

**KANSAS - OKLAHOMA  
ARKANSAS RIVER COMMISSION**

**MINUTES OF THE FORTY-NINTH ANNUAL MEETING**

**July 24, 2013  
Oklahoma City, Oklahoma  
Courtyard Marriott Northwest  
1515 NW Expressway, Oklahoma City, OK**

**1. Call to Order - Federal Chairman Earnie Gilder**

Federal Commissioner and Chairman Albert Earnest Gilder called to order the Forty-Ninth Annual Meeting of the Kansas-Oklahoma Arkansas River Commission at 9:00 a.m. on July 24, 2013, in the meeting room of the Courtyard Marriott Northwest, 1515 NW Expressway, Oklahoma City, Oklahoma. A copy of the agenda is attached (see Exhibit A).

**2. Introductions and Announcements:**

Chairman Earnie Gilder welcomed everyone to the Kansas-Oklahoma Arkansas River Commission Annual Meeting, and asked that the State's Commissioners and State representatives introduced themselves:

**Commissioners:**

Earnie Gilder, Federal Commissioner  
Chuck Shively, Alternate Federal Commissioner  
J. Ross Kirtley, Commissioner for Oklahoma  
Bryce Benson, Commissioner for Oklahoma  
J.D. Strong, Commissioner for Oklahoma  
Peggy Blackman, Commissioner for Kansas  
M. Bruce Falk, Commissioner for Kansas  
Chris Beightel for David Barfield, Commissioner for Kansas

**Committee Members:**

Julie Cunningham, Oklahoma Water Resources Board  
Lou Klaver, Oklahoma Water Resources Board  
Mary Schooley, Oklahoma Water Resources Board  
Yohanes Sugeng, Oklahoma Water Resources Board

**Others:**

John Gage, U.S. Bureau of Reclamation, Oklahoma City, OK  
Bob Blazs, citizen  
Jason Lewis, U.S. Geological Survey, Oklahoma City, OK  
Steven Elsener, Natural Resources Conservation Service, Stillwater, OK  
Earl Lewis, Kansas Water Office  
(See Exhibit B)

### **3. Presentation and Verification of Credentials:**

There were no new appointments or changes to the Commission members. Current representation includes Federal Commissioner Albert Earnest Gilder, appointed by President Obama February 24, 2012. Alternate Federal Commissioner Chuck Shively was appointed by President Obama on February 24, 2012. Mr. J. Ross Kirtley was appointed by Oklahoma Governor Brad Henry on September 9, 2003. Mr. Bryce Benson was appointed by Oklahoma Governor Brad Henry on September 19, 2008. Mr. M. Bruce Falk was appointed by Kansas Governor Sam Brownback on July 25, 2011. Ms. Peggy Blackman was appointed by Kansas Governor Mark Parkinson on July 13, 2012. Copies of the appointments are on file with the Commission.

Mr. David Barfield serves as a Commissioner for the State of Kansas as the State official responsible for administering water law in that state. Mr. Chris Beightel represented Mr. Barfield at this meeting as a Kansas Commissioner as authorized by letter from Mr. Barfield. (See Exhibit C)

### **4. Reading, Correction and Approval of Minutes of the Forty-Sixth Annual Meeting**

Commissioner Blackman noted a change on page four regarding the figure of \$35 million, which should read "3.5 million." Chairman Gilder noted the date on the 2011 minutes should be corrected.

A motion was made by Mr. Chris Beightel to approve the correction to the 47<sup>th</sup> Annual Meeting minutes, and approve the meeting minutes of the 48<sup>th</sup> Annual Meeting of the Kansas-Oklahoma Arkansas River Commission meeting as corrected. The motion was seconded by Commissioner Peggy Blackman. The motion carried unanimously.

### **5. Report of the Chairman**

Chairman Gilder stated there was no report by the Chairman.

### **6. Reports of the Commissioners of the States:**

**State of Kansas.** Mr. Chris Beightel distributed a written report of the Kansas Commissioners and he and Commissioner Blackman clarified the statement regarding Ms. Blackman's appointment to the Commission, that she had been reappointed in 2012. Mr. Beightel stated the big news in Kansas is still the weather as the drought conditions persist over much of the state, with some relief due to milder temperatures. He said the USDA rates on 25% of soil and subsoil moisture as adequate across the state, with predictions the drought will persist or intensify through October. As of July 10, all counties of Kansas—as in Oklahoma—are still considered under drought disaster declaration. He noted the water rights administration for minimum desirable streamflows with a record 454 at the beginning of 2013. The Upper Arkansas River basin snowpack drainage in Colorado was significantly less than normal at 70% of the long-term average, and the surface water supply for eastern Colorado and western Kansas is very short. He updated the members on the conditions of the John Redmond Reservoir in eastern Kansas and median flow of the Arkansas River at the state line at a current flow of 9 cfs.

Mr. Beightel referred to the U.S. Drought Monitor, report of July 16, 2013, noting the changes from the July 2012 map. He said conditions have worsened in the west and southwest whereas conditions have improved somewhat in eastern Kansas. He reported that 2012 had been a significant year for water legislation and 2013 was relatively quiet. He highlighted the provisions of House Bill 2363 including the establishment of limited transfer permits allowing a water right holder to transfer up to four million gallons of water to another user provided there is an offset to permit holder's water use in areas that are fully appropriated, and without allowing

an increase in consumptive use. The legislation also redefined “dams” resulting in excluding 3885 dams from state jurisdiction; Kansas has the second largest number of dams in the United States. He described the spillway height and acre-feet impounded in the definition.

The 2012 Kansas Legislature gave groundwater management districts the authority to initiate a public hearing process to consider conservation plans and to enforce changes. Mr. Beightel talked about a group of stakeholders in Sheridan County that gathered together to discuss its approach to water management within the district which resulted in the Legislature passing the “Local Enhanced Management Area,” a multi-hearing process administered by the Chief Engineer. Their plan was approved in April 2013 and designed to cut water use by 20%. He updated the Commission on litigation activities involving the Republican River Compact which began in 1997. In addition to that activity, the state is also in various stages of five non-binding arbitrations with Colorado (2) and Nebraska (3).

Mr. Beightel concluded the report announcing the Kansas Department of Agriculture is moving its offices to Manhattan, Kansas as of July 1, 2014. (Exhibit D)

Commissioner Peggy Blackman reported that construction on the Neosho River stream bank project has not begun, but anticipated starting in early Fall. Plans are underway to prepare for dredging the John Redmond Reservoir, which is a critical reservoir supplying water for a nuclear power plant in Kansas. Oklahoma Commissioner Strong asked if the LEMA group met to protect the Ogallala Aquifer, and Mr. Beightel answered yes, hydrologic models were used for discussions about the groundwater and they cut back and reap the benefits. Mr. Strong indicated it is good to know there are efforts in other states to protect the Ogallala.

**State of Oklahoma** - Mr. J.D. Strong, Executive Director of the Oklahoma Water Resources Board, presented the Oklahoma Commissioners Report stating that in regard to climate Oklahoma is similarly situated. Western Oklahoma is still into 3.5-plus years of drought, and central Oklahoma has seen relief, even significant flooding in some cases. The Lugert-Altus Irrigation District in far southwest Oklahoma will not have irrigated cotton for the third year in a row, and similar issues in the crop adjustment business in northwest Oklahoma and the Panhandle. Canton Lake is at about 17% full conservation pool, and Lugert-Altus Reservoir is lower at 12-13%. The largest populated area is out of the drought, making the perception that the entire state is. Oklahoma also had a significant legislative session in 2012 as a result of the completion of the Oklahoma Comprehensive Water Plan. A number of recommendations were contained in the plan, eight were prioritized as more immediate action; over one-half of the eight actually saw support and action, and implementation from the Legislature last session, including additional appropriations. The OWRB saw an increase in appropriations when most agencies saw flat budgets; \$1.3 million was designated to increase monitoring efforts for both surface water and groundwater and authorizing the establishment of a first-time groundwater monitoring program allowing the state to analyze the aquifer resource, similar to surface water, and tracking changing trends in both water quality and quantity. That program has begun, working with landowners to access property, etc. An additional \$1.1 million is to assist in meeting statutory requirements with the back log of stream water allocation models and groundwater models used to develop Maximum Annual Yield to allocated groundwater and surface water. Passage of the Water for 2060 Act established the statewide goal the state will consume no more fresh water in 2060 than consumed today, with the emphasis being on conservation and efficiencies, looking at alternatives i.e., wastewater reuse, and desalinization of brackish water and considering the anticipated one-third growth in water demand projected in the Comprehensive Water Plan to relieve pressure to build new reservoirs, new well fields, and transferring water from one part of the state to another.

Commissioner Strong said the Oklahoma voters passed a constitutional amendment last November-- State Question 764 --which authorized a \$300 million dollar pledge of state credit to back the OWRB Financial Assistance Program. This will allow the State to continue to meet a large portion of the drinking water and wastewater infrastructure needs for the state for the next 50 years—projected to be an \$82 billion dollar price tag. A Public Water Supply Planning Guide has been published as a tool for water providers to begin planning at the local level utilizing the information from the Comprehensive Water Plan. He noted the report contained

information about ongoing surface water and groundwater studies, as well as water quality project and monitoring. He updated the Commission on the State's dam safety program regulating 4,600 dams along with the Natural Resources Conservation Service, and Oklahoma Conservation Commission.

Commissioner Strong briefed the members on Oklahoma's new rules on water in aggregate mines known as pit water in the Arbuckle Simpson Aquifer. The agency has eclipsed the \$3 billion mark in water resources financing through the state's program which began in the mid-1980's, maintaining a AAA rating and offering below-market interest rates. The 2013 Legislative Session authorized administration of the new Water Infrastructure Credit Enhancement Reserve Fund established through State Question 764. And, Senate Bill 965 changed the nine-member Water Resources Board from representing each of the five Congressional Districts and four At-Large members representing various water interest groups to members representing a defined region of the state and will phase in as each current members' term expires. A drought relief fund was created setting aside \$3 million for drought emergencies, and establishing a Commission that recommends to the Governor how to disburse the funds which is triggered on a Governor's Drought Emergency Declaration. Commissioner Strong concluded Oklahoma's report with an update on the litigation known as the Tarrant Case involving the Red River Compact which was decided in June by a 9-0 vote by the US Supreme Court and there is a stay in the litigation involving the Choctaw and Chickasaw Tribes. He announced that long-time OWRB General Counsel Dean Couch has retired and Mr. Jerry Barnett now serves as General Counsel. (See Exhibit E)

Commissioner Benson added to the report that western Oklahoma continues to experience drought conditions.

Mr. Beightel asked Commissioner Strong about the OWRB groundwater monitoring program and if automated technology would be employed. Mr. Strong answered the program is just now being developed and the identified basins will be phased in over a four-year period, but because of staff hired seems it will be more labor intensive rather than automated, but will use other data i.e., MESONET. Ms. Julie Cunningham stated there was a public process to identify potential sites and prioritization is based on the groundwater models staff is building for technical maximum annual yield studies and are coordinating with the Water Quality staff—most research will be conducted in-house.

## **7. Report of the Secretary**

Ms. Julie Cunningham, Commission Secretary, presented the FY 2013 report. She reminded the Commissioners that the states divided the duties of secretary and treasurer, and Oklahoma is serving as secretary. Staff is working on last year's annual report.

## **8. Report of the Treasurer**

Ms. Cunningham presented the report of the Treasurer on behalf of Mr. Lytle who was not able to attend the meeting. She stated to the Commissioners that there had been no significant changes; an auditor has been hired to conduct an audit for 2011 through 2013 which will be completed soon. The line item for Harold Springer's contract was \$3,600 so the budget has been decreased by that amount and the beginning balance since July 2012 is \$15,503.46 with an ending balance of \$20,426.44 as of July 1, 2013 and with \$1,789.50 in outstanding expenditures for the period of June 30 to end of July prior to beginning the 2014 process. The expected 2014 beginning balance was \$18,663.94.

Chairman Gilder asked for questions. There were none; however, the Chairman asked if the audit fee is to be paid in one sum, and Ms. Cunningham stated yes, it is. (Exhibit F)

## **9. Report of the Finance Committee**

Chairman Gilder asked Ms. Cunningham to continue and present the Finance Committee report. She noted the proposed budget for FY 2014 and that the annual audit for 2014 indicates \$1,500 for the three years, and then the 2015 proposal is reduced to \$600. The total \$3,000 budget in FY2014 was reduced because of Mr. Springer, and the proposed revenue from the states is the same. Mr. Beightel confirmed the auditor fee of \$1,500.00 is for three years.

There was no other discussion, and Commissioner Blackman moved to approve the proposed budget, and Commissioner Strong seconded. The vote was all ayes; and the motion passed unanimously.

Commissioner Strong asked if the bank balance continues to accrue and should the Commission consider investing at some point. Chairman Gilder agreed, and suggested lowering the assessment. Mr. Beightel said the Commissioners had talked about funding a project. Ms. Blackman said they had tried to put together a Conservation Innovation grant from the NRCS to further study work on riparian areas along the Neosho basin into Grand Lake; however, it was not completed because of a lack of the necessary in-kind services. Ms. Cunningham mentioned that through the Floodplain Management Program, FEMA is conducting a “discovery” program and sponsoring a public meeting in Miami, Oklahoma, regarding potential flood projects in Kansas or Oklahoma which might be a possibility. The Commissioners agreed it would be helpful to hear suggested projects at next year’s meeting, and Ms. Cunningham agreed staff would investigate possible projects. (Exhibit G)

## **10. Report of the Engineering Committee.**

Regarding the Engineering Committee, Ms. Julie Cunningham, presented the report on behalf of Mr. Lytle. She introduced Mr. Yohanes Sugeng, OWRB Dam Safety Administrator, who has been working to get the state’s program in shape. She said Mr. Sugeng had reviewed the numbers in the report as well, and the flow totals were significantly higher than the 2011 drought year; however, drought still exists. The flow data is shown for water year 2012 and an average for each gage for the total number of years the gage has been established. Flows were significantly lower than the average, but higher than the preceding year. There was one new dam structure constructed in Kansas during the last recording time frame with storage of 116 acre-feet. She noted the water quality data, and there were no significant changes from year to year. (See Exhibit H).

There were no questions or comments by the Commissioners.

## **11. Report of the Legal Committee.**

Ms. Lou Klaver, Assistant General Counsel for Oklahoma and Committee member, addressed the Commission on behalf of the Legal Committee. She said the Committee did not have an assignment, so there is no report. There were no questions.

## **12. Reports of Various State and Federal Agencies and Other Interested Parties**

**Bureau of Reclamation.** Mr. John Gage, Oklahoma City office, addressed the Commissioners and noted the report and brochures he distributed. Particularly, he mentioned the Planning Investigations program and Native American Affairs program, as well as the Rural Water Supply program assisting the City of Sulphur. Also, the Water Conservation Field Services Program assisting irrigation districts and M&I water supplies. He reviewed the Bureau’s WaterSmart Title XVI program regarding water reuse, and he noted projects in Texas. Mr. Gage talked about the basin study projects, noted the list of WaterSmart grants and spoke about grants for science and technology initiatives. He said the drought program had expired but there is interest to see it

renewed. The Bureau is participating with the State of Oklahoma on the “drought tool” which may also export to Texas and Kansas. He concluded his report updating the members on the Equus Bed Aquifer Storage and Recovery Program, and noted the list of Internet sites to seek additional information on the various programs. (see Exhibit I)

Commissioner Ross Kirtley asked in regard to desalination or recycling of produced water (frack water), if a use had been found for the chlorides that are generated from the process. Mr. Gage responded that he had not seen any report that indicated such, but he is aware of Canadian companies visiting Texas and building water recycling facilities due to the lack of fresh water. Commissioner Strong added that Devon is doing the same near Calumet, Oklahoma. There was discussion about practices and costs of recycling produced water and current companies in areas with projects for recycling the water, but no successful projects are known for recycling solids as an economic benefit or useful bi-product. Mr. Gage suggested the science and technology grants available, and Commissioner Strong mentioned Oklahoma’s 15-member Water for 2060 Advisory Council that has been appointed to develop a game plan to achieve the goal of consuming no more fresh water in 2060 than is consumed today. The Council will be researching oil field produced water, desalination treatment, and waste stream challenge etc., and may want to investigate the grant money as an option. They talked about the budget for the WaterSmart grants.

**US Geological Survey.** Mr. Jason Lewis, Assistant USGS District Chief, addressed the members and distributed the written report regarding the stream gaging information and trends in streamflow, for the Arkansas River Basin. He said the graphs visually put into perspective the numbers Ms. Cunningham mentioned in her report. He said his agency had received a large budget cut and this compact lost four gages due to the lack of funding: Cimarron River near Bufalo, OK, Cimarron River near Elkhart, KS, Walnut Creek near Alexander, KS, and Buckner Creek near Burnett, KS. He said each gage had an average of 30 years of record. He said the Bufalo gage was lost due to a lack \$2,900 and suggested that the compact can fund gages. Commissioner Strong said the Arkansas-Oklahoma Arkansas River Compact does fund a gage at Fort Smith. The gages were 100% funded by USGS, there were no cooperators. Mr. Lewis said the agency had taken a 6% cut, and the 2014 budget looked the same so additional gages may be lost. (Exhibit J)

There were no further comments or questions, nor other presentations by federal or state agencies.

## **10. New Business**

### **Designation of Committee Members**

Chairman Gilder asked for Committee designations. Mr. Chris Beightel nominated Mr. Bob Lytle and Ms. Julie Cunningham to serve as Treasurer and Secretary, and also Engineering Committee members. Commissioner Strong seconded. Chairman Gilder called for a vote, which motion passed unanimously.

Commissioner Strong said that because the Finance Committee would be looking at projects to fund, could the Commission consider setting aside \$3,000 to fund toward support of the Buffalo gage. Mr. Beightel said he wasn’t familiar with the gage. They agreed the Committee could evaluate that as an option.

### **Next Meeting.**

Commissioner Peggy Blackman suggested, and everyone agreed, the 2014 meeting of the Kansas-Oklahoma Arkansas River Commission meeting would be held in Marion at the same location as the 2012 meeting. She agreed to make arrangements for the meeting and lodging, and organize a tour of the WRAPS projects in the Arkansas-Neosho River Basin watershed. The date is July 23, 2014.

Commissioner Benson stated at the last meeting the Commission had discussed at the last meeting reimbursement for meeting costs. He said if the meeting is held in Marion and Commissioner Blackman makes arrangements and pays for a catered dinner because there is no restaurant, and the Commission has \$400 in the budget for meeting costs, could the Commission authorize reimbursement up to \$400 for meeting costs. Ms. Cunningham stated the budget also includes a category for "incidentals" set at \$300 which could be used. Commissioner Blackman said there is a restaurant and Grand Hotel 26 miles from Marion in Chase County, which is an option. Commissioner Strong suggested the Commission return to discussion of the budget and include a line item for this matter.

Return to Discussion on Finance Committee/Budget



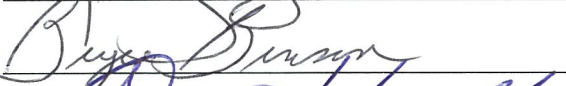


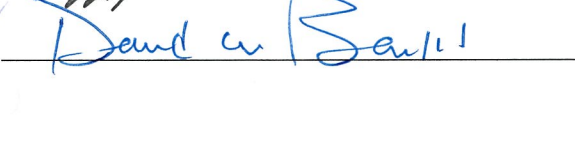
Chairman Gilder asked the Commission to return to the vote on the budget (Finance Committee report). Commissioner Ross Kirtley moved that the budget include up to \$400 for catering costs, and Mr. Chris Beightel seconded. Chairman Gilder called for the vote, and the motion passed unanimously. There was no opposition.

Other

There were no other items of business for the Commission's consideration.

12. Adjournment

There being no further business, Chairman Earnie Gilder adjourned the Forty-Ninth Annual meeting of the Kansas-Oklahoma Arkansas River Commission at 10:03 a.m. on Wednesday, July 24, 2013, in Oklahoma City, Oklahoma.

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