

# Washington Parish Reservoir Commission

## Minutes of June 20, 2017 Meeting

### Members present:

Y\_\_\_ Bob Bateman - Treasurer

Y\_\_\_ John Nichols - Secretary

N\_\_\_ Jim Beatty

Y\_\_\_ Cliff Roberts

Y\_\_\_ Jason M. Creel

N\_\_\_ Beryl Schilling

Y\_\_\_ Bill Jenkins - Chairman

y \_ Jerry Thomas - Vice-Chairman

N\_\_\_ Mike Melancon

# Members present   6   Quorum present?   YES   # Guests present           

**Noted By the chairman:** The commission began with eleven members. Two members are not on the commission any longer. Those are Mike Garic and Charles Mizell. The WPRC is now nine members total, making a quorum five members required present instead of the previous 6.

### AGENDA:

1. Place of Meeting:            Bogalusa WEDF Office           

2. Called to order by            Chairman           

3. Prayer by            Bill Jenkins           

4. Pledge led by            Bill Jenkins           

5. Approval of Meeting Minutes of WPRC meeting May 24th.

Changes/additions:   None  

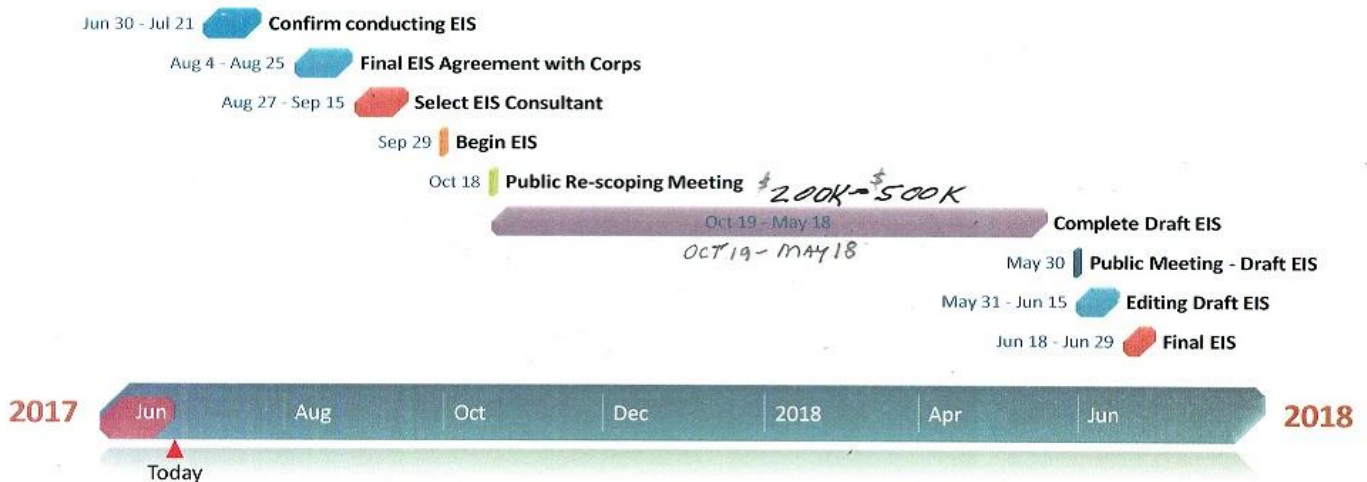
Motion to accept by:    Bob Bateman 2nd by    John Nichols   Passed Unanimously

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### 6. Discussion of current status of Permit Application and negotiations with the COE provided by Keith Turner.

The application as it relates to Mike Goff being WPRC agent on behalf of COE has been completed and the supplement as relates to project purpose has also been filed with COE. This was necessary after meeting with them about a month and ½ ago to re-engage and clarify exactly the project purpose and the confusion as to why COE denied the permit. Now we are in the next stage and below is the **Timeline Proposed**. Recognizing that as with any government entity, it is subject to slip but it gives the tasks and sequence of tasks if the decision is to go forward with the EIS.



The first thing that has to be done is confer with the COE. Until we submitted this documentation, they have not agreed as yet that the EIS is the right path. The law is very clear, with a project of the size and scope of this one, a decision cannot be made without an EIS. The COE has got to get to that point which will take several weeks. Once that is agreed, there must be an agreement between COE, WPRC and our consultant we have retained. That is important the way it is drafted because a lot of work has been done in the past and that work is included. The role of Mike Goff with the COE as our agent is clearly articulated. This was tried by this group several years ago. The agreement was not done properly in my opinion. It did not allow the Commission to participate which I have not seen before. Normally it is a three way agreement and everyone has a role to play.

**Commissioner question 1:** *Was that the COE that left us out of it?* Yes, they forced it such that the commission was unable to participate in it. That arrangement is such that the commission is not supposed to influence the final product. The agreement is structured in such a way that the COE is directing the consultant. However, the commission does have a role to play which needs to be a part of the agreement. It is easy to add to the agreement.

**Commissioner question 2:** *Can you clarify, that the COE stated an EIS is not the appropriate way to proceed.* Let me clarify. When the original permit was denied, it was

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denied on the methodology that was proved to be wrong by the COE and we appealed. It was sent to California for the hearing review to determine if it was properly denied. The COE had denied it before doing an EIS which means they had denied it before looking all the alternatives, impacts and all the things that an EIS does. So the COE was found to be wrong by their own people and told to go back and re-evaluate it. Yet the COE as of last meeting, has not 100 % agreed to do an EIS on this project. In any other district this would not be a problem. They were shown to be wrong and now they are being very cautious on how to proceed. To answer your question, YES, they have not yet agreed that an EIS is the right path.

**Commissioner question 3:** *Well, you made the statement that the corps said an EIS is not the right way to go. Are we to assume that you are wanting us to authorize the EIS? Their alternative is to deny it again out right without even considering all the issues addressed by the EIS. They're trying to suggest that the project cannot be permanent, that is their position. We are saying that they cannot make that decision without an EIS. They're jumping to the end of the process but that is why the process is there. The reason that we were successful is the COE did not consider all the factors that EIS would bring out. This is more a problem with the person managing this program and not the district. Similar problems are being experienced in projects throughout the district.*

**Commissioner question 4:** *And that is going to cost us about what? It is hard to estimate because so much work has already been done. I would estimate somewhere between \$200,000 to \$500,000 remaining costs.*

**Commissioner question 5:** *Explain tasks of the time line. 1. Agreement with the COE that EIS is the path forward. 2. Final 3-way agreement with COE. 3. Select EIS Consultant that actually produces the EIS under the direction of the COE. 4. Begin EIS preparation. 5. Public Re-scoping Meeting where the public has an opportunity of commenting and reviewing the options. 6. Complete draft of EIS addressing all environmental issues. 7. Public Meeting to comment on draft EIS. 8. Edit draft. 9. Final EIS.*

**Commissioner question 6:** *You provided a cost estimate range of \$200,000 to \$500,000. When will the path forward be well enough defined to narrow that cost range down to a more accurate number? Mike will be better to address that question as he has more experience in budgeting. Normally the Commission would select three names of environmental contractors that would be submitted to the COE to select one. More definitive cost estimates can be obtained from them at that time.*

**Commissioner question 7:** *Considering the size and scope of our project and experience with other similar projects, isn't the range of \$200,000 to \$500,000 a little low? Not necessarily when you look at all the work that has already been done such as; Wetlands delineation , hydrology and surface water data. Alternatives analysis is the primary task left to be done which is looking at all options that would have a lesser environmental impact and the cultural package.*

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#### 7. Introduction of Mike Goff from Headwaters Incorporated as our agent coordinating the EIS with the COE.

Mike Goff from headquarters construction. I have a long history on this project already. Looking back, the first meeting I had with the COE and other agencies on the original application was in 2009 and intermittently since then. In 2012 and 2013 COE was concerned about the original delineation. We went in and re-delineated the property working with the COE and obtained the jurisdiction determinations. A lot of those gaps have been filled in.

The project did get to the beginnings of an EIS process in 2010 - 2011 time period which was stopped by the COE and then withdrew the permit application. After subsequent meetings, a new application was submitted in 2013.

National Environmental Policy Act (NEPA) process is mandated for all Federal agencies to be used as their evaluation or decision making tool. However when projects get to a certain size or impact, the COE will switch to the environmental impact statement, EIS, a more formal in-depth evaluation process than the EA process. At this point we have gone back and resubmitted permit application supplementing it with more information on purpose and need and changed it such that the agent or commission can start coordinating with the COE to move back into the evaluation process.

Keith is correct that we have yet to get confirmation from the COE Branch Chief that they will move forward as an EIS. We fully believe that the only way to assure that the project is evaluated fully is by the EIS process, not a NEPA EA. The EA at this point will be a shortcut and not a fair and equitable evaluation.

**Commissioner question 8:** *You think it is realistic that by this time next year we will have the final EIS?* We're talking about a governmental agency that is not really enamored with the EIS process at this point. If they do an evaluation in a fair and reasonable manner than it then it is reasonable that we could have an EIS in final form by fall next year.

**Commissioner question 9:** *How would you characterize the way you spend your time working with the COE?* I can't be your agent and be the EIS contractor too. We have to be completely separate. My time will be spent looking out for your interest in keeping the process moving and keeping you informed.

**Commissioner question 10:** *So what is your next step with the COE?* To sit back down with the COE. We sent them the supplemental application. We met with COE a few weeks ago and discussed the process but we could not get a clear answer at that time. So when the COE says they are receptive to the EIS process, the Commission will be asked to select who we want to prepare the EIS, the Commission will obtain an estimate as to the EIS cost to the taxpayers, all before we pull the trigger.

**Commissioner question 11:** *What specifically is the project that you are going to the core to request an EIS and ultimately the construction permit?* Right now we have a footprint of 3400 acres. *Do you have a footprint that will comply with the amended reservoir law, ie. Cannot expropriate property?* I assume that this footprint will comply

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with the amended law but alternative designs can be looked at. People may not be totally unhappy with the project when we get to the end of it. Also the socio-economic impact is part of the problem because there will be people who do not want the project.

**Commissioner question 12:** *We had discussed at one time moving the project from the Vicksburg District. Is that something that we should consider doing?* (response by Keith Turner) That would be an unusual action. I think we should wait until we see how the COE is going to rule on the EIS. If the Vicksburg District dismisses our application out of hand without just cause, then maybe we should consider it. Normally you would move to the lead district of the state which in this case would be New Orleans.

#### 8. Budget Approvals -

Bob Bateman offered motion to accept WPRC General Fund Budget for the period ending June 30, 2018 shown in handouts. Second by John Nichols. Motion passed.

Bob Bateman offered motion to accept WPRC Capital Outlay Budget for period ending June 30, 2018 as shown in handouts. Second by Jason Creel. Motion Passed.

#### 9. Public Participation -

**Malcom Moses:** *In regard to the Corps of Engineers not treating this project fairly and equitably: How long would they be allowed to keep going back and forth with this and what would be the cost to taxpayers?* *Response by Mike Goff:* The COE promised us a thirty day turnaround after we filed a supplemental application which has been done now. There will be constant dialogue between all parties but the Commission has the ultimate responsibility.

**Winford Pittman:** Offered suggestions for alternative sites for reservoir on and adjacent to the Bogue Chitto State Park. Using existing gravel pits and connecting them by series of canals a sizable acreage lake system could be developed for minimal cost. Also copies of letters to and from the Corps were provided for the Commission's records on the subject of the EIS Process.

**Phillip Bedwell:** Questioned hydrology data submitted by Denmon Engineering according to Corps Of Engineers public notice dated 11/26/14 which stated that applicant used computer modeling using historical floodgate data to determine that normal flow is 1512 cf/sec. Denmon repeated this number again in March of 2015. Historical data from USGS Highway 439 gage near Bogalusa shows a 22 year average of 117.5 cf/sec. Data is not accurate, I would like to request a copy of the hydrology calcs used in the Corps submittals by Denmon Engineering.

Second question: How can you provide a footprint to the Corps for the EIS when you don't know if the land is available and the amended law does not allow expropriation. DOTD cannot and will not take the land for you. Why knowingly waste taxpayer money?

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### **10. Hire Laport CPA Audit Service**

Bob Bateman offered motion to hire Laport Audit Service to do our annual audit as has been the practice in the past. Second by Jason Creel Motion Passed.

### **11. Commissioner's Comments -**

**John Nichols** – I have some comments. For the record, let me say that I cannot support any path forward where we may spend up to half million dollars on getting a permit before we know that we can purchase the property to use that permit. By next meeting with the responses from the Corps in 30 days as has been discussed today, we will know what the proposed path forward will be. It is my firm belief that we have to make a decision: 1. Are we going to charge-on spending the funds we have left to produce an EIS ignoring the reality that some property is not for sale at any price and DOTD would have to purchase it for us through expropriation OR stop, step back and examine any option for a reservoir in Washington Parish that does not require taking people's property against their will. That decision has to be made to go forward in a moral path, a practical path of getting a reservoir built.

I'm sorry, I for one cannot support continuing as we are, even if means shutting down the project.

**Jerry Thomas** – I can just comment for myself that I will support proceeding on a project if it respects the amended law that was passed last legislative session by our elected representatives. That legislation dealt with not allowing expropriation of property against the owner's will.

### **12. Executive Session**

John Nichols offered a motion to delete the executive session which was not needed. Second by Bob Bateman. Motion passed.

### **13. Adjourn**

Motion to adjourn by Bob Bateman, seconded by John Nichols passed unanimously at 6:15 p.m.

The above minutes prepared by:

John Nichols

Secretary, WPRC