

**SENATE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS
HOUSE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS**

MEETING JOINTLY

**JUNE 26, 2013
MINUTES**

Senate and House Interim Committees on City, County, and Local Affairs met Wednesday, June 26 at 1:30 p.m. in Room A, MAC Building, Little Rock, Arkansas.

Committee members present were Senator Missy Irvin, Senate Chair, and Representative David Fielding, House Chair; Senators Ronald Caldwell, and Stephanie Flowers; and Representatives Eddie Armstrong, Scott Baltz, Ken Bragg, David Branscum, Bruce Cozart, Kim Hammer, Fonda Hawthorne, David Hillman, Joe Jett, David Kizzia, Mark Lowery, Andy Mayberry, James McLean, Micah Neal, Mary Lou Slinkard, David Whitaker, and Richard Womack,

Other members present were Senators Linda Chesterfield, Jonathan Dismang, Jane English, Bruce Holland, Johnny Key, Michael Lamoureux, Bobby Pierce, David Sanders, and Jon Woods; and Representatives Ann Clemmer, Bob Ballinger, John Burris, Jody Dickinson, Jim Dotson, Jon Eubanks, Joe Farrer, John Hutchison, Homer Lenderman, Kelley Linck, Frederick Love, Walls McCrary, Stephen Meeks, Jim Nickels, Betty Overbey, John Payton, James Ratliff, Chris Richey, Sue Scott, Tommy Thompson, John Vines, Hank Wilkins, and Marshall Wright.

APPROVAL OF MINUTES – June 19 and 20, 2013 [Exhibit B, B-1]

A motion to approve the minutes of the June 19 and 20, 2013 committee meetings was made by Representative Mary Lou Slinkard and seconded by Representative David Fielding. The minutes were adopted unanimously.

Opening Remarks by Senator Missy Irvin, Senate Chair

Senator Irvin thanked the legislators, state agencies, and members of the public for attending the meeting. She referenced a letter (Handout 1) from U.S. Congressional members from both Arkansas and Missouri to the Secretary of the U.S. Department of Interior with questions concerning the designation of the White River Watershed as a National Blueway.

Discussion of the New Federal Designation of the White River as a National Blueway [Exhibit D]

Mr. Keith Weaver, Project Leader for the National Wildlife Complex, U.S. Fish and Wildlife Service, was recognized for comments. Mr. Weaver described the nomination process for the national Blueway designation. The nomination process by the Secretary of Interior was established in May, 2012. The nomination for the White River was prepared and submitted by the National Wildlife Refuge Association

including twenty-six letters of support from federal, state, local, and private organizations. The nomination process did not include public meetings or comment because it is not a regulatory process. A Memorandum of Understanding (MOU) was signed by the Secretaries of the Departments of Agriculture, Interior, and Army in January, 2013. Mr. Weaver described the National Blueway System as voluntary and non-regulatory. He said it does not affect property rights for land or water, does not create a new system of public lands, does not create any new laws or regulations, does not change any existing laws or regulations, does not change the mission or authority of any agency, and does not create a new tax or increase any tax. Mr. Weaver said the agency has heard the concerns raised by elected officials about the program and remains committed to finding an acceptable resolution. Mr. Weaver's written comments were provided. (Handout 2)

Ms. Patricia Anslow, Chief, Planning and Development Division, U.S. Army Corps of Engineers, Little Rock District office, was recognized for comments. Ms. Anslow said the Army Corps of Engineers' involvement with the Blueway designation began when the Assistant Secretary of the Army for Civil Works signed a MOU in January, 2013. Ms. Anslow spoke about a current project within the White River Watershed that involves the Corps of Engineers, the U.S. Fish and Wildlife Service, the AGFC, and the Nature Conservancy. This is the lower Cache River restoration project, which will restore lost ecosystem habitat in the region. She said the federal mission of the Corps of Engineers is flood damage reduction, recreation, navigation, hydropower, and water supply. Ms. Anslow told legislators the Corps of Engineers will continue to work to accomplish its mission in full cooperation with elected officials, federal, state, and local partners.

Mr. Michael Sullivan, State Conservationist, Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA), was recognized for comments. Mr. Sullivan said the USDA is a participant in the Blueway MOU based on the authority and responsibilities of the NRCS and the National Forest Service. The NRCS partners with local conservation districts in each county throughout the state. The conservation district programs are administered at the state level. Mr. Sullivan explained that the conservation districts develop local soil and water district programs. The NRCS provides federal assistance. Mr. Sullivan said the Blueway designation would establish a framework for federal agencies to work collaboratively with state and local counterparts to achieve mutual conservation objectives.

Mr. Randy Young, Director, Arkansas Natural Resources Commission (ANRC), read a statement from the ANRC requesting withdrawal of the Blueway designation. Mr. Young believes the designation would have given the state leverage to obtain more federal dollars for ANRC projects, but the concerns raised by private landowners, local, state, and federally elected officials has caused the ANRC to withdraw its support.

Mr. Mike Armstrong, Deputy Director, Arkansas Game and Fish Commission (AGFC), read a statement from the AGFC requesting the removal of the Blueway designation. Mr. Armstrong told legislators that the Commission initially supported the Blueway

designation and did not see it as an encroachment on private property rights. The Commission believes in voluntary non-regulatory partnerships with local landowners as crucial to delivering conservation programs to benefit fish and wildlife. The AGFC does not want the Blueway designation to become an impediment to conservation work in Arkansas.

Mr. Jason Milks, Projects Manager, Nature Conservancy, was recognized for comments. Mr. Milks said the Nature Conservancy understood that the Blueway designation is a recognition program intended to bring positive national recognition to local conservation, tourism, and economic efforts by landowners, businesses, organizations, and public agencies. Mr. Milks said the Nature Conservancy appreciates the counsel by the congressional delegation and requests the Blueway designation be removed for the White River Watershed.

Mr. Casaletto, President and Executive Director, Ozark Water Watch, said the organization was established in 2002 to protect and improve the water quality in Beaver, Table Rock, Taneycomo, and Bull Shoals lakes, the watersheds that form the upper White River basin. The organization promotes water protection efforts through bi-state collaboration on research, education, public policy, and action projects. The Ozark Water Watch believes the Blueway designation should be removed. Mr. Casaletto's written comments were provided. (Handout 3)

Mr. Gene Higginbotham, Executive Director, Arkansas Waterways Commission, described the Commission as the sole state agency responsible for developing, promoting, and protecting waterborne transportation in Arkansas. The Commission promotes economic development for ports on the five commercially navigable rivers in the state: the Arkansas, Mississippi, Ouachita, Red, and White rivers. The Commission had hoped to work with organizations to create a navigation system to benefit both conservation and navigation interests. Mr. Higginbotham said the Commission agrees with the other state agencies and partners requesting the removal of the Blueway designation. Mr. Higginbotham's written comments were provided. (Handout 4)

Mr. Weaver was asked to describe the process of the Blueway designation and MOU. He said there were two MOUs. The first was a federal MOU providing federal agencies with a 180 day timeline to create an MOU between agencies and outlining how each agency would deliver federal programs within the White River Watershed to benefit local citizens. Mr. Weaver was asked if a direct federal funding source would have resulted from the Blueway designation. Mr. Weaver said the designation did not provide a federal funding source.

Independence County Judge Robert Griffin addressed the committee. Judge Griffin said that he supports the voluntary conversion of land to enhance water quality and conservation. But, he is adamantly opposed to the possibility of involuntary conversion of lands, and for that reason cannot support the Blueway designation.

Beau Bishop, Arkansas Farm Bureau, addressed the committee. He stated that the Arkansas Farm Bureau was not officially opposed to the Blueway designation. However, they have concerns about the designation and nomination process, and requests the designation to be removed.

Jeannie Burlsworth, Secure Arkansas, was recognized for comments. Ms. Burlsworth said it was the belief of the organization that Arkansas's elected officials have been bypassed in the designation of the National Blueway. Secure Arkansas researched the designation and learned the designation covers 18 million acres across 60 counties in both Arkansas and Missouri. Secure Arkansas coordinated efforts with groups in Missouri who also have concerns about the designation. Ms. Burlsworth referenced documents establishing the designation, which appear to have rules and regulations overriding citizen's and property owners' rights. Secure Arkansas created a resolution requesting the removal of the Blueway designation. (Handout 5)

Senator Johnny Key was recognized for comments. Senator Key discussed the U.S. Secretary of Interior Secretarial Order 3321. After reviewing the Order, Senator Key asked Bureau of Legislative Research legal staff to research the Order, specifically authorities, laws and provisions listed in Section Three of the Order.

Bureau of Legislative Research staff attorney Mary Cameron was assigned to research the state and federal laws applicable to the designation. Ms. Cameron's comments regarding her study of the Secretarial Order was that Section Three of the Order provides limited authority to federal agencies. The National Wild and Scenic Rivers Act is a part of Section Three of the Order and covers portions of the White River Watershed. Ms. Cameron was asked to give an assessment of the Federal Land Policy Management Act. She said the Act includes the buying, condemnation, and selling of lands through easements, permits, leases, licenses, rules and issuance of right-of-ways across private and public property promulgated through rules and regulations established by the federal government.

Senator Irvin asked state agency representatives how they planned to withdraw their support for the designation. She requested that copies of any letters submitted by the agencies be sent to the Bureau of Legislative Research committee staff Karen Holliday. Senator Irvin said the letters will be provided to legislators.

Representative Hammer made a motion that any future action by state agencies regarding the Blueway designation first seek permission from the Arkansas Legislative Council prior to moving forward. Representative Baltz seconded the motion. The motion was approved unanimously.

There being no further business, the meeting adjourned at 4:25 p.m.