

RESOLUTION 79-16

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CONWAY,
ARKANSAS:

THAT, the Mayor of the City of Conway, Arkansas is hereby
empowered and directed to sign for and in behalf of the City
of Conway, Arkansas, a certain Agreement, a copy of which is
attached to and hereby made a part of this Resolution.

PASSED: 4-10-79.

Bill Wight
Mayor

ATTEST:

Doris Duman

AGREEMENT

1. This is an agreement between the City of Conway (City or owner) and the Conway County Regional Water District (participant or district).

2. The Conway County Regional Water District is recognized as agent and representative for Conway County, Arkansas for the purpose of this agreement.

3. This agreement is contingent upon the Corps of Engineers constructing an impoundment (2-A) of water on Cypress Creek (dam to be at Mile 6.7) with a safe average daily yield of approximately 17 million gallons per day with a maximum day yield of approximately 36 million gallons, pumping facilities, pipeline to the Conway water treatment plant at Gleason and all appurtenances thereto; and deeding aforesaid impoundment, pumping facilities, pipeline and appurtenances thereto, together with all land and land rights necessary for ownership and operation of said facility to the City of Conway.

4. The capacity of the impoundment is based upon the capacity of the present Conway raw water supply rather than needs of the City of Conway.

5. It is recognized that, even though the needs of Conway at the present are less than the capacity of the reservoir identified as "2-A", Conway is entitled to this total capacity as compensation for damages done to the existing City of Conway raw water supply by construction of the Arkansas River Project as per Public Law 93-251.

6. It is recognized that in the fulfillment of Public Law 93-251 certain lands located in Conway County will be removed from the taxable land rolls of said Conway County and the purpose of this agreement is to compensate Conway County as represented by the participant in this agreement for those losses.

7. It is recognized that Conway is willing and herewith agrees to share a portion of the water in this impoundment with the citizens of Conway County through the entity identified as participant to this agreement.

8. The amount of water from the Cypress Creek impoundment to be shared with the participant is stated herewith in quantity and basis as follows:

	<u>Quantity</u>	<u>Basis</u>
(A)	4.4 MGD	Available on a permanent basis during the life of the impoundment.
(B)	7.5 MGD	Available as a peak day maximum during the life of the impoundment.
(C)	Surplus	Any amount of water declared by owner to be surplus to its needs; being defined as that which does not affect the safe annual yield or safe daily yield needed by owner and/or committed to participant under this agreement.

The owner shall not be responsible in any way to participant as a guarantor of the above defined amounts of water and if for any reason, the above stated amounts are not available, (force majeure or otherwise) the owner will bear no responsibility.

9. Force Majeure. The term "force majeure" as used herein, shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State of Arkansas or any of their departments or any civil or military authority pertaining to this impoundment; insurrection; riots; extraordinary delays in construction, unforeseen geological or geographic conditions; equipment, material, supplies, labor or machinery shortages or delays; epidemics; landslide, lightening, earthquakes, fire, hurricanes, tornadoes, storms, floods, washouts, droughts; war, civil disturbances, explosions; breakage or accident to machinery, transmission lines, pipes or other conduits; partial or entire failure of power supply; sabotage; restraints by courts or other governmental authorities; blight, famine, blockade, quarantine, or any other similar cause or event not reasonably within the control of the owner. The owner agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the owner from carrying out its obligations under this agreement.

10. Water removed from this impoundment by participant of the contract will be without charge unless the owner incurs expenses by reason of removal of water by participant and, in that event, said expense will be borne by participant. In no case will this section apply to the normal operation and maintenance expenses of the impoundment.

11. Participant will be responsible for all capital investment and operation and maintenance costs necessary to accommodate their removal of water from the impoundment.

12. The participant is in the business of selling water to consumers located in Conway County and in no event will they sell water outside the boundaries of Conway County.

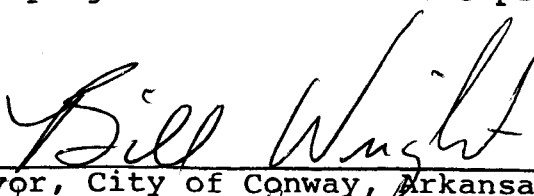
13. This agreement will not preclude or limit the owner in making other agreements with other parties.

14. The owner will assist the participant in any way deemed by owner to be practicable in participant's pursuit of grants, loans or other capital from any sources to fulfill their need for a raw water pipeline and pumping facility. Owner and participant shall discuss from time to time (annually) the problems, needs and matters of mutual interest concerning this agreement.

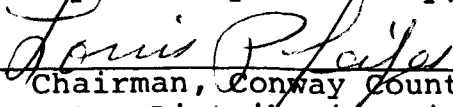
15. Participant will request in writing and receive in writing permission of owner before any attachments are made to any property of owner for the purpose of taking water from the impoundment or for any other purpose. Any attachment without permission will be deemed a "tort". This provision is for the purpose of protecting property of the owner and in no event will the owner unduly prohibit or restrict the rights of participant under this agreement.

16. In the event that participant takes, or attempts to take, water from the impoundment in amounts or in a manner not consistent with this agreement, it shall be deemed to be a breach of this agreement. If, after written notice by owner, breach of this agreement is not discontinued by participant, said agreement shall be null and void and owner shall have the right to discontinue the taking of water by participant.

17. Participant herewith pledges to owner and to the public its total and unreserved support of the construction of a water impoundment for the City of Conway by the Corps of Engineers at site 2-A at Mile 6.7 on Cypress Creek as a fulfillment of the obligation of the Corps of Engineers under Public Law 93-251. The owner and participant herewith encourage the Corps of Engineers to proceed with all immediate haste in the construction of this project and respectfully request the support of the Arkansas congressional delegation to assist the Corps of Engineers in any way practicable to conclude this project in a reasonable period of time.



Mayor, City of Conway, Arkansas



Chairman, Conway County Regional
Water Distribution District