

**Minutes**  
**Texas State Soil and Water Conservation Board**  
**May 28, 1997**

The Texas State Soil and Water Conservation Board met on May 28, 1997 at 1:00 p.m. in the Ag Building Conference Room of the East Texas Plant Material Center, Stephen F. Austin State University, Nacogdoches, Texas.

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

Board members present were:

Paul Robertson, Member  
Charles D. "Buddy" Clark, Member  
Clarence F. "Dick" Schendel, Chairman  
Gene Sollock, Member  
James K. "Rooter" Brite, Member

Staff members present were:

Robert G. Buckley, Executive Director  
Clyde Gottschalk, Information/Education Director  
Mel Davis, Assistant Executive Director  
James M. Moore, Assistant Executive Director  
William C. Neiser, Assistant Executive Director  
Cheremie Viator, Director of Programs  
Roy Freeman, Program Specialist  
Stephen W. Deiss, Regional Mgr.  
Andy Garza, Regional Mgr.  
Adrian Perez, Program Specialist  
Charley Rodgers, Regional Mgr.  
Bob Gruner, Program Specialist  
Rex Isom, Program Specialist  
Steven M. Jones, Regional Mgr.  
Joe Freeman, Program Specialist  
Johnny Oswald, Program Specialist  
David C. Powell, Program Specialist  
Joel Clark, Program Specialist  
Dub Crumley, Program Specialist  
John O'Connor, Regional Mgr.  
Don Brandenberger, Program Specialist

Others present were:

Memo Benavides, Association of Texas Soil & Water Conservation Districts  
Atlan Pfluger, Texas Water Development Board  
John Burt, Natural Resources Conservation Service

On motion of Gene Sollock, seconded by Paul Robertson, the minutes from the March 12, 1997 board meeting were approved as mailed.

Mel Davis presented the following district director appointments for consideration:

Dick Moody, Winter Garden SWCD #326  
Tommy E. Boyd, Throckmorton SWCD #543

On motion of Paul Robertson, seconded by Gene Sollock, the appointments were approved as presented.

Chairman Schendel asked Davis to present the request for a legal subdivision boundary change in the Agua Poquita SWCD # 321. Davis explained that because of a shift in population within the SWCD, and in order to equalize agricultural operators within each of the SWCD's respective zones, the petition by the district was being requested. Hearing that all legal and administrative procedures were in order, on motion of Buddy Clark, seconded by Gene Sollock, the subdivision boundary changes were approved as requested.

The board next addressed the division and reorganization of the Nueces-Jim Wells-Kleberg-Kenedy SWCD #311. Davis advised the board that public hearings were held which met the legal requirements for the division and reorganization of the SWCD. He added that an audit was conducted which found the SWCD's financial affairs to be in proper order. Assets and liabilities are recommended to be transferred as follows:

	<u>Jim Wells Co. SWCD #355</u>	<u>Kleberg-Kenedy SWCD #356</u>	<u>Nueces SWCD #357</u>
State	\$3,354.42	\$3,354.41	\$3,354.41
Trust	\$4,459.31	\$4,459.31	\$4,459.31
Total	\$7,813.73	\$7,813.72	\$7,813.72
Equipment	\$ 966.00	\$1,156.00	\$1,935.00

Following a discussion of all legal and administrative procedures necessary to divide the district several motions were necessary to complete the process. Gene Sollock moved that the State Board approve the administrative practicability and feasibility of dividing the Nueces-JimWells-Kleberg-Kenedy SWCD #311 into three separate districts to be named Jim Wells County SWCD #355, Nueces SWCD # 357 and Kleberg-Kenedy SWCD #356. Paul Robertson offered a second to the motion; motion carried. Paul Robertson moved that the State Board approve subdivision boundary lines for the Jim Wells County SWCD #355 and Nueces SWCD #357. Gene Sollock offered a second to the motion; motion carried.

Gene Sollock moved that the subdivision boundary lines of the Kleberg-Kenedy SWCD #356 be approved contingent upon a verification of the legal description of the new district's boundary lines. Paul Robertson offered a second to the motion; motion carried.

Paul Robertson moved that the following persons be appointed directors in the respective three new districts. They include: E. L. Spaniel and George A. Frank for the Jim Wells County SWCD #355; Edward A. Schubert and Gary L. Underbrink for the Kleberg-Kenedy SWCD #356; and Ernest Bolland and Don Ocker for the Nueces SWCD #357.

Gene Sollock offered a second to the motion; motion carried. James K. Brite moved that SB503 funds originally allocated to the parent Nueces-Jim Wells-Kleberg-Kenedy SWCD #311 be reallocated to the following SWCDs:

Name:	Amount Reallocated:
Kleberg-Kenedy SWCD #356	\$7,082.96
Nueces SWCD #357	\$14,280.73

Charles Clark offered a second to the motion; motion carried. Paul Robertson moved that cooperator agreements be transferred to each appropriate new district. Gene Sollock offered a second to the motion; motion carried. James K. Brite moved that easements be transferred to each appropriate new district. Paul Robertson offered a second to the motion; motion carried.

Bill Neiser gave the board an agency expenditure report for the eight month period ending April 30, 1997. He said that agency expenditures were on track with the budget for each of the appropriation items.

Mr. Neiser followed with a report on the status of the 1998-99 Legislative Appropriation Request. He said that the agency appropriations for the next two years will be at current levels. Neiser also advised the Board that travel expenditures will be reduced by ten percent for each year of the biennium with no reduction in overall funding. In addition Neiser told the Board the agency will have a cap of 60 employees.

The Board addressed the State Auditor's Mock Performance Audit. The audit was done at the request of the agency on a six month interim to insure that the TSSWCB is meeting its performance standards. Neiser said the State Auditors Office could not certify two of the measures examined. One of the measures contained duplicate

information that made the reported result incorrect. In addition, one other measure had supporting documentation in a format where the auditor was not able to verify the reported result. Neiser told the Board that both problems have been corrected.

With respect to fiscal year 1997 Conservation Assistance allocations, Neiser said that he did not have any business to address.

In addressing Conservation Assistance supplemental payments for fiscal year 1997, Neiser said SWCDs must claim two-third's of their matching funds by May 15 or their allocation will be reduced. He said that the total for reductions is \$21,524.77. This reduction amount and any balances not claimed as of August 1, 1997, will be available for supplemental matching funds claims. He asked the Board for guidance on how to allocate the available funds after August 1st. Paul Robertson made the motion to reallocate matching fund supplemental payments in the same manner that the agency has done in the past. Gene Sollock offered a second to the motion; motion carried.

The Board then proceeded to address the allocation of fiscal year 1997 Technical Assistance funds. Four SWCDs, the Upper Pease SWCD, Fannin SWCD, Upper Sabine SWCD and the Hall-Childress SWCD all requested additional Technical Assistance funds. Neiser told the Board that all Technical Assistance funds have been allocated to SWCDs and that there are no other funds available. Mr. Neiser then reported to the Board that there are Subchapter H funds in the amount of \$84,883.61 that are available to allocate to districts that qualify.

With respect to the allocation of fiscal year 1997 Subchapter H Technical Assistance funds Bob Buckley reviewed the history of the program and said that

historically allocations have been made within the five state districts on the basis of the number of critical indicators. He asked the Board to consider how the newly created SWCDs would fit into the program. Paul Robertson said that he felt the three newly created districts should be eligible to receive the funds. Chairman Schendel concurred. James K. Brite moved that the three new created districts (Kleberg-Kenedy #356, Jim Wells County #355 and Nueces SWCD #357) be included to receive Subchapter H funds. Gene Sollock offered a second to the motion; motion carried.

Mr. Neiser then submitted a proposed allocation of Subchapter H funds as follows:

State District I	\$23,667.28
State District II	\$17,522.89
State District III	\$20,708.87
State District IV	\$ 7,509.81
State District V	<u>\$15,474.76</u>
Total	\$84,883.61

There was a motion by Paul Robertson, seconded by Gene Sollock to allocate funds as attached.

Chairman Schendel called for a report from agencies and guests.

Atlan Pfluger with the Texas Water Development Board said that his agency approved grants in the amount of \$47,000 to seven SWCDs to be used for purchase of water conservation or water quality monitoring equipment.

ATSWCD President Benavides congratulated James Brite on his election to the State Board. He said the ATSWCD board of directors met on May 14, 1997 to address changes on the board due to Brite's resignation. In addition he said that the board addressed the resolutions process, status of the endowment fund, the Association's budget

as well as review the Committee of 100 meeting held recently in Austin. Benavides said the ATSWCD board of directors will meet again on July 17.

In giving the State Board an update on the legislative process, Bob Buckley told the Board HB 1808 exempting conservation plans from the Open Records Act passed both houses.

Mel Davis informed the Board that the financial status of the regional awards programs is yet to be completed but that the Board will be given a complete report as soon as it becomes available. All Board members expressed successful programs in their area. Mr. Davis advised the Board that it is time to recommend changes for next year's program if the Board so desires. He then referred to a letter from the Bedia Creek SWCD proposing a state level of competition in the poster and essay contest inclusive of awarding savings bonds and scholarships in the contest. The Board chose to take no action at this meeting.

Bob Buckley told the Board that historically the Chairman of the TSSWCB, President of the ATSWCD, ATSWCD Director in the area where the meeting is to be held, President of the Ladies Auxiliary, Executive Director, TSSWCB and designated staff form the planning committee for the Annual Statewide Meeting of Soil and Water Conservation Districts Directors. Since it is time to begin the planning process, Paul Robertson moved that a State Meeting Planning Committee consisting of the Chairman of the TSSWCB, the State Board member from Area III, ATSWCD President, Association Director for Area III, Ladies Auxiliary President, TSSWCB Executive

Director and designated staff form the committee. Gene Sollock offered a second to the motion; motion carried.

Mel Davis advised the Board that no specific information from NACD has been released about their national meeting. The meeting will be held in Nashville, Tennessee. Rooms have been reserved at the Opryland Hotel. With respect to NACD's South Central/Southeast Regional meeting, Mel Davis said that this meeting will be held July 27-30, 1997 in Tunica, Mississippi at the Grand Hotel Tunica. He asked that the Board provide him with information as to what accommodations will be required if Board members plan to attend. NACD is expected to mail detailed information soon. The 1997 NACD National Leadership Conference will be held August 20-24 at the Royal Waikoloan Resort in Kamuela, Hawaii. Bob advised the Board that he does not plan to go but inquired if the Board wanted to send a delegate. No action was taken.

James Moore discussed policy changes in the watershed program. He told the Board that the changes affect planning starts, inactive watershed projects, program management and accountability, as well as fund transfers. He further explained that the policy change regarding planning starts could potentially effect the Board's priority setting responsibility.

Mel Davis brought up two additional items on the subject. He said that Tracy Gonzales-Schmidt, Assistant Attorney General has been contacted by letter requesting that the State of Texas file a "Friend of the Court" brief in a lawsuit styled as Fowler v. Lincoln County Conservation District. He said that the case involves a floodwater retention structure in Oklahoma in which cattle had drank from the lake and died. The



landowner filed suit against the SWCD. The case is currently on appeal to the Oklahoma Supreme Court. Mr. Davis said that the case could, through persuasive precedent, affect Texas.

Mel also discussed a letter written by the Texas Association of Watershed Sponsors to all SWCDs that are primary sponsors of watershed projects. He said that the letter points out that in some districts which have watershed projects, problems have occurred which indicate the possible need for liability insurance. He said that the association's intent of the letter is to just advise SWCDs that some districts have found their coverage to be inadequate and to consider their liability insurance needs.

James Moore brought the State Board up to date on the status of a Memorandum of Understanding with TNRCC. He reminded Board members that several months ago they approved a MOU with TNRCC regarding jurisdictional authority, program responsibility and procedural mechanisms for point and non point source programs. He said that TNRCC has virtually left the MOU as the State Board originally approved it. As a result, Bob Buckley has signed the document and the instrument has been delivered to TNRCC, to be published in **The Texas Register**.

James Moore updated the Board on activities under Section 319 of the Clean Water Act. He reported that the fiscal year 1997 grant had been received and that to date 15 proposals had been received for Fiscal Year 1998 funding.

James Moore discussed a letter dated April 25 in which he had written to Tracy Gonzales-Schmidt, Assistant Attorney General, with respect to the City of Corpus Christi developing a federal storm water permit under which they wish to control runoff from

cropland within their corporate limits. The letter inquires as to whether or not a city can regulate runoff from agricultural land within its corporate limits for the purpose of preventing water pollution and what the State Board's authority and responsibility is in relation to the situation. Mr. Moore said that we do not yet have an answer to the question.

James Moore next discussed a draft letter to SWCDs in SB 503 priority watersheds. The letter asks SWCDs to advise the State Board whether they will be able to obligate all of their SB 503 allocations. If not, SWCDs are being asked to indicate the amount that they will release for reallocation. Mr. Moore said this information is needed by July 1, 1997 and that the letter will be sent out immediately to give districts enough time to act on it.

James Moore then gave a status report on Senate Bill 503 covering the following: total number of water quality management plans written to date, status of SB 503 cost share funds, annual status reviews for FY 94-95 certified WQMPs, and a status of complaints received since the last board meeting.

James Moore explained to the State Board the emphasis EPA is putting on the TMDL process and what the process means. He said that EPA's draft policy lays out an eight to thirteen year time frame for the completion of TMDL in each state. He added that the draft policy asks EPA regions to secure draft schedules from the states they serve by October 1997 and a final schedule to be submitted in April 1998. In a letter dated April 9 to the director of the EPA Water Quality Protection Division, Region 6, Mr. Moore said that the State Board wants to be part of the development and implementation

of any TMDL that involves agricultural or silvicultural nonpoint sources. James added that his letter also included the point that the TSSWCB be included in the development of any written agreement between the state and EPA on TMDL development. The State Board advised Mr. Moore to keep working to make sure that the agency has a role in the process.

James Moore then discussed TMDL issues specific to the North Bosque River, Big Cypress Creek and the Arroyo Colorado indicating that they will most likely be the first water bodies the Board would be asked to become involved with.

James Moore informed the Board that a meeting of the NASCA Southeast/South Central Water Quality Coordinators was held May 14-15, 1997 in College Park, Georgia.

James Moore then presented requests for allocations from state wide funds from the Canadian River, Gillespie County and Bedias Creek Soil and Water Conservation Districts. Because the Canadian River SWCD and the Gillespie County SWCD's requests of \$10,526.00 each was complaint driven, Charles Clark made the motion to approve the two district's requests. James K. Brite offer a second to the motion; motion passed. The Bedias Creek SWCD's request of \$7,895.00, because it is not complaint driven, was deferred until the next Board meeting.

Clyde Gottschalk reported on the status of various projects underway. He said that all parties have signed the Memorandum of Understanding regarding the organization and development of the wildlife clinic and that the agreement needs approval by the State Board. The development of handbooks for each of the five areas will be worked on sometime this summer.

With respect to the "What's the Difference" video Gottschalk said that footage was shot in May and that editing will begin in early June with anticipated completion by the end of June.

The Water Quality Curriculum program is being finalized with field testing and implementation to be done in the 1997-98 school year. Gottschalk said that a State Advisory Committee to direct Food Land & People in Texas is being developed. One meeting was held with a subsequent meeting to be held later this summer. Gottschalk told the Board that summer conservation education workshops are in place and ready to be conducted. Finally Gottschalk told the Board that planning for the Agricultural Nonpoint Source Conference to be held in the Rio Grande Valley was developing smoothly.

Following Gottschalk's report Gene Sollock made the motion that the State Board adopt the Wildlife Clinic Memorandum of Understanding. Paul Robertson offered a second to the motion; motion carried.

Bill Neiser reported that Victoria Suniga has been promoted to Human Resources Director effective May 22, 1997. She replaces Randy Jones who resigned May 7, 1997. Bill also reported the hire of Bobbie Stephens as Program Administrator and Contract Manager for the "319 Section." He also said that the agency is recruiting internally for an Administrative Technician II position in the Accounting/Human Resources Department. He explained that Victoria's old position is being reclassified to the Administrative Technician position to support the Budget, Accounting, and Human Resource areas. Neiser also reported that the Hydrologist I position is still vacant.


Bob Buckley asked the Board if any member plans agency related out of state travel between the current date and July. There being none Bill Neiser discussed the need to transfer the balance of former Board member Harvey Davis to newly elected member, James K. Brite. Paul Robertson made the motion to transfer the funds. Gene Sollock offered a second to the motion; motion carried.


Chairman C. F. Schendel called for the nomination of Chairman. Charles Clark nominated Paul Robertson. Gene Sollock moved that the nominations cease. James K. Brite offered a second to the motion; motion carried.

Chairman Schendel called for nominations for Vice Chairman and then offered Gene Sollock as nominee for Vice Chairman. Paul Robertson nominated Charles Clark for Vice Chairman. James Brite moved that the nominations cease. Paul Robertson offered a second; motion carried.

Chairman Schendel called for the vote resulting in a 3-2 vote for Charles Clark to be Vice Chairman.

There being no further business the next Board meeting was set for July 16, 1997. The meeting adjourned at 4:45 p.m..

  
Chairman

  
Secretary

7-16-97  
Date

I certify that the above is a true and correct copy of the minutes of the Board meeting held on May 28, 1997.

7-16-97  
Date

Robert L. Buckley  
Executive Director