

**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**

**May 2, 2012**

**Present**

Sam Hunter, Chair, Missouri Clean Water Commission  
Todd Parnell, Vice-Chair, Missouri Clean Water Commission  
Sam Leake, Missouri Clean Water Commission  
Dennis Wood, Missouri Clean Water Commission  
Wallis Warren, Missouri Clean Water Commission  
John Cowherd, Missouri Clean Water Commission  
Buddy Bennett, Missouri Clean Water Commission  
John Madras, Director of Staff, Missouri Clean Water Commission  
Jennifer Frazier, Counsel, Missouri Clean Water Commission  
Malinda Steenbergen, Secretary, Missouri Clean Water Commission

Melissa Bagley, Environmental Protection Agency, Kansas City, Kansas  
Karen Bataille, Missouri Department of Conservation, Columbia, Missouri  
Dorris Bender, City of Independence, Independence, Missouri  
Joe Boland, EIARA, Jefferson City, Missouri  
Michael Bollinger, Ameren, St. Louis, Missouri  
Kevin Bond, U.S. Army Corps of Engineers, Kansas City, Missouri  
Robert Brundage, Newman, Comley & Ruth P.C., Jefferson City, Missouri  
Debbie Bruns, Department of Natural Resources, Jefferson City, Missouri  
Lorin Crandall, Missouri Coalition for the Environment, St. Louis, Missouri  
Allen Decker, Missouri Rural Water Association, Ashland, Missouri  
John DeLashmit, Environmental Protection Agency, Kansas City, Kansas  
Adam Dorrell, Benton and Associates, Inc., Kirksville, Missouri  
Joe Engeln, Department of Natural Resources, Jefferson City, Missouri  
Dan Engemann, Representative Luetemeyer, Washington, Missouri  
Walter Fett, Department of Natural Resources, Jefferson City, Missouri  
Steve Fischer, U.S. Army Corps of Engineers, Kansas City, Missouri  
Susan Flader, Missouri Parks Association, Columbia, Missouri  
Karen Flournoy, Environmental Protection Agency, Kansas City, Kansas  
Carol K. Garey, Department of Natural Resources, Jefferson City, Missouri  
Doug Garrett, Department of Natural Resources, Jefferson City, Missouri

Todd Gemeinharde, U.S. Army Corps of Engineers, Kansas City, Missouri  
Joseph B. Gibbs, P.E., MLDDA & Levee Districts, Columbia, Missouri  
Peter Goode, Washington University/Missouri Coalition for the Environment, St. Louis, Missouri  
Michael Gossenauer, U.S. Army Corps of Engineers, Kansas City, Missouri  
Patricia Hagen, Audubon Missouri, St. Louis, Missouri  
Colonel Anthony Hofmann, U.S. Army Corps of Engineers, Kansas City, Missouri  
David Hoover, U.S. Army Corps of Engineers, Kansas City, Missouri  
John Hoke, Department of Natural Resources, Jefferson City, Missouri  
Bill Jackson, AgriServices of Brunswick, LLC, Brunswick, Missouri  
Kirk Juranas, City of Springfield, Springfield, Missouri  
Dan Kuenzel, MLDDA, Washington, Missouri  
John Lodderhose, Metropolitan St. Louis Sewer District, St. Louis, Missouri  
Doug Mendoza, Metropolitan St. Louis Sewer District, St. Louis, Missouri  
Leasue Meyers, Department of Natural Resources, Jefferson City, Missouri  
Ken Midkiff, Missouri Clean Water Campaign, Columbia, Missouri  
Dave Murphy, CFM, Jefferson City, Missouri  
Traci Newberry, Department of Natural Resources, Jefferson City, Missouri  
Diane Oerly, Friends of Big Muddy National Fish and Wildlife Refuge, Columbia, Missouri  
Kevin Perry, REGFORM, Jefferson City, Missouri  
Kristin Perry, Bowling Green, Missouri  
Anita Randolph, Audubon Missouri, Jefferson City, Missouri  
Tom Ratermann, Boone County Regional Sewer District, Columbia, Missouri  
Tonya Roth, Department of Natural Resources, Jefferson City, Missouri  
John Rustige, Department of Natural Resources, Jefferson City, Missouri  
David Shorr, Jefferson City, Missouri  
Brook Spear, Great Rivers Environmental Law Center, St. Louis, Missouri  
Jeff Starr, Department of Natural Resources, Jefferson City, Missouri  
Trent Stober, Geosyntec, Columbia, Missouri  
Donna Swall, LOWA, Sunrise Beach, Missouri  
Caroline Toole, LOWA, Sunrise Beach, Missouri  
Phil Walsack, Missouri Public Utility Alliance, Columbia, Missouri  
Sunny Wellesley, Environmental Protection Agency, Kansas City, Kansas

## CALL TO ORDER

Chair Hunter called the meeting of the Missouri Clean Water Commission to order on May 2, 2012 at 9:30 a.m., at the Department of Natural Resources' Lewis and Clark State Office Building located at 1101 Riverside Drive, Jefferson City, Missouri.

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

## ADMINISTRATIVE MATTERS

### **Public Hearing – Proposed Rescission and the New Proposed Rule 10 CSR 20-6.100 General Pretreatment Regulation**

#### **Agenda Item #1**

The Commission conducted a public hearing for the rule 10 CSR 20-6.100 General Pretreatment Regulation. Pretreatment regulations control the pollutants in the wastewater discharge from industries to a city's sewer system. Walter Fett, Engineering Section presented testimony on behalf the Department to rescind the current rule and propose a new rule which adopts the federal rule, with modifications. Mr. Fett stated that the federal pretreatment regulation were modified in 2005 and had some provisions that reduced the regulatory burden, and other provisions that were more stringent. The federal rule changes and the modifications to reference state authority were briefly reviewed. He noted that this is expected to be an overall cost savings due to the reduced burden on the regulated entities. There were no public comments presented at the 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 March 9, 2012 Missouri Clean Water Commission Meeting Minutes**

#### **Agenda Item #2**

Doug Garrett, Financial Assistance Center, noted that the State Revolving Fund Intended Use Plan Public Hearing Transcript of Proceedings contained errors. Mr. Garrett noted that the changes needed were: Page 3-Line 18 change Mr. to Ms.; Page 7-Line 3 change or Our; Page 7-Line 16 change ratis to readiness to; Page 7-Line 17 change Ratis to readiness to; Page 8-Line 4 change prior report to priority point; Page 10-Line 12 change CBG to CDBG; Page 13-Line 16 change Mr. to Ms.

**Commissioner Leake made a motion to approve the March 9, 2012 meeting minutes with the corrections of the State Revolving Fund Intended Use Plan Public Hearing Transcript of Proceedings as presented by staff. Commissioner Cowherd seconded the motion. The motion passed with a roll call vote:**

**Commissioner Cowherd: Yes**  
**Commissioner Wood: Yes**  
**Commissioner Bennett: Yes**  
**Commissioner Parnell: Yes**  
**Commissioner Warren: Yes**  
**Commissioner Leake: Yes**  
**Chair Hunter: Yes**

**State Revolving Fund Intended Use Plan**  
**Agenda Item #3**

Doug Garrett, Financial Assistance Center presented the final draft of the State Fiscal Year 2013 Clean Water State Revolving Fund Intended Use Plan and Priority List. Mr. Garrett noted the changes made to the Intended Use Plan were based on comments received during the public comment period. Specifically the following changes were proposed:

- Potential transfer of \$10 million from the Drinking Water State Revolving Fund to the Clean Water State Revolving Fund. The transfer of project funds was contingent upon approval by the Safe Drinking Water Commission;
- The City of Chamois was placed on the Disadvantaged Community funding list;
- The City of Odessa was placed on the Fundable Project List;
- The City of Carl Junction and the City of Joplin were placed on the Priority Watershed Reserve fundable list; and
- The City of Stanberry was added to the Planning List.

Phil Walsack, Missouri Public Utility Alliance, noted his support.

**Commissioner Bennett made a motion to adopt the State Revolving Fund Intended Use Plan with noted changes. Commissioner Warren seconded the motion. The motion passed with a roll call vote:**

**Commissioner Wood: Yes**  
**Commissioner Bennett: Yes**  
**Commissioner Parnell: Yes**  
**Commissioner Warren: Yes**  
**Commissioner Leake: Yes**  
**Commissioner Cowherd: Yes**  
**Chair Hunter: Stepped out of room**

**2012 303(d) List**  
**Agenda Item #4**

John Ford, Watershed Protection Section presented the 2012 Section 303(d) List and asked for its approval by the Commission. There was no additional public comment presented at the meeting.

**Commissioner Leake made a motion to approve the 2012 303(d) List. Commissioner Wood seconded the motion. The motion passed with a roll call vote:**

<b>Commissioner Bennett:</b>	<b>Yes</b>
<b>Commissioner Parnell:</b>	<b>Yes</b>
<b>Commissioner Warren:</b>	<b>Yes</b>
<b>Commissioner Leake:</b>	<b>Yes</b>
<b>Commissioner Cowherd:</b>	<b>Yes</b>
<b>Commissioner Wood:</b>	<b>Yes</b>
<b>Chair Hunter:</b>	<b>Yes</b>

**Draft 2014 303(d) Listing Methodology Document**  
**Agenda Item #5**

John Ford, Watershed Protection Section presented the 2014 303(d) Listing Methodology Document and asked for its approval by the Commission. Mr. Ford noted that several stakeholders had expressed interest in looking in more detail into the Department's methods for evaluating biological data and to that end a work group had been formed and would meet this summer.

Robert Brundage of Newman, Comley and Ruth, PCs and Trent Stober of Geosyntec, Inc. commented that they would prefer to delay the approval of the Listing Methodology Document until the work group completed its considerations, so that any needed changes could be made in the 2014 Listing Methodology Document. Lorin Crandall, Missouri Coalition for the Environment stated his support of getting the rule on the books as written. Mr. Crandall also encouraged the Commission to put the 25 water bodies that were impaired for nutrients that were removed back on the list as they are still impaired and still need help.

Mr. Ford noted that the 303(d) schedule was very tight and a delay in the Commission's approval would likely delay completion of the 2014 303(d) List. It was also noted that most of the considerations to be made by the work group would likely be at a greater level of specificity than is currently in the 2014 Listing Methodology Document, so that changes in bioassessment methods agreed to by the work group would not conflict with the approved Listing Methodology Document and thus could be used in the 2014 assessment process.

**Commissioner Parnell made a motion to approve the Missouri 2014 303(d) Listing Methodology. Commissioner Wood seconded the motion. The motion passed with a roll call vote:**

**Commissioner Parnell: Yes**  
**Commissioner Warren: Yes**  
**Commissioner Leake: Yes**  
**Commissioner Cowherd: Yes**  
**Commissioner Wood: Yes**  
**Commissioner Bennett: Yes**  
**Chair Hunter: Yes**

**Antidegradation Procedures**

**Agenda Item #6**

Lease Meyers, Engineering Section presented the Antidegradation Procedures. Ms. Meyers noted the Department proposed a revision to the Antidegradation Implementation Procedure solely to change the 20% cumulative cap to 10%. The Commission originally adopted the Antidegradation Implementation Procedures on May 7, 2008. She noted that the proposed revision to the Antidegradation Procedure was placed on public notice March 23, 2012 through April 23, 2012. Verbal comments in support of the revision were received at the March Clean Water Commission meeting. No written comments were received on the proposed revision to replace the 20% cumulative cap with a 10% cumulative de minimis cap.

**Commissioner Cowherd made a motion to approve the Antidegradation Procedures as presented to remove the 20% cumulative cap and replace it with the 10% cumulative cap. Commissioner Warren seconded the motion. The motion passed with a roll call vote:**

**Commissioner Warren: Yes**  
**Commissioner Leake: Yes**  
**Commissioner Cowherd: Yes**  
**Commissioner Wood: Yes**  
**Commissioner Bennett: Yes**  
**Commissioner Parnell: Yes**  
**Chair Hunter: Yes**

**10 CSR 20-7.031 Water Quality Standards Finding of Necessity**

**Agenda Item #7**

John Hoke, Watershed Protection Section presented the Finding of Necessity for an Amendment to 10 CSR 20-7.031, Water Quality Standards. Mr. Hoke noted that the Finding of Necessity is a legal requirement for the Department to begin the rule making process for the Water Quality Standards rule amendment. He also noted items to be addressed with this amendment included application of “fishable/swimmable” use designations to currently unclassified waters, numeric nutrient criteria for lakes/reservoirs, variance authorizing provisions and items disapproved by the Environmental Protection

Agency from previously rulemakings. Phil Walsack, Missouri Public Utility Alliance; Kevin Perry, REGFORM; Trent Stober, Geosyntec; and Robert Brundage, Newman, Comley and Ruth, PCs cautioned the Commission with including nutrient criteria as part of the Finding of Necessity since it could delay the process on the “fishable/swimmable” portion of the amendment. Commissioner Cowherd clarified that the Finding of Necessity did not commit the Department to any particular items or “substance” of the rule, rather the step is procedural to begin the rulemaking process so that discussions can begin. Chair Hunter confirmed that this amendment would take up items not approved during the previous rulemaking and could include additional items or refinements. Commissioner Warren directed staff to investigate wetland classification for inclusion in the amendment based on comments by Peter Goode (Interdisciplinary Environmental Law Clinic, Washington University) and Lorin Crandall (Missouri Coalition for the Environment).

Stakeholders that made comments at the meeting agreed the Finding of Necessity was needed, but that details of the rule substance still need to be discussed. John Hoke stated that the Department intends to begin discussions with stakeholders on the amendment through the Water Protection Form during a meeting of the Water Classification Workgroup on May 17, 2012.

**Commissioner Leake made a motion to approve the Finding of Necessity for an amendment to 10 CSR 20-7.031, Water Quality Standards. Commissioner Parnell seconded the motion. The motion passed with a roll call vote:**

<b>Commissioner Leake:</b>	<b>Yes</b>
<b>Commissioner Cowherd:</b>	<b>Yes</b>
<b>Commissioner Wood:</b>	<b>Yes</b>
<b>Commissioner Bennett:</b>	<b>Yes</b>
<b>Commissioner Parnell:</b>	<b>Yes</b>
<b>Commissioner Warren:</b>	<b>Yes</b>
<b>Chair Hunter:</b>	<b>Yes</b>

**A Finding of Necessity Form for 10 CSR 20-7.031, Water Quality Standards was signed by the Commission.**

**10 CSR 20-7.015 Effluent Regulations Finding of Necessity**  
**Agenda Item #8**

John Rustige, Permits Section presented the Finding of Necessity for 10 CSR 20-7.015. Mr. Rustige noted the Effluent Regulation provides the basis and authority for developing permit limits for wastewater discharges such that water quality standards are maintained according to the receiving water’s appropriate uses. He noted the changes were necessary either because of updates to the 10 CSR 20-7.031 Water Quality Standards, changes in federal permitting requirements, or in response to Water Quality Standards decisions made by the U.S. Environmental Protection Agency. Mr. Rustige further noted that the expected changes included: formalizing the Clean Water Commission directive on short term E. coli limits and monitoring frequencies, whole effluent toxicity (WET) testing requirement updates and clarification, aligning the definition of bypass to the federal definition, allowing electronic reporting of violations, and the establishment of nutrient monitoring requirements to get an idea of

contributions and how different treatment plants operation. There are a number less significant rule changes that will be considered related to organization, the updating of references, clarification of authorities to develop permit limits, and the elimination of certain parts of the rule that contain schedules that are no longer relevant.

Mr. Rustige stated that the Department plans to continue the Effluent Rule Subcommittee of the Water Protection Forum.

Mr. Phil Walsack of Missouri Public Utilities Alliance supported the finding of necessity; however he expressed concern with the definition of secondary biological treatment and with the use of no feasible alternative, as the no feasible alternative guidance from EPA is still draft and EPA is not planning on finalizing the guidance. Mr. Walsack commented that the discussion of blending and bypassing is of national importance and the Department should await a national decision.

Mr. Trent Stober of Geosyntec supported the finding of necessity and that doing the rulemaking while the water quality standards are being revised makes sense for a permitting standpoint and that they should be tied together.

**Commissioner Wood made a motion to approve the Finding of Necessity for an amendment to 10 CR 20-7.015, Effluent Regulations. Commissioner Cowherd seconded the motion. The motion passed with a roll call vote:**

<b>Commissioner Cowherd:</b>	<b>Yes</b>
<b>Commissioner Wood:</b>	<b>Yes</b>
<b>Commissioner Bennett:</b>	<b>Yes</b>
<b>Commissioner Parnell:</b>	<b>Stepped out of room</b>
<b>Commissioner Warren:</b>	<b>Yes</b>
<b>Commissioner Leake:</b>	<b>Yes</b>
<b>Chair Hunter:</b>	<b>Yes</b>

**A Finding of Necessity Form for 10 CSR 20-7.015, Effluent Regulation was signed by the Commission.**

## **ENFORCEMENT**

### **MJO Builders – Matt O’Neill, Doyle Road Apartments, MO-0135631, Miller County – Referral to the Attorney General’s Office**

#### **Agenda Item #9**

Paul Dickerson, Compliance and Enforcement Section presented the case and proposed that the Commission refer the case to the Attorney General’s Office for appropriate legal action to compel compliance, pursue civil penalties and any other appropriate form of relief.



**Commissioner Cowherd made a motion to refer this matter to the Attorney General’s Office for appropriate legal action to obtain compliance with the Missouri Clean Water Law, civil penalties for past violations, and any other relief deemed appropriate by the Attorney General’s Office. Commissioner Warren seconded the motion. The motion passed with a roll call vote:**

- Commissioner Wood: Stepped out of room**
- Commissioner Bennett: Yes**
- Commissioner Parnell: Stepped out of room**
- Commissioner Warren: Yes**
- Commissioner Leake: Yes**
- Commissioner Cowherd: Yes**
- Chair Hunter: Yes**

**Country East Subdivision Wastewater Lagoon, Callaway County, MO-0116742 – Referral to the Attorney General’s Office**  
**Agenda Item #10**

Paul Dickerson, Compliance and Enforcement Section presented the case and proposed that the Commission refer the case to the Attorney General’s Office for appropriate legal action to compel compliance, pursue civil penalties and any other appropriate form of relief.

**Commissioner Bennett made a motion to refer this matter to the Attorney General’s Office for appropriate legal action to obtain compliance with the Missouri Clean Water Law, civil penalties for past violations, and any other relief deemed appropriate by the Attorney General’s Office. Commissioner Cowherd seconded the motion. The motion passed with a roll call vote:**

- Commissioner Bennett: Yes**
- Commissioner Parnell: Yes**
- Commissioner Warren: Yes**
- Commissioner Leake: Yes**
- Commissioner Cowherd: Yes**
- Commissioner Wood: Stepped out of room**
- Chair Hunter: Yes**

**JCL Trailer Court, LLC, MO-0120537, Johnson County – Referral to the Attorney General’s Office**  
**Agenda Item #11**

Paul Dickerson, Compliance and Enforcement Section presented the case and proposed that the Commission refer the case to the Attorney General’s Office for appropriate legal action to compel compliance, pursue civil penalties and any other appropriate form of relief.

**Commissioner Warren made a motion to refer this matter to the Attorney General’s Office for appropriate legal action to obtain compliance with the Missouri Clean Water Law, civil penalties for past violations, and any other relief deemed appropriate by the Attorney General’s Office. Commissioner Cowherd seconded the motion. The motion passed with a roll call vote:**

- Commissioner Parnell: Yes**
- Commissioner Warren: Yes**
- Commissioner Leake: Yes**
- Commissioner Cowherd: Yes**
- Commissioner Wood: Stepped out of room**
- Commissioner Bennett: Yes**
- Chair Hunter: Yes**

**Outstanding Missouri Operating Permit Fees**  
**Agenda Item #12**

Debbie Bruns, Fiscal Management Section presented the Outstanding Missouri Operating Permit Fees. Ms. Bruns stated that the program recommended the Commission refer eight facilities to the Missouri Attorney General’s office for collection of outstanding fees – one from September 2011, one from November 2011, and six from December 2011. The facilities listed for referral were: Millstone Marina Service, Bel Air Estates Mobile Home Park, Northwye Mobile Home Park, Moore Recirculating Filter, Witmore Farm WWTF, Palmer Limestone, Fuqua Homes, Inc. and All Type Auto Parts & Salvage.

**Commissioner Leake made a motion to refer these new cases to the Attorney General’s Office for appropriate legal action in order to collect delinquent permit fees, compel compliance for any other violation of Missouri Clean Water Law and Clean Water Commission regulations, pursue a civil penalty, and/or seek any other appropriate form of relief. Commissioner Cowherd seconded the motion. The motion passed with a roll call vote:**

- Commissioner Warren: Yes**
- Commissioner Leake: Yes**
- Commissioner Cowherd: Yes**
- Commissioner Wood: Yes**
- Commissioner Bennett: Yes**
- Commissioner Parnell: Yes**
- Chair Hunter: Yes**

## STANDING ITEMS

### **Permits and Water Quality Review Sheet Update**

#### **Agenda Item #13**

John Rustige, Permits Section presented an update on the permit centralization. No action taken by the Commission.

### **Status of Rulemaking**

#### **Agenda Item #14**

Carol Garey, Water Protection Program presented an update on rulemaking. No action was taken by the Commission.

## PRESENTATIONS

### **Director's Report**

John Madras, Director, Water Protection Program, presented the following:

- The Department is now using GovDelivery for notifications of Department/Commission meetings.
- There are several upcoming meetings involving clean water work. These include a Water Protection Forum June 25, Clean Water Fees June 26, and a regional departmental forum at the Southwest Regional Office July 10, which is the day before the next Clean Water Commission meeting at Roaring River State Park July 11.
- The Commission has scheduled a hearing on the Corps' Jameson Island project for June 11 from 9:00 a.m. to noon, at the Lewis and Clark State Office Building. The Corps has also indicated they will hold a hearing on the project and these may be held together.
- The situation at the City of Hallsville continues to develop through legal avenues, and information was provided to the Commissioners. The latest action was a temporary restraining order obtained by the landowner preventing land application of wastewater, and a hearing on the order is scheduled for May 7.
- Kevin Mohammadi has accepted the position as the Director of the Land Reclamation Program, and we thank him for his work in the program over the last 26 years. Paul Dickerson is now the acting chief of the Compliance and Enforcement Section.

**Public Comment and Correspondence**

**Jameson Island** - Colonel Hofmann of the Corps of Engineers presented information on the Jameson Island project. Colonel Hofmann stated the Corps believes the project is consistent with Clean Water Act requirements and is supported by the National Academy of Sciences report. The Corps extended the comment period on the project to June 30, 2012 and will participate in the June 11, 2012 hearing before the Clean Water Commission. Kristin Perry of Bowling Green, spoke in opposition to dumping soil in the river. Bill Jackson, Missouri Levee and Drainage District Association cautioned the new channel may be carrying too much of the river's flow and should be further restricted. Dan Kuenzel, Missouri Levee and Drainage District Association also opposed dumping soil and supported alternative 3. Joseph Gibbs, an engineer for levee districts recommended excavating a full-width channel. Susan Flader, Missouri Parks Association; Lorin Crandall, Missouri Coalition for the Environment; Patricia Hagan, Audubon Missouri; Anita Randolph, Audubon Missouri; Brooks Spear, Great Rivers Environmental Law Center; Ken Midkiff, Missouri Clean Water Campaign; Dave Murphy, Conservation Federation; and Diane Oerly, Friends of the Big Muddy spoke in support of the project, some specifically supporting alternative 4. No action taken by the Commission.

Phil Walsack, Missouri Public Utility Alliance stated he would like to give a presentation at the July 11, 2012 Clean Water Commission meeting regarding the differences between Wet Weather Regulations in the states of Missouri and Kansas and its impact. Mr. Walsack also commented on Missouri taking the lead on affordability and noted Senator McCaskill's support and effort to amend the Clean Water Act. Lastly Mr. Walsack wanted it noted for the record that in his opinion municipalities are clean water environmentalists not polluters as it was stated earlier in the meeting.

**ADJOURNMENT OF MEETING**

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

<b>Commissioner Bennett:</b>	<b>Yes</b>
<b>Commissioner Parnell:</b>	<b>Yes</b>
<b>Commissioner Warren:</b>	<b>Yes</b>
<b>Commissioner Leake:</b>	<b>Yes</b>
<b>Commissioner Cowherd:</b>	<b>Yes</b>
<b>Commissioner Wood:</b>	<b>Yes</b>
<b>Chair Hunter:</b>	<b>Yes</b>

The meeting adjourned at 3:35 p.m.

Respectfully Submitted,



John Madras  
Director of Staff

1 DEPARTMENT OF NATURAL RESOURCES  
2 MISSOURI CLEAN WATER COMMISSION

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7 IN RE: 10 CSR 20-6.100 GENERAL

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PRETREATMENT REGULATION

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PUBLIC HEARING

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MAY 2, 2012

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1 DEPARTMENT OF NATURAL RESOURCES  
2 MISSOURI CLEAN WATER COMMISSION

3 IN RE: 10 CSR 20-6.100 GENERAL  
4 PRETREATMENT REGULATION

5 PUBLIC HEARING

6 MAY 2, 2012  
7 Missouri Department of Natural Resources  
8 Lewis & Clark State Office Building

9 1101 Riverside Drive  
10 Jefferson City, Missouri

10

11 Before:

- 12 Samuel Hunter, Chairman
- 13 Todd Parnell, Vice Chairman
- 14 Sam Leake, Commissioner
- 15 Dennis Wood, Commissioner
- 16 Buddy Bennett, Commissioner
- 17 Wallis Warren, Commissioner
- 18 John Cowherd, Commissioner

19

20 Reported by:

- 21 Melissa Bennett, CCR
- 22 Midwest Litigation Services
- 23 3432 West Truman Boulevard, Suite 207
- 24 Jefferson City, MO 65109
- 25 (573) 636-7551

1 (Whereupon the hearing began at 9:28 a.m.)

2 CHAIRMAN HUNTER: Good morning. Sorry for  
3 our delay. We're running a little bit late this  
4 morning. I don't think there's anything too unusual  
5 about that. I'd like to do some introductions first.  
6 I'm Sam Hunter. I'm the chairman from Sikeston. To  
7 my right is Todd Parnell. He's vice chairman from  
8 Springfield. Next is Dennis Wood. Oh, next is Sam  
9 Leake or Sam Leake, commissioner from Perry. Next is  
10 Dennis Wood, commissioner from Kimberling City. Next  
11 is Buddy Bennett, commissioner from -- he just moved.

12 COMMISSIONER BENNETT: Higginsville to Oak  
13 Grove.

14 CHAIRMAN HUNTER: Oak Grove, thank you.  
15 Next is Wallis Warren, commissioner from Beaufort.  
16 And John Cowherd, commissioner from Mount Vernon. On  
17 my left is John Madras. He's the director of staff  
18 for the Commission and director of the Water  
19 Protection Program. Jennifer Frazier, Commission's  
20 legal counsel from the attorney general's office. And  
21 Malinda Steenbergen, secretary to the Commission and  
22 secretary to the program.

23 I have a short notice I'd like to read this  
24 morning. I'm not going to ask how many of you are  
25 here for issues related to Jameson Island because I

1 think there are a lot. And so in that regard, the  
2 Commission has received several expressions of  
3 interest in the Jameson Island Shallow Water Habitat  
4 Restoration Project which appears toward the bottom of  
5 today's agenda. The Commission appreciates the  
6 attention on this item and also appreciates the need  
7 to take care of decision items that appear earlier on  
8 the agenda. To provide some predictability on timing,  
9 the Commission will take up the Jameson Island Project  
10 at 1 p.m. If there are decision items the Commission  
11 has not yet decided at that time, the Commission will  
12 take them up after the Jameson Island presentation.  
13 And I want to remind those wishing to present comments  
14 to the Commission on the Jameson Island Project that  
15 the Commission has scheduled a public hearing  
16 specifically for that project on June 11 from 9 a.m.  
17 until noon in this same location.

18           First item this morning is a hearing on the  
19 Proposed Rescission and Proposed Rule 10 CSR 20-6.100  
20 General Pretreatment Regulation. The Commission will  
21 begin the public hearing on the Proposed Rescission  
22 and Proposed Rule 10 CSR 20-6.100 General Pretreatment  
23 Regulation. The purpose of this public hearing is to  
24 provide the Department opportunity to present  
25 testimony and to provide both the Department and the



1 public the opportunity to comment on the proposed  
2 rescission and proposed rule. This public hearing is  
3 not a forum for debate or resolution of issues. The  
4 Commission asks that those commenting limit their  
5 testimony to five minutes and not repeat comments that  
6 have already been made.

7           The Commission will first hear testimony  
8 from the Department. Following the Department's  
9 testimony, the Commission will give the public an  
10 opportunity to comment. We ask that all individuals  
11 present -- present fill out an attendance card so that  
12 our records are complete. If you wish to present  
13 verbal testimony, please indicate that on your  
14 attendance card. When you come forward to present  
15 testimony, please speak into the microphone and begin  
16 by identifying yourself to the court reporter.

17           Following the public hearing today, the  
18 Commission will review testimony presented and make  
19 appropriate modifications to the Proposed Rescission  
20 and Proposed Rule 10 CSR 20-6.100 General Pretreatment  
21 Regulation. The Commission plans to take final action  
22 at the July 11, 2012, meeting. The court reporter  
23 will now swear in anyone wishing to testify at this  
24 public hearing before the Clean Water Commission  
25 today. Will all those wishing to comment please

1 stand.

2 (Witnesses sworn.)

3 MR. FETT: Good morning, Commissioners. My  
4 name is Walter Fett. I'm an engineer in the  
5 engineering section. I'm here this morning to provide  
6 testimony to rescind the current rule and propose a  
7 new rule for 10 CSR 20-6.100 General Pretreatment  
8 Regulation. This rule -- new rule will replace the  
9 current rule with the same name and rule number.  
10 in November 2011 I requested findings of necessity for  
11 the rule.

12 CHAIRMAN HUNTER: Walter, could I interrupt  
13 you just a second, please. We can't hear over here.

14 MR. FETT: Okay. Is this on?

15 CHAIRMAN HUNTER: It's on.

16 MR. FETT: Get closer?

17 CHAIRMAN HUNTER: Is it recording then?

18 Okay, then. Go ahead.

19 MR. FETT: Okay. All right. In  
20 November 2011 I requested findings of necessity for  
21 the rule. Today I will review the purpose of the  
22 pretreatment regulations, the reason for the adoption  
23 of the new rule, and some of the significant changes.

24 Pretreatment regulations apply to  
25 industrial users that discharge industrial process

1 wastewater to a city's sewer system. If the industry  
2 has potential to interfere with the operation of the  
3 wastewater treatment facility or if it is subject to  
4 federal limitations, the industrial discharge would be  
5 regulated under the pretreatment regulations.  
6 Pretreatment regulations also apply to those in the  
7 cities which are authorized to issue permits to the  
8 regulated industries.

9           On October 14, 2005, the United States  
10 Environmental Protection Agency adopted modifications  
11 to their general pretreatment regulation 40 CFR 403.  
12 There are some changes that reduce the burden on the  
13 cities and the regulated industries and some changes  
14 that are more stringent. The State has chosen to  
15 adopt the federal rule with modifications that clarify  
16 the State's role to implement the rule.

17           A few of the federal rule changes that  
18 reduce the regulatory burden are as follows: A city  
19 may issue a permit which reduces the sampling of a  
20 pollutant if a pollutant is not present; a city may  
21 issue a general permit for similar industries instead  
22 of individual site-specific permits; a city may reduce  
23 oversight of certain industries classified as  
24 nonsignificant categorical industrial users; also  
25 other industrial users which may have reduced -- may

1 have reduced oversight based on percentage of  
2 contribution to the treatment works.

3           Other federal rule changes are more  
4 stringent. A slug discharge is a batch discharge of  
5 larger than usual volume or a high concentration of  
6 pollutant. Several changes relate to control of slug  
7 discharges in industry. Best management practices or  
8 BMP's are narrative requirements for control of  
9 pollutants in discharge. The permits are to include  
10 BMP's required by local, state, or federal law.  
11 Compliance with BMP's is to be reported to the city,  
12 and documentation is to be maintained. Other changes  
13 in the federal rule clarify the requirements of the  
14 previous federal rule or are administrative in nature,  
15 for example, the designation of who is the duly  
16 authorized employee to sign reports.

17           In adopting the federal rule, modifications  
18 were made to reference state authority instead of  
19 federal authorities. For example, the director means  
20 the director of staff of the Missouri Clean Water  
21 Commission instead of the EPA's Region 7  
22 administrator. Also the State of Missouri may take  
23 enforcement action if a city fails to act.

24           If an industry is subject to federal  
25 pollutant limitations, it is referred to as a

1 categorical industrial user. The federal regulations  
2 with limits for categorical industrial users are also  
3 incorporated into this rule with no changes.

4           There is an -- expected to be a cost to the  
5 pretreatment cities to revise ordinances and permits  
6 to incorporate these changes. The State is the  
7 approval authority and will review the proposed  
8 ordinances. After the ordinances are adopted and  
9 permits are issued, an annual cost savings to the  
10 cities and the affected industries will be realized as  
11 a result of the pretreatment rule change.

12           There were no stakeholder meetings held as  
13 this was an adoption of federal requirements. The  
14 Regulatory Impact Report was prepared on public -- put  
15 on public notice from May 27 to July 26, 2011. The  
16 public comment period for these rule changes began  
17 December 15, 2011, and will end May 16, 2012. The  
18 adoption of the order of rulemaking with comments,  
19 responses, and any revisions to the fiscal notes is  
20 scheduled for the Commission meeting on July 11, 2012.

21           That concludes the staff testimony for  
22 10 CSR 20-6.100 General Pretreatment Regulation.  
23 Thank you.

24           CHAIRMAN HUNTER: Thank you, Walter. Do we  
25 have anybody else who would like to comment? The

1 Commission will receive written testimony on the  
2 Proposed Rescission and Proposed Rule 10 CSR 20-6.100  
3 General Pretreatment Regulation until 5 p.m. on  
4 May 16, 2012. You may submit this written testimony  
5 to Mr. Walter Fett, Missouri Department of Natural  
6 Resources, Water Protection Program, P.O. Box 176,  
7 Jefferson City, Missouri, 65102 prior to that  
8 deadline.

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

12 (Wherein the hearing concluded at 9:42 a.m.)

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CERTIFICATE OF REPORTER

I, Melissa Bennett, CCR for the State of Missouri, do hereby certify that the meeting aforementioned was held on the time and in the place previously described.

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Melissa Bennett

CCR #1307(T)

