act 631 of 2007.

CHANGE IN TERMS OF FINANCIAL ASSISTANCE

Mrs. Darla Brooks introduced Mr. Scott Savoy to report on the Benton County Rural Development Authority #5 project. Mr. Savoy stated that he has worked on the project for over a year trying to resolve some of the issues that will be presented today. Mr. Savoy introduced Ms. Cassie Elliott with the Benton County RDA. She gave an overview of the financial problems facing the project.

BENTON COUNTY RURAL DEVELOPMENT AUTHORITY #5
(Benton County) (00190-WDF-D; 00284-CGO-L; 00126-CGO-L; 00363-CGO-L)

Benton County Rural Development Authority (Area 5) ("BCRDA") continues to have financial difficulty. This is based upon poor management and the severe economic downturn in the area. The number of customers does not meet the number required to meet the terms of the loan. The number of customers continues to decline due to the increase in vacant houses in the service area. BCRDA Area 5 Board of Directors has taken the steps outlined by ANRC staff to improve its operation and management of the system.

The current water rate for 4,000 gallons is \$72.55 per month. Without a change in terms of current financial assistance, BCRDA will be unable to make payments as currently scheduled. Reducing the interest rates on these three loans would total \$11,489 in monthly savings to the BCRDA.

Upon motion by Mr. Mitchell, second by Mr. Feilke, the Commission approved the following changes in terms of financial assistance for BCRDA:

- a. Repayment of deferred loan 00190-WDF-D is deferred until December 1, 2013 with the first payment due on December 1, 2014. Interest is waived until December 1, 2013.
- b. The rate of interest on Loan 00284-CGO-L is reduced from 5.4 percent to 1.0 percent. This reduction is effective from June 1, 2011.
- c. The rate of interest on Loan 00126-CGO-L is reduced from 5.4 percent to 1.0 percent. This reduction is effective from June 1, 2011.

- d. The rate of interest on Loan 00363-CGO-L is reduced from 4.9 percent to 1.0 percent. This reduction is effective from June 1, 2011.

INCREASE FUNDING BY THE EXECUTIVE DIRECTOR

Mrs. Brooks reported that Director Young has increased funding in the amount indicated for the following completed projects:

- (1) **Marble Falls Suburban Improvement District No.1 (Newton County) (WSSW) \$21,435.00**
(Emergency pump station repairs)
- (2) **Norman (Montgomery County) (WSSW) \$43,878.00**
(Cost overruns on water project)

DEOBLIGATION OF FUNDS BY EXECUTIVE DIRECTOR

Mrs. Brooks reported that Director Young has deobligated funds in the amount indicated for the following completed project:

LUXORA (Mississippi County) (WSSW) \$407.80

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.

For the record, Mr. Richardson recused himself. Upon motion by Mr. Mitchell, second by Mr. Carter, the Commission approved the following reappointments:

REAPPOINTMENTS

<i>Van Buren County CD</i>	<i>Don Richardson</i>
<i>Van Buren County CD</i>	<i>Eric Charles Stagg</i>
<i>Sharp County CD</i>	<i>Jim Baxter</i>
<i>Washington County CD</i>	<i>Clara Staggs</i>
<i>Ashley County CD</i>	<i>JoAnn Sullivan</i>
<i>Garland county CD</i>	<i>Melvin Daniel</i>

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

APPOINTMENTS

<i>Mississippi County CD</i>	<i>Allen Donner</i>
<i>Washington County CD</i>	<i>Carolyn Hart</i>
<i>Conway County CD</i>	<i>Margaret Hart</i>
<i>Baxter County CD</i>	<i>Mel Crawford</i>
<i>Montgomery County CD</i>	<i>Matt Rae</i>

CONSERVATION DISTRICT ACTIVITY REPORT – Mr. Bob Fowler introduced Dr. Henry English with the Jefferson County Conservation District. Dr. English reported on the Small Farms Program consisting of projects primarily located in the Delta area, and including one in southwest Arkansas.

One pilot program consists of selling products grown by minority farmers to Wal-Mart. He stated that education plays a large role in farmers participating in federal programs available to them.

COMMISSION TRAVEL EXPENSE REIMBURSEMENT

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

- (1) Conservation Delivery System Committee Meeting, October 12, 2011, Little Rock, Arkansas
- (2) AACD Annual Meeting, Wyndham Hotel – Riverfront, December 6-7, 2011, North Little Rock, Arkansas

OTHER BUSINESS

Selection of Nomination Committee for 2012 Officers – Mr. Farmer selected Mrs. Cash to chair the nomination committee, consisting of Commissioners Richardson and Feilke.

WATER RESOURCES MANAGEMENT DIVISION

Report on Illinois River Watershed Meetings - Mr. Swaim reported that he will attend the Arkansas-Oklahoma Arkansas River Compact Commission meeting tomorrow in Oklahoma. Discussion will be on nutrient management issues in northwest Arkansas. The Oklahoma Resources Board (Board) set the phosphorus standard at .037 mg/L for the six scenic rivers, one of which is the Illinois River, in Oklahoma. Arkansas has a multitude of waste water plants that discharge into the Illinois River Basin which flows into Oklahoma before entering the Arkansas River.

A Joint Statement of Principles and Actions was executed in 2003 with Oklahoma that allowed Arkansas a grace period of ten years to put a nutrient management program in place to reduce phosphorus levels. Financing of waste water treatment plant improvements, and other efforts in the area, including poultry litter BMPs, have been ongoing to improve water quality. A technical advisory committee was formed by Oklahoma which includes ANRC and the Arkansas Department of Environmental Quality to re-evaluate the standard.

The Technical Advisory Committee collected the best available scientific data to be used to review the .037 mg/L standard. That data has been compiled and is posted on the Board's website. Additional meetings are set, along with conference calls, before the process concludes at the end of 2011. The Board plans to have a recommendation to its Commission after that time.

Mr. Mitchell asked what level was attainable. Mr. Swaim stated that the area's sewer plants have improved treatment of phosphorus, but still would be unable to meet the .037 mg/L standard. The reference stream method used ten years ago is outdated and the U of A has suggested using the stressor response analysis on the watershed to better determine the right number. The .037 mg/L number was an arbitrary number and does not define the best goals for the rivers. He believes that the ten-year time period should be extended and more science work done to assign a more appropriate number.

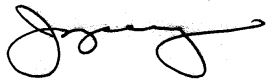
UPDATE ON THE ARKANSAS WATER PLAN

Mr. Swaim gave background information of work accomplished on the Water Plan since responsibility was first given to the Commission by the Legislature in 1969. Several comprehensive reports have been published, along with the Executive Summary that was published in 1990. Rules have been written to provide management tools; the Ground Water Act was passed; and tax credit programs were begun as an effort to reduce water usage. A non-point pollution reduction program was implemented; and two excess water projects are currently being constructed. Law and policy research is being planned; public education and outreach, technical work is being compiled, along with publishing new Basin Reports; and future water needs of the state projected.

Mr. Swaim gave a timeframe of three years to accomplish the task of updating the Water Plan. His goal is to have the water plan information web based and instantaneously available to the public.

ADJOURN

There being no further business, the meeting was adjourned.



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

December 7, 2011
Date