

**Minutes of the
Arkansas Water Well Construction Commission Meeting
December 9, 2011**

The regular meeting of the Arkansas Water Well Construction Commission was held on December 9, 2011 at 9:00 AM, in the Arkansas River Room of ANRC, 101 East Capitol, Suite 350, Little Rock, AR.

Commissioners in attendance: Chairman Pender, Vice Chairman Gilbert, Commissioners McDermott, Washington, and Randy Young, Executive Director.

Arkansas Natural Resources Commission staff in attendance included: Jon Sweeney, Deputy Director; Edward Swaim, Chief of Water Resources Management Division; Crystal Phelps, General Counsel; Deanna Dorrough, Associate General Counsel; Jessica Wallace, Agency Fiscal Administrator; Todd Fugitt, ANRC Geology Supervisor; Perry Dotson, Water Well Inspector; Raymond Englerth, Water Well Inspector; Jacob Harvey, Engineer Technician; Carla Hill, Administrative Assistant III; and Jackie Broach, Ground-Water Administrative Analyst.

Chairman Pender called the regular meeting of the Arkansas Water Well Commission to order.

Recognition of Guests: Chairman Pender recognized Peggy Johnson, Administrative Hearing Officer and Sue Pybas, Court Reporter.

Approval of Minutes:

Chairman Pender presented the October 7, 2011 Minutes. Motion was made by Commissioner McDermott to approve and Commissioner Washington seconded. Motion carried.

Executive Secretary's Report:

Commissioner Young introduced Resolution No. 11-1 of the Arkansas Water Well Construction Commission to recognize Mr. Steve Walden for his contributions to the State of Arkansas by his service as a member of the Arkansas Water Well Construction Commission. Mr. Walden was appointed to the Arkansas Water Well Construction Commission in 2009 by Governor Mike Beebe and served two years. By unanimous accord by the members of the Arkansas Water Well Construction Commission, Mr. Walden was duly recognized for his efforts to provide guidance to the State of Arkansas through his service on the Commission in the proper regulation of the State's water resources and for being a true friend to the Arkansas Water Well Construction Commission and its staff.

Vice Chairman Gilbert made a motion to approve the Resolution and was seconded by Commissioner McDermott. Motion Carried.

Financial Report:

Jessica Wallace, ANRC Agency Fiscal Administrator, reported the total revenue as of November 30, 2011, is \$178,033.17; expenses were \$46,493.45; and the total balance in fund of \$299,983.83

Financial Report was approved.

Legal:

Crystal Phelps, General Counsel, stated that there were to be two hearings today, but that the case against H2O will be presented at a later meeting as Mr. Burson of H2O, respondent, has not claimed his notice of hearing.

General Counsel-Phelps, then introduced the case against Mr. Bill White, respondent, and noted that Mr. White was not present for the hearing. Peggy Johnson, Administrative Hearing Officer, duly noted that there was sufficient evidence to proceed according to Ark. Code 17-50-101.

Associate General Counsel, Deanna Dorrough, introduced Todd Fugitt, ANRC Geology Supervisor and Jon Sweeney, Deputy Director, as witnesses for the State and they were duly sworn in to give their testimony. Associate General Counsel, Deanna Dorrough, then handed out 10 Exhibits as evidence relating to false advertising and failure to file a construction report and called Todd Fugitt as the first witness. Mr. Fugitt testified that any drilling or pump installation work must be done by a licensed and bonded Arkansas Water Well Contractor and that the driller or pump installer performing the work must be Arkansas registered. He also noted that if an apprentice did the work, he must work under a licensed and bonded Arkansas Water Well Contractor and the supervision of a registered Arkansas Water Well Driller or Pump Installer in his employ. Mr. Fugitt stated that Mr. White did not hold a Contractor's License, nor was he bonded, but that advertising placed by Mr. White stated that he was licensed and bonded. Mr. Fugitt also stated that Mr. White contacted him on November 1, 2011 stating that he had been seeing certified mail coming to his address and asked what it was about. Mr. Fugitt told Mr. White that they were letters concerning false advertising and not filing a construction report and that there would be a hearing regarding these issues and gave him the location and time of the hearing.

Commissioner Young asked Mr. Fugitt what Mr. White's response was to this information. Mr. Fugitt responded that Mr. White asked him if he would smooth it over with the commission and stated that he would have the advertising removed. Mr. Fugitt stated that he responded that he could not speak on Mr. White's behalf and recommended that he attend the hearing and address the commission personally.

Water Well Inspector, Perry Dotson, was then introduced and sworn in and gave testimony of walking into a store to pick up papers with the advertising by Mr. White and that Mr. White was there and told him that those advertisements were his. Mr. Dotson responded by telling him who he was and took the papers and left.

Administrative Hearing Officer, Peggy Johnson, wanted it known for the record that Mr. Jon Sweeney, Deputy Director, was serving as a witness and was not a participant in commission recommendations. Mr. Sweeney then gave testimony that he was the Deputy Director and Chief Engineer of ANRC and oversees the agency's IT. Mr. Sweeney testified that he saw the Thrifty Nickel advertising records and the AT&T phone book, which included the Yellow Pages, and that the advertisements placed by Bill White Softwater stated that he was, "state licensed, bonded and insured for your protection". Mr. Sweeney also testified and provided evidence of website advertisements by Mr. White with the same statements on October 18, 2011.

Administrative Hearing Officer Peggy Johnson stated that testimony had concluded and asked the commission to deliberate. After deliberations by the Commission, Commissioner McDermott moved to strike the phone book advertisements for 2010, which left 8 false advertising offenses. The Commission fined Mr. White \$2500.00 for the first advertising offense with \$1250.00 suspended, so long as he paid his fines within 30 days receipt of the Commission's Order. Regarding the remaining seven advertisements, the Commission fined Mr. White \$2500.00 with \$1500.00 suspended, so long as he paid within 30 days receipt of the Commission's Order. The Commission fined Mr. White \$1250.00 for failure to file the construction report. Motion was made to accept the fines levied against Mr. Bill White and motion carried.

Consideration of Applicants:

Todd Fugitt presented the following applicants for Commission approval:

STATUS OF THOSE ALREADY APPROVED

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>	<u>EXAM</u>
James D. Cook	Layne Christensen Company	Stuttgart	(PI) Passed

NEW DRILLER APPRENTICE APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
Bobby L. Bartow	Clear Water Drilling	Mena, AR
Kevin L. Butts	W.E. Pender & Sons, Inc.	Texarkana, AR

NEW PUMP INSTALLER APPRENTICE APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
Bobby L. Bartow	Clear Water Drilling	Mena, AR
Kevin L. Butts	W.E. Pender & Sons, Inc.	Texarkana, AR

NEW DRILLER APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
William R. Fields	Strata Core Drilling	Ft. Worth, AR

Commissioner McDermott made a motion to accept the applicants presented, seconded by Commissioner Washington. Motion carried.

INSPECTOR'S REPORT – DECEMBER 9, 2011:

- Entering Well Reports (230)
- Answering Phone Questions
- Investigation of Illegal Drilling and Pump Installers (5)
- Investigations No Bond (6)
- Contractor Visits (17)
- Water Level Measurements (2)
- County Health Office Visits (18)
- License Testing (2)

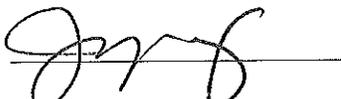
Commissioner McDermott made a motion to approve the Inspector's Report, seconded by Commissioner Washington. Motion carried.

Other Business:

Commissioner Gilbert presented the Nominating Committee recommendations for 2012 officers. It was recommended that Commissioner Gilbert act as Chairman and Commissioner McDermott as Vice Chairman. Commissioner Young made a motion to close nominations and accept the Nominating Committee recommendations, seconded by Commissioner Washington. Motion carried.

Chairman Pender presented the AWWCC Commission Meeting dates for 2012. Motion was made to accept the dates presented. Motion carried.

Meeting adjourned.



J. Randy Young, P.E.
Executive Secretary

2-1-12
Date