

History of the Regional Water and Sewer System Serving the City of Hot Springs and Its Environs in Garland County, Arkansas

Background

Prior to 1940, there was very little concentrated residential or commercial development outside the city limits of Hot Springs ("City"). Beginning in the 1950s, residential and some commercial development began along the shores and in the general area of Lake Hamilton and Lake Catherine outside the City. Prior to the mid-1960s, there was little or no water or sewer service extended beyond the City. As a matter of fact, prior to the 1970s, less than two-thirds ($\frac{2}{3}$) of the geographical area of the City was served by sewer. At that time, there were also large areas of the City that did not have water provided by the City.

Development of Regional Water System

In the mid-1960s, the federal government began awarding grants and loans to allow the development of water systems lying both within and without the boundaries of the City. At that time, only about 60-65% of the City was served by City-provided water. Beginning in the late 1960s, a number of federal grants and loans were utilized to develop and expand the City water system both within and well beyond the City limits. This was accomplished directly through the City and also by virtue of various water improvement districts ("District(s)"), through which the owners of property within those Districts paid for the infrastructure constructed to connect the area within each District to the City water system (as subsidized by federal monies). Today, water supplied by the City covers a large area of Garland County (much larger than the geographical area of the City). The water distribution system extends to the east along Highway 70 to Crossgate Church, Highway 270 beyond the Garland County line, and Highway 290 to serve the Diamondhead community and Lake Catherine State Park, extending into Hot Spring County. To the north, the water system extends along Highway 7 to just beyond the development at Belvedere Country Club. To the south, the water system extends along Highway 7 to Lake Hamilton Bible Camp, approximately one mile south of the intersection of Highway 290 and Highway 7. To the west, the water system extends along Hwy 70 just beyond Lake Hamilton School and along Highway 270 to Camp Charlton. The detailed plans and specifications for each of these water line extensions were reviewed and approved by the City and Arkansas Department of Health. Again, this infrastructure that exists outside the City limits was not built with City funds but rather by federal grants and assessments levied against the property owners within each respective District. The City has received as gifts water distribution infrastructure worth more than \$10 million since the mid-1960s and stands to gain more. The Royal Water Public Facilities Board constructed infrastructure of approximately \$10 million, and ownership of that will be given to the City once the construction debt is fully paid. Some of the Districts have had the opportunity to utilize water from other sources rather than to purchase it from the City. For example, the Highway 70 West Water Improvement District, which extends along both sides of Highway 70 West from the western edge of the Highway 70 Lake Hamilton Bridge to beyond the Lake Hamilton School campus, was constructed in 1984 at a cost of \$3.7 million. The initial plan for that District was to

connect those customers to the water mains of the City by extending those mains into the District. At one point, however, the City refused to serve those customers, and therefore the District began making plans to construct its own water treatment plant on the upper end of Lake Hamilton. Don Beavers, the primary engineer on the project, not only had designed the plant but had also assisted the District in purchasing property upstream of the plant on Lake Hamilton to assure that it would be in compliance with the Arkansas Department of Health rules and regulations as to development near an intake site. The plans and specifications for the plant were approved by the Arkansas Department of Health; however, before the plant could be built, the City changed its mind and determined that it would furnish water to the property owners within the District. The District's plans for constructing its own water treatment plant were abandoned and the District sold the water treatment plant site property. In this instance, since the District abandoned its plans to furnish its own water to its customers based upon the agreement of the City to furnish potable water to all customers within the District, it could easily be concluded that the City has an inherent obligation to allow water to be furnished to the property owners within that District.

The City has, in at least one other instance, attempted to deny water service to property owners in Districts. An example of this is when the North Garland County Regional Water District was formed, there was a request from the engineer of that District to utilize water from the City to furnish to the customers within the District. The City took the position that it would not furnish the water. Therefore, the District, with the assistance of a United States senator, obtained permission from the United States Army Corps of Engineers for an allocation of approximately three million gallons of water per day to be drawn from Lake Ouachita. At this time, it is believed that the only public water supply allocation from Lake Ouachita is the one granted to this District.

The Royal Water Public Facilities Board (RWPFB) service area lies west of Hot Springs along Highway 270 and consists of approximately 150 square miles. RWPFB has borrowed approximately \$12 million to design and construct its water distribution system. The City reviewed and approved the plans and specifications, and construction was not begun until the City and RWPFB reached an agreement whereby the City agreed that it would furnish to RWPFB all of the potable water to serve the needs of the customers located within the jurisdiction of RWPFB and, if for any reason the City's water supply is diminished, the City would not discriminate against the customers within the jurisdiction of RWPFB. The City even collects the monthly debt service fees for RWPFB and forwards those collections to the bank which services the debt. Since RWPFB is a revenue district, it depends on those monthly debt service collections to pay off its indebtedness, and failure of the City to provide water for RWPFB would have a negative impact on RWPFB's ability to retire its indebtedness.

Now there is apparently a potential shortage of treated water that will cause the City water system to impose restrictions, such as limitations on lawn watering, at least until additional water supplies can be obtained. Presently the City is working with the Corps of Engineers and with others to obtain an allocation from both Lake Ouachita and Lake DeGray to provide adequate water supplies for more than 50 years in the future.

Development of Regional Sewer System

In the late 1960s, there was an article in a national news magazine in which Lakes Hamilton and Catherine were classified as two of the ten most polluted lakes in the United States. This was as a result of substantial development along the shores of Lakes Hamilton and Catherine in the 1950s and 1960s. Essentially, all of this lake development property was outside the City limits. In April 1970, the Arkansas Department of Health imposed a building ban within the City limits, and on January 15, 1972, that building ban was expanded to include a very large area of Garland County where development had occurred. Included in the banned area was a large area within the City that did not have public sewer. A task force of community leaders working with officials from the City, the Arkansas Pollution Control Commission, and the Arkansas Department of Health, as well as local engineers, created a plan with the federal Environmental Protection Agency and the other regulatory agencies by the terms of which the City and improvement districts would receive large federal grants to pay for most of the cost of construction of a new central **regional** sewage treatment plant and sewage force mains, gravity sewers, and pump stations associated therewith. That plan proposed 19 sewer improvement districts covering essentially all of the developed area around the lakes, including large areas within the City. This new plan was approved by the Environmental Protection Agency (through the Arkansas Pollution Control Commission) and the Arkansas Department of Health. Under this plan, an agreement was reached so that as soon as a District was formed, the building ban would be lifted for that particular District. All but one of those Districts was built -- Pleasant Hills Sewer Improvement District was formed and funded, but there was a recall election wherein new commissioners were appointed who voted not to accept the grant from the federal government to build the system. The federal government paid approximately 75% of the engineering and construction costs within each District, with the balance to be paid by the property owners (of both developed and undeveloped properties) within each District in the form of annual assessments attached to their real property tax bills. Once the indebtedness on the constructed systems was paid in full, the improvements were conveyed to the City, regardless of whether the districts were inside or outside City limits. Thus, in effect, the City became the beneficiary of millions of dollars' worth of sewer system construction infrastructure located outside the City.

In the 1970s, utilizing a federal grant that paid for approximately 75% of the cost, the City caused to be constructed a **regional** sewer treatment plant near the shore of Lake Catherine. Not only was this plant constructed using federal monies, but

also large pump stations, force mains, and interceptor lines were constructed under the same federal grant. In many cases, these interceptor sewers extended well beyond the City limits into the unincorporated areas of Garland County, the idea being to solve this **regional** wastewater pollution problem by using a **regional** sewer collection and treatment system.

Summary

The City of Hot Springs owns and/or maintains water distribution infrastructure well outside the City limits in all directions except north. More than 50% of the customers of the City water system live outside the incorporated area of the City. Likewise, the City sewer collection system extends well outside the City limits, particularly south and west. Additionally, the City water and sewer systems have thousands of customers outside the City limits paying water and sewer bills, thus making these bills lower for customers within the City limits. Most of these water and sewer lines were not purchased by the City but through a combination of federal grants and loans/bonds paid by the property owners in those areas through annual assessments. Because the City has accepted these water and sewer systems constructed outside the City limits as part of a regional utility area and has been serving customers within these areas with water and sewer services, it is believed by many that the City has an ethical and moral obligation (if not a legal one) not to discriminate against owners of property within areas which lie outside the City limits which are presently served by City utilities.

Contributors

This foregoing history was prepared by:

Ray Owen, Jr., is a professional engineer who served as the chief inspector for the engineering firm which designed the regional sewer collection and treatment system built in the 1970s. He has subsequently served as the attorney and/or assessor for numerous water and sewer improvement districts with the City and Garland County.

Don Beavers is a civil engineer and has been a registered professional engineer in the State of Arkansas since 1970. He was a founder of B & F Engineering in 1970 (which was the engineering firm for a number of water and sewer improvement districts in the City and Garland County) and, prior to that time, worked for Smith Engineering (now Affiliated Engineers) in Hot Springs. Don is also a former Alderman of the City of Hot Springs (when Hot Springs was under the mayor/aldermanic form of government).

Donald R. Brady is a retired professional engineer who worked for Affiliated Engineers and served as the engineer on several water and sewer projects in Garland County beginning in the 1960s.

Milton Raabe served as the utilities engineering director for the City from the 1972 until 2002. Since his retirement from the City, he has served as the engineer for a number of water and sewer projects within the City and Garland County.

Bill Reinhardt served as the City's water operations director from 1977 to 1991 and as the executive director of the North Garland County Regional Water District from 1999 until 2012 when he retired.



WARRANTY DEED
WITH RELINQUISHMENT OF DOWER,
HOMESTEAD AND CURTESY

KNOW ALL MEN BY THESE PRESENTS:

BOOK 936 PAGE 120

That we, E. SHEFFIELD NELSON and MARY LYNN NELSON, husband and wife, JERRY JONES and GENE JONES, husband and wife, DAN CLINTON and JOAN CLINTON, husband and wife and EDDIE SUTTON and PATSY SUTTON, husband and wife, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration in hand paid by HIGHWAY 70 WEST WATER IMPROVEMENT DISTRICT #31, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the said HIGHWAY 70 WEST WATER IMPROVEMENT DISTRICT #31, and unto its successors and assigns forever, the following lands lying in the County of Garland and State of Arkansas, to-wit:

All that part of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Seventeen (17), Township Three South (3S), Range 20 West (20W), Garland County, Arkansas, lying South of the Shoreline of Lake Hamilton and more particularly described as follows: From the Point of Beginning at the Southeast Corner of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Seventeen (17), thence North 89° 00' 00" West along the South line of the said Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) a distance of 687', thence Northerly and Easterly along the Shoreline of Lake Hamilton to a point on the East line of the said Southeast Quarter of the Northwest Quarter, thence South 01° 16' 00" West along the said East line 363' to the Point of Beginning (according to a survey of C. T. Hollingsworth, RLS #77, dated Oct. 10, 1979).

Subject to a road easement 40 feet wide, 20 feet either side of the centerline being more particularly described as follows: Commencing at the Northeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Seventeen (17), run North 89° 00' 00" West 20 feet to the Point of Beginning of the centerline being described, thence South 01° 23' 56" West 149.14 feet, thence South 09° 45' 22" West 23.29 feet, thence South 47° 23' 25" West 53.79 feet, thence South 89° 41' 40" West 36.19 feet, thence South 76° 00' 36" West 48.08 feet, thence South 81° 06' 49" West 64.90 feet, thence South 84° 35' 17" West 92.72 feet, thence South 80° 18' 28" West 30.19 feet, thence South 62° 58' 22" West 26.64 feet, thence South 52° 17' 04" West 53.27 feet, thence South 40° 57' 11" West 42.86 feet, thence South 52° 08' 51" East 266.45 feet, thence South 40° 53' 27" East 48.14 feet, thence South 35° 18' 33" East 66.33 feet to the northerly edge of Rock Creek Road.

CERTIFIED TRUE COPY OF ORIGINAL

Warranty Deed
D.C. [Signature]
FILED FOR RECORD ON THIS 26 DAY OF August 1988
CLOCK A.M. CALVIN SANDERS, CLERK

GARLAND COUNTY, HOT SPRINGS, ARK.

CERTIFICATE OF APPROVAL

ISSUED BY
ARKANSAS DEPARTMENT OF HEALTH
DIVISION OF ENGINEERING

NO. 83 E 90-1

I, T. A. Skinner, P.E., Chief Engineer of the Division of Engineering, do hereby certify that plans and specifications dated June 1982, for Water Treatment, Distribution, and Storage Facilities Highway 70 West Water Improvement District No. 31 for Garland County, Arkansas prepared by B & F Engineering were submitted to the Division of Engineering on July 29, 1982.

These plans and specifications are approved subject to the following conditions:

1. The Division of Engineering relied upon the statements and representation made in the engineer's report, plans and specifications. In case any statement or representation in the aforementioned documents is found to be incorrect, this Certificate of Approval may be revoked.
2. There shall be no deviation from the plans and specifications unless revised plans and specifications have been first submitted for review and a written consent given.
3. The review and approval of the plans and specifications was for functional and sanitary features and in no way constitute an analysis of the structural design.
4. This Certificate of Approval is valid for a one-year period from the date affixed hereto.
5. This Certificate of Approval is contingent upon meeting the condition stated in our letter of approval dated November 4, 1982.

T. A. Skinner

Chief Engineer
Division of Engineering

by [signature]

Date September 24, 1982