

**Minutes of the
Arkansas Water Well Construction Commission Meeting
October 2, 2015**

The regular meeting of the Arkansas Water Well Construction Commission was held on October 2, 2015 at 9:00 AM in the Arkansas River Room at Arkansas Natural Resources Commission, 101 East Capitol, Suite 350, Little Rock, Arkansas.

Commissioners in attendance: Commissioner David Washington; Commissioners Ernest Pender, Mike McDermott, David Gilbert and Randy Young, Executive Secretary.

Arkansas Natural Resources Commission staff in attendance included Edward Swaim, Chief, Water Management Division; Crystal Phelps, General Counsel; Deanna Ray, Associate General Counsel; Jessica Wallace, ANRC Administrative Services Manager; Jacob Harvey, Water Well Inspector; Perry Dotson, Water Well Inspector; Jackie Broach, Ground-Water Administrative Analyst.

Chairman Washington called the regular meeting of the Arkansas Water Well Commission to order and welcomed Frank Elder, an Arkansas Water Well Contractor, Mrs. Cheryl Gilbert and Acacia Stinnett.

Approval of Minutes:

Chairman Washington presented the July 31, 2015 Commission Minutes. Commissioner Pender made a motion to accept the Minutes as presented, seconded by Commissioner Gilbert. Motion carried.

Executive Secretary's Report:

Todd Fugitt reported that he attended the AWWCA summer meeting and observed a lot of second generation contractors being more involved in the AWWCA leadership and are showing excellent leadership and organizational skills. He also reported that he and Barry Jackson with USGS presented a two hour CEU class to the AWWCA membership.

Mr. Fugitt also reported that he checked with the Arkansas Geological Survey and advised the commission that they do have scanned copies of the Water Well Construction Reports but that you cannot query the data like you can with the Arkansas Water Well Construction Database. He stated that you can go to a location by township range or latitude and longitude. He stated that Commissioner Pender had requested at the last commission meeting that staff talk with USGS to see if there is a way to link this information with the Arkansas Water Well Construction Database. He stated that this can be done very easily and can look in the areas for any reports.

Commissioner Young asked Mr. Fugitt where we stand in the rule making process in adopting the Arkansas Water Plan. Mr. Fugitt stated that the Water Plan was in place

as far as the implementation and that the Water Plan process has been completed, on the part of the ANRC staff, and is on the ANRC website and that AWWCA members expressed that they were glad that ANRC groundwater policy that was non-regulatory. He explained that the ANRC Water Plan was composed of conservation, education, and use of excess surface water in a non-regulatory approach, and that we partnered with the Grand Prairie and Bayou Meta projects using the non-regulatory approach to groundwater. He stated that Commissioner Mike McDermott and Mr. Frank Elder of Frank Elder Well Supply spoke at some of the Water Plan Public Meetings on behalf of continuing the ANRC non-regulatory approach to conservation and water policy in Arkansas.

Mr. Todd Fugitt also reported that there is a voluntary metering of water usage in Arkansas that has been initiated with the USGS for five select counties in Eastern Arkansas to do metering on a voluntary approach. He stated that farmers are volunteering to let the state and USGS put meters on their wells at our expense and that this program would give a lot better water use data for the Alluvial aquifer.

Associate General Counsel, Deanna Ray, reported that ANRC was in the process of compiling and responding to the comments received from these public meetings and then the rules will be sent to the rules committee in the Arkansas State Legislature for approval. Once they are approved they will become part of the rules and regulations.

Commissioner Gilbert expressed some concerns regarding the privacy of well owners' information in the Water Well Construction Report database being available to all the public. Commissioner Young responded that the law requires that the reports be filed with the commission and once they are filed that are considered open public records under the Arkansas State reporting laws. Commissioner Pender responded that in the public can only access the geologic and technical information, not the customer name. He made a suggestion that the Arkansas Water Well Construction Report database be changed so as the names are not published. Commissioner McDermott also expressed concern that anyone, including competitors, can pull up any and all well reports and print them out. Commissioner Young responded that according to the law, they are considered public records, but that there is some latitude in the way they are computerized. Commissioner Gilbert stated that the data is important to have, but felt that the names should be kept private. Mr. Todd Fugitt responded that the public does not have as much access to the database as the Arkansas water well contractors do and that the database can be changed. He stated that USGS is ready to make any changes the commission recommends. Mr. Frank Elder stated that he was concerned that any contractor can access all the reports that every contractor files and can target their customers as a competitor and feels that as a corporation or business that they are entitled to privacy in their business dealing with their customers. He stated that the database is a great tool and is necessary, but that there should be some safeguards in safeguarding their business against their competitors. Commissioner McDermott agreed. Mr. Todd Fugitt responded that USGS could work with us in protecting the contractor better as to what information is accessible. Commissioner McDermott urged the commission to proceed with changing the accessibility of information in the database. Commissioner Hunt asked if all that

needed to be changed is the accessibility of a contractor being able to pull up other contractors' reports and the customer names. Mr. Todd responded that USGS can make these changes. Commissioner Hunt made a motion for the commission to direct the staff to make these changes of accessibility to other contractors work and customer names as discussed, as well as the public, but that all the information was still available to anyone via hard copy in the ANRC files. Commissioner McDermott seconded the motion. Commissioner Young directed that these changes can be made as long as they do not impede staff access to all the information in the database. Commissioner Pender asked if a contractor or the public want to research the files, do they need a FOI request? Mr. Edward Swaim responded that they do not have to have an FOI to see the files. Commissioner Hunt restated his motion. McDermott seconded the motion. Motion passed.

Financial Report:

Jessica Wallace, ANRC Administrative Services Manager, presented the monthly financial report ending September 30, 2015. She reported Total Revenue of \$164,027.03; YTD Expenses of \$43,898.79; and YTD Net Revenue of \$120,128.24, leaving a Cash Balance of \$382,156.12; Investments of \$35,511.76; and a Total Fund Balance of \$417,667.88

Financial Report was approved.

Legal:

Associate General Counsel, Deanna Ray, gave an update of a homeowners' complaint of excessive sediment in his well that was discussed at the last meeting. She stated that she sent a firm letter to the home builder requesting the name of the contractor who drilled the well and stated that he did respond back with the name, Patton Drilling. She also stated that Patton Drilling has not renewed his license in Arkansas, despite attempts from the staff to verify if they were going to. She stated that she also spoke with the home owner and that he is willing to testify if we have a hearing. Mrs. Ray recommended that the commission move forward with a provisional order, at this time, with violations of excessive sediment, not filing a construction report, and not installing a pressure relief valve. Her recommendations are a provisional order for fines of \$1500.00 for the excessive sediment; \$250.00 for not filing a construction report; and \$250.00 for not installing the pressure relief valve, for total fines of \$2,000.00. These fines will be on file and in order for him to renew he will have to pay the fines. Commissioner Pender responded that the important thing for the customer is having a ruling on it for the AWWCC so that the customer can go to a lawyer and attach his bond and can be much easier done once there is a finding by the commission. Commissioner Pender asked if the contractor refused to pay the fine, will he be summoned to appear before the AWWCC? Mrs. Ray responded that the commission could issue a summons to appear, but that felt we could achieve the same results through a provisional order without having to obtain a court reporter or in issuing a subpoena. Commissioner Hunt made a recommendation to

accept staff recommendations. Commissioner Gilbert seconded the motion. Motion passed.

Consideration of Applicants:

Jackie Broach presented the following applicants for Commission approval:

STATUS OF THOSE ALREADY APPROVED

<u>EXAM</u>	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
None		

NEW DRILLER APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
Dominique Durbin	Durbin Enterprises, Inc.	Beecher City, IL

Commissioner Pender made a motion to approve this applicant, seconded by Commissioner Young. Motion carried.

NEW PUMP INSTALLER APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
None		

NEW DRILLER APPRENTICE APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
Barrett P. Cain	Cain Well Drilling Company	Lowell, AR
Brian K. Eaker	Arkansas Well Supply, Inc.	McCrory, AR

Commissioner Young made a motion to approve this applicant, seconded by Commissioner McDermott. Motion carried.

NEW PUMP INSTALLER APPRENTICE APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
Barrett P. Cain	Cain Well Drilling Company	Lowell, AR
Brian K. Eaker	Arkansas Well Supply, Inc.	McCrory, AR
Johnny D. Junior	Arkansas Well Supply, Inc.	McCrory, AR
Ricky W. Morgan	W.E. Pender and Sons, Inc.	Texarkana, TX

Commissioner Young made a motion to approve the first three Pump Installer Apprentice applicants and seconded by Commissioner McDermott. Motion Passed. Commissioner Young requested Associate General Counsel, Deanna Ray, to verify if the new rules apply that the fourth applicant, Ricky W. Morgan, can license as a Pump Installer without going through the apprenticeship program. Commissioner Young made a motion to approve him as an apprentice and as a registered pump installer, depending on if the new rules are in effect. Commissioner McDermott seconded the motion. Motion passed.

Mrs. Broach also reported on the Non-renewals and noted the responses. Chairman Washington asked if there were any penalties for not renewing. Mrs. Broach responded that there were late fees and were published on the renewals that are mailed out every year. Late fees are \$50.00 for the contractor and \$25.00 each for every driller, pump installer, apprentice and rig. She stated that the inspectors then do personal follow-up on this list if no response is received within a couple of weeks.

Inspectors Report – 10/2/15:

- **Illegal Drilling and Pump Installer**
 - Benton Co.- (geothermal) On going
 - Boone Co.-(geothermal) On going
 - Madison Co.- (Pump work) On going
 - Pope Co. – (geothermal) On going
 - Pulaski Co. –(Pump work) On going
 - Searcy Co.- (Pump work) On going
- **Well Inspections**
 - Faulkner Co. – New well construction. NO violation.
 - Jefferson Co. – New well construction. NO violation.
 - Lonoke Co. - New well construction. NO violation.
 - Miller Co. – Possible Excessive sediment and NO well construction report.
- **Rig Inspection**
 - Franklin Co.
- **Contractor Visits**
 - Arkansas Co.
 - Carroll Co.
 - Drew Co.
 - Fulton Co.
 - Hempstead Co.
 - Johnson Co.
 - Lonoke Co.
 - Izard Co.
 - Searcy Co.
- **Anonymous calls on contractors (1)**
 - Miller Co. Anonymous call received on 9/17/2015. Landowner contacted on 9/17/2015 and setup the inspection performed on 9/22/2015. Possible excessive sediment and NO well construction report. Case file provided to Legal staff.

Water well database Report (August-September) 2015

- 151 well reports entered by staff.
- 269 well reports entered by contractors
- Total well reports entered in 2015(January-September29th) – 1436

Help to collect water level measurements for the ground water report.

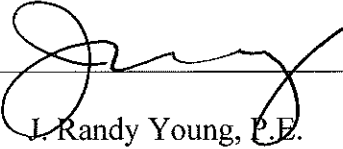
Commissioner Young asked Mr. Fugitt what kind of quality control is there on making sure the data entered in the construction reporting database is accurate. Mr. Fugitt responded that reports entered by interns are spot checked by the inspectors. He also stated that reports entered by contractors that have minor mistakes are called by the inspector to clear up. If there are significant problems, they are returned to the contractors for correction. Commissioner asked if there was a written QA/QC plan for entering data into the database. Mr. Fugitt responded that there was not one. Commissioner Young directed Mr. Fugitt to get with ANRC QA/QC person, Sue Filat-Alami and have one prepared. Commissioner Pender asked if staff is doing to identify those contractors who are not turning in any well reports or are doing spotty reporting, and what steps could be taken to do so. Commissioner Young responded that the QA plan would resolve these kinds of issues.

Mr. Frank Elder asked what information legally has to be entered on the construction reports. He stated that not all the information is being filled out by everyone. Commissioner Pender stated that he also wants to know what is required so that everyone is putting in the required information and that the law regarding reporting should be enforced with everyone. He responded that his company spends a lot of money to ensure that he is compliant in all the states he does business in and feels that everyone should be compliant as well and that the law should be enforced or do away with the law. Mr. Harvey responded that required fields have to be entered or they cannot enter the report. Commissioner Young responded that the QA plan will address these concerns and he directed Associate General Counsel, Deanna Ray, to review the law to find what is required by law and the commissions' regulations. Associate General Counsel, Deanna Ray, responded that there is not a list of requirements, but that the driller or pump installer must supply all requested information applicable to the type of work done, and that it does have to contain longitude, latitude and location. In essence, all the information requested on the form supplied by AWWCC must be filled out completely and entirely by law and by AWWCC regulations. Mr. Frank Elder asked if the pump information had to be filled out. Associate General Counsel, Deanna Ray, responded that if the pump was installed it did have to be filled out. Chairman Washington clarified that if only pump installation was done on a well, a construction report did not have to be filed, but that if a pump was installed during the installation of the well, that information has to be included in the report.

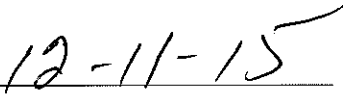
Other Business

Chairman Washington selected a Nominating Committee for the selection of the 2016 officers. He appointed Commissioner McDermott as chairman of this committee and Commissioners Hunt and Young will serve as members.

Meeting adjourned.



J. Randy Young, P.E.
Executive Secretary



Date