

Minutes
TEXAS STATE SOIL AND WATER CONSERVATION BOARD
July 20, 2000

The Texas State Soil and Water Conservation Board met on July 20, 2000 at 8:00 a.m. in its Hearings Room at 311 North Fifth Street, Temple, Texas.

Board members present were:

Edward G. Albrecht, Chairman
T. Wayne Register, Vice Chairman
Dayton Elam, Member
Donald Swann, Member
James K. (Rooter) Brite, Member

Staff members present were:

Robert G. (Bob) Buckley, Executive Director
James M. Moore, Director of Conservation Programs
Mel Davis, Director of District Operations
Bobbie Stephens, Director of Administration
Clyde J. Gottschalk, Program Administrator
Sam Unberhagen, Program Specialist
Kenny Zajicek, Contract Manager
Kevin Wagner, Natural Resources Specialist
Kevin Canfield, Planner
Donna Long, Program Specialist
Lee Munz, Planner
Clay Wright, Information Specialist
Dawn Heitman, Human Resources Specialist
John Millican, Program Administrator
Julia Burger Jeske, Planner
Lois J. Cain, Administrative Technician
Steve Jones, Regional Manager
Stephen Deiss, Regional Manager
Charley Rodgers, Regional Manager
Andy Garza, Regional Manager
John O'Connor, Regional Manager
Johnny Oswald, Program Administrator
Bob Gruner, Program Specialist
Rex Isom, Program Specialist
Joe Freeman, Program Specialist
Ben Wilde, Program Specialist
Adrian Perez, Program Specialist

Karla Stone, Program Specialist
Joel Clark, Program Specialist
David Powell, Program Specialist
Don Brandenberger, Program Specialist
Dub Crumley, Program Specialist

Others present were:

Salvador Salinas, Natural Resources Conservation Service
John Burt, Natural Resources Conservation Service
George Noelke, Attorney General's Office
Melissa Burns, Texas Department of Agriculture
Robert Kennedy, Texas Department of Agriculture
Russell Gregorczyk, Internal Auditor

Chairman Albrecht called the meeting to order and welcomed everyone and asked those present to introduce themselves.

Minutes from the June 22-23, 2000 Board meeting were considered. On motion of Rooter Brite, seconded by Don Swann, the minutes were accepted as presented.

Mel Davis presented district director appointments and advised all met the qualifications and appeared to be in order. On motion of Wayne Register, seconded by Dayton Elam, the following district director appointments were approved as presented:

Leo Holloway, Middle Clear Fork SWCD #206
Clarence Helfrich, Harris County SWCD #442
David Lawrence, Hopkins-Rains SWCD #445
Carl L. Lohman, Miller-Brazos SWCD #542

Mr. Davis then reported on plans and arrangements for the Annual Statewide Meeting of Soil and Water Conservation District Directors being held October 2-4, 2000 in the Radisson Plaza Hotel, Fort Worth, Texas. He said there had been a mix-up on the date with the convention center where the Get Acquainted Reception

was to be held but he was able to reserve space at the Will Rogers Center. Mr. Davis reported there would again be shuttle buses running between the Radisson Plaza and Ramada Plaza Hotels during the meeting and to the Will Rogers Center on Monday night for the Get Acquainted Reception. The Board was advised the Land Bank Association of Texas would again contribute \$3,000 toward the expense of the reception. Caterers were then discussed. After review and on motion of Wayne Register, seconded by Dayton Elam, Clem Mikeska Barbeque Restaurant was chosen in order to stay within the \$35 registration fee and the Will Rogers Center was designated as the site of the reception. Mr. Davis advised which invited speakers had responded and was instructed to invite the remainder of possible speakers from a list that was developed at a previous meeting. He also said he was still looking for a humorous speaker. The Board was also advised of proposed spouses' activities, booth space that has been reserved and discussed an estimated statement of revenues and expenses.

Bobbie Stephens discussed the proposed Fiscal Year 2001 Operating Budget by programs and explained the allocation of FTEs in each program. On motion of Wayne Register, seconded by Don Swann, the Board approved and adopted the proposed Operating Budget as presented. (Copy attached)

Ms. Stephens then discussed the proposed Fiscal Year 2001 allocations for the Technical Assistance Funds and asked for guidance on allocation for High Point Soil and Water Conservation District #230 who has not completed an audit since 1996 and is not in compliance with program rules. After discussion and on motion of Rooter Brite, seconded by Wayne Register, the High Point SWCD #230

allocation of \$2,000 would be split among district who are trying to get into the Technical Assistance Program. The Board then discussed the need to revisit the way Technical Assistance Funds are allocated in the future. On motion of Dayton Elam, seconded by Rooter Brite, the Technical Assistance allocations were approved as presented. (Copy attached).

Ms. Stephens discussed the proposed Fiscal Year 2001 allocations for the Conservation Assistance Fund. She advised High Point Soil and Water Conservation District #230 had an allocation of \$3,000 and asked for guidance. On motion of Don Swann, seconded by Dayton Elam, the Board voted to distribute this allocation to other districts. Ms. Stephens said the allocation could be distributed to all districts in Area II. On motion of Don Swann, seconded by Dayton Elam, the \$3,000 will be reallocated to districts in Area II that have an allocation under the maximum amount of \$4,426. On motion of Wayne Register, seconded by Rooter Brite, the Conservation Assistance allocations were approved as discussed. (Copy attached).

Kevin Wagner reviewed Water Quality Management Program priorities as currently established by the Board. He said all priority areas are justified based on Section 303(d) listing and groundwater concerns listed on the State Section 319 Nonpoint Source Assessment. Based on staff assessment of current priority area boundaries compared to boundaries of soil and water conservation districts, Mr. Wagner advised the Board they might need to look at removing Roberts Soil and Water Conservation District #145, Hemphill Soil and Water Conservation District #138, Stonewall Soil and Water Conservation District #167 and Andrew Kent Soil

and Water Conservation District #170 from priority areas in the Panhandle and South Plains, since they appear to be outside priority area boundaries. Mr. Wagner recommended staff develop and implement a detailed process for annual evaluation of each priority area and soil and water conservation districts for presentation to the State Board at the September board meeting. Wayne Register moved, seconded by Rooter Brite, to develop a systematic annual evaluation procedure for water quality priority areas. Mr. Brite said he felt the agency process needed to establish a ranking of priorities from high to low based on water quality considerations. Mr. Moore replied this would be incorporated into the process to be recommended. Mr. Wagner then asked for the Board's direction to either retain, remove or further assess the four districts mentioned above (#145, #138, #167 and #170) in the Panhandle and South Plains 503 cost-share priority area. Mr. Buckley said someone from the Temple office plus regional office manager and field representative would be sent to advise these districts they are being re-assessed and explain the procedure, and that the Board will take into account district needs to complete any plans already underway. On motion of Wayne Register, seconded by Don Swann, the Board voted to set Fiscal Year 2001 Water Quality cost share allocations at the same levels as in Fiscal Year 2000 with the stipulation that all cost share allocations for Fiscal Year 2002 will be re-evaluated based on the results of the annual evaluation of priority areas to be considered in its September meeting, and the evaluation of the four districts which appear to be outside current priority areas. Mr. Wagner presented staff's evaluation of current 303(d) listed waters in relation to agricultural nonpoint source pollution and water where agricultural NPS

activities will be included in TMDL Action Plans. Mr. Wagner, based upon the evaluation, recommended establishing the following new priority areas: Sam Rayburn Reservoir Watershed, E. V. Spence Reservoir Watershed, Lake Livingston Watershed and Blackland Prairie Priority Area. Staff recommended including in the Fiscal Years 2002-2003 Legislative Appropriation Request an exceptional item request of \$1,083,585 per year to cover the increased needs associated with cost share for these areas. A statewide fund increase of \$277,778 per year was also recommended in conjunction with an increase in administrative cost to districts to 10% instead of 5% as currently exists (\$114,302 per year). On motion of Wayne Register, seconded by Dayton Elam, the Board approved staff recommendation of new priority areas, increase in statewide funds and the increase in administrative cost percentage.

Bobbie Stephens discussed the adoption of the proposed internal audit plan, risk assessment and guidelines for Fiscal Year 2001 prepared by Jansen and Gregorczyk, CPA. Russell Gregorczyk explained the work he had done on the internal audit, guidelines he had prepared and the risk assessment in an internal audit. On motion of Rooter Brite, seconded by Wayne Register, the Board voted to approve audits of the accounting system and grant and contract management for Fiscal Year 2001.

Sam Unberhagen discussed Fiscal Year 2000 water quality cost share allocations and discussed three letters from districts requesting allocations from statewide funds and one letter withdrawing a previously approved request. Mr. Unberhagen reported that none of the requests were complaint driven and

recommended they be placed at the bottom of the deferred list. Staff recommended approval of funding deferred statewide requests chronologically as far as statewide funding would allow and authorize the Executive Director to allocate further released funds to deferred statewide requests as funds become available. On motion of Rooter Brite, seconded by Wayne Register, the Board approved staff recommendation.

Robert Kennedy, Deputy Commissioner for Finance for the Texas Department of Agriculture (TDA) provided information and discussed financial assistance programs available through TDA and asked the Board for assistance in getting the information out to district directors and producers. The Board suggested they set up a booth at the Annual State Meeting in Fort Worth, October 2-4, 2000.

James Moore discussed safety and liability issues relative to operation and maintenance of flood control structures. He said there are 1,219 flood control structures in the state for which soil and water conservation districts have the Operation and Maintenance (O & M) responsibility. He said the average maintenance cost as estimated by the Natural Resource Conservation Service is \$1,000 per site, and that some sites appeared to need additional maintenance to bring them up to standards. He further explained that districts have no taxing authority to secure funding to take care of the O & M needs on many of these old structures. George Noelke from the Attorney General's Office reported on the legal aspects of operation and maintenance responsibility and how district directors could be affected and liable if a disaster occurred due to inadequate maintenance. Based on the information available, Mr. Noelke recommended the Board include a request

in the agency's Legislative Appropriation Request to provide for the O & M needs where taxing entities are not part of the O & M agreement. The Board asked Mr. Moore and Mr. Noelke to prepare a letter to be sent to districts advising them what the Board is trying to do. After discussion, on motion of Don Swann, seconded by Wayne Register and Dayton Elam, the Board voted to accept staff recommendation to add a special item in the Legislative Appropriation Request (LAR) for O & M protection on small watershed dams.

The Board then returned to proposed Fiscal Year 2001 Technical Assistance and Conservation Assistance allocations for Area II that had been discussed earlier. On motion of Rooter Brite, seconded by Wayne Register, the funds in question would remain in Area II. On motion of Dayton Elam, seconded by Wayne Register, the Board accepted Area II allocations as presented by the staff. (Copy attached).

Bobbie Stephens discussed the Legislative Appropriation Request (LAR) for the biennium of 2002-2003 and four proposed exceptional items. She asked the Board to prioritize the exceptional items. Mr. Moore presented a request from the Upper Pecos Soil and Water Conservation District #213 requesting funds for a Pecos River Ecosystem Restoration Project. After discussion and on motion of Wayne Register, seconded by Dayton Elam, the Board voted to accept staff recommendations on exceptional items as shown on the attached schedule. (Copy attached). Mr. Register then amended his motion to add a raise in compensation for the Executive Director's salary to bring the total to \$80,000. All board members voted for the amendment except Rooter Brite who did not vote. Four Board members voted for the motion with Rooter Brite voting against. Bobbie Stephens

then asked the Board to prioritize proposed exceptional items. On motion of Don Swann, seconded by Wayne Register, the Board prioritized the items as follows: 1. Conservation Incentive Program; 2. State Brush Control Program; 3. Operation and Maintenance of Flood Control Structures; 4. Statewide Conservation Technical Assistance (District Support); 5. Pecos River; 6. Executive Director Salary Increase. The Board then set a date of August 3, 2000 at 8:00 a.m. in Temple as a proposed special board meeting date if one was needed to consider changes to the Legislative Appropriations Request. Ms. Stephens then discussed a request from a district concerning the \$7.50 per hour salary cap for district employees. On motion of Rooter Brite, seconded by Wayne Register, the Board voted to request the staff to prepare proposed rules for the Board to consider at its September meeting to raise the salary cap to \$10.00 per hour.

Ms. Stephens discussed proposed amendment to Title 31, Natural Resources and Conservation, Part XVII, Chapter 521, Agricultural Water Conservation, Subchapter A. The change would allow any unexpended funds at the end of the fiscal year to be returned to the State Board by check by September 30th. On motion of Rooter Brite, seconded by Dayton Elam, the Board voted to accept rules as changed and to be published in the **Texas Register**.

James Moore discussed proposed amendments to Title 31, Natural Resources and Conservation, Part XVII, Chapter 523, Agricultural and Silvicultural Water Quality Management. At the June board meeting the Board directed staff to evaluate the desirability of establishing a cut-off date for eligibility under the SB 503 cost-share program for animal feeding operations and to report back to the Board at

the July meeting and prepare rule amendments for the Board to consider. Mr. Moore presented rule amendments as requested by the Board, but explained that since Animal Feeding Operations are classified as nonpoint sources of pollution, staff would recommend giving higher priority to existing operations and lower priority to new facilities and that this could be incorporated into the priority system currently being developed. The Board agreed and took no action on the rule amendment.

Donna Long discussed the need in the North Bosque Watershed for a second cost share payment in order to upgrade existing water quality management plans to meet requirements of a TMDL. On motion of Dayton Elam, seconded by Don Swann, the Board approved a second cost share payment be made available to producers with existing water quality management plans located in the North Bosque watershed to provide for upgrading required by a TMDL.

Mr. Buckley advised the Board he is the only person authorized to sign certification for Water Quality Management Plans and felt there is a need to authorize someone else in addition to himself to sign these plans in his absence. On motion of Wayne Register, seconded by Rooter Brite, the Board authorized James Moore to sign certifications in the absence of Mr. Buckley.

Salvador Salinas provided a report on Natural Resources Conservation Service activities and briefly discussed legislation on watershed funding, status of the agriculture appropriation bill, agency staffing and Conservation Tool Kit which is a new computer software program being utilized by their agency.

Mel Davis advised the Board of a change in district director election procedures. He said the elected director is required to sign a Statement of Elected

Officer that has to be completed, notarized and filed with the Secretary of State's office before the director can sign the Oath of Office.

Mr. Davis then discussed the need to change the policy on district director appointments and said all appointees approved by the Board will not be properly qualified as district directors until the appointee has signed, notarized and filed the Statement of Appointed Officer with the Secretary of State before the appointee can sign the Oath of Office. On motion of Don Swann, seconded by Wayne Register, changes in the policy of appointment were adopted.

Bob Buckley discussed the status of the Sunset Commission staff report, which recommended soil and water conservation districts offer absentee ballots to eligible voters for one week following the local district director election. At the June 21, 2000 Sunset Advisory Commission public hearing the State Board disagreed with this recommendation. Some Commission members have asked the State Board to recommend alternative changes that would improve participation in district elections. Staff provided a draft letter with several proposed alternatives for district consideration. On motion of Dayton Elam, seconded by Don Swann, the staff was authorized to send the draft letter to all districts asking for district input on improving participation in district elections.

James Moore discussed the adoption of Amendments to Title 31, Natural Resources and Conservation, Part XVII, Chapter 517, Financial Assistance, Subchapter B, Cost-Share Assistance for Brush Control. Mr. Moore reported that these rules were ready to be adopted as permanent rules. He said the rules had undergone the required public review period and no comments were received. On

motion of Don Swann, seconded by Rooter Brite, the proposed rules were adopted as permanent rules.

Sam Unberhagen provided a status report on Water Quality Management Plan Program for the Board's review. He said there would be no problem meeting the target on status reviews.

John Millican discussed information on the Texas Conservation Awards Program and advised field staff suggested adding a new award category for Outstanding District Employee. Field staff also suggested using a larger size plaque for the regional essay and poster winners. On motion of Dayton Elam, seconded by Wayne Register, the new award category was approved and approved using a larger plaque size for regional essay and poster winners and instructed staff to continue conducting the program as cost effectively as possible.

Clyde Gottschalk provided a written report on Public Information/Education activities. He thanked Don Swann for attending the State FFA Convention in Corpus Christi and presenting the State Soil Stewardship Public Speaking Award.

Kevin Wagner provided a written report on the Brush Control Project Feasibility Studies and called the Board's attention to public meeting dates set for the study areas.

Johnny Oswald provided a report on the North Concho River Brush Control Project. He advised all of the brush control being done is mechanical and no spraying has been done due to weather and drought conditions.

Donna Long provided a written status report on Total Maximum Daily Load (TMDL) activities. She discussed EPA proposed changes to existing TMDL

regulations and their impact on the State TMDL program. The report also provided updated information on the Bosque River TMDL and the Big Cypress Creek TMDL, both of which are under development.

Ms. Long discussed the 319 status report update and said funds are being considered and prioritized. More information will be provided at the September board meeting.

James Moore provided a written report on the Coastal Nonpoint Source Management Program and briefly discussed the State's response to comments from NOAA and EPA.

Mel Davis provided information to the Board on cost for a recording set-up for the Hearings Room in Temple that would allow recording of Board meetings. This information had been requested by the Board at a previous board meeting. On motion of Dayton Elam, seconded by Don Swann, the Board voted not to record or buy any equipment to record board meetings.

Dawn Heitman provided the Human Resources report and advised Dub Crumley, Field Representative in Area V and Peggy Brockette, Administrative Technician in the Temple office, would be retiring on August 31, 2000. She also advised that Karla Stone, Field Representative in Area III had resigned. Recruiting is underway for three positions - Program Specialist III for TMDL, Program Specialist II in Area V and Special Assistant for External Customer Relations in the Temple office. Her report also included Affirmative Action/Recruitment Plan and Employee Training Update.

Bobbie Stephens provided a Budget versus Expenditure Report for the ten-month period ending June 30, 2000 and said funding is being expended as expected.

Ms. Stephens provided the Board a copy of the Employee Travel Report for fiscal year 2000 for the Board's review and information.

A travel report for Board members travel and per diem was discussed.

Mel Davis discussed the NACD South Central Regional Meeting to be held in Springdale, Arkansas on July 30 - August 1, 2000. Bob Buckley, John Millican and Board member Wayne Register will be attending.

It was the decision of the Board not to go into Executive Session to discuss job duties and evaluation process for the Executive Director.

Dawn Heitman provided a draft job description for the Executive Director with the inclusion of recommended changes. On motion of Dayton Elam, seconded by Rooter Brite, the Board accepted the job description with changes as read by Dawn Heitman. (Copy attached).

There was no Executive Session to deliberate the appointment, employment and duties of Special Assistant for External Customer Relations position. Ms. Heitman reported on the committee's meeting and advised they would like to continue the screening process and keep the position open.

The next Board meeting was set for September 20, 2000 after the Sunset Commission hearing on the agency in Austin. The Board meeting will convene in the Hearings Room in Temple and will continue on September 21, 2000.

On motion of Dayton Elam, seconded by Don Swann, the Board meeting adjourned at 4:15 p.m.

Edward G. Albright
Chairman

Louis J. Casin
Secretary

9-20-2000
Date

I certify that the above is a true and correct copy of the minutes of the Board meeting held on July 20, 2000.

9-20-2000
Date

Robert H. Buckley
Executive Director