

DRAFT
MINUTES OF THE
MISSOURI CLEAN WATER COMMISSION MEETING
Department of Natural Resources
Lewis and Clark State Office Building
LaCharrette/Nightingale Creek
Jefferson City, MO 65102

March 2, 2011

Present

Ron Hardecke, Chair, Missouri Clean Water Commission
William A. Easley, Jr., Missouri Clean Water Commission
Sam Hunter, Missouri Clean Water Commission
Sam Leake, Missouri Clean Water Commission
Frank Shorney, Missouri Clean Water Commission
Jan Tupper, Missouri Clean Water Commission – Via Telephone
Todd Parnell, Missouri Clean Water Commission – Via Telephone
John Madras, Director of Staff, Missouri Clean Water Commission
Laura Brown, Counsel, Missouri Clean Water Commission
Malinda Steenbergen, Secretary, Missouri Clean Water Commission

David “Scott” Adams, Department of Natural Resources, Macon, Missouri
Karen Bataille, MDC, Columbia, Missouri
Dorris Bender, City of Independence, Independence, Missouri
Jerry Bindel, AECI, Springfield, Missouri
Joe Boland, Department of Natural Resources, Jefferson City, Missouri
Emily Carpenter, Department of Natural Resources, Jefferson City, Missouri
John Carter, Doe Run, Viburnum, Missouri
Dave Fraley, City Utilities of Springfield, Springfield, Missouri
Tim Ganz, MAWC, Chesterfield, Missouri
Carol Garey, Department of Natural Resources, Jefferson City, Missouri
Doug Garrett, Department of Natural Resources, Jefferson City, Missouri
Bart Hager, MSD, St. Louis, Missouri
John Hoke, Department of Natural Resources, Jefferson City, Missouri
Kim Hoke, Department of Natural Resources, Jefferson City, Missouri
Leslie Holloway, Missouri Farm Bureau, Jefferson City, Missouri
John Lodderhose, Metropolitan St. Louis Sewer District, St. Louis, Missouri
Randy Lyman, City of Springfield, Springfield, Missouri
Colleen Meredith, Department of Natural Resources, Jefferson City, Missouri
Kevin Mohammadi, Department of Natural Resources, Jefferson City, Missouri
Rob Morrison, Barr Engineering, Jefferson City, Missouri
Terry Nelson, Department of Natural Resources, Jefferson City, Missouri
Bob Perry, Agriservices of Brunswick, Bowling Green, Missouri

Kevin Perry, REGFORM, Jefferson City, Missouri
Mark Osborn, Department of Natural Resources, Jefferson City, Missouri
David Potthast, Department of Natural Resources, Jefferson City, Missouri
John Pozzo, Ameren, St. Louis, Missouri
John Rustige, Department of Natural Resources, Jefferson City, Missouri
Pat Smith, Department of Natural Resources, Jefferson City, Missouri
Jeff Starr, Department of Natural Resources, Jefferson City, Missouri
Steve Walker, Department of Natural Resources, Jefferson City, Missouri
Phil Walsack, MPUA, Columbia, Missouri
Chris Wieberg, Department of Natural Resources, Jefferson City, Missouri

CALL TO ORDER

Chair Hardecke called the meeting to order on March 2, 2011 at 9:20 a.m., at the Department of Natural Resources' Lewis and Clark State Office Building located at 1101 Riverside Drive, Jefferson City, Missouri.

Chair Hardecke made introductions of the Commissioners, Staff Director, Legal Counsel, and Commission Secretary.

ADMINISTRATIVE MATTERS

Public Hearing – State Fiscal Year 2012 Clean Water State Revolving Fund Intended Use Plan

Agenda Item #1

A public hearing on the Draft State Fiscal Year 2012 Clean Water State Revolving Fund Intended Use Plan and Priority List (IUP) was held during the Missouri Clean Water Commission meeting on March 2, 2011. Doug Garrett of the Financial Assistance Center presented the draft document highlighting the following items:

- Future uncertainty of federal funding levels.
- Projects listed on the draft Fundable List had met the readiness to proceed criteria as of the date the IUP was prepared. Other projects meeting the readiness to proceed criteria will be added to the list, in priority point order, prior to adoption. Projects currently on the list may be removed as a result.
- The Metropolitan St. Louis Sewer District submitted a written comment requesting two projects be removed from the IUP. In addition, the district requested confirmation that the second phase of the Missouri River Wastewater Treatment Plant project would be on the Fundable Carryover List if funding was not secured by June 30, 2011.

- The Environmental Protection Agency had two minor comments that will be addressed in the final IUP.
- Boone County Regional Sewer District submitted an application for the elimination of the El Rey Heights wastewater treatment plant via a connection to the city of Columbia wastewater system. The application has been reviewed and the project will be added to the Planning List for \$203,490.
- As in the past, we anticipate some applicants will have successful ballot issues in April. Applicants that have a successful ballot issue and have submitted a complete facility plan will be placed on the project lists in a manner dictated by their priority points.

No one in attendance commented on the IUP. The Commission, and the audience, were reminded that written comments will be accepted until March 9, 2011. The Commission will take final action on the IUP at the May 4, 2011 meeting. No action taken by the Commission.

A Court Reporter from Midwest Litigation was in attendance and the official hearing transcript is attached.

Approval of the January 12, 2011 Missouri Clean Water Commission Meeting Minutes
Agenda Item #2

Commissioner Easley made a motion to approve the January 12, 2011 Meeting Minutes as submitted. Commissioner Hunter seconded the motion. The motion passed with a roll call vote:

Commissioner Easley:	Yes
Commissioner Shorney:	Abstain
Commissioner Tupper:	Yes
Commissioner Parnell:	Abstain
Commissioner Hunter:	Yes
Commissioner Leake:	Yes
Chair Hardecke:	Yes

10 CSR 20-8.110 Engineering Reports, Plans and Specifications
Agenda Item #3

Emily Carpenter of the Financial Assistance Center presented the Order of Rulemaking for 10 CSR 20-8.110, Engineering – Reports, Plans and Specifications. The Commission adopted the Order and approved filing the rule with the Joint Committee on Administrative Rules and the Secretary of State. The Department anticipates filing the rule on March 8, 2011. The amended rule will become effective on June 30, 2011.

Commissioner Shorney made a motion that the Commission adopt the Order of Rulemaking for 10 CSR 20-8.110 and the Department file the Order with the Joint Committee on Administrative Rules and the Secretary of State. Commissioner Hunter seconded the motion. The motion passed with a roll call vote:

Commissioner Shorney: Yes
Commissioner Tupper: Yes
Commissioner Parnell: Yes
Commissioner Hunter: Yes
Commissioner Leake: Yes
Commissioner Easley: Yes
Chair Hardecke: Yes

Water Quality Standards Triennial Review – Update
Agenda Item #4

John Hoke of the Watershed Protection Section provided updates on the status of important water quality standards revisions contained in the 2012 Missouri Water Quality Standards Triennial Review. Mr. Hoke noted the Water Protection Program is currently working to finalize draft rule language to address the following: "fishable/swimmable" use designations for currently unclassified waters, new or revised water quality standards for the Mississippi River near St. Louis, two petitions before the Commission for criteria revisions (sulfate and chloride, phenol), revised dissolved oxygen criteria, revised compliance schedule and variance language, and a petition regarding designation of LaBarque Creek as an Outstanding State Resource Water (OSRW). Mr. Hoke also announced the Program's intention to present the Regulatory Impact Report (RIR) associated with the draft rule at the May 4, 2011 Commission meeting. Commissioners had clarifying questions regarding the scope of the RIR (i.e., would it include nonpoint source costs), the effect of revised dissolved oxygen criteria on 303(d) listing, and stated public support and opposition to the designation of LaBarque Creek as an OSRW. To address concerns on the latter issue, the Program recommended the Commission hold a public hearing to gather comments from the public. No action taken by the Commission.

Nutrient Implementation – Update
Agenda Item #5

John Hoke, Watershed Protection Section, provided an update on the status of draft nutrient criteria implementation guidance. On October 30, 2009, nutrient criteria for lakes and reservoirs became effective in state rule and the Department has been working on a framework to address implementation of these new criteria. The draft framework is in the initial stages of development and addresses the following: regulatory requirements for facilities with Missouri State Operating Permits, developing a nutrient trading framework between point and nonpoint sources within impaired watersheds, and monitoring program requirements for watershed and water body assessment.

Phil Walsack, Missouri Public Utility Alliance, expressed concern that implementation of nutrient criteria for lakes and reservoirs was premature, given that the Environmental Protection Agency has not yet approved those criteria.

Mr. Hoke responded that proactive steps need to be taken toward development of implementation guidance so that the framework is available once the criteria are approved. No action taken by the Commission.

STAFF UPDATES

Permits and Water Quality Review Sheet Update

Agenda Item #6

Refaat Mefrakis presented an update on permit performance. No action was taken by the Commission.

Bob Perry of Perry Law Offices in Bowling Green, Missouri, representing SSS, Inc. brought some concerns to the Commission regarding the draft permit for SSS, Inc. that they received yesterday. The concerns were heavy metal testing and benchmark/numeric criteria.

Mr. Mefrakis suggested that since Mr. Perry's concerns and questions were technical in nature that staff meet with Mr. Perry to discuss in a separate meeting. Mr. Perry was agreeable to that approach.

Financial Assistance Center Update

Agenda Item #7

Joe Boland presented updates to the Commission on the following:

- The \$50 Million Bond Sale
- Federal Budget Outlook
- Approval for the 2012 Clean Water Intended Use Plan will be presented to the Commission at the May 4, 2011 meeting.
- The State Revolving Fund audits:
 - Environmental Protection Agency twice previously year and again at the end of March;
 - Independent Audit by the State;
 - General Accounting Office from Congress;
 - Legislative Oversight from the State House of Representatives and Senate;
 - Office of Administration on Recovery Act Projects.

Phil Walsack, Missouri Public Utility Alliance noted that last month, President Obama and his Administration proposed their budget for the Fiscal Year 2012. As an element of this budgeting process, the U.S. Environmental Protection Agency (EPA) published their Fiscal Year 2012 Budget. EPA has proposed both cuts and augmentations, some of which will have affects on the

State of Missouri. The most notable budget cut is that proposed to the state's Clean Water State Revolving Fund program. Nationwide, the Fiscal Year 2012 Budget cuts \$550 million from the Clean Water State Revolving Fund. This represents a cut of 26.2% in the Clean Water State Revolving Fund. Mr. Walsack noted that there are proposed budget cuts for funding but proposed increases for the enforcement side, which will be problematic to the municipalities.

Mr. Walsack also asked if the Department had any insight on the Rural Development Program regarding the Farm Bill and how it would affect the State Revolving Fund.

Mr. Boland noted that he could not speak for the Rural Development Program's budget numbers but noted that the Program does partner with Rural Development in funding Missouri communities so if there is a significant decrease in funding it could potentially impact the Program's demand. Competition for the smaller communities may be greater for our dollars as well. Mr. Boland noted that there is more need in the state than there is funding for infrastructure.

Chair Hardecke noted that in the Farm Bill 80% goes to Nutrition Programs. Agriculture and USDA would receive a very small portion as the bill reads, definitely a minority.

No action taken by the Commission.

Status of Rulemaking
Agenda Item #8

Carol Garey, Rule Coordinator of the Water Pollution Control Branch of the Water Protection Program, presented an update on rulemaking indicating regulatory development priorities and the next significant rulemaking action. No action was taken by the Commission.

Status of Enforcement Cases
Agenda Item #9

Mr. Mohammadi presented an update on status of Enforcement cases. No action was taken by the Commission.

STANDING ITEMS

Legal Report

Laura Brown did not have any items to report to the Commission. No action was taken by the Commission.

Director's Update

John Madras, Director, Water Protection Program, provided an update on the following items:

- There are several water pollution control fee bills in the General Assembly including House Bills 89, 97 and 441, and Senate Bill 158. HB 89 has had a hearing and has been voted out of the House Committee on Tourism and Natural Resources. The other bills have been assigned to committees for hearing. Staff will advise the Commission of the status of water permit fee legislation.
- The Corps of Engineers has expressed interest in continuing work on the Missouri River, particularly the Jameson Island project. A letter from the Corps to the Department is provided.
- The Department has begun conducting numerous stakeholder meetings on water topics. Two forums have occurred that were open for discussion of any topic, and a third meeting of this type is planned for March 21. Topic-specific meetings are also being convened. Following the Commission's meeting, a stakeholder meeting on the effluent regulation will occur. A meeting on whole effluent toxicity testing and antidegradation is scheduled for March 22. Information on the forums and stakeholder meetings is available on the Department's website.
- The Office of Administration has changed the method for cost reimbursement from actual costs to a per diem system, and this will be used in covering the commissioners' costs.

Chair Hardecke noted that he had attended the annual meeting of the Missouri Levy and Drainage Association and at that meeting Brigadier General John McMahon of the Corps of Engineers approached him and the Perry's regarding the Jameson chute project and the dumping of the dirt in the river. He asked that a meeting be scheduled in the future to discuss the issue further.

No action was taken by the Commission.

PRESENTATIONS

Public Comment and Correspondence

Kevin Perry, REGFORM, expressed his, and the members of the REGFORM's, appreciation for the Department bringing back the Water Protection Forum meetings. He noted that they are very encouraged by the support and actions that the Department has already taken to move forward on issues and concerns that have been brought before them. Mr. Perry wanted to express his thanks.

Mr. Perry also noted he agrees with Phil Walsack regarding the implementation of nutrient criteria for lakes and reservoirs was premature given that the Environmental Protection Agency had not yet approved those criteria. He noted that eleven specific examples had been given at the last forum meeting in other areas where draft guidelines had been used before final action had been taken. Mr. Perry also noted that a lot of discussion took place at the meeting in this regard. The Department is working towards resolving this issue.

Mr. Perry also expressed support for the Water Quality Standards Regulatory Impact Report which will be brought before the Commission at the May 4, 2011 meeting.

Phil Walsack, Missouri Utility Alliance, provided informational handout regarding the issue of Affordability for future discussion in this area.

No action was taken by the Commission.

ADJOURNMENT OF MEETING

Commissioner Leake made a motion to adjourn the meeting. Commissioner Shorney seconded the motion. The motion passed unanimously with a roll call vote:

Commissioner Tuppera:	Yes
Commissioner Parnell:	Yes
Commissioner Hunter:	Yes
Commissioner Leake:	Yes
Commissioner Easley:	Yes
Commissioner Shorney	Yes
Chair Hardecke:	Yes

The meeting adjourned at 11:10 a.m.

Respectfully Submitted,



John Madras
Director of Staff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

MISSOURI CLEAN WATER COMMISSION

IN RE:

State Fiscal Year 2012
Clean Water State Revolving Fund Intended Use Plan

Public Hearing
1101 Riverside Drive
Jefferson City, Missouri
March 2, 2011

BEFORE:

- Ron Hardecke, Chair, Missouri Clean Water Commission
- Samuel Hunter, Vice Chair, Missouri Clean Water Commission
- William Easley, Jr., Missouri Clean Water Commission
- Samuel Leake, Missouri Clean Water Commission
- Frank Shorney, Missouri Clean Water Commission
- Todd Parnell, Missouri Clean Water Commission (via phone)
- Jan Tupper, Missouri Clean Water Commission (via phone)
- John Madras, Director of Staff, Missouri Clean Water Commission
- Laura Brown, Counsel, Missouri Clean Water Commission
- Malinda Steenbergen, Secretary, Missouri Clean Water Commission

Reported by:
Julie K. Kearns, CCR 993
Midwest Litigation Services
3432 West Truman Boulevard, Suite 207
Jefferson City, Missouri 65109
(573) 636-7551

1 PROCEEDINGS

2 (Proceedings started at 9:23 A.M.)

3 COMMISSIONER HARDECKE: Good morning. I want to
4 welcome you to the Commission meeting. Sorry we ran a
5 little over in our closed session. We'll begin with our
6 introductions. To my far right we have Bill Easley,
7 Commissioner from Cassville. Next is Sam Leake,
8 Commissioner from Perry. Frank Shorney, from Lee's
9 Summit. Sam Hunter is the Vice Chair, from Sikeston. On
10 the phone we have Jan Tupper from Joplin and Todd Parnell
11 from Springfield.

12 I'm Ron Hardecke, the chairman, from Owensville.
13 My left is John Madras, the Director of Water Program
14 Staff. Laura Brown is from the Attorney General's Office.
15 She's filling in as Jenny Frazier had another hearing to
16 attend. And then Malinda Steenbergen is the Secretary of
17 the Commission. So we welcome each of you and thanks for
18 taking time to come.

19 We'll begin with the public hearing. The
20 Commission will begin the public hearing on the Clean
21 Water State Revolving Fund Intended Use Plan for the State
22 Fiscal Year 2012. The purpose of this public hearing is
23 to provide the Department an opportunity to present
24 testimony and to provide both the Department and the
25 public the opportunity to comment on the Intended Use Plan

1 for the State Fiscal Year 2012.

2 This public hearing is not a forum for debate or
3 resolution of issues. The Commission asks that those
4 commenting limit their testimony to five minutes and not
5 repeat comments that others have already made. The
6 Commission will first hear testimony from the Department.
7 Following the Department's testimony, the Commission will
8 give the public an opportunity to comment.

9 We ask that all individuals present fill out an
10 attendance card so our records are complete. If you wish
11 to present verbal testimony, please indicate that on your
12 attendance card. When you come forward to present
13 testimony, please speak into the microphone and begin by
14 identifying yourself for the court reporter.

15 Following the public hearing today, the
16 Commission will review testimony presented and make
17 appropriate modifications to the proposal. The Commission
18 plans to take final action at the May 4, 2011 meeting.
19 The court reporter will now swear in anyone wishing to
20 testify at this public hearing before the Clean Water
21 Commission today. Will all those wishing to comment
22 please stand?

23 (The court reporter administered the oath to
24 commenter.)

25 COMMISSIONER HARDECKE: I want to make one more

1 comment before we go further. I should have done this
2 before. If -- John, would you explain the webcam that's
3 being broadcast today?

4 MR. MADRAS: Yes. As you may see up here, we do
5 have a camera. We are broadcasting this meeting on the
6 web live as it occurs. This is a bit of an experiment.
7 We're seeing how well that we can do this and this is the
8 first time this Commission has been through this. So
9 we'll stay tuned and we'll also be reproduced online for
10 future review should people desire.

11 COMMISSIONER HARDECKE: Thank you. Go ahead,
12 Doug.

13 DOUGLAS GARRETT: I'm Douglas Garrett. I'm
14 Deputy Director of the Water Protection Program's
15 Financial Assistance Center. On January 28, we placed on
16 public notice the draft State Fiscal Year 2012 State
17 Revolving Fund Intended Use Plan. The public notice
18 period will conclude on March 9, so we'll be taking
19 comments after the hearing today as well.

20 There were no significant changes in the IUP
21 when you compare it to the State Fiscal Year 2011. The --
22 when we prepared this IUP, there was no 2011 federal
23 budget that had been passed by Congress and as yet we
24 still don't have one, so the funds that are shown -- let
25 me get to the page here -- on page 23 of your packet, page

1 11 in the IUP for those that may have a copy in the
2 audience, you will note that for federal fiscal year 2011,
3 we have estimated receiving a cap grant of \$18,500,000.

4 That number is based on pre-ARRA funding levels
5 that we had for the program. Anything -- everything that
6 we've been hearing to date would indicate that that number
7 is pretty close to ballpark what we may see going forward,
8 but we're keeping our fingers crossed that there will be
9 more.

10 The project list, which begins on page 21 of the
11 IUP, page 33 in the Commission packet, were developed
12 based on what we estimate our available funds are going to
13 be and these lists are, you know, fluid. We have received
14 comments during the comment period and I'll briefly touch
15 on those.

16 We received comment from the Metropolitan St.
17 Louis Sewer District. They will not be seeking funding
18 for the Argonne Sanitary Relief and the Upper Maline Trunk
19 Sanitary Relief sewers and they were the first project on
20 our fundable list. The District is funding those with
21 other funds. And we also received information from the
22 Sewer District that they will be removing one of their CSO
23 projects, which is on our planning list as well.

24 I would like to point out that in the back of
25 the IUP, on page 41, we have a list of projects that we

1 anticipate to close on yet this fiscal year. And a number
2 of those projects, in all likelihood, will not be closed
3 before June 30, in which case those projects and their
4 associated funding will be placed on the fundable
5 carryover list.

6 And I wanted to specifically mention that
7 because one of the comments that MSD had in their letter
8 was that they're looking at their cash flows and may, in
9 fact, put off closing on the second phase of their
10 Missouri River project until late July or August. And we
11 felt it important to, you know, mention that those
12 projects on that list, including MSD, their funds are
13 pretty much, you know, held for them and they would show
14 up on this IUP.

15 COMMISSIONER HARDECKE: Which page was that on?

16 DOUGLAS GARRETT: That's on page 53 of your
17 packet, towards the bottom. We have already closed the
18 first two projects that are Joplin and MSD. MSD, we have
19 already closed on those bonds. Wentzville, Little Blue
20 Valley Sewer District, Waynesville and Macon, those fund
21 documents are being reviewed both by the Department and
22 the communities. So those -- we're close to closing on
23 those loans.

24 Since the IUP went on public notice, we did have
25 two communities that have met the readiness to proceed

1 criteria, Jefferson City, their Cole Junction & Route B
2 project, which is currently on the planning list for
3 \$15 million, and Platte City wastewater treatment plant
4 improvement projects, that's currently on the planning
5 list as well. We would intend to place both of those
6 projects on a fundable list as their priority dictates
7 when we prepare the final IUP.

8 We also had -- have received one more
9 application in during the comment period that was from
10 Boone County Regional Sewer District and that project will
11 be for the elimination of the El Rey Heights wastewater
12 treatment facility and with the interconnection to the
13 Columbia wastewater system. That application would be
14 placed on our planning list.

15 As in the past, we have -- know of a number of
16 communities that potentially have bond issues in April and
17 if those bond issues do, you know, come to a successful
18 vote, the communities would very well be in a position to
19 move up on the fundable list. We would intend to adjust
20 the IUP accordingly as we receive the information related
21 to those issues.

22 Finally, I mentioned funding levels, communities
23 that we do fund, have funded since November, those
24 projects we intend to pool, if you will, and we will
25 continue to work with the Environmental Improvement Energy

1 Resources Authority to use the repayment stream from
2 projects we intend to fund here in the near future to
3 hopefully support another bond issue to replenish the SRF
4 funds.

5 And should we be successful in that endeavor, we
6 hope that would happen sometime this fall and we would
7 then be in a position to potentially add more projects to
8 the fundable list. So with that, I'll answer any
9 questions the Commission may have.

10 COMMISSIONER HARDECKE: Any questions? Thank
11 you. The Commission will receive written testimony on
12 this proposal until 5 P.M. on March 9, 2011. You may
13 submit this written testimony to Malinda Steenbergen,
14 Secretary of the Clean Water Commission, P.O. Box 176,
15 Jefferson City, Missouri 65102 prior to that deadline.

16 On behalf of the Commission, I thank everyone
17 who participated in this process. The hearing is now
18 closed. Thank you.

19 (Proceedings concluded at 9:36 A.M.)

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, Julie K. Kearns, Certified Court Reporter
(MO), Certified Shorthand Reporter (IL), Registered
Professional Reporter and Certified Realtime Reporter
within and for the State of Missouri, do hereby certify
that I was personally present at the proceedings had in
the above-entitled cause at the time and place set forth
in the caption sheet thereof; that I then and there took
down in Stenotype the proceedings had; and that the
foregoing is a true and correct transcript of such
Stenotype notes so made at such time and place.

Julie K. Kearns, CCR, RPR, CRR

