

**DRAFT  
MINUTES OF THE  
MISSOURI CLEAN WATER COMMISSION MEETING  
Truman Hotel and Conference Center  
1510 Jefferson Street  
Jefferson City, Missouri**

**September 5, 2012**

**Present**

Sam Hunter, Chair, Missouri Clean Water Commission  
Todd Parnell, Vice-Chair, Missouri Clean Water Commission  
Dennis Wood, Missouri Clean Water Commission  
Wallis Warren, Missouri Clean Water Commission  
Sam Leake, 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

Nick Bauer, Metropolitan St. Louis Sewer District, St. Louis, Missouri  
Karen Bataille, Missouri Department of Conservation, Columbia, Missouri  
Dorris Bender, City of Independence, Independence, Missouri  
Van Beydler, Missouri Department of Natural Resources, Jefferson City, Missouri  
Robert Brundage, Newman, Comley & Ruth P.C., Jefferson City, Missouri  
Debbie Bruns, Missouri Department of Natural Resources, Jefferson City, Missouri  
Roger Corbin, City of Sunrise Beach, Sunrise Beach, Missouri  
Chris Erisman, City of Nevada, Joplin, Missouri  
Kirby Finders, Missouri Department of Natural Resources, Jefferson City, Missouri  
Keith Forck, Missouri Department of Natural Resources, Jefferson City, Missouri  
Ed Galbraith, Barr Engineering, Jefferson City, Missouri  
Doug Garrett, Missouri Department of Natural Resources, Jefferson City, Missouri  
John Hoke, Missouri Department of Natural Resources, Jefferson City, Missouri  
Leslie Holloway, Missouri Farm Bureau, Jefferson City, Missouri  
Jeremy Knee, Attorney General's Office, Jefferson City, Missouri  
Donovan Larson, Jefferson County Water District C-1, Barnhart, Missouri  
Randy Lyman, City of Springfield, Springfield, Missouri  
Jim Macy, Missouri Department of Natural Resources, Jefferson City, Missouri  
Mark Mahler, Alliance Water Resources, Columbia, Missouri  
Randy Marti, City of Nevada, Nevada, Missouri  
Karen Massey, EI ERA, Jefferson City, Missouri  
Ashley McCarty, Self, Novinger, Missouri  
Refaat Mefrakis, Missouri Department of Natural Resources, Jefferson City, Missouri  
Steve Meyer, City of Springfield, Springfield, Missouri  
Ken Midkiff, Sierra Club, Columbia, Missouri

R. Todd Miller, Madeira Cove Homeowners Assn., Lake Ozark, Missouri  
 Jan Millington, City of Springfield, Springfield  
 Mary Mulhearn, Attorney General's Office, Jefferson City, Missouri  
 Bob Perry, Perry Law Office LLC, Bowling Green, Missouri  
 Kevin Perry, REGFORM, Jefferson City, Missouri  
 Tom Ratermann, Boone County Regional Sewer District, Columbia, Missouri  
 Diane Reinhardt, Missouri Department of Natural Resources, Jefferson City, Missouri  
 Alan Reinkemeyer, Missouri Department of Natural Resources, Jefferson City, Missouri  
 John Rustige, Missouri Department of Natural Resources, Jefferson City, Missouri  
 Jeff Starr, Missouri Department of Natural Resources, Jefferson City, Missouri  
 Trent Stober, Geosyntec, Columbia, Missouri  
 Kavan L. Stull, Empire District Electric Co., Joplin, Missouri  
 Karl Tyminski, Metropolitan St. Louis Sewer District, St. Louis, Missouri  
 Doua Vang, Stella, Missouri  
 Phil Walsack, Missouri Public Utility Alliance, Columbia, Missouri  
 Julie Westhoff, Kennedy/Jenks Consultants, Mission, Kansas  
 Kristol Whatley, Metropolitan St. Louis Sewer District, St. Louis, Missouri  
 Jared Wheaton, SSE, Lake Ozark, Missouri  
 Zach White, U.S. Army Corps of Engineers, Kansas City, Kansas  
 Yeng Xiang, Stella, Missouri

**CALL TO ORDER**

Chair Hunter called the meeting of the Missouri Clean Water Commission to order on September 5, 2012 at 9:08 a.m., at the Truman Hotel and Conference Center, 1510 Jefferson Street, Jefferson City, Missouri.

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

**ADMINISTRATIVE MATTERS**

**Approval of the July 11, 2012 Missouri Clean Water Commission Meeting Minutes**  
**Agenda Item #1**

**Commissioner Parnell made a motion to approve the July 11, 2012 meeting minutes as submitted. Commissioner Warren seconded the motion. The motion passed with a roll call vote:**

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

**Administrative Hearing Commission's Recommended Decision Regarding Doua Vang, Great Lion Farm, Construction Permit 00076 Appeal Number 12-1088-CWC**

**Agenda Item #2**

Jennifer Frazier of the Attorney General's Office, Legal Counsel to the Commission, presented the Administrative Hearing Commission's Recommended Decision regarding Doua Vang, Great Lion Farm, Construction Permit 00076 Appeal Number 12-1088-CWC. Ms. Frazier stated that the Administrative Hearing Commission heard an appeal made by Brad Taylor of Newton County, Missouri on the legality of the Department's having issued a construction permit for a proposed concentrated animal feeding operation in Newton County for Doua Vang of Great Lion Farm. Ms. Frazier noted the Administrative Hearing Commission recommended that the Clean Water Commission deny the appeal filed by Brad Taylor and affirm the decision of the Missouri Department of Natural Resources in granting a construction permit for a concentrated animal feeding operation to Doua Vang.

Doua Vang, applicant of the construction permit, stated to the Commission he felt he and the Department followed the rules closely in obtaining the construction permit and should be granted the construction permit.

Mary Mulhearn of the Attorney General's Office, attorney that represented the Department in the case, stated that in the opinion of the Attorney General's Office the Department properly issued the permit and supported the Administrative Hearing Commission's recommended decision.

**Commissioner Bennett made a motion the Commission accept the Administrative Hearing Commission's Recommended Decision. Commissioner Wood seconded the motion. The motion passed with a roll call vote:**

|                              |                          |
|------------------------------|--------------------------|
| <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>Not in attendance</b> |
| <b>Commissioner Wood:</b>    | <b>Yes</b>               |
| <b>Commissioner Bennett:</b> | <b>Yes</b>               |
| <b>Chair Hunter:</b>         | <b>Yes</b>               |

**Administrative Hearing Commission's Recommended Decision Regarding Charles J. Malone, M and M Plumbing, Land Application Permit Number MOG821196 Appeal Number 12-0959-CWC**

**Agenda Item #3**

Jennifer Frazier of the Attorney General's Office, Legal Counsel to the Commission, presented the Administrative Hearing Commission's Recommended Decision regarding Charles J. Malone, M and M Plumbing, Land Application Permit Number MOG821196 Appeal Number 12-0959-CWC. Ms. Frazier stated that Max Foster filed a third party appeal of the Department's decision to grant Charles Malone coverage under the permit for land application of treated septage and that this was a renewal of coverage, permit number MO-G821196. Ms. Frazier stated that the

Administrative Hearing Commission found in favor of the Department and found Mr. Foster's allegations to be irrelevant as they were not within the scope of the Missouri Clean Water Law.

Max Foster, the appellant, stated his opposition to issuing the permit to Charles J. Malone.

Jeremy Knee of the Attorney General's Office, the attorney that represented the Department in the case, stated the Attorney General's Office and the Department were in agreement with the Administrative Hearing Commission's recommended decision.

**Commissioner Wood made a motion the Commission accept the Administrative Hearing Commission's Recommended Decision. Commissioner Leake seconded the motion. The motion passed with a roll call vote:**

|                              |                          |
|------------------------------|--------------------------|
| <b>Commissioner Warren:</b>  | <b>Yes</b>               |
| <b>Commissioner Leake:</b>   | <b>Yes</b>               |
| <b>Commissioner Cowherd:</b> | <b>Not in attendance</b> |
| <b>Commissioner Wood:</b>    | <b>Yes</b>               |
| <b>Commissioner Bennett:</b> | <b>Yes</b>               |
| <b>Commissioner Parnell:</b> | <b>Yes</b>               |
| <b>Chair Hunter:</b>         | <b>Yes</b>               |

**State Fiscal Year 2013 Clean Water State Revolving Fund Intended Use Plan Revisions**  
**Agenda Item #4**

Doug Garrett, Financial Assistance Center, presented the State Fiscal Year 2013 Clean Water State Revolving Fund Intended Use Plan revisions. Mr. Garrett stated the staff were proposing the following revisions to the Intended Use Plan: Move the Boone County Regional Sewer District (Twin Lakes Wastewater Treatment Facility, El Rey Heights, Clearview Acres Subdivision Wastewater Facility) and Village of Sunrise Beach projects from the Planning list to the Fundable Contingency list; move the Pierce City project from the Planning list to the Priority Watershed list; and remove the Columbia (Upper Hinkson Outfall Phase I) project from the State Fiscal Year 2013 Intended Use Plan.

Randy Marti, Administrative Services Director of the City of Nevada thanked the Commission for the opportunity to participate in the State Revolving Fund Program in the past and asked that the City of Nevada be considered for funding in 2013. Chris Erisman, engineer for the City of Nevada, reiterated the City of Nevada's eagerness to proceed.

**Commissioner Leake made a motion to approve the proposed changes to the State Fiscal Year 2013 State Revolving Fund Project Lists as proposed by staff. Commissioner Warren seconded the motion. The motion passed with a roll call vote:**

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

**State Fiscal Year 2013 Clean Water State Revolving Loan Fund Intended Use Plan Transfer**  
**Agenda Item #5**

Doug Garrett, Financial Assistance Center, presented the State Fiscal Year 2013 Clean Water State Revolving Loan Fund Intended Use Plan transfer. Mr. Garrett stated the staff proposed the Commission accept the transfer of \$18.5 million in federal funds from the Drinking Water State Revolving Fund program to the Clean Water State Revolving Fund program and apply these funds to projects currently on the Intended Use Plan Fundable Contingency List and reserve the ability to transfer an additional \$4.0 million in the future.

Mr. Garrett stated if the transfer were approved, based on the available fund balance created by the transfer and by the approved project list changes to the Intended Use Plan as stated in agenda item number four, staff proposed to bypass the Metropolitan St. Louis Sewer District (MSD) Missouri River project, which is the top project of the Fundable Contingency List, and then allocate funds for those projects below MSD. Mr. Garrett reiterated that staff were proposing to move the following projects from the Fundable Contingency list to the Fundable list: Lake Ozark, Boone County Regional Sewer District (Highway HH Phase I), Boone County Regional Sewer District (Rocky Fork Creek), Kirksville (Phase 8), and Sunrise Beach.

Karl Tyminski, Metropolitan St. Louis Sewer District, spoke in support of the transfer and appreciated what the Department is doing. Mr. Tyminski also noted his concerns on bypassing MSD and the reallocation of funds and cost burden to MSD's customers.

Tom Ratermann, Boone County Regional Sewer District, spoke in support of the transfer and in support of moving the Boone County Regional Sewer District projects to the fundable list.

Phil Walsack, Missouri Public Utility Alliance, expressed his concerns regarding the admin fee of one percent versus one half percent.

**Commissioner Bennett made a motion to approve the transfer of funds from the Drinking Water State Revolving Fund, reserve the ability to transfer an additional \$4.0 million and to adjust the project lists in the State Fiscal Year 2013 State Revolving Fund Project Lists as proposed. Commissioner Leake seconded the motion. The motion passed with a roll call vote:**

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

**Amendment to Water Quality Standards Regulation 10 CSR 20-7.031 and Amendment to Effluent Regulation 10 CSR 20-7.015  
Agenda Item #6 and Agenda Item #7**

Leanne Tippett Mosby, Deputy Director of the Department of Natural Resources presented these matters. Ms. Mosby noted that the revision to the Effluent Regulation (10 CSR 20-7.015) is being proposed concurrently with the Water Quality Standards Rule (10 CSR 20-7.031). She stated that the Effluent Regulation guides how some of the Water Quality Standards will be implemented in permits, so these rules are best handled together. Ms. Mosby informed the Clean Water Commission that the Department has been making progress on both rules, but have not been able to complete the task. Assurances were given to the Commission that the Department will continue to work diligently with stakeholders and a commitment was made to publish a Regulatory Impact Report before the November meeting. The Commission expressed a concern about the delay and urged the Department to complete the task and requested update reports between this meeting and the November meeting. No Action was taken by the Commission.

Trent Stober, Geosyntec, thanked the Department for the continued hard work on the regulations. Mr. Stober noted that the lake nutrients portion still had work to be done and he would stay committed to work with the Department on these issues.

Ed Galbraith, Barr Engineering, also thanked the Department for the hard work and noted he agreed with the basic framework of the Water Quality Rule Regulation. He would stay committed to working with the Department and was eager to get rule adopted.

Robert Brundage, Newman, Comley, and Ruth P.C., stated that he supported Mr. Galbraith and Mr. Stober's comments. Mr. Brundage also expressed concerns regarding the lake nutrient criteria and feels the Department needs to host more stakeholder meetings for the Water Quality Standards Regulation and for the Effluent Regulation.

Phil Walsack, Missouri Public Utility Alliance, also thanked staff for the continued hard work but still had concerns regarding the Water Quality Standards Regulations and the Effluent Regulations regarding financial implications of the rule and wet weather issues. Mr. Walsack stated he would stay committed to work with the Department to address those concerns.

## ENFORCEMENT

### **Outstanding Missouri Operating Permit Fees** **Agenda Item #8**

Debbie Bruns, Fiscal Management Section, presented the Outstanding Missouri Operating Permit Fees. Ms. Bruns stated that 15 cases were being presented to the Commission for referral to the Attorney General's Office for appropriate legal action in order to collect delinquent permit fees. The cases referred were: Laddonia Wastewater Treatment Facility, Town of Norwood Court, Wedgewood Village Plat 2, Prairie Meadow, Angell's Cove Subdivision, Grand Cayman Subdivision, Atlantis Island Condos Wastewater Treatment Facility, White Rock Quarry, Morse Mill Quarry, RJB Septic Service, Thermal Science Inc., Park-Mark Inc., Crop Production Services, Twin State Limestone LLC, and Partridge Sand and Gravel.

R. Todd Miller, Mederia Cove, apologized to the Commission for the handling of the fees for Mederia in the past and assured the Commission it would be handled better in the future.

**Commissioner Leake made a motion the Commission refer the 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 Bennett seconded the motion. The motion passed with a roll call vote:**

|                              |                          |
|------------------------------|--------------------------|
| <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>Commissioner Leake:</b>   | <b>Yes</b>               |
| <b>Commissioner Cowherd:</b> | <b>Not in attendance</b> |
| <b>Chair Hunter:</b>         | <b>Yes</b>               |

## ADMINISTRATIVE MATTERS CONTINUED

### **Request of Clean Water Act Section 401 Water Quality Certification Extension for Jameson Island Shallow Water Habitat Project** **Agenda Item #9**

John Madras, Director, Water Protection Program reported the U. S. Army Corps of Engineers (Corps) had offered to change the project to a limited extent to address concerns raised through comments. Mr. Madras stated the Department is continuing discussions with the Corps to see what additional changes may be possible. Zach White, U.S. Army Corps of Engineers stated he was available to the Commission if they had any questions but did not have anything to add.

**Commissioner Wood made a motion to grant an additional 60 day extension to November 7, 2012 for additional review. Commissioner Leake seconded the motion. The motion passed with a roll call vote:**

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

Chair Hunter expressed an interest in the negotiations with the Corps and it was noted that all of the Commissioners would be advised of meetings scheduled with the Corps.

**Administrative Hearing Commission's Recommended Decision Regarding the City of Columbia Appeal Number 12-1496-CWC**  
**Agenda Item #10**

Jennifer Frazier of the Attorney General's Office, Legal Counsel to the Commission, presented the Administrative Hearing Commission's Recommended Decision regarding the City of Columbia Appeal Number 12-1496-CWC. Ms. Frazier stated the City of Columbia filed an appeal of the permit that the Department of Natural Resources issued for the Columbia Municipal Power Plant. She noted the Administrative Hearing Commission dismissed the case for lack of jurisdiction because the appeal was not filed in a timely manner.

Jeremy Knee of Attorney General's Office, attorney representing the Department in the case noted the Department and the Attorney General's Office were in agreement with the Administrative Hearing Commission's recommended decision.

**Commissioner Parnell made a motion the Commission accept the Administrative Hearing Commission's Recommended Decision. Commissioner Warren seconded the motion. The motion passed with a roll call vote:**

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

The Commission also directed staff to work with the City of Columbia on a permit modification if the City of Columbia requested a modification.



## PRESENTATIONS

### **Director's Report**

John Madras, Director, Water Protection Program noted the following items:

- The Gulf Restoration Network is suing the Environmental Protection Agency over nutrient management in the Gulf of Mexico. Commission Counsel Jenny Frazier noted the Attorney General's Office was granted intervention status in the case.
- Following changes to the affordability statute in House Bill 1251, staff revised the working procedure for affordability. It may be revised further to account for schools and other public permit holders who are subject to these requirements, and will eventually be included in rule.
- The ePermitting system is operating well. Most applications for land disturbance general permits are now handled electronically. This month the Department will cease accepting paper applications for this permit except in situations of extreme hardship. The Department is also initiating an IT project to handle discharge monitoring reports electronically from all permit holders, and that project will be completed next year, with a phase-in by permit type.
- In response to the direction to report to the general assembly on clean water fees, the Department is conducting a series of meetings to discuss fees and programmatic matters. Five meetings have been held so far with two more planned before the report is made at the end of the year. In addition to fees, the meetings also discuss clean water activities carried out by the Department and potential changes in efficiency or process that may be possible.
- The Department is moving toward watershed-based management in clean water matters and there will be benefits from the coordinated approach for all aspects of resource management in this manner. The Our Missouri Waters initiative is starting with three pilot watersheds of Big River, Lower Grand River and North Fork Spring River. The underlying framework will work through all aspects of clean water to coordinate monitoring, analysis, permitting, inspections and other aspects to manage them efficiently and make available opportunities like trading.
- The Department plans to continue the strategic planning efforts the Commission began on May 1.

Commissioner Parnell requested the Department bring a report to the November 7, 2012 Commission meeting regarding the May 3, 2012 Clean Water Commission Strategic Planning Session.

No Action was taken by the Commission.

### **Public Comment**

Donovan Larson, District Engineer and Manager of the Jefferson County Water District C-1, requested consideration of a variance from civil penalties for violations that occur when chlorinated drinking water is released due to failure of water mains. The Commission directed staff to look into the situation and report back to the Mr. Larson and the Commission.

Kevin Perry, REGFORM, expressed his gratitude to the Department for their significant contribution and participation in the Missouri Water Forum.

Phil Walsack, Missouri Public Utility Alliance addressed his concerns to the Commission regarding the cost of Outfall #002s eliminations.

**Future Meetings**

John Madras, Director, Water Protection Program noted that the November 7, 2012 meeting location had not been determined. Mr. Madras stated that when the location was set a notification would be sent.

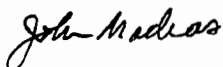
**ADJOURNMENT OF MEETING**

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

|                              |                          |
|------------------------------|--------------------------|
| <b>Commissioner Warren:</b>  | <b>Yes</b>               |
| <b>Commissioner Leake:</b>   | <b>Yes</b>               |
| <b>Commissioner Cowherd</b>  | <b>Not in attendance</b> |
| <b>Commissioner Wood:</b>    | <b>Yes</b>               |
| <b>Commissioner Bennett:</b> | <b>Yes</b>               |
| <b>Commissioner Parnell:</b> | <b>Yes</b>               |
| <b>Chair Hunter:</b>         | <b>Yes</b>               |

The meeting adjourned at 11:15 a.m.

Respectfully Submitted,



John Madras  
Director of Staff