

**Minutes of the  
ARKANSAS NATURAL RESOURCES COMMISSION**

**May 16, 2012**

The regular meeting of the Arkansas Natural Resources Commission was held Wednesday, May 16, 2012, at 8:30 a.m., at the office of the Arkansas Natural Resources Commission, 101 East Capitol, Suite 350, Little Rock, Arkansas.

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

Staff members participating included: Randy Young, Executive Director; Jon Sweeney, Deputy Director/Chief Engineer; Crystal Phelps, General Counsel; Mark Bennett, Chief, Water Development Division; Cynthia Bearden, Agency Controller; Tony Ramick, Supervisor; Dave Fenter, Marketing Manager; Bob Fowler, Land Resource Specialist; Clayton Durham, Land Resource Specialist; Gina Wilson; Carla Hill; Wesley Perry; and Pat Smith, Executive Assistant.

**WATER PLAN COMPLIANCE APPEAL HEARING IN THE MATTER OF CABOT #2009 10 30-001 and WARD #2007 o2 26-001, Appeal of the Specific Portions of these Determinations Granting Tract A to Ward.**

Ms. Peggy Johnson, Hearing Officer, called the hearing to order.

Ms. Johnson concluded the hearing. Details of the hearing are recorded in transcript prepared by the court reporter.

**ADJOURN/RECONVENE**

Upon motion by Mr. Carter, second by Mrs. Cash, the Commission unanimously upheld and adopted the Executive Director's Final Determination on WPC 2009 10 30-001 and 2007 02 26-001, in its entirety.

A list of guests is attached to the minutes.

**APPROVAL OF MINUTES; MARCH 21, 2012**

Upon motion by Dr. Lamkin, second by Mr. Hunton, the Commission approved the minutes of the March 21, 2012, regular meeting.

**REPORT OF THE EXECUTIVE DIRECTOR**

**Report of the Red River Compact Commission (RRCC) Annual Meeting** – Mr. Young reported that the RRCC was formed to ensure the equitable allocation of water in the Red River among the states of Oklahoma, Texas, Louisiana, and Arkansas. The RRCC meets annually to review the stream flow data to ensure that the compact is in compliance. Currently, the Louisiana General Assembly is concerned that the state is not getting its fair allocation of water and has adopted a Resolution expressing that concern to Governor Beebe.

The RRCC Engineering and Legal Committees have been working on the accounting rules to determine whether or not the state is in compliance. The compact provides that 40% of the weekly runoff has to flow into the state of Louisiana. There is a problem computing that number without an adequate stream gaging network. The compact has worked with USGS to define and provide a cost estimate for a stream gaging network, but both states have found it to be cost prohibitive. They have been trying to find another way to estimate the weekly runoff. The two states have agreed to proceed with the process the engineers have identified on a trial basis for Bayou Macon.

The issue is further complicated by a project the Corps of Engineers built in the '80s on the northern end of Lake Chicot. The Corps put in a massive pumping plant to divert silt-laden water during

high-flow time from Lake Chicot into the Mississippi. The Corps has an operating plan at the outlet of Lake Chicot which governs how much water flows into Bayou Macon into Arkansas and ultimately into Louisiana. A meeting will be scheduled with the Corps to obtain more information regarding its operating plan and how it might be changed to provide relief for Louisiana.

Mr. Young stated that he would give the Commissioners more information after the meeting with the Vicksburg Corps of Engineers.

**Water Development Division Presentation** – Mr. Young advised that following a meeting with Chairman Hampton, it was agreed to provide some detailed information about current activities in each of the ANRC divisions. The first to present is Mark Bennett from the Water Development Division.

Mr. Bennett gave an overview of the division and its programs.

### **STATUS OF FINANCIAL ASSISTANCE PROGRAMS**

Mrs. Cynthia Bearden presented the financial assistance report. (Copy of report attached to the minutes). Mr. Young requested Mrs. Bearden and Mr. Bennett to explain the role that ADFA plays with the two SRFs.

Mr. Bennett stated that the SRF Program originated at the Arkansas Department of Environmental Quality (ADEQ) and was transferred to ANRC in 2001. When ADEQ obtained the program, they did not have the legislative authority or expertise to perform financial transactions and gave ADFA that responsibility. ANRC reserves the right to administer the programs, but ADFA makes the disbursements.

### **LEGAL ISSUES**

**Request for Approval of Title 6 Water Plan Compliance Rules** - Mrs. Phelps requested approval of the Title 6 Water Plan Compliance Rules pending favorable legislative review. These rules will require proponents of wastewater projects to receive approval under the state's water plan before construction of those projects. Upon motion by Dr. Lamkin, second by Mrs. Cash, the Commission adopted Title 6 Water Plan Compliance Rules pending favorable legislative review.

**Settlement Agreement** – Mr. Young interjected that an Oklahoma judge ruled on a settlement agreement in the lawsuit between the City of Tulsa and poultry companies. Under the terms of the settlement agreement, the judge entered a supplemental settlement agreement that will have major ramifications to the Eucha-Spavinaw watershed. Under the original agreement, the nutrient management plans written in 2010 have resulted in 88% of the chicken litter being removed from the area with only 12% being land applied.

The judge later identified what was determined to be a scrivener's error, and changed the language to read 300 lbs./acre rather than 300 mg/kg, which is a unit of measure used for purposes in both states in the context of nutrient management planning. The Court intends to enter an Order formalizing this correction, which Mr. Young stated is a substantial difference. Because of the judge's Order, staff believes that this will result in 94% of the chicken litter being removed from the watershed.

The supplemental agreement also provides for the U of A to update the phosphorus index that is currently being used in the Eucha-Spavinaw watershed. The university will have 6 months to identify a number and then a year to test that number.

Commissioner Hunton advised that a meeting will be held in Jay, Oklahoma in early June to discuss the issue and invited Mr. Young to attend.

## **FINANCIAL ASSISTANCE**

### **APPROVAL OF \$39,525,000 STATE OF ARKANSAS WATER, WASTE DISPOSAL AND POLLUTION ABATEMENT FACILITIES GENERAL OBLIGATION REFUNDING BOND—SERIES 2012A SERIES RESOLUTION**

Mr. Bennett stated the Commission conducted the sale of the Series 2012A bond on May 9, 2012 by competitive sale. He stated the Commission received six bids with the bid of BMO Capital Markets GKST Inc. having the lowest cost. The bid had a true interest cost of 2.337477% and was subsequently accepted by the Executive Director pursuant to Commission resolution. Mr. Bennett presented the Series Resolution prepared by Friday, Eldredge & Clark, the Commission's Bond Counsel. Also in attendance and available for questions were: Patricia Quinn of Raymond James—Morgan Keegan, Financial Advisor for the Commission and J. Shepard Russell III and Ryan A. Bowman representing the Bond Counsel. Mr. Bennett stated that the staff recommends the adoption of the resolution as presented. Upon motion by Dr. Lamkin, second by Mr. Carter, the Commission adopted the series resolution authorizing the issuance and sale of \$39,525,000 State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Refunding Bond, Series 2012A.

## **APPLICATIONS FOR FINANCIAL ASSISTANCE**

Mr. Bennett presented staff recommendations for the referenced projects below requesting financial assistance from the Arkansas Drinking Water State Revolving Loan Fund (DWSRF); Water, Sewer and Solid Waste Fund (WSSW); the Arkansas Development Fund (WDF); and the Water, Sewer and Solid Waste Fund (WSSW).

Upon motion by Mr. Carter, second by Dr. Lamkin, the Commission approved the following recommendations:

### **BRYANT (Saline County) (DWSRF)**

**Up to \$2,000,000.00**

Mr. Bennett introduced Mr. Matt Dunn, with Crist Engineers, to give an overview of the project. Mr. Monty Ledbetter was also present from the City of Bryant. Mr. Carter had questions pertaining to the automated water meter readers. Mr. Dunn stated that the city is interested in converting its water meter reading system to a more efficient and cost-savings process. He added that each meter is equipped with a battery-powered radio and the signal from the meter is sent to a collector radio. The collector radios are installed throughout the system in clusters to cover the entire city. From the repeaters, the signal is sent back to city hall and collected to a water meter accounting database. Mr. Carter urged the city to carefully study the cost/benefit ratio of this system. Mr. Bennett added that this project is considered a 'green' project because of the ability of the system to determine water loss locations.

**PURPOSE OF FUNDS:** *To replace existing water meters with an automated meter reading system.*

The Commission approved loan funds in an amount up to **\$2,000,000.00** for the city of Bryant from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed seven (7) years at a combined rate of one percent (1%). Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**CHIDESTER (Ouachita County) (DWSRF)**

**Up to \$1,700,000.00**

PURPOSE OF FUNDS: *To replace existing water distribution system and associated appurtenances to reduce high water loss. Approximately 53,500 feet of water line will be replaced.*

The Commission approved funds in an amount up to **\$1,700,000.00** of which the total amount will be in the form of a loan with principal forgiveness for the City of Chidester from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**SCRANTON (Logan County) (DWSRF)**

**Up to \$4,900,000.00**

PURPOSE OF FUNDS: *To construct a large diameter water line to allow the purchase of treated water from Clarksville. The existing water supply contract will end in 2014.*

The Commission approved loan funds in an amount up to **\$4,900,000.00** for the city of Scranton from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed twenty (20) years at a combined rate of three and twenty-five one hundredths (3.25%) percent. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**WILTON (Little River) (DWSRF)**

**Up to \$200,000.00**

PURPOSE OF FUNDS: *To replace existing water distribution system and associated appurtenances to reduce high water loss. Approximately 40,000 feet of water line will be replaced.*

The Commission approved loan funds in an amount up to **\$200,000.00** for the city of Wilton from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. The loan repayment schedule will not exceed twenty (20) years at a combined rate of three and twenty-five one hundredths (3.25%) percent. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**WILTON (Little River) (DWSRF)**

**Up to \$1,000,000.00**

PURPOSE OF FUNDS: *To replace existing water distribution system and associated appurtenances to reduce high water loss. Approximately 40,000 feet of water line will be replaced.*

The Commission approved funds in an amount up to **\$1,000,000.00** of which the total amount will be in the form of a loan with principal forgiveness for the city of Wilton from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**WINTHROP (Little River) (DWSRF)**

**Up to \$280,000.00**

PURPOSE OF FUNDS: *To replace existing water distribution system and associated appurtenances to reduce water loss. Approximately 67,000 feet of water line will be replaced.*

The Commission approved loan funds in an amount up to **\$280,000.00** for the town of Winthrop from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established

funding priorities. The loan repayment schedule will not exceed twenty (20) years at a combined rate of three and twenty-five one hundredths (3.25%) percent. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund.

**WINTHROP (Little River) (DWSRF)**

**Up to \$1,400,000.00**

PURPOSE OF FUNDS: *To replace existing water distribution system and associated appurtenances to reduce water loss. Approximately 67,000 feet of water line will be replaced.*

The Commission approved funds in an amount up to **\$1,400,000.00** of which the total amount will be in the form of a loan with principal forgiveness for the town of Winthrop from the Arkansas Drinking Water State Revolving Loan Fund in accordance with the established funding priorities. Approval is contingent upon the town establishing and maintaining a depreciation reserve fund.

**RIVERSOUTH RURAL WATER DISTRICT (Franklin County) (WDF)**

**Up to \$61,800.00**

PURPOSE OF FUNDS: *To serve approximately 16 new residents along County Heights Drive near the city of Charleston in Franklin County.*

The Commission approved a grant for RiverSouth Rural Water District in an amount up to **\$61,800.00** from the Water Development Fund. An administrative fee in an amount up to \$1,800.00 is to be retained by the Commission. Approval is contingent upon the district establishing and maintaining a depreciation reserve fund.

**TOAD SUCK PUBLIC FACILITIES BOARD (Perry County) (WDF)**

**Up to \$18,540.00**

PURPOSE OF FUNDS: *To make improvements to the water distribution system, including without limitation, tank valves and fire hydrants.*

The Commission approved a grant for the Toad Suck Public Facilities Board in an amount up to **\$18,540.00** from the Water Development Fund. An administrative fee in an amount up to \$540.00 is to be retained by the Commission. Approval is contingent upon the facilities board establishing and maintaining a depreciation reserve fund.

**WATSON CHAPEL WATER ASSOCIATION (Jefferson County) (WDF)**

**Up to \$44,290.00**

PURPOSE OF FUNDS: *To assist with the installation of approximately 3,000 feet of water line to serve Stone Ridge subdivision off Ryburn Road.*

The Commission approved a grant for Watson Chapel Water Association in an amount up to **\$44,290.00** from the Water Development Fund. An administrative fee in an amount up to \$1,290.00 is to be retained by the Commission. Approval is contingent upon the association establishing and maintaining a depreciation reserve fund.

**GRAVETTE (Benton County) (WSSW)**

**Up to \$41,200.00**

PURPOSE OF FUNDS: *To assist with the construction of sewer transmission line to allow the development of a sewer system for the Hiwassee community in Benton County.*

The Commission approved a grant for Gravette in an amount up to **\$41,200.00** from the Water, Sewer & Solid Waste Fund. An administrative fee in an amount up to \$1,200.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**LEWISVILLE (Lafayette County) (WSSW)**

**Up to \$1,236,000.00**

*PURPOSE OF FUNDS: To provide water and sewer service to new industrial customers, including without limitation, approximately 5,000 feet of water line and 9,100 feet of sewer line.*

The Commission approved a loan for Lewisville in an amount up to **\$1,236,000.00** from the Water, Sewer & Solid Waste Fund. This loan is for ten (10) years at two and a half percent (2.5%) interest. An administrative fee in an amount up to \$36,000.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**MOUNT IDA (Montgomery County) (WSSW)**

**Up to \$144,200.00**

*PURPOSE OF FUNDS: To provide sewer service to 31 new sewer customers in Peach Drive and South Drive areas of Mount Ida. These funds are provided in conjunction with grant funds provided under the Arkansas Community and Economic Development Program (CDGB).*

The Commission approved a loan for Mount Ida in an amount up to **\$144,200.00** from the Water, Sewer & Solid Waste Fund. This loan is for twenty (20) years at five percent (5%) interest. An administrative fee in an amount up to \$4,200.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**TURRELL (Crittenden County) (WSSW)**

**Up to \$15,450.00**

*PURPOSE OF FUNDS: To pay the local cost share of repairs to the sewer treatment plant made by USDA Natural Resource Conservation Service under the Emergency Watershed Protection Program.*

The Commission approved a loan for Turrell in an amount up to **\$15,450.00** 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 \$450.00 is to be retained by the Commission. Approval is contingent upon the city establishing and maintaining a depreciation reserve fund.

**DEOBLIGATION OF FUNDS:**

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

**ELKINS (Washington County) (DWSRF-L)**

**\$3,000,000.00**

**CHANGE IN TERMS OF FINANCIAL ASSISTANCE:**

In order to minimize the amount of general revenue needed for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program (CGO program), the Commission has maintained a small balance in CGO program funds and only issued bonds when necessary. The Arkansas Water Development Fund and the Water, Sewer and Solid Waste Fund have sufficient balances to provide funding for some projects previously approved under the CGO program. Therefore, we are asking that the Executive Director be delegated the authority to utilize funding from the Water, Sewer and Solid Waste Fund to provide financial assistance for the following previously approved projects:

Prior to using this authority, the Executive Director shall consider the Commission's ability to fund other projects from the Arkansas Water Development Fund or Water, Sewer and Solid Waste Fund. The Executive Director shall report any funding under this discretionary authority to the Commission at its next regular meeting.

Upon motion by Dr. Lamkin, second by Mr. Anderson, the Commission authorized the Executive Director to utilize funding sources for projects listed below.

Water, Sewer and Solid Waste Fund for the following previously approved projects:

**Lake Catherine Waterworks and Sewer Facilities Board of Garland County**  
**(WRD-003-790) (\$2,060,000.00);**

**Saline County Waterworks and Sanitary Sewer Public Facilities Board**  
**(WRD-003-782) (\$1,545,000.00);** and from the

Water Development Fund for the following previously approved projects:

**Greenbrier**  
**(WRD-003-674)**

**\$1,250,000.00**

**Salem Water Users Association Public Water Authority**  
**(WRD-003-800)**

**\$2,832,500.00**

**CONSERVATION DIVISION**

**APPOINTMENTS/REAPPOINTMENTS TO CONSERVATION DISTRICT BOARDS**

Upon motion by Mr. Anderson, second by Mr. Richardson, the Commission approved the following appointments:

**APPOINTMENTS**

*Hempstead County CD*  
*Nevada County CD*

*Eric Fisher*  
*Amy Cowling*  
*Chance Cummings*

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

**REAPPOINTMENTS**

*Desha County CD*  
*Lee County CD*  
*Saline County CD*  
*Phillips County CD*  
*Stone County CD*  
*Izard County CD*

*Andrew Wargo III*  
*William Teeter*  
*Martha Manley*  
*Franklin Elvis Wright*  
*Chris Cranatha*  
*Larry Gammill*  
*John Banning*

### **DISTRICT FUNDING RECOMMENDATIONS**

Mr. Clay Durham presented FY 2013 Grants to Districts Funding recommendations for the Commission's consideration. Upon motion by Mr. Richardson, second Dr. Lamkin, the Commission approved staff recommendations as presented. The FY 2013 Line Item Funding recommendations were presented for the Commission's consideration. Upon motion by Mrs. Cash, second by Mr. Fowlkes, the Commission approved staff recommendations as presented (a copy of each is attached to Minutes).

**CONSERVATION DISTRICT ACTIVITY REPORT** – Mr. Clay Durham introduced Mrs. Martha Manley with the Lee County Conservation District. The conservation district works very hard to keep the farmers, landowners, and public informed. Some of the activities of the district is to prepare a work plan, hold outreach meetings, annual meetings, prepare newsletters, manage a website, prepare articles for the local newspaper, and to work with the TSP Program.

### **2012 ELECTION FOR CLAY COUNTY DISTRICT BOARD**

Mr. Durham introduced The Honorable Gary Howell, District Chairman for Clay County, and asked that he explain why there were no votes cast for the district officials. Commissioner Richardson stated that he requested Clay County CD to come before the Commission today. He said that he could not certify an election in which no ballots were cast.

Judge Howell explained that a mistake was made and that it will be corrected. After being questioned by the Commission as to when an election would be held, Judge Howell stated that an election would be held next week.

### **WATER RESOURCES MANAGEMENT DIVISION**

**Update on Arkansas Water Plan** - Mr. Edward Swaim stated that the first scoping meeting was held on April 23<sup>rd</sup> with the contractors. The planning horizon was set for 2050 and will be the framework for the water plan. The second scoping meeting is scheduled for June. After the engineering and scientific work is completed, the public will have an increasing opportunity to be involved. An agreement has been signed with the Law School for students to do legal and policy research.

Mr. Anderson inquired about the economics of the water plan. Mr. Swaim stated that economic assessments on water availability and needs, infrastructure as it now exists and the future will be an integral part of the plan. The economic analysis will involve replacement costs, maintenance costs, lending and grant programs, as well as what is needed to meet future demands. The value of water to the state's economy will also be covered in the plan.

### **ACTIVITY REPORTS**

Informational activity reports were presented by the following: Debbie Moreland AACD; Tom Riley, U of A Cooperative Extension Service; Mike Sullivan, USDA Natural Resources Conservation Service; Dave Friewald, USGS Water Science Center; and Chad Delaney, US Corps of Engineers.

**COMMISSION TRAVEL EXPENSE REIMBURSEMENT**

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

- (1) Arkansas Water Plan Meeting, April 23, 2012, Little Rock, Arkansas
- (2) 24<sup>th</sup> Annual Meeting of the National Agricultural Biotechnology Council, June 11-13, 2012, Fayetteville, Arkansas

**ADJOURN**

There being no further business, the meeting was adjourned.



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

July 18, 2012

Date