

BEFORE THE ARKANSAS SOIL AND WATER CONSERVATION COMMISSION

In the matter of: Application for Approval of Extensions
 to the City of Fort Smith Water System
 Service Area

WPC 2004 01 20-002

ORDER

Findings of Fact and Conclusions of Law

1. On November 4, 2004, the Arkansas Soil and Water Conservation Commission ("Commission") issued an Order in the captioned matter. The Order was appealed pursuant to the Arkansas Administrative Procedure Act to the Sebastian County Circuit Court, Fort Smith District, action numbered CIV-04-1564 (VI), by the City of Fort Smith ("Fort Smith"). South Sebastian County Water Users Association ("South Sebastian") intervened in the action.
2. On March 14, 2005, Fort Smith and South Sebastian entered into a Settlement and Release Agreement ("Settlement Agreement") regarding their disputes concerning the providing of water services within the area identified by the map attached to the Commission's Order of November 4, 2005. On March 16, 2005, the Arkansas Soil and Water Conservation Commission approved the Settlement Agreement. In the Settlement Agreement, Fort Smith and South Sebastian agreed they would jointly request the Commission to approve the Settlement Agreement and appropriately amend the Order of November 4, 2004.
3. On March 30, 2005, upon joint motion by Fort Smith, the Arkansas Soil and Water Conservation Commission, and South Sebastian, the Circuit Court of Sebastian County, Arkansas, Fort Smith District, remanded the Commission's November 4, 2004, Order and dismissed the administrative appeal without prejudice.
4. The terms of the Settlement Agreement have been approved by the United States Department of Agriculture, Rural Development as required by the November 4, 2004, Order.
5. The Settlement Agreement between Fort Smith and South Sebastian makes appropriate provisions for the orderly development and management of water resources in the area identified by the Commission's Order of November 4, 2004, so that the terms of the Settlement Agreement should be made a part of the Arkansas Water Plan. The Commission deems the Settlement Agreement

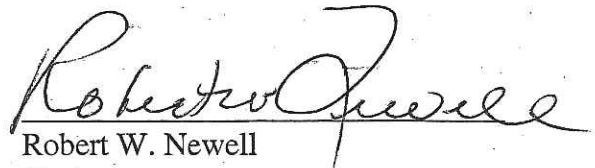
to be consistent with the provisions of its Order of November 4, 2004, and the preceding Order of the Executive Director dated August 23, 2004.

6. The action filed as WPC 2004-01 20-001 should be and is hereby dismissed without prejudice.

Order

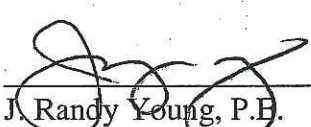
1. The attached Settlement and Release Agreement dated March 14, 2004, between the City of Fort Smith, Arkansas, and the South Sebastian County Water Users Association is hereby approved and made a part of the Arkansas Water Plan. Except as they were fixed by the attached Settlement and Release Agreement, this matter is concluded without prejudice to other rights and claims of the parties.

IT IS SO ORDERED this 18th day of May, 2005.



Robert W. Newell
Chairman

ATTEST:



J. Randy Young, P.E.
Ex-Officio Secretary