

DRAFT
MINUTES OF THE
MISSOURI CLEAN WATER COMMISSION MEETING
Lewis and Clark State Office Building
1101 Riverside Drive
Jefferson City, Missouri

January 11, 2017

Present

Buddy Bennett, Chair, Missouri Clean Water Commission
Ashley McCarty, Missouri Clean Water Commission
Dennis Wood, Missouri Clean Water Commission
Todd Parnell, Missouri Clean Water Commission
Wallis Warren, Missouri Clean Water Commission
Sam Leake, Missouri Clean Water Commission
David Lamb, Acting Director of Staff, Missouri Clean Water Commission
Shawna Bligh, Legal Counsel, Missouri Clean Water Commission
Susan Borton, Secretary, Missouri Clean Water Commission

Mike Alesandrini, AECOM, St. Louis, Missouri
Joe Bachant, Citizen, Holts Summit, Missouri
Andrea Balkenbush, Department of Natural Resources, Jefferson City, Missouri
Michael F. Bollinger, Ameren, St. Louis, Missouri
Barb Brazos, Citizen, Fulton, Missouri
Robert Brundage, Newman, Comley, and Ruth, Jefferson City, Missouri
Tim Bull, Department of Natural Resources, Jefferson City, Missouri
John Carter, Geo Engineers, Rolla, Missouri
David Casaletto, Ozarks Environmental Services, Kimberling City, Missouri
Nimrod Chapel, Chapel Law Group, Jefferson City, Missouri
Eric Crawford, Department of Natural Resources, Jefferson City, Missouri
Sharon Davenport, Department of Natural Resources, Jefferson City, Missouri
Cameron Eisterhold, Department of Natural Resources, Jefferson City, Missouri
Joe Engeln, Citizen, Columbia, Missouri
Steve Feeler, Department of Natural Resources, Jefferson City, Missouri
Carol Garey, Department of Natural Resources, Jefferson City, Missouri
Doug Garrett, Environmental Improvement and Energy Resources Authority, Jefferson City, Missouri
Jodi Gerling, Department of Natural Resources, Jefferson City, Missouri
John Hoke, Department of Natural Resources, Jefferson City, Missouri
Leslie Holloway, Missouri Farm Bureau, Jefferson City, Missouri
Jay Hoskins, Metropolitan Sewer District (MSD), St. Louis, Missouri
Steve Jeffery, Hickory Neighbors United (HNU) and Friends of Responsible Agriculture (FORAG)
Donald Jones, Missouri Rural Water Association, Poplar Bluff, Missouri
Jeff Jones, Citizen, Fulton, Missouri
Ross Kidwell, Citizen, Fulton, Missouri
Shirley Kidwell, Citizen, Fulton, Missouri

Hebin Lin, Department of Natural Resources, Jefferson City, Missouri
Forrest Lindsey, Department of Natural Resources, Jefferson City, Missouri
Rebecca Losli, Burns and McDonnell, Chesterfield, Missouri
Margot McMillen, Citizen, Fulton, Missouri
Refaat Mefrakis, Department of Natural Resources, Jefferson City, Missouri
Steve Meyer, Association of Missouri Cleanwater Agencies (AOMCA), Missouri
Marty Miller, Department of Natural Resources, Jefferson City, Missouri
Jan Millington, City of Springfield, Springfield, Missouri
Nick Muenks, Geosyntec Consultants, Jefferson City, Missouri
Donald Nelsen, Water Services Department, Kansas City, Missouri
Linda Offineer, FORAG, Fulton, Missouri
Michael Offineer, FORAG, Fulton, Missouri
Samantha Ostmann, Department of Natural Resources, Jefferson City, Missouri
Jordan Paul, Citizen, Neosho, Missouri
Kevin Perry, REGFORM, Jefferson City, Missouri
Michelle Renner, Citizen, Goodman, Missouri
Roger Renner, Citizen, Goodman, Missouri
Cathy Rice, Citizen, Trenton, Missouri
Justin Rice, Citizen, Trenton, Missouri
John Rustige, Department of Natural Resources, Jefferson City, Missouri
Todd Sampsell, Missouri Department of Natural Resources, Jefferson City, Missouri
Jill Sellenriek, Citizen, Fulton, Missouri
Darrick Steen, Missouri Corn Growers, Jefferson City, Missouri
Kyle Stokes, Citizen, Columbia, Missouri
Sherri Stoner, Department of Natural Resources, Jefferson City, Missouri
Steve Taylor, Missouri Agribusiness Association, Jefferson City, Missouri
Phil Walsack, Missouri Public Utility Alliance (MPUA), Columbia, Missouri
Casey Wasser, Missouri Soy Association, Jefferson City, Missouri
Chris Wieberg, Department of Natural Resources, Jefferson City, Missouri
Jimmy Williams, Department of Agriculture, Jefferson City, Missouri
Tammy Wilson, Department of Natural Resources, Jefferson City, Missouri

CALL TO ORDER

Chair Bennett called the meeting of the Missouri Clean Water Commission to order on January 11, 2017 at 10:08 a.m., at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri.

Chair Bennett introduced the Commissioners, Staff Director, Legal Counsel, and the Commission Secretary.

Todd Sampsell, Acting Director, Missouri Department of Natural Resources, provided an update on Department management changes.

Chair Bennett noted there were changes to the agenda. Shawna Bligh, Legal Counsel, Missouri Clean Water Commission, provided a brief announcement that the Commission will take up agenda item #3 first and also announced that the Commission indicated that even though the Election of Officers wasn't on the agenda, they would like to proceed with the Election of Officers next, then

proceed to agenda item #4, then agenda item #1, then agenda item #2. Ms. Bligh also stated that pursuant to Executive Order 17-03 issued by Governor Greitens, the Clean Water Commission would table agenda item #5. Additionally, the Clean Water Commission would table agenda item #7, as the Village of Silex was not ready to proceed on that issue at this time.

ADMINISTRATIVE MATTERS

Callaway Farrowing, LLC Appeal No. 14-1978 CWC

Agenda Item #3

Chair Bennett requested Vice-Chair McCarty and Commissioner Parnell to excuse themselves during the consideration, deliberation and vote on whether to adopt the recommendation of the Administrative Hearing Commission with respect to the Callaway Farrowing permit.

Chair Bennett announced that Judge Green ordered him to announce the following statement at the January 11, 2017 Clean Water Commission (CWC) meeting:

- a) Commissioner Cowherd's motion from the October 5, 2016 CWC meeting for the CWC to approve and adopt the Administrative Hearing Committee's (AHC) Recommended decision to approve the permit failed because the motion did not receive 4 "yes" votes; and
- b) Exhibit 3 was improvidently issued and it is withdrawn.

Ms. Bligh asked if the Department would like to make a statement. Marty Miller, General Counsel, provided comments. Robert Brundage, Counsel for Callaway Farrowing LLC, provided comments and asked the Commission if they were planning on going into closed session regarding the matter. Ms. Bligh stated that the Commission will not go into closed session and proceed to entertain a motion on the Callaway Farrowing permit.

Commissioner Wood made a motion to adopt the AHC's Recommended Decision on the Callaway Farrowing, LLC Appeal No. 14-1978 CWC. Commissioner Warren seconded the motion. The motion failed due to lack of 4 votes:

Commissioner Warren:	No
Commissioner Leake:	Yes
Commissioner Cowherd:	Not in attendance
Commissioner Wood:	Yes
Commissioner Parnell:	Not present
Vice Chair McCarty:	Not present
Chair Bennett:	No

RNR Farms, LLC Permit Appeal No. 16-3308

Agenda #4

Tim Blackwell, Attorney General's Office, provided comments and asked the Commission to adopt the AHC's Recommended Decision upholding the Department's approval of the RNR permit. Jordan Paul, on behalf of the petitioners, handed out a packet and provided comments in opposition to the RNR permit. Nimrod "Rod" Chapel, Chapel Law Group, and Leslie Holloway, Missouri Farm Bureau, provided comments in support of the RNR permit. Commissioners Warren, Leak,

Wood, Vice-Chair McCarty, and Chair Bennett asked questions regarding the RNR permit and proposed facility. Chris Wieberg, Operating Permits Section, provided comments regarding the Commissioner's questions. Jordan Paul addressed the Commission again to provide clarification on his interpretation of the law in regard to Commissioner Wood's question.

Commissioner Leake made a motion to adopt the AHC's Recommended Decision on the RNR Farms, LLC Permit Appeal No. 16-3308. Vice-Chair McCarty seconded the motion. The motion failed due to lack of 4 votes:

Commissioner Warren:	No
Commissioner Leake:	Yes
Commissioner Cowherd:	Not in attendance
Commissioner Wood:	Yes
Commissioner Parnell:	No
Vice Chair McCarty:	Yes
Chair Bennett:	No

Since the motion failed due to lack of 4 votes, Ms. Bligh asked the Commission if they would like to table agenda item #4, RNR Farms, LLC Permit Appeal No. 16-3308. The Commissioners asked questions for clarification. Ms. Bligh advised the Commissioners that they could table the agenda item, put it on a future agenda and entertain any motion with respect to the RNR permit at a later date.

Commissioner Wood made a motion to table Agenda item #4, RNR Farms, LLC Permit Appeal No. 16-3308 until all of the Commissioners could be present. Commissioner Leake seconded the motion. The motion failed due to 4 "No" votes:

Commissioner Warren:	No
Commissioner Leake:	Yes
Commissioner Cowherd:	Not in attendance
Commissioner Wood:	Yes
Commissioner Parnell:	No
Vice Chair McCarty:	No
Chair Bennett:	No

Vice-Chair McCarty inquired if the issue was effectively tabled until the Commission wishes to bring it back up. Ms. Bligh responded that was correct. Rod Chapel, Chapel Law Group, addressed the Commission and noted the statutory time frame for the Commission to respond and requested a special meeting to comply. Ms. Bligh responded that she would discuss with the Commission whether it wished to schedule a special meeting to take up the RNR Farms matter.

Election of Officers

Commissioner Warren made a motion to consider the Election of Officers. Commissioner Leake seconded the motion. The motion passed with a Roll Call vote:

**Commissioner Warren: Yes
Commissioner Leake: Yes
Commissioner Cowherd: Not in attendance
Commissioner Wood: Yes
Commissioner Parnell: Yes
Vice Chair McCarty: Yes
Chair Bennett: Yes**

Commissioner Warren made a motion to nominate Ashley McCarty as Chair of the Clean Water Commission. Commissioner Leake seconded the motion. Commissioner Wood made a motion to nominate Buddy Bennett as Chair. Commissioner Parnell seconded the motion. Roll Call vote was taken to choose either Ashley McCarty or Buddy Bennett as Chair. The motion failed due to a tie vote.

**Commissioner Warren: Ashley McCarty
Commissioner Leake: Ashley McCarty
Commissioner Cowherd: Not in attendance
Commissioner Wood: Buddy Bennett
Commissioner Parnell: Buddy Bennett
Vice Chair McCarty: Ashley McCarty
Chair Bennett: Buddy Bennett**

Approval of the October 5, 2016 Missouri Clean Water Commission Meeting

Minutes

Agenda #1

Commissioner Leake moved to approve the October 5, 2016 meeting minutes as presented. Commissioner Warren seconded the motion. The motion passed with a roll call vote:

**Commissioner Warren: Yes
Commissioner Leake: Yes
Commissioner Cowherd: Not in attendance
Commissioner Wood: Yes
Commissioner Parnell: Abstain
Vice Chair McCarty: Yes
Chair Bennett: Yes**

Approval of the October 5, 2016 Missouri Clean Water Commission Closed Meeting

Minutes

Agenda #2

The item was tabled.

Final Action on Proposed Amendment to 10 CSR 20-8.500 Secondary Containment for Agrichemical Facilities

Agenda #5

The item was tabled in accordance with Executive Order 17-03.

Fiscal Year 2017 Clean Water State Revolving Fund Intended Use Plan Revisions

Agenda #6

Eric Crawford, Financial Assistance Center, provided comments and recommended the Commission approve the changes to the Fiscal Year 2017 Clean Water State Revolving Fund Intended Use Plan as proposed. He then summarized a comment letter received from the AMOCA related to this agenda item concerning the 1% Administrative fee and responded to the Commission's questions. Steve Feeler, Acting Director, Division of Environmental Quality, addressed the Commission and provided comments regarding the Administrative fee and its potential reduction. He proposed that the issue of whether to reduce the Administrative fee be presented to the Commission at a future date, so the Department could be better prepared to present it to the Commission and stakeholders. Todd Sampsell, Acting Director, Department of Natural Resources, provided further comments. Jan Millington, City of Springfield, provided comments and requested the Commission consider dropping the current 1% Administrative fee to 0.5% and for it to be implemented by December 2018, which would allow the Department time to find a source of alternate revenue. Jay Hoskins, Metropolitan Sewer District, also provided further comments in support of reduction of the Administrative fee. He requested the Commission consider making a motion to decrease the Administrative fee from 1% to 0.5% at today's meeting. Marty Miller, General Counsel; David Nelson, Utility Officer in Kansas City; Steve Meyer, President, AMOCA; David Casaletto, Ozarks Environmental Services; and Phil Walsack, MPUA, provided additional comments on the Administrative fee.

Commissioner Leake made a motion to approve the changes to the Fiscal Year 2017 Clean Water State Revolving Fund Intended Use Plan as proposed and have the Department return to the Commission with a study of the 0.5% vs. 1% Administrative fee and its impact on the Department by the April 5, 2017 meeting for a vote at the April meeting. Commissioner Parnell seconded the motion. The motion passed with a roll call vote:

Commissioner Warren:	Yes
Commissioner Leake:	Yes
Commissioner Cowherd:	Not in attendance
Commissioner Wood:	Yes
Commissioner Parnell:	Yes
Vice Chair McCarty:	Yes
Chair Bennett:	Yes

State Direct Loan for the Village of Silex

Agenda #7

The item was tabled.

At the Commission's discretion, comments were taken from Roger Renner, Citizen, Goodman, Missouri, regarding agenda item #4, RNR Farms, LLC Permit Appeal No. 16-3308. Mr. Renner provided comments clarifying information regarding the facility's operations, including that the facility would be an Export Farm only and that no litter would be spread on the farm. Chris Wieberg, Operating Permits Section, and Marty Miller, General Counsel, both provided comments.

Ms. Bligh stated that the only remaining item for the Commission's consideration is the tabling of agenda item #5, Final Action on Proposed Amendment on 10 CSR 20-8.500 Secondary Containment. She stated that in light of Executive Order 17-03 signed by the Governor, there is a provision in the order regarding time sensitive information and stated that Steve Taylor, Missouri Agribusiness Association, has requested to briefly speak regarding the matter. The Commission decided they would hear Mr. Taylor's comments. Mr. Taylor provided comments on the time-critical nature of a vote by the Commission on the proposed amendment. David Lamb, Acting Director, Water Protection Program, and Marty Miller, General Counsel, provided responses to the Commissioners inquiries. Chair Bennett noted he thought this was an issue that could be handled by a phone conference if the Commission received confirmation to legally proceed.

PRESENTATIONS

Water Quality Standards Update

John Hoke, Water Protection Program, provided a brief update on the Water Quality Standards Rule.

State Water Plan Update

Sherri Stoner, Water Resources Center, provided an update on the State Water Plan.

Director's Update

David Lamb, Acting Director, Water Protection Program, reported to the Commission that most of the items he was going to discuss had already been covered, including some of the transitions within the agency and the Permit Report, which had already been discussed with staff. He provided a description of his current role with the agency as Acting Director noting that he is also the Public Drinking Water Branch Chief as well. He also noted that during the transition, staff will continue to move forward on all items to the best that they can.

Public Comment and Correspondence

Phil Walsack, MPUA, provided comments on Municipal Wastewater Systems that do land applications. He also announced that his boss, Floyd Gilzow, passed away in December 2016. He congratulated John Madras on his retirement and wanted to acknowledge Leanne Tippet-Mosby's leaving the Department.

No action was taken by the Commission.

Missouri Clean Water Commission Meetings

- April 5, 2017, Lewis and Clark State Office Building
- July 12, 2017, Lewis and Clark State Office Building
- October 4, 2017, Lewis and Clark State Office Building

ADJOURNMENT OF MEETING

No motion to adjourn the meeting was taken.

Commission adjourned the open meeting at 2:00 p.m.

Respectfully Submitted,

David J. Lamb
Acting Director of Staff