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

July 13, 2016

Present

Buddy Bennett, Chair, Missouri Clean Water Commission
Wallis Warren, Missouri Clean Water Commission
Todd Parnell, Missouri Clean Water Commission
Ashley McCarty, Missouri Clean Water Commission
Dennis Wood, Missouri Clean Water Commission
John Madras, Director of Staff, Missouri Clean Water Commission
Shawna Bligh, Legal Counsel, Missouri Clean Water Commission
Chelsey Bodenstab, Secretary, Missouri Clean Water Commission
Jessica Becklenberg, Secretary, Missouri Clean Water Commission

Bob Angelo, Environmental Protection Agency, Lenexa, Kansas
Joe Bachant, Citizen, Holts Summit, Missouri
Melissa Bagley, Environmental Protection Agency, Lenexa, Kansas
Brenda Bardwell, Department of Natural Resources, Jefferson City, Missouri
Kurt Boeckmann, Department of Natural Resources, Jefferson City, Missouri
Robert Brundage, Newman, Comley, and Ruth, Jefferson City, Missouri
Tim Bull, Department of Natural Resources, Jefferson City, Missouri
Greg Caldwell, Department of Natural Resources, Jefferson City, Missouri
John Carter, Citizen, Rolla, Missouri
David Casaletto, Ozark Water Watch, Kimberling City, Missouri
Logan Cole, Department of Natural Resources, Jefferson City, Missouri
Jimmy Coles, City of St. Joseph, Cameron, Missouri
Andrea Collier, Department of Natural Resources, Jefferson City, Missouri
Eric Crawford, Department of Natural Resources, Jefferson City, Missouri
Kaylyn Dalbom, Department of Natural Resources, Jefferson City, Missouri
John Delashmit, Environmental Protection Agency, Lenexa, Kansas
Joe Engeln, Department of Natural Resources, Jefferson City, Missouri
Angela Falls, Department of Natural Resources, Jefferson City, Missouri
Jacob Faulkner, Department of Natural Resources, Jefferson City, Missouri
Doug Garrett, Environmental Improvement and Energy Resources Authority, Jefferson City, Missouri
John Hoke, Department of Natural Resources, Jefferson City, Missouri
Leslie Holloway, Missouri Farm Bureau, Jefferson City, Missouri
Robert Henige, Department of Natural Resources, Jefferson City, Missouri
Lacey Hirschvogel, Department of Natural Resources, Jefferson City, Missouri
Jennifer Hoggatt, Department of Natural Resources, Jefferson City, Missouri

Steve Jeffery, Hickory Neighbors United (HNU) and Friends of Responsible Agriculture (FORAG), Chesterfield, Missouri
Jeff Jones, Citizen, Fulton, Missouri
Kelsey Kempker, Department of Natural Resources, Jefferson City, Missouri
Ross Kidwell, Citizen, Fulton, Missouri
John Lodderhose, St. Louis MSD, St. Louis Missouri
Collin Mackey, Department of Natural Resources, Jefferson City, Missouri
Margot McMillen, Citizen, Fulton, Missouri
Colleen Meredith, Department of Natural Resources, Jefferson City, Missouri
Marty Miller, Department of Natural Resources, Jefferson City, Missouri
Leanne Tippett Mosby, Department of Natural Resources, Jefferson City, Missouri
Karla Pierce, City of Independence, Independence, Missouri
Kevin Perry, REGFORM, Jefferson City, Missouri
Laura Richardson, Department of Natural Resources, Jefferson City, Missouri
John Rustige, Department of Natural Resources, Jefferson City, Missouri
Todd Sampsell, Department of Natural Resources, Jefferson City, Missouri
Lee Ann Williams Searcy, Hickory Neighbors United, Trenton, Missouri
Jill Sellenriek, Citizen, Fulton, Missouri
Sonali Siriwardana, Department of Natural Resources, Jefferson City, Missouri
Jeff Starr, Department of Natural Resources, Jefferson City, Missouri
Darrick Steen, Missouri Soybeans, Jefferson City, Missouri
Trent Stober, HDR, Columbia, Missouri
Phil Walsack, Missouri Public Utility Alliance, Columbia, Missouri
Chris Wieberg, Department of Natural Resources, Jefferson City, Missouri
James Williams, Hickory Neighbors United, Trenton, Missouri
Don Willoh, Department of Natural Resources, Jefferson City, Missouri
Gordon Wray, Department of Natural Resources, Jefferson City, Missouri

CALL TO ORDER

Chair Bennett called the meeting of the Missouri Clean Water Commission to order on July 13, 2016 at 9:15 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.

ADMINISTRATIVE MATTERS

Final Action on Proposed Amendment to 10 CSR 20-6.300 Concentrated Animal Feeding Operations Regulations
Agenda Item #1

The Department presented the proposed Order of Rulemaking for the Concentrated Animal Feeding Operations Regulations and the proposed amendment to 10 CSR 20-6.300 Concentrated Animal Feeding Operations Regulations. A public hearing on this proposed amendment was held

April 6, 2016. Leslie Holloway, Missouri Farm Bureau; Robert Brundage, representing Missouri Pork Association and Missouri Agribusiness Association; and Steve Jeffery, HNU and FORAG, provided oral and written comments on the proposed amendment.

Commissioner McCarty moved to adopt the Proposed Order of Rulemaking for 10 CSR 20-6.300 Concentrated Animal Feeding Operations Regulations. Commissioner Wood seconded the motion. The motion passed with a roll call vote.

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

Final Acton on Proposed Amendment to 10 CSR 20-8.300 Manure Storage Design Regulations
Agenda Item #2

The Department presented the proposed Order of Rulemaking for the Manure Storage Design Regulation and the proposed amendment 10 CSR 20-8.300 Manure Storage Design Regulations. A public hearing was held on April 6, 2016. Steve Jeffery, HNU and FORAG, commented on the proposed amendment during the previous agenda item. Darrick Steen, Missouri Corn Growers Association and Missouri Soybean Growers Association, provided detailed comments on the proposed amendment.

Commissioner McCarty moved to adopt the Proposed Order of Rulemaking for 10 CSR 20-8.300 Manure Storage Design Regulations. Commissioner Wood seconded the motion. The motion passed with a roll call vote.

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

Approval of the March 30, 2016 Missouri Clean Water Commission Closed Meeting Minutes
Agenda Item #3

Commissioner Parnell moved to approve the March 30, 2016 closed meeting minutes as presented. Commissioner Warren seconded the motion. The motion passed with a roll call vote.

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

Approval of the April 6, 2016 Missouri Clean Water Commission Meeting Minutes
Agenda #4

Commissioner Parnell moved to approve the April 6, 2016 meeting minutes as presented. Commissioner McCarty seconded the motion. The motion passed with a roll call vote:

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

Approval of the April 27, 2016 Missouri Clean Water Commission Closed Meeting Minutes
Agenda Item #5

Commissioner McCarty moved to approve the April 27, 2016 closed meeting minutes as presented. Commissioner Warren seconded the motion. The motion passed with a roll call vote:

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

Variance Request – City of St. Joseph
Agenda Item #6

Eric Crawford, Water Protection Program, presented the Clean Water State Revolving Fund Amortization Schedule Variance Request submitted by the City of St. Joseph on May 5, 2016. The City of St. Joseph requested a Variance to 10 CSR 20-4.0419A of the Direct Loan Program. The city asked that future Clean Water State Revolving Loan Funding be considered for Amortization term up to 30 years which is consistent with amendments made to the Federal Water Pollution Control Act in 2014. The Department recommended that the Commission approve the Variance

allowing the department to issue Clean Water SRF loans to qualified recipients including, but not limited to the City of St. Joseph.

Commissioner Warren moved to approve the City of St. Joseph Variance Request as presented. Commissioner Parnell seconded the motion. The motion passed with a roll call vote:

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

<u>Antidegradation Implementation Procedure</u>
Agenda Item #7

John Hoke, Water Protection Program, presented the revised Missouri Antidegradation Implementation Procedure (AIP) and requested that the Commission adopt the revised procedure. A revised AIP was placed on public notice, and the public comment period ended on April 22, 2016. The revisions consist of bio-accumulative pollutants, those pollutants that bio-accumulate or bio-magnify in the food chain. The AIP examines potential impact of new or expanded facilities, and determines if there would be significant degradation on a pollutant by pollutant basis. The AIP would be submitted to EPA for approval. Joseph Bachant, a citizen of Fulton, Missouri provided comments and his professional opinion on the proposed procedure.

Commissioner McCarty moved approve the Antidegradation Implementation Procedure as presented. Commissioner Wood seconded the motion. The motion passed with a roll call vote:

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

<u>Amendment to Intended Use Plan, City of Renick</u>
Agenda Item #8

Eric Crawford, Water Protection Program, presented a proposed amendment to the fiscal year 2016 Clean Water State Revolving Fund Intended Use Plan on behalf of the City of Renick, requesting an increase of their funding allocation by $231,208 as a result of an increase of their engineering estimates. The Department is recommending that the Commission approve the increased allocation of funding amount by $231,208 for a State Revolving Fund Loan to the City of Renick by amending the Clean Water State Revolving Fund 2016 Intended Use Plan with this amendment.

Commissioner Wood moved to approve the increased allocation of funding in the amount o $231,208 for a total State Revolving Fund Loan of $527,542 for the City of Renick. Commissioner Warren seconded the motion. The motion passed with a roll call vote:

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

PRESENTATIONS

Water Quality Trading
Agenda Item #9

Angela Falls, Water Protection Program, provided information and background on Missouri Water Quality Trading Framework. The Department of Natural Resources and interested stakeholders have created a framework in response to interest expressed in nutrient trading during the development of the Missouri Nutrient Loss Reduction Strategy. It would serve as the policy statement on water quality trading in Missouri. The framework defines the major elements that any entity seeking to create a trading program would need to provide to the Department in its water quality trading prospectus. The framework, together with any procedures established by the Department, would guide any organization through the process of developing a water quality trading program. The department may recommend that the Commission approve the Water Quality Trading Framework at a future meeting.

Trent Strober, HDR Engineering; David Casaletto, Ozark Water Watch; and Joe Engeln, Department of Natural Resources provided detailed comments and questions on the Water Quality Trading framework. No action taken by the Commission.

Multi-discharger Variance
Agenda Item #10

Lacey Hirschvogel, Water Protection Program, provided background and information on the Multi-discharger Variance (MDV). The Department is working on a framework document for the MDV. This is a variance from the water quality standard for total ammonia nitrogen. The MDV would apply to municipal publicly owned treatment works (POTW) with well-functioning lagoon systems that would have a substantial and widespread social and economic impact if required to upgrade their infrastructure to a facility that would consistently meet the water quality-based effluent limit for total ammonia nitrogen or convert to a no-discharge system.

The Department received comments from stakeholders and the U.S. Environmental Protection Agency (EPA). The comments received from stakeholders have been addressed and incorporated into the MDV framework, and the comments from the EPA have been addressed through a series of bi-weekly meetings. The framework is being revised in order to ensure the requirements of the federal rule 40 CFR 131.14 are met. Phil Walsack of Missouri Public Utility Alliance provided

detailed comments. Leanne Tippett Mosby, Missouri Department of Natural Resources, provided clarification to Commissioner McCarty on the EPA comment letter in that the EPA doesn't have the power to disapprove a state statute, and the agency is not recognizing it as part of the state water quality standards. No action taken by the Commission.

State Water Plan Update

Andrea D. Collier, PE, Director, Water Resources Center, presented an update on the state water plan. She stated that the Department has entered into a cost share agreement with the Corps of Engineers. The current agreement with the Corps of Engineers totals $747,600 and that is a 50/50 cost share agreement. The Corps of Engineers will have an additional $100,000 to add to the current agreement, which the Department will match and bring the total to $947,600 for the plan. The budget for the plan for FY17 is $1.2 million. In addition, the Water Resources Center will have an additional $300,000 to add, making a total $1.5 million of state funds going towards the project. No action taken by the Commission.

Director's Update

John Madras, Director, Water Protection Program, reported the following to the Commission:

- The Clean Water State Revolving Fund Intended Use Plan (IUP) Public Hearing is on the August 3rd Clean Water Commission meeting agenda. It is open for public comment and will return to the Commission for final action at the October 5th Clean Water Commission meeting.
- All the Department rules are currently under review. This is a provision that was set in statute four years ago that all the state administrative agencies open their rules for periodic comment over a five-year cycle. This is the Department's turn as well as four other departments in state government. A notice was published July 1st in the Missouri Register inviting comment on any rule of the Department, not just the Clean Water Rules. There is a 60-day comment period and comments are to be filed with the Office of General Counsel. There is a requirement to produce a report on the review by the end of the fiscal year, which goes through June of next year.
- The Department received a response from EPA upon their review of the Impaired Waters list. The Commission took action on this earlier this year. A link to the documents will be provided.
- There will be a CAFO discussion this afternoon after returning from lunch.

Public Comment and Correspondence

Steve Jeffery, HNU and FORAG, spoke about and provided a list of Appellate cases where the Commission has been involved in and also provided a letter from the Attorney General's Office dated April 11, 2016 regarding Trenton Farms Appellant vs. the Missouri Clean Water Commission. He stated that the letter indicates that the Commission will not be filing an appeal or be involved in the Trenton Farms appeal. He stated that his client strongly suggests and requests that the Commission direct its counsel to file a brief and participate in the appeal to support the decision that a majority of the Commissioners made previously.

Marty Miller, Department General Counsel, briefly addressed the Trenton Farms appeal. From his standpoint it is not common practice for the Commission to be actively engaged in an appeal of one of its decisions.

Phil Walsack, Missouri Public Utility Alliance, provided information and spoke about 2016 Missouri Public Utility Alliance Water and Wastewater Rate Survey. The survey does not include cities or villages less than 100 people. He thought it would be interesting data for the Commission.

No action was taken by the Commission.

The Clean Water Commission went into closed session pursuant to Section 610.021(1), RSMo, to discuss matters identified in that provision, which include legal actions, causes of action or litigation and confidential or privileged matters.

Work Session on Concentrated Animal Feeding Operations

Darrick Steen of Missouri Soybean gave a presentation on the history of Confined Animal Feeding Operations in the State of Missouri. Other attendees contributed to the discussion. No action was taken by the Commission.

Missouri Clean Water Commission Meetings

- August 3, 2016, Lewis and Clark State Office Building
- October 5, 2016, Echo Bluff State Park
- January 11, 2017, Lewis and Clark State Office Building

ADJOURNMENT OF MEETING

Commissioner Warren moved the Commission adjourn the meeting. Commissioner Parnell seconded the motion. The motion passed with a roll call vote.

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

Commission adjourned the open meeting at 3:13 p.m.

Respectfully Submitted,

John Madras

John Madras
Director of Staff