

**Minutes**  
**TEXAS STATE SOIL AND WATER CONSERVATION BOARD**  
**September 20-21, 2000**

The Texas State Soil and Water Conservation Board met on September 20, 2000 at 2:45 p.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  
Kevin Wagner, Natural Resources Specialist  
Clyde J. Gottschalk, Program Administrator  
Dawn Heitman, Human Resources Specialist  
Johnny Oswald, Program Administrator  
Sam Unberhagen, Program Specialist  
Donna Long, Program Specialist  
Julia Jeske, Program Specialist  
Lee Munz, Planner  
Clay Wright, Information Specialist  
Lois J. Cain, Administrative Technician

Others present were:

John Burt, Natural Resources Conservation Service  
Salvador Salinas, Natural Resources Conservation Service  
Dr. Clarence Richardson, Agriculture Research Service  
Humberto Hernandez, Natural Resources Conservation Service  
George Noelke, Attorney General's Office  
José Dodier, Association of Texas SWCDs  
Joe Cantu, Resource, Conservation & Development

Chairman Albrecht called the meeting to order and welcomed those present.

Minutes for the July 20, 2000 Board meeting were considered. On motion of Donald Swann, seconded by Wayne Register, the minutes were approved as mailed.

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

Don Fields, Coke County SWCD #219  
J. E. Wheeler, Jr., McMullen County SWCD #353

Bob Buckley discussed Sunset Review Status and said everything the Board had requested to be adopted was adopted by the Sunset Commission and will be sent to the Legislature with the recommendation that the Texas State Soil and Water Conservation Board be continued for another twelve years.

James Moore discussed the process for establishing water quality management program priorities. He provided the attached recommendation which provides the State Board with a documented basis for setting priorities. On motion of Rooter Bite, seconded by Donald Swann, the Board adopted the process as presented. (Copy attached) Mr. Moore presented and discussed a draft inventory of animal feeding operations in Texas and explained how the information was developed. The Board, after discussion, directed staff to continue work on the inventory, to develop a definition of animal feeding operations for the inventory and to report back to the Board next meeting.

Mr. Moore discussed final adoption of Amendments to 31 TAC, Chapter 523, Agriculture and Silvicultural Water Quality Management Plans. He explained that the rule amendments, which were proposed at the May 25, 2000 Board meeting, made the following modifications to existing rules: 1) Provide for restoration of failed practices which fail under conditions which are beyond the control of the district cooperator; and 2) Require the obligation of water quality cost share funds by conservation districts to cooperators by the last day of February of the fiscal year in which they were allocated, and revert unobligated allocations back to the Board for re-allocation on March 1<sup>st</sup>. He further explained that the rules had been published in the Texas Register, had undergone the required 30-day

comment period and that no comments had been received. Staff recommended the Board adopt these rules as final rules as they appeared in the **Texas Register**. On motion of Rooter Brite, seconded by Donald Swann, these rules were adopted as recommended.

Sam Unberhagen updated the Board on Fiscal Year 2001 Water Quality Cost Share Allocations. He presented four requests that had been carried over from FY00 and provided a letter from the Upper Elm-Red Soil and Water Conservation District #524 asking for three of the above mentioned requests to be rolled over and considered for statewide funding in FY01. He further explained that the Board historically defers all requests unless they are complaint driven until later in the fiscal year. On motion of Wayne Register, seconded by Dayton Elam, the requests were deferred.

Mr. Unberhagen then discussed letters of request for changes in basis of calculating cost share payments from Andrew Kent Soil and Water Conservation District #170 and Duck Creek Soil and Water Conservation District #169. After discussion and on motion of Dayton Elam, seconded by Wayne Register, the Board did not approve the request.

Mr. Unberhagen provided the Water Quality Management Program status report and advised 780 plans were certified for FY00 and 370 status reviews had been done. He reported on two complaints that had been investigated since last Board meeting and found not to be valid. For FY01 he said 44 cost share requests had been received, 42 requests had been approved and two were pending.

Donna Long reported on current status of Total Maximum Daily Load (TMDL) projects in the Bosque River, Big Cypress Creek and Aquilla Watershed. Julia Jeske discussed the final report on the Aquilla TMDL document that will be sent to EPA and the need to submit this report to the Texas Natural Resource Conservation Commission early in November. Mr. Moore asked the Board to authorize staff to send the report to TNRCC on November 9, 2000 and advised the report would not go to EPA before March, 2001. He said this report could be discussed at the November Board meeting and any Board

comments or concerns addressed while at TNRCC. Chairman Albrecht advised staff to go ahead and proceed.

Donna Long updated the Board on Section 319(h) program funding. She advised the State Board that contracts had been finalized with Johnson County Soil and Water Conservation District and Hill County Soil and Water Conservation District to administer a 319(h) project within the Richland-Chambers and the Joe Pool Lake Watershed to address Atrazine. She also reported that a contract with the Limestone-Falls Soil and Water Conservation District had been finalized to administer a 319(h) project within the Richland-Chambers Watershed also to address Atrazine. Ms. Long said on September 13, 2000 the State Board submitted its annual application for CWA Section 319(h) grant funding to EPA.

James Moore provided a written report prepared by Kevin Wagner on the status of brush control feasibility studies in eight watersheds in Texas. He said these feasibility studies are to be completed by November 2000 to allow for preparation of recommendations to be submitted to the State Legislature for consideration during the 77<sup>th</sup> Legislative Session. The feasibility study areas include: Frio River Basin, Nueces River Basin, Pedernales River Basin, Wichita River Basin, Canadian River Basin, Concho River Basin, Upper Colorado River Basin, and Edwards Aquifer.

Johnny Oswald provided a status report on the North Concho River Brush Control Project. He said 92 contracts had been approved by the state to treat an estimated 183,000 acres and that actual acres certified were 19,706. He reported there was no spraying of mesquite this year due to the drought and that all the work done had been by mechanical means.

Bobbie Stephens provided a Budget versus Expenditures Report for Fiscal Year 2001. She also reviewed the 12-month Budget versus Expenditures Report for Fiscal Year 2000 and called the Board's attention to the large balances for Brush Control and SB 503 and advised these funds have been encumbered and funds would not be lost. Mr. Register

asked about the status of the internal audit. Ms. Stephens explained status and said Mr. Russell Gregorczyk, the Internal Auditor, would be in our office in November or early December to start the first audit which will be on the Accounting Department.

Bobbie Stephens discussed the 2002-2003 Biennium Legislative Appropriation Request and said staff was working with the Legislative Budget Board and the Governor's Office making changes and providing information as requested.

Ms. Stephens discussed a proposed procedure change for payment of District Director Mileage and Per Diem Funds. She recommended these funds could be paid out in a more timely manner by eliminating the encumbrance process and process payments on a timely basis during the fiscal year funds are utilized. On motion of Donald Swann, seconded by Rooter Brite, the Board agreed to the process recommended and said it should be processed on a quarterly basis.

Ms. Stephens then provided a proposed procedure change for payment of Senate Bill 503 cost share administrative fees. She requested approval from the State Board to cease the current encumbrance process and implement the following:

- 1) Process 5% administrative fee payment to districts as of February 28, 2001 determined by obligated fund balance.
- 2) No written request would be required from the districts to initiate the 5% administrative fee payment.
- 3) Any cost share funds reallocated by the State Board after March 1, 2001 would have the 5% administrative fee processed by agency staff no later than September 30, 2001.
- 4) After that date, no claims for Fiscal Year 2001 administrative fees would be processed.

On motion of Rooter Brite, seconded by Dayton Elam, the change was approved as requested.

John Burt introduced Humberto Hernandez as the new Resource Conservationist for the South Central Region, which includes Texas, Oklahoma, Arkansas and Louisiana. Mr. Hernandez addressed the Board and gave his background and education. Wayne Register asked him what the regional office would bring to the conservation program in Texas and Mr. Hernandez replied that leadership would be provided in the regional office to provide valued assistance to do the right thing. Getting back to basics is his number one priority.

John Burt then discussed activities of the Natural Resources Conservation Service and explained their budget situation in Congress. He passed out the Executive Summary of Strategic Plan for NRCS for 2000-2005 and discussed key items.

James Moore discussed safety and liability issues relative to flood control structures in Texas. He explained that since the July 20<sup>th</sup>, 2000 Board meeting that information had become available indicating that in most cases counties have signed maintenance agreements, which make them responsible for the cost of maintenance of these structures. Mr. Moore explained that the only exception was McCulloch County. The Board had directed staff to seek a letter from Legal Counsel regarding liability surrounding operation and maintenance of flood control dams. Legal Counsel is currently working on the letter. George Noelke from the Attorney General's Office addressed the Board and said it is clear there are three parties to the document - USDA, District and County. He advised all documents should be opened up by the three parties and updated. The Board asked Mr. Noelke to draft a letter to the Board that could be used to work with districts. The Board expressed their appreciation to Mr. Noelke for his assistance.

Kevin Wagner discussed the process for evaluating past program performance in existing water quality management program priority areas. Mr. Wagner discussed a chart he had prepared on the evaluation process and allocation process. He said he would like to have time to better refine the process and go over it with field staff and bring back to the Board at the November Board meeting. The Board was asked to review the proposed

process and invited to provide comments. The Board then directed that a refined process be presented at the November Board meeting.

Bobbie Stephens discussed proposed Amendment to Title 31, Natural Resources and Conservation, Part XVII, Soil and Water Conservation Board, Chapter 519, Technical Assistance, Subchapter A, Technical Assistance for Soil and Water Conservation Land Improvement Measures. The proposed change would allow pay rate for district technicians to be raised from \$7.50 to \$10.00 or from \$15,580 per year to \$20,773 per year. On motion of Rooter Brite, seconded by Wayne Register, the proposed change was approved by the Board.

Ms. Stephens then discussed proposed Amendment to Title 31, Natural Resources and Conservation, Part XVII, Soil and Water Conservation Board, Chapter 521, Agriculture Water Conservation, Subchapter A, Technical Assistance Program for Soil and Water Conservation Land Improvement Measures. The proposed change would allow any unexpended and unobligated balance on the district books as of August 31 to be returned via check to the State Board by September 30<sup>th</sup>. Returned funds will be included in the next allocation process to the districts. On motion of Wayne Register, seconded by Donald Swann, the Board approved the proposed amendment.

Bobbie Stephens provided the Board members with their travel report for Fiscal Years 2000 and 2001. She stated allocations remained at the same rate as FY00.

Mel Davis advised the Board there was a written report in their notebooks on the activities of the Public Information/Education Department, which included a press-clipping chart.

Mel Davis said the annual meeting of the National Association of Conservation Districts would be held February 4-7, 2001 in the Radisson Plaza Hotel in Fort Worth, Texas. He advised the Board that rooms have been blocked for them at the Radisson Plaza. Meeting will be held in the Convention Center.

The next Board meeting will be on November 16, 2000 at 8:00 a.m. in Temple in the State Board's Hearings Room.

At 10:55 a.m. Chairman Albrecht announced the Board would go into Executive Session under Section 551.074 of the Texas Open Meetings Act.

The meeting reconvened at 11:25 a.m. and on motion of Wayne Register, seconded by Rooter Brite, the meeting was adjourned.

Edward M. Albrecht  
Chairman

Lois J. Cain  
Secretary

11-13-00  
Date

I certify that the above is a true and correct copy of the minutes of the Board meeting held on September 20-21, 2000.

11-13-00  
Date

Robert L. Buckley  
Executive Director