

**BEFORE THE  
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

**IN RE: NORTHWEST ARKANSAS NUTRIENT  
TRADING RESEARCH AND ADVISORY  
GROUP THIRD-PARTY RULEMAKING TO  
ADOPT PROPOSED NUTRIENT WATER  
QUALITY TRADING REGULATION NO. 37**

**DOCKET NO. 18-001-R**

**OBJECTION TO REQUEST OF SPRINGDALE WATER  
UTILITIES TO SUBSTITUTE PARTIES**

The City of Fayetteville, founding and long-time member of the Northwest Arkansas Nutrient Trading Research and Advisor Group (NANTRAG) hereby requests that the Arkansas Pollution Control and Ecology Commission (APCEC) deny the improper request by the Springdale Water Utilities (hereinafter “Springdale”) to be substituted to replace the Northwest Arkansas Nutrient Trading Research and Advisory Group as a third-party petitioner in this rulemaking. In support of this request, the City of Fayetteville states the following:

1. On May 5, 2016, the City of Fayetteville became the first signatory to establish the Northwest Arkansas Nutrient Trading Research and Advisory Group with Mayor Lioneld Jordan signing the Agreement. (copy attached as Exhibit 1)
2. By June 15, 2016, the other three members (Bentonville, Rogers and Springdale) had signed this Agreement officially beginning this regional effort to propose a rule to the Commission to allow nutrient trading to more efficiently improve and ensure water quality in Arkansas.
3. The Agreement set forth in its paragraph 6 Decision Making: “A unanimous vote of the members, which may be further contingent upon any necessary authorization by their respective City Councils, is required for the following:... d. Approval of final draft regulations to be submitted for consideration by any state or federal agency with jurisdiction over Group-related matters.”
4. On or about January 11, 2018, the Northwest Arkansas Nutrient Trading Research and Advisory Group filed its Petition to Initiate Third-Party Rulemaking before this Arkansas Pollution Control and Ecology Commission (APCEC) to adopt a new

regulation, proposed Regulation No. 37, titled “Arkansas Nutrient Water Quality Trading Regulation” (APCEC Docket No. 19-001-R).

5. Early in this rulemaking process, the Northwest Arkansas Nutrient Trading Research and Advisory Group received comments that its initial proposal “lacks sufficient specificity, implementation procedures, and protection for drinking water reservoirs.”
6. Around March 29, 2018, this Commission held a public hearing in Fayetteville and listened to concerns from the Beaver Water District and others about the need for more specificity and improved implementation procedures to ensure protection of drinking water reservoirs.
7. Prior to the close of the public comment period, around ninety separate written submissions concerning the proposed Rule 37 were made.
8. On September 14, 2018, NANTRAG submitted a proposed revision of Regulation 37 to the Commission and requested a second public comment period.
9. About twenty-four written submissions were made during this second comment period ending in November, 2018.
10. In May of 2019, the Northwest Arkansas Nutrient Trading Research and Advisory Group met and agreed to a couple additional changes and the representatives voted to move forward with the revised language.
11. On about June 12, 2019, after a thorough review of the current proposed Regulation No. 37, the Fayetteville Water and Sewer Committee of the Fayetteville City Council unanimously voted to withhold its approval of the proposed Nutrient Water Quality Trading Rule because of its continuing lack of specificity, failure to define vital terms, weakness and uncertainty for its implementation and failure to prioritize drinking water reservoir protection. The Committee asked NANTRAG to pause its proposed nutrient trading rulemaking for sixty days.
12. NANTRAG agreed on June 21, 2019 to pause its ruling for sixty days to allow further comments from the City of Fayetteville and the Beaver Water District.
13. On August 6, 2019, the Fayetteville City Council unanimously passed Resolution No. 173-19 to request “that NANTRAG consider amending portions of the proposed regulation for Nutrient Water Quality Trading as shown on the attached proposed revisions” because the City Council “has determined that some changes would be

advisable to better protect our reservoirs, environment.... and waterways.” (Copy attached as Exhibit 2) This Resolution was submitted to NANTRAG the next day.

14. On August 16, 2019, the Northwest Arkansas Nutrient Trading Research and Advisory Group met and voted to make an important, substantive change by adding a definition of watershed designed to ensure watersheds for drinking water reservoirs will not receive additional pollutants by nutrient trading for reductions of pollutants in other watersheds.
15. On September 5, 2019, the Northwest Arkansas Nutrient Trading Research and Advisory Group met and agreed to two additional material changes suggested by Springdale which would establish a five year pilot program period during which nutrient trading would have to involve a government wastewater plant contracting with another government wastewater plant or non-point source. All eleven modifications requested by the City of Fayetteville were rejected.
16. On October 1, 2019, the City Council of the City of Fayetteville unanimously passed Resolution No. 227-19 entitled: “A Resolution to Express the Opposition of the Fayetteville City Council to the currently proposed Arkansas Nutrient Water Quality Trading Regulation No. 37.” (Attached as Exhibit 3) The City Council of Fayetteville expressly held that “the currently proposed Arkansas Nutrient Water Quality Trading Regulation No. 37 ... is too loosely worded, fails to properly and clearly define important terms, applies too broadly so that “Extraordinary Resource Waters, Ecologically Sensitive Waterbodies, Natural and Scenic Waterways’ may be adversely impacted...”
17. On November 8, 2019, the Northwest Arkansas Nutrient Trading Research and Advisory Group met. When a motion to approve the proposed Rule No. 37 as unanimously amended on September 5, 2019 pursuant to Springdale’s proposals was presented as requested by Mr. Gates, the City of Fayetteville could not vote in favor of the proposed regulation because none of its eighteen other proposed amendments had been approved. Because of the over three year old Agreement requiring unanimous approval of all four members of any proposed rule before submitting such proposal to this Commission, the proposed rule could not then be proposed and submitted to this Commission.

18. There have been no further meetings of the Northwest Arkansas Nutrient Trading Research and Advisory Group since November 8, 2019, and so the draft Minutes prepared by Jené Huffman-Gilreath of Rogers Water Utilities have not been formally approved. However, the draft and therefore unofficial Minutes of the November 8, 2019 are attached as Exhibit 4 for the general information of the Commission.
19. The draft Minutes reveal that NANTRAG's attorney "asked that the engagement of Mitchell Williams be terminated. The Group agreed to terminate with the option to re-contract with them in the future should the Group need assistance. Gates stated they would be willing to be re-engaged."
20. The November 8, 2019 draft Minutes also state: "(Gates) requested to be allowed to represent other interested parties in nutrient trading should they be approached. Bender (Bentonville) considers this a very fair ask but requested for something in writing to review the conditions. Stewart (Springdale) motioned that NANTRAG has no opposition to Mitchell Williams representing other interested parties in the future regarding nutrient trading subject to an acceptable written statement. Second by Huffman. All voted in favor and the motion passed... Gates said upon receipt of their document stating their conditions for representing another party interested in nutrient trading, if there were objections to let Chair Stewart know."
21. No "acceptable written statement" was provided to the City of Fayetteville or its NANTRAG representative until Mr. Gates filed Springdale's Request to Substitute parties on January 10, 2020. The City of Fayetteville officially objects to Mitchell Williams' representation of Springdale Water Utilities and its proposed presentation of the attorney's work product of the unapproved proposed Rule No. 37 paid for partially by Fayetteville's rate payers and citizens in the amount of \$35,000.00
22. The draft Minutes of NANTRAG's Minutes show that "Fayetteville had no interest in leaving the Group." "Nyander (Fayetteville) stated that... Fayetteville would want revisions to the draft. Huffman (Rogers) stated that Rogers would like the Group to remain intact and wait until there is any movement that would warrant the Group taking action. Bender (Bentonville) asked what would cause the Group to get together again. Stewart (Springdale) stated that any of the members of the Group could petition to meet. Nyander stated that sounded fair. Stewart stated that the Group would


simply adjourn until further call to meet.”

23. Without any member of NANTRAG receiving any prior notice nor “acceptable written statement” from Mitchell Williams, Springdale Utilities apparently agreed to retain Mitchell Williams and, in effect, kick founding member City of Fayetteville out of the Northwest Arkansas Nutrient Trading Research and Advisory Group while proposing to use attorney work product paid partially by the City of Fayetteville without Fayetteville’s consent and in the face of Fayetteville’s expressed opposition.
24. The City of Fayetteville believes the Minutes of the November 8, 2019 meeting show that the Northwest Arkansas Nutrient Trading Research and Advisory Group never consented to allowing Mitchell Williams to represent three of the four members of NANTRAG in opposition to the contractual rights of its founding and fourth member, the City of Fayetteville. NANTRAG never agreed to remove NANTRAG from its Third-Party rulemaking duties approved by this Commission and to substitute another member of NANTRAG which disagreed with founding member City of Fayetteville on some terms of a proposed Rule.

WHEREFORE, the City of Fayetteville as member of the Northwest Arkansas Nutrient Trading Research and Advisory Group respectfully asks that APCEC issue an order that denies the Request of Springdale Water Utilities to be substituted in the place of NANTRAG in this rulemaking.

Respectfully submitted,

City of Fayetteville

By:   
**KIT WILLIAMS**, ABA # 76007  
Fayetteville City Attorney  
113 W. Mountain St., Suite 302  
Fayetteville, AR 72701  
(479) 575-8313  
[kwilliams@fayetteville-ar.gov](mailto:kwilliams@fayetteville-ar.gov)



By: \_\_\_\_\_  
**BLAKE PENNINGTON**, ABA # 2008003  
Fayetteville City Attorney  
113 W. Mountain St., Suite 302  
Fayetteville, AR 72701  
(479) 575-8313  
[bpennington@fayetteville-ar.gov](mailto:bpennington@fayetteville-ar.gov)

CERTIFICATE OF SERVICE

I hereby certify that on this 23<sup>rd</sup> day of January, 2020, I served the foregoing Objection to the Request of Springdale Water Utilities to Substitute Parties, by electronic delivery to each of the following:

Allan Gates and Jordan Wimpy  
Mitchell, Williams, Selig, Gates & Woodyard, PLLC  
425 W. Capitol Avenue, Suite 1800 Little Rock, AR  
72201 [agates@mwlaw.com](mailto:agates@mwlaw.com)  
[jwimpy@mlaw.com](mailto:jwimpy@mlaw.com)

Michael McAlister, Attorney Supervisor  
DEQ Legal Services  
5301 Northshore Drive North Little Rock,  
AR 72118  
[mcalister@adeq.state.ar.us](mailto:mcalister@adeq.state.ar.us)

Michael Bender  
Public Works Director City of Bentonville  
3200 S.W. Municipal Drive Bentonville,  
AR 72712 [mbender@bentonvillear.com](mailto:mbender@bentonvillear.com)  
(NANTRAG Representative for Bentonville)

Tim Nyander Utilities Director City of Fayetteville  
2435 S. Industrial Drive Fayetteville, AR 72701  
[tnyander@fayetteville-ar.gov](mailto:tnyander@fayetteville-ar.gov)  
(NANTRAG Representative for Fayetteville)

Jene Huffman-Gilreath  
Shared Services Manager  
Rogers Water Utilities  
601 S. 2nd Street  
Rogers, AR 72757  
[JeneHuffman-Gilreath@RWU.ORG](mailto:JeneHuffman-Gilreath@RWU.ORG)  
(NANTRAG Representative for Rogers)

Brad Stewart Pretreatment Manager  
Springdale Water Utilities  
P.O. Box 769 526 Oak Avenue  
Springdale, AR 72765  
[bstewart@springdalewater.com](mailto:bstewart@springdalewater.com)  
(NANTRAG Representative for Springdale)  
Colene Gason  
Staff Attorney  
Beaver Water District  
P.O. Box 400  
Lowell, AR 72745  
[cgaston@bwdh20.org](mailto:cgaston@bwdh20.org)

David Johnson  
General Counsel  
Central Arkansas Water  
221 E. Capitol Avenue  
Little Rock, AR 72202  
[David.johnson@carkw.com](mailto:David.johnson@carkw.com)

Charles Moulton Administrative Law Judge  
Arkansas Pollution Control and Ecology Commission  
3800 Richards Road  
North Little Rock, AR 72117



**NORTHWEST ARKANSAS  
NUTRIENT TRADING RESEARCH AND ADVISORY GROUP**

AGREEMENT

The undersigned cities hereby have agreed via resolutions in each municipality, copies of which are attached hereto, to form an informal cooperative group for the purposes set forth herein.

1. Name: The name of the informal cooperative group shall be the Northwest Arkansas Nutrient Trading Research and Advisory Group ("the Group").

2. Informal Joint Cooperative Action: This Agreement is intended by the members to be an informal joint cooperative action entered into and enforceable pursuant to Ark. Code Ann. § 25-20-104(h). No delegation of municipal authority or responsibility is made by the members to the Group, and the purposes of the Group are agreed to be valid public purposes of each of the respective members.

3. Membership: Membership in the Group is voluntary and open to any city of the first or second class or county within the Illinois River Watershed or the White River Watershed.

a. The initial members of the Group are the City of Bentonville, the City of Fayetteville, the City of Rogers, and the City of Springdale.

b. Additional members may be added to the Group with the unanimous consent of the then-existing members.

4. Purposes: The purposes of the Group are as follows:

a. Joint development of nutrient water quality trading regulations for proposal to the Arkansas Department of Environmental Quality, the Arkansas Pollution Control and Ecology Commission, the Arkansas Natural Resources Commission, and/or other applicable state and/or federal agencies;

b. Exploration of potential nutrient water quality trading projects, including one or more possible pilot projects; and

c. Contracting with professionals necessary to accomplish the Group's objectives. Professionals shall include, but are not limited to consultants, attorneys, engineers, and environmental scientists. Procurement of professional services shall be in accordance with Ark. Code Ann. § 19-11-801 and other applicable law.

5. Pro Rata Payment of Expenses: The Group shall develop a budget for the accomplishment of the aforementioned purposes and, upon the establishment of actual expenses under such budget, the members shall seek the necessary funding from their respective city councils and/or water and sewer commissions or departments for payment of their pro rata shares of such expenses.



6. Decision Making: Unless otherwise set forth in this Agreement or by resolution of the Group, all decisions of the Group shall be made by majority agreement of its members. Voting shall be on the basis of one-member, one-vote. A majority of the members shall constitute a quorum for decision-making purposes. A unanimous vote of the members, which may be further contingent upon any necessary authorization by their respective City Councils, is required for the following:

- a. Designation of joint Group projects;
- b. Selection of contractors or professionals engaged to do work on behalf of the Group;
- c. Pledging of funds for designated Group activities; and
- d. Approval of final draft regulations to be submitted for consideration by any state or federal agency with jurisdiction over Group-related matters.

7. Designated Representatives: Each member shall designate one person as the member's Designated Representative to the Group, as well as a secondary or proxy representative. Each Designated Representative shall attend the Group's meetings in person or via telephone, if possible, or by written proxy. Designated Representatives shall serve until a successor representative is selected by the member.

8. Officers: The members shall select a Chair and a Vice Chair/Secretary for two-year terms. Such officers must be a Designated Representative of a member. In the event of a vacancy in the position of Chair, the Vice Chair/Secretary shall succeed as Chair for the remainder of the two-year term with a new Vice Chair/Secretary being selected for the remainder of the two-year term. In the event of a vacancy in the position of Vice Chair/Secretary, a new Vice Chair/Secretary shall be selected for the remainder of the two-year term.

9. Time and Place of Meetings: Meetings shall be held at a time and place to be agreed upon by the members. Meetings may be held by teleconference, and Designated Representatives (or their proxy) may participate and vote in face-to-face meetings by telephone. Face-to-face meetings shall be open to the public.

10. Amendment: This Agreement may be amended by unanimous vote of all then-existing members.

*[Signatures on next page]*

CITY OF BENTONVILLE

By: Bob McCarver  
Title: MAYOR  
Date: June 01, 2016

CITY OF FAYETTEVILLE

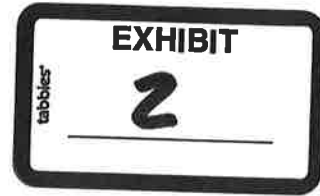
By: Timothy Jordan  
Title: Mayor  
Date: 5/15/16

CITY OF ROGERS

By: Greg Stone  
Title: Mayor  
Date: 6/15/2016

CITY OF SPRINGDALE

By: Ray Spruce  
Title: Mayor  
Date: 5/11/16



113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

**Resolution: 173-19**

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**File Number: 2019-0473**

A RESOLUTION TO REQUEST THAT THE NORTHWEST ARKANSAS NUTRIENT TRADING RESEARCH AND ADVISORY GROUP (NANTRAG) CONSIDER AMENDING THE PROPOSED REGULATION FOR NUTRIENT TRADING TO MORE CLOSELY CONFORM TO THE ATTACHED PROPOSED REVISION

**WHEREAS**, protecting drinking water in Arkansas should be the highest priority for our citizens; and

**WHEREAS**, tourism in Arkansas associated with outdoor activity including fishing, swimming, kayaking and canoeing is the second highest employer in the Arkansas and is increasing at 4-6% per year; and

**WHEREAS**, nutrient trading is a brand new statewide program that must improve and not degrade water quality and is untested in Arkansas; and

**WHEREAS**, the City of Fayetteville is one of the four Arkansas cities that is a member of NANTRAG and has paid for legal services to develop the proposed nutrient trading regulation; and

**WHEREAS**, the City Council agrees with the Arkansas Legislature that nutrient water quality trading can potentially achieve water quality goals with greater efficiency and cost savings; and

**WHEREAS**, experience in other states demonstrate that nutrient water quality trading programs, including the use of credits, off sets, and compliance associations, can result in quicker and more efficient achievement of water quality improvement goals; and

**WHEREAS**, nutrient water quality trading should be encouraged and facilitated by the development of stringent regulations and verifiable permit terms; and

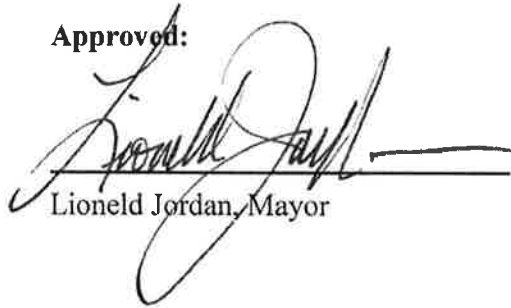
**WHEREAS**, the Fayetteville City Council supports the nutrient trading concept, has reviewed the currently proposed nutrient trading regulation and has determined that some changes would be advisable to better protect our reservoirs, environment, endangered species and waterways.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

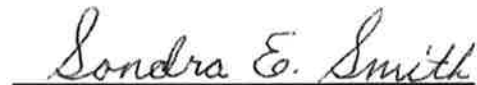
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby requests that NANTRAG consider amending portions of the proposed regulation for Nutrient Water Quality Trading as shown on the attached proposed revisions by Council Member Teresa Turk and approved by the Water, Sewer and Solid Waste Committee.

PASSED and APPROVED on 8/6/2019

**Approved:**

  
Lioneld Jordan, Mayor

**Attest:**

  
Sondra E. Smith, City Clerk Treasurer





113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

**Resolution: 227-19**

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**File Number: 2019-0630**

**PROPOSED ARKANSAS NUTRIENT WATER QUALITY TRADING REGULATION NO. 37:**

A RESOLUTION TO EXPRESS THE OPPOSITION OF THE FAYETTEVILLE CITY COUNCIL TO THE CURRENTLY PROPOSED ARKANSAS NUTRIENT WATER QUALITY TRADING REGULATION NO. 37

**WHEREAS**, Fayetteville was the first of the four charter members of the Northwest Arkansas Nutrient Trading Research and Advisory Group (NANTRAG) to join when Mayor Jordan, after City Council approval, signed the Agreement on May 5, 2016; and

**WHEREAS**, Fayetteville has paid \$35,000.00 as its share for legal services to draft a regulation that Fayetteville hoped would provide a transparent, environmentally protective, fully monitored and enforced Nutrient Water Quality Trading Program; and

**WHEREAS**, Fayetteville supports the basic idea of permitting nutrient trading if such trading is regulated sufficiently to ensure water quality in the Illinois and White Rivers is improved in the most cost effective manner possible; and

**WHEREAS**, the Fayetteville Water and Sewer Committee and the whole City Council studied the initially proposed Regulation 37 and requested that NANTRAG revise its proposed Regulation 37 "to better protect our reservoirs, environment, endangered species and waterways", Resolution No. 173-19; and

**WHEREAS**, the proposals of the City of Fayetteville and Beaver Water District to improve the proposed Arkansas Nutrient Water Quality Trading Regulation 37 were largely rejected by the other three members of NANTRAG; and

**WHEREAS**, the currently proposed Arkansas Nutrient Water Quality Trading Regulation No. 37 proposed by NANTRAG is too loosely worded, fails to properly and clearly define important terms, applies too broadly so that “Extraordinary Resource Waters, Ecologically Sensitive Waterbodies, Natural and Scenic Waterways” may be adversely impacted; and

**WHEREAS**, the organizing Agreement to form NANTRAG requires that the “approval of final draft regulations to be submitted for consideration by any state or federal agency” requires “A unanimous vote of the members, which may be further contingent upon any necessary authorization by their respective City Councils”; and

**WHEREAS**, the Fayetteville City Council does not approve of Regulation 37 without the amendments by the City of Fayetteville and Beaver Water District to better protect the water quality of Beaver Lake and the Illinois River.

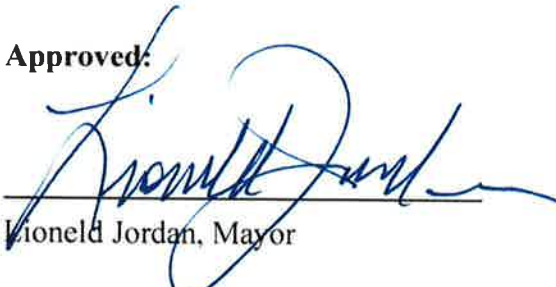
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its opposition to the version of Regulation 37 that NANTRAG’s other three members have approved and wish to present as its proposed regulation to ADEQ or Arkansas Pollution Control and Ecology Commission.


Section 2: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intention to oppose significant portions of the proposed Regulation 37 for Nutrient Trading before the Arkansas Department of Environmental Quality and Arkansas Pollution Control and Ecology Commission and will work in conjunction with the Beaver Water District to support revisions to the regulation supported by the City of Fayetteville and Beaver Water District.

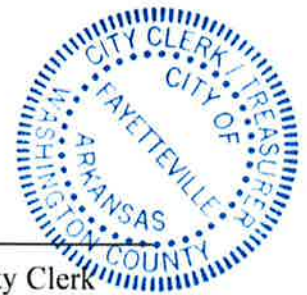
PASSED and APPROVED on 10/1/2019

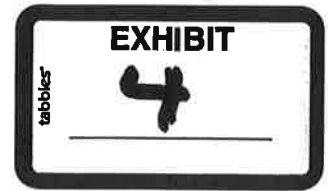
**Approved:**

  
Lioneld Jordan, Mayor

**Attest:**

  
Lisa Branson, Deputy City Clerk





## Northwest Arkansas Nutrient Trading Research and Advisory Group

Friday, 8 November 2019

### MINUTES

The Northwest Arkansas Nutrient Trading Research and Advisory Group (Group) met on Friday, November 8th, 2019 at 10:00am at the Illinois River Watershed Partnership building in Cave Springs, Arkansas. Present were Brad Stewart (Springdale Water Utilities), Mike Bender (City of Bentonville), Tim Nyander (City of Fayetteville), and Jene' Huffman-Gilreath (Rogers Water Utilities). Others present: Allan Gates and Jordan Wimpy (Mitchell Williams Law Firm), Teresa Turk (Fayetteville City Council), Kris Paxton (City of Rogers), Nicole Hardiman (IRWP Director), Joe Dollarschell (Garver), Greg Weeks (Jacobs Engineering), Fran Alexander, Carol Christoffel, Ed Brocksmith, Kelly Freeman (CDI Contractors) and Coleen Gaston (Beaver Water). Chair Stewart called the meeting to order at 10:04am.

Minutes of the August 16<sup>th</sup>, 2019 and September 5<sup>th</sup>, 2019 meeting were presented. The footer on the August minutes was changed to reflect the proper date. That motion was made by Nyander and approved by Bender. A motion to change "voted" to "vote" on the 3<sup>rd</sup> page was made by Bender and seconded by Nyander. The minutes were approved as amended.

Stewart opened the floor for statements from the public. Comments were limited to 5 minutes each. Teresa Turk, Colene Gaston, Fran Alexander, Carol Christoffel, and Ed Brocksmith.

The next order of business was discussion of the City of Fayetteville's Resolution to Rule 37. File 2019-0630 Version 1 was addressed. The City Attorney for Fayetteville concluded that the draft approved by the Group was not the final draft. May 10<sup>th</sup> proposed rule was passed and then two additional amendments were added at subsequent meetings and the document as a whole had not been voted on again to create a final document.

Gates stated that any draft or amendment presented must be approved by unanimous vote of the Group based upon by-laws. He suggested Nyander should motion to take a vote on the draft with amendments that had been presented previously.

Nyander motioned to take a final vote on the version of the draft that had previously had unanimously approved amendments (Version September 5<sup>th</sup>, 2019 draft). Second by Huffman. This would include the legal scrivener's changes; definition of watershed p1-1, Ln 14-15; and limits on eligibility to participate in trading, p1-1, Ln 18. An affirmative vote would be to approve the amended draft and take final draft forward. Stewart, Huffman and Bender voted in favor. Nyander opposed. The motion failed for lack of unanimity. As a result the Group does not have an approved rule to take forward.

Nyander asked if the group had heard if ADEQ had finished comments. Legal counsel suspected that they will not finalize comments from NANTRAG.

Nyander stated he was still open to making changes to the draft in front of the Group. Bender asked if Nyander had any proposed steps. Nyander said only what he already had presented. None of the other members had comments to make at that time.

Stewart recognized Counsel for an update. Gates stated that based upon deadlock in the last vote, he asked that the engagement of Mitchell Williams be terminated. Without an agreed upon rule, Gates and Wimpy requested their representation of the Group be terminated. Stewart stated that Springdale was happy with Mitchell Williams and the services they had provided the Group. Nyander stated that the Group had worked hard over the past few years and Gates provided very sound legal advice and representation and suggested that should the Group decide to move forward, they be able to re-engage Mitchell Williams. The Group agreed to terminate with the option to re-contract with them in the future should the Group need assistance. Gates stated they would be willing to be re-engaged.

Stewart motioned to terminate engagement with Mitchell Williams. Nyander seconded. All were in favor and the motion passed.

Gates then stated that nutrient trading is of interest in the state. He anticipated nutrient trading would continue. He requested to be allowed to represent other interested parties in nutrient trading should they be approached. Bender considers that a very fair ask but requested for something in writing to review the conditions. Stewart motioned that NANTRAG has no opposition to Mitchell Williams representing other interested parties in the future regarding nutrient trading subject to an acceptable written statement. Second by Huffman. All voted in favor and the motion passed.

Stewart reviewed the actions taken.

1. A vote on proposed rule as amended failed.
2. No proposed Rule

Nyander stated that Fayetteville had no interested in leaving the Group.

Stewart stated that Springdale was not sure that would agree with changes to the draft at this point. Nyander stated that should this go forward, Fayetteville would want revisions to the draft. Huffman stated that Rogers would like the Group to remain intact and wait until there is any movement that would warrant the Group taking action. Bender asked what would cause the Group to get together again. Stewart stated that the any of the members of the Group could petition to meet. Nyander stated that sounded fair. Stewart stated that the Group would simply adjourn until further call to meet.

Gates said upon receipt of their document stating their conditions for representing another party interested in nutrient trading, if there were objections to let Chair Stewart know. He also stated before the Group adjourned that he appreciated the Cities work on nutrient trading.

A motion to adjourn until further call was made by Nyander and seconded by Bender. All were in favor and meeting adjourned at 10:55am.