

1                   BEFORE THE CLEAN WATER COMMISSION  
2                   DEPARTMENT OF NATURAL RESOURCES  
3                   STATE OF MISSOURI

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7                                   MEETING OF:  
8                                   MAY 27, 2009

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12                                   CONDUCTED BY:  
13                                  CHAIRPERSON PRO TEM SAM HUNTER

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## 1 PROCEEDINGS

2 CHAIRMAN HARDECKE: The first item would be to  
3 elect the Vice-chair since the Chair has been  
4 replaced and the Vice-chair will move to Chairman and  
5 then we need to elect the Vice-chair. So I would  
6 entertain a motion -- or nominations for Vice-  
7 chairman.

8 COMMISSIONER SHORNEY: Mr. Chair, this is Frank  
9 Shorney I would like --

10 CHAIRMAN HARDECKE: Go ahead.

11 COMMISSIONER SHORNEY: -- with Sam Hunter's  
12 permission I would like to nominate for Vice-chair  
13 Sam Hunter to serve as Vice-chair of the Missouri  
14 Clean Water Commission.

15 COMMISSIONER EASLEY: This is Bill Easley. I'd  
16 like to second that motion.

17 CHAIRMAN HARDECKE: Okay. Is there any  
18 discussion?

19 (No response.)

20 CHAIRMAN HARDECKE: If not, Malinda, would you  
21 take the vote?

22 MS. MALINDA OVERHOFF: Commissioner Easley?

23 COMMISSIONER EASLEY: Yes.

24 MS. MALINDA OVERHOFF: Commissioner Shorney?

25 COMMISSIONER SHORNEY: Yes.

1           **MS. MALINDA OVERHOFF: Commissioner Tupper?**

2           **COMMISSIONER TUPPER: Yes.**

3           **MS. MALINDA OVERHOFF: Commissioner Hunter?**

4           **COMMISSIONER HUNTER: Yes.**

5           **MS. MALINDA OVERHOFF: Chair Hardecke?**

6           **CHAIRMAN HARDECKE: Yes.**

7           Okay. The next item will -- since I'm not there  
8           at Jeff City, today, we need to elect a Chairman Pro  
9           Tem for the meeting today. And I would entertain a  
10          motion for that.

11          COMMISSIONER SHORNEY: Mr. Chair, its Frank  
12          Shorney. I'd like to move that the Commissioner Sam  
13          Hunter be named as Chairman Pro-tem for the duration  
14          of the May 27, 2009, Clean Water Commission, due to  
15          the physical absence of Chair Hardecke in the meeting  
16          room.

17          COMMISSIONER EASLEY: I'm sorry. This is Bill  
18          Easley. I couldn't hear.

19          COMMISSIONER SHORNEY: Okay. I'll repeat.

20          COMMISSIONER EASLEY: Please.

21          **COMMISSIONER SHORNEY: Frank Shorney. I'd like**  
22          **to move that the Commissioner Sam Hunter be named**  
23          **Chairman Pro-tem for the duration of the May 27,**  
24          **2009, Clean Water Commission, due to the physical**  
25          **absence of Chair Hardecke in the meeting room.**

1           **COMMISSIONER EASLEY:** This is Bill Easley. I  
2 second that motion.

3           **CHAIRMAN HARDECKE:** Okay. Malinda, you want to  
4 take the vote.

5           **MS. MALINDA OVERHOFF:** Commissioner Shorney?

6           **COMMISSIONER SHORNEY:** Yes.

7           **MS. MALINDA OVERHOFF:** Commissioner Tupper?

8           **COMMISSIONER TUPPER:** Yes.

9           **MS. MALINDA OVERHOFF:** Commissioner Hunter?

10          **COMMISSIONER HUNTER:** Yes.

11          **MS. MALINDA OVERHOFF:** Commissioner Easley?

12          **COMMISSIONER EASLEY:** Yes.

13          **MS. MALINDA OVERHOFF:** Chair Hardecke?

14          **CHAIRMAN HARDECKE:** Yes.

15          **MR. EARL PABST:** Very good. Thank you, Ron.

16          **CHAIRMAN HARDECKE:** Okay. Sam, take it away.

17          **MR. EARL PABST:** Before Sam starts, if I may,  
18 I'd like to introduce the Commission members who are  
19 here for -- for the benefit of everyone here in the  
20 audience, today. On the phone we have Ron Hardecke,  
21 who's the -- now, the Chair of the Clean Water  
22 Commission, Jan Tupper, Bill Easley, Frank Shorney  
23 and then -- and then Sam Hunter is the Commissioner  
24 here today who will be serving as Chairman Pro-tem.

25                 And then, also, we have Jenny Frazier who is

1 from the Attorney General's Office and Malinda  
2 Overhoff as Commission secretary. And my name is  
3 Earl Pabst. I'm the Acting Program Director. So if  
4 -- with that Sam I'll turn it over to you.

5 CHAIRMAN PRO TEM HUNTER: Thank you, Earl.

6 CHAIRMAN HARDECKE: Thanks, Earl.

7 MR. EARL PABST: Sure.

8 CHAIRMAN PRO TEM HUNTER: At this time I would  
9 like to read an opening statement. The Commission  
10 will begin the public hearing on the Transform  
11 Missouri Clean Water State Revolving Fund Intended  
12 Use Plan.

13 This Plan describes how the funds received  
14 through the American Recovery and Reinvestment Act  
15 will be awarded. The purpose of this public hearing  
16 is to provide the Department opportunity to present  
17 testimony and to provide the public an opportunity to  
18 comment on the Intended Use Plan.

19 This public hearing is not a forum for debate or  
20 resolution of issues. The Commission asks that those  
21 commenting limit their testimony to five minutes and  
22 not repeat comments that others have already made.

23 The Commission will first hear testimony from  
24 the Department. Following the Department's testimony  
25 the Commission will give the public an opportunity to

1 comment. We ask that all individuals present fill  
2 out an attendance card so that our records are  
3 complete.

4 If you wish to present verbal testimony, please,  
5 indicate that on your attendance card. When you come  
6 forward to present testimony, please, speak into the  
7 microphone and begin by identifying yourself to the  
8 court reporter.

9 Following the public hearing, today, the  
10 Commission will review testimony presented and make  
11 appropriate modifications to the proposal,

12 The Commission plans to take final action at  
13 the June 10th, 2009, meeting. The court reporter will  
14 now swear in anyone wishing to testify at this public  
15 hearing before the Clean Water Commission, today.

16 So will all those wishing to comment, please,  
17 stand.

18 (Public Hearing heard in regards to Transform  
19 Missouri Clean Water State Revolving Fund Intended  
20 Use Plan, presented by Joe Boland and Doug Garrett,  
21 Financial Assistance Center, transcribed by Ms.  
22 Patricia A. Stewart of Midwest Litigation Services,  
23 3432 W. Truman Boulevard, Suite 207, Jefferson City,  
24 Missouri, 65109. Transcript of the public hearing  
25 proceedings will be found in a separate transcript

1 provided by Ms. Patricia A. Stewart.)

2 CHAIRMAN PRO TEM HUNTER: At this time, I'd like  
3 to present a closing statement.

4 The Commission will receive written testimony on  
5 this proposal until 5 p.m. on June 3rd, 2009. You may  
6 submit this written testimony to Malinda Overhoff,  
7 Secretary to the Missouri Clean Water Commission,  
8 P.O. Box 176, Jefferson City, Missouri, 65102, prior  
9 to that deadline.

10 On behalf of the Commission, I thank everyone  
11 who has part- -- participated in this process. This  
12 hearing is now closed.

13 MR. JOE BOLAND: Good afternoon, again. My name  
14 is Joe Boland with the -- Director of the Financial  
15 Assistance Center within the Water Protection  
16 Program.

17 **Agenda Item No. 3** is a follow-up to our  
18 emergency rulemaking for the SRF General Assistance  
19 Rule. We came before you already with the Emergency  
20 Rule which will allow us to implement the American  
21 Recovery and Reinvestment Act funding.  
22 And, again, this is a -- this is a proposal to change  
23 our permanent rules to take advantage of some of  
24 those same -- same funding opportunities if we -- if  
25 we are allowed to -- do some of these same -- same

1 funding subsidies with future Clean Water Act  
2 capitalization grants.

3 I'm prepared to go through it line-by-  
4 line or we can -- I can just talk in general terms.  
5 The biggest change is the addition of a Disadvantaged  
6 Community Program. And we're proposing that -- our  
7 definition of disadvantaged community will tie, Number  
8 One, to population of any community of 3,300  
9 or less that has a statewide -- or MHI -- I'm sorry -  
10 - a Median Household Income of 75 percent or less of  
11 the statewide MHI. And their proposed user rates  
12 will be at least 2 percent or greater of their Median  
13 Household Income. That will be the definition of a  
14 disadvantaged community.

15 All -- the remainder of the changes in this  
16 document just refer to -- well, a few details as far  
17 as application -- receiving applications -- let's see  
18 -- speaking with some of the requirements of the --  
19 of the Stimulus Act, itself, some of those additional  
20 requirements that are going to be put upon our -- our  
21 recipients.

22 But, again, the -- the biggest -- the biggest  
23 change in here that we're going for will allow us to  
24 provide additional subsidization through principle  
25 forgiveness, negative interest loans or grants if our

1 future federal funding will allow these.

2 Is -- those are really the highlights of this.

3 This -- our request, today, is just to ask your  
4 permission to move forward with this rule. There  
5 will be ample opportunity for public notice for this.  
6 We'll be -- we'll be meeting with some stakeholders  
7 so there will be quite a bit of discussion on this  
8 rule yet to come. At this point, we're just asking  
9 for your permission to move forward with this  
10 rulemaking.

11 CHAIRMAN PRO TEM HUNTER: Thank you, Joe.

12 Do we have cards? No cards?

13 MR. EARL PABST: No.

14 CHAIRMAN PRO TEM HUNTER: Do any of the  
15 Commissioners have questions for Joe?

16 COMMISSIONER SHORNEY: This is Frank Shorney. I  
17 was going to ask Joe on Page 44 is design build  
18 projects have they been taking out of the -- of the  
19 package?

20 MR. JOE BOLAND: Frank, I'll let -- I'll let  
21 Doug answer that question.

22 MR. DOUG GARRETT: Afternoon. The -- the  
23 Commissioner asked about the design build section  
24 that's currently in our regulation.

25 What Joe didn't mention is we had stakeholder

1 meetings with a number of folks early on in  
2 preparation to revise this reg and then we got  
3 slammed with the ARRA requirements. So we had to put  
4 changing the reg off until we got through the -- the  
5 ARRA information.

6           And a couple of things as you, Commissioner  
7 Shorney, had questioned the section on designed build  
8 projects. In discussions with stakeholders it was  
9 felt to go ahead and remove that from our  
10 regulations. The State statutes are mute on the  
11 point of using design build projects in the state.  
12 However, they do go into how professional services  
13 should be procured.

14           So we thought it better to take it out of our  
15 regulation and rely on what State statutes currently  
16 state or may state sometime in the future.

17           COMMISSIONER SHORNEY: Okay. Does that  
18 eliminate design build do you think or is it still  
19 a possibility to get a design build project in the  
20 state?

21           MR. DOUG GARRETT: It's still a possibility.  
22 We've had -- over the years, we've had a few  
23 inquiries about using design build and none have come  
24 to fruition, obviously, so we do expect that to come  
25 up again in the future.

1           And we will be open to working with those  
2 communities and those partnerships.

3           COMMISSIONER SHORNEY: Okay.

4           CHAIRMAN PRO TEM HUNTER: Anyone else?

5           (No response.)

6           MR. EARL PABST: Call for a motion.

7           CHAIRMAN PRO TEM HUNTER: Um-huh.

8           At this time, I'll entertain a motion from the  
9 Commission.

10           **COMMISSIONER TUPPER: Mr. Chairman, I move that**  
11 **the Commission approve the request to file proposed**  
12 **amendments to 10 CSR 20-4.040 State Revolving Fund**  
13 **General Assistance Regulation with the Secretary of**  
14 **State's Office for publication in the Missouri**  
15 **Register.**

16           COMMISSIONER SHORNEY: This is Shorney. Second.

17           CHAIRMAN PRO TEM HUNTER: Call for the vote.

18           MS. MALINDA OVERHOFF: Commissioner Tupper?

19           (No response.)

20           MS. MALINDA OVERHOFF: Commissioner Tupper?

21           COMMISSIONER TUPPER: Yes.

22           MS. MALINDA OVERHOFF: Commissioner Easley?

23           COMMISSIONER EASLEY: Yes.

24           MS. MALINDA OVERHOFF: Commissioner Shorney?

25           COMMISSIONER SHORNEY: Yes.

1           **MS. MALINDA OVERHOFF: Commissioner Hardecke?**

2           **CHAIRMAN HARDECKE: Yes.**

3           **MS. MALINDA OVERHOFF: Chair Pro-tem Hunter?**

4           **CHAIRMAN PRO TEM HUNTER: Yes.**

5           I want to remind the Commissioners that our next  
6 meeting in June the 10th --

7           (Tape One, Side A concluded.)

8           CHAIRMAN PRO TEM HUNTER: -- University Plaza  
9 Hotel in Springfield. And November 4th meeting will  
10 be back here in Jefferson City.

11           At this time, I'd like to entertain a motion for  
12 adjournment.

13           MR. EARL PABST: Mr. Chairman, could I add one -  
14 - just one thing, and that's to thank all the  
15 Commission members for taking the time for this  
16 special Commission meeting. We had a Commission  
17 meeting two weeks ago now this meeting and then we'll  
18 have another one June 10th followed by the one on --  
19 on --

20           CHAIRMAN PRO TEM HUNTER: -- July 1st.

21           MR. EARL PABST: -- July 1st.

22           So on behalf of the Department I just wanted to  
23 thank all the Commissioners for the extra Commission  
24 meetings so that we can move this IUP through the  
25 process as quickly as possible.

1 CHAIRMAN PRO TEM HUNTER: Thank you, Earl.  
2 Do I have a motion?  
3 COMMISSIONER EASLEY: This is Bill Easley. I  
4 move that we adjourn.  
5 COMMISSIONER TUPPER: Jan Tupper. Second.  
6 CHAIRMAN PRO TEM HUNTER: Call for the vote.  
7 MS. MALINDA OVERHOFF: Commissioner Easley?  
8 COMMISSIONER EASLEY: Yes.  
9 MS. MALINDA OVERHOFF: Commissioner Shorney?  
10 COMMISSIONER SHORNEY: Yes.  
11 MS. MALINDA OVERHOFF: Commissioner Tupper?  
12 COMMISSIONER TUPPER: Yes.  
13 MS. MALINDA OVERHOFF: Commissioner Hardecke?  
14 CHAIRMAN HARDECKE: Yes.  
15 MS. MALINDA OVERHOFF: Chair Pro-tem Hunter?  
16 CHAIRMAN PRO TEM HUNTER: Yes.  
17 We are adjourned. Thank you-all. Thanks for  
18 coming today.  
19 CHAIRMAN HARDECKE: Thank you, Sam, for chairing  
20 the meeting today.  
21 MR. EARL PABST: Thanks, Ron.  
22 CHAIRMAN HARDECKE: We'll see you later.  
23 MR. EARL PABST: All right.  
24 CHAIRMAN PRO TEM HUNTER: Okay.  
25 (Tape Two, Side B concluded.)

## 1 CERTIFICATE OF REPORTER

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3 I, DANIELLE Y. MOSER, within and for the State  
4 of Missouri, do hereby certify that the audio  
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DANIELLE Y. MOSER, Notary Public

Commission # 07398805

Commission Expires 01-08-2011

Respectfully Submitted,

Earl Pabst  
Acting Director of Staff