

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

November 6, 2013

Present

Todd Parnell, Chair, Missouri Clean Water Commission
Dennis Wood, Missouri Clean Water Commission
Wallis Warren, Missouri Clean Water Commission
Buddy Bennett, Missouri Clean Water Commission
Ashley McCarty, Missouri Clean Water Commission
Sam Leake, Missouri Clean Water Commission
John Cowherd, Missouri Clean Water Commission
John Madras, Director of Staff, Missouri Clean Water Commission
Don Willoh, Legal Counsel, Missouri Clean Water Commission
Malinda Steenbergen, Secretary, Missouri Clean Water Commission

Mike Alesandrini, URS Corp., St. Louis, Missouri
Bob Angelo, Environmental Protection Agency, Lenexa, Kansas
Melissa Bagley, Environmental Protection Agency, Lenexa, Kansas
Brenda Bardwell, Missouri Department of Natural Resources, Jefferson City, Missouri
Karen Bataille, Missouri Department of Conservation, Columbia, Missouri
Robert J. Brundage, Newman, Comley & Ruth P.C., Jefferson City, Missouri
David Casaletto, Ozarks Water Watch, Kimberling City, Missouri
Matt Combes, Department of Conservation, Kirksville, Missouri
Lorin Crandall, MCE, St. Louis, Missouri
Becky Cripe, Missouri Department of Natural Resources, Jefferson City, Missouri
John DeLashmit, Environmental Protection Agency, Lenexa, Kansas
Karen Flournoy, Environmental Protection Agency, Lenexa, Kansas
Ed Galbraith, Barr Engineering, Jefferson City, Missouri
Carol Garey, Missouri Department of Natural Resources, Jefferson City, Missouri
Doug Garrett, Missouri Department of Natural Resources, Jefferson City, Missouri
Jodi Gerling, Missouri Department of Natural Resources, Jefferson City, Missouri
Peter Goode, Washington Univ./Missouri Coalition for the Environment, St. Louis, Missouri
Jennifer Hoggatt, 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
Liz Hubertz, MCE, St. Louis, Missouri
John Lodderhose, Metropolitan St. Louis Sewer District, St. Louis, Missouri
Jim Macy, Missouri Department of Natural Resources, Jefferson City, Missouri
Steve Mahfood, Wildwood, Missouri

Refaat Mefrakis, Missouri Department of Natural Resources, Jefferson City, Missouri
Steve Meyer, City of Springfield, Springfield, Missouri
Marty Miller, Missouri Department of Natural Resources, Jefferson City, Missouri
Jan Millington, City of Springfield, Springfield, Missouri
Rob Morrison, Barr Engineering, Jefferson City, Missouri
Holly Neill, Missouri Stream Team Watershed Coalition, Highlandville, Missouri
Kevin Perry, REGFORM, Jefferson City, Missouri
Randy Sarver, Missouri Department of Natural Resources, Jefferson City, Missouri
John Rustige, Missouri Department of Natural Resources, Jefferson City, Missouri
Michael Smallwood, Ameren, St. Louis, Missouri
Darrick Steen, Barr Engineering, Jefferson City, Missouri
Ginger Steinmetz, Steinmetz Consulting, Jefferson City, Missouri
Trent Stober, HDR, Columbia, Missouri
Roger Walker, REGFORM, Jefferson City, Missouri
Phil Walsack, Missouri Public Utility Alliance, Columbia, Missouri
Kristol Whatley, Metropolitan St. Louis Sewer District, St. Louis, Missouri
Chris Wieberg, Missouri Department of Natural Resources, Jefferson City, Missouri
Mark Young, Kansas City Water Services, Kansas City, Missouri

CALL TO ORDER

Chair Parnell called the meeting of the Missouri Clean Water Commission to order on November 6, 2013 at 9:00 a.m., at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri.

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

ADMINISTRATIVE MATTERS

Public Hearing – Proposed Amendment to 10 CSR 20-6.011 Fees **Agenda Item #1**

The Commission conducted a public hearing for the proposed draft amendment for 10 CSR 20-6.011 Fees. John Madras, Director, Water Protection Program provided testimony for the Department explaining the proposed amendment. Testimony was also provided by:

Kevin Perry, REGFORM
Phil Walsack, Missouri Public Utility Alliance

Mr. Madras noted that the public comment period closes at 5:00 p.m., on November 13, 2013 and that staff will review comments and develop a recommendation for Commission action at the November 20, 2013 teleconference meeting.

No action was taken by the Commission. A court reporter was present and an official transcript of the public hearing is attached.

Approval of the September 11, 2013 Missouri Clean Water Commission Meeting Minutes
Agenda Item #2

John Madras, Director, Water Protection Program proposed the following corrections to the official transcript for the Public Hearing for the Proposed Amendment to 10 CSR 20-7.031, Water Quality Standards:

- Page 5, line 21 Delete “Department”
- Page 6, line 4 Change “Departments” to “Directors”
- Page 6, line 20 Add “report” after “impact”
- Page 6, line 22 Change “R and R” to “RIR”
- Page 6, line 24 Change “and” to “in:
- Page 7, line 4 Capitalize September
- Page 19, line 17 Remove “out in”
- Page 20, line 14 Change “hydrograve” to hydrography”
- Page 21, line 7 Change “TMBL” to “TMDL”
- Page 24, line 14 Change “reading each sentence” to “red ink”
- Page 25, line 9 Change “writer (ph) material” to “writer’s manual”
- Page 27, line 15 Change “permanent” to “Permit”
- Page 31, line 25 Add “to be” between “not” and “proven”
- Page 32, line 7 Change “UKK (sic) has” to “data”
- Page 33, line1 Change “our TK” to “100K data set”
- Page 36, line 18 Change “and” to “in”
- Page 40, line 18 Change “adding” to “and even the”; and change “and” to put”
- Page 44, line 9 Change” oxygen area” to “octogenarian”
- Page 46, line 11 Change “ethicat (ph)” to “advocate”
- Page 46, line 12Change “in my” to “the”
- Page 49, line 18 Change “Shore” to “Shorr”
- Page 51, line 9 Change “Pares” to “Peres”
- Page 57, line 19 Change “low” to “flow”
- Page 60, line 14 Change “It is also fish, water and sign test” to”I am also a scientist”
- Page 61, line 10 Change “house” to “analysis”
- Page 64, line 21 Change “death” to “devil”
- Page 65, line 23 Change “Counsel” to “Council”
- Page 71, line 18 Change “1100” to “1:100” and “124” to “1:24”
- Page 80, line 11 Change “closing” to “flowing”

John Madras, Director, Water Protection Program and Phil Walsack, Missouri Public Utility Alliance proposed the following corrections to the official transcript for the Public Hearing for the Proposed Amendment to 10 CSR 20-7.015 Effluent Regulations:

John Madras:

- Page 4, line 12 Change “form” to “forum”
- Page 5, line 5 Change “and” to “in the”
- Page 9, line 15 Deleted second “monitoring”
- Page 10, line 24 Delete””s”

Page 24, line 16 Change “of” to “and”
Page 25, line 23 Change “BOTW” to “POTW”

Phil Walsack:
Page 20, line 5 take out “(ph)”

Commissioner Wood made a motion to approve the September 11, 2013 meeting minutes with the proposed changes. Commissioner McCarty seconded the motion. The motion passed with a roll call vote:

Commissioner Cowherd:	Yes
Commissioner Wood:	Yes
Commissioner Bennett:	Yes
Commissioner McCarty:	Yes
Commissioner Warren:	Yes
Commissioner Leake:	Abstain
Chair Parnell:	Yes

Proposed 10 CSR 20-7.031 Water Quality Standards Regulations
Agenda Item #3

John Hoke, Watershed Protection Section presented a proposed order of rulemaking for Missouri’s Water Quality Standards, 10 CSR 20-7.031. Mr. Hoke stated that the order of rulemaking contained revised language from that published in the Missouri Register on June 17, 2013. He noted the revised language still applies presumptive “fishable/swimmable” Clean Water Act use designations to more than 90,000 miles of stream and 2,100 lakes, but also provides mechanisms for recognizing and managing exclusions to the presumptive uses.

The following stakeholders also commented on the Water Quality Standards Regulations proposed Order of Rulemaking:

Kevin Perry, REGFORM
Ed Galbraith, Barr Engineering
Phil Walsack, Missouri Public Utility Alliance
Leslie Holloway, Missouri Farm Bureau
Trent Stober, HDR
Karen Flournoy, Environmental Protection Agency
Peter Goode, Washington University/Missouri Coalition for the Environment
Steve Meyer, City of Springfield
Holly Neill, Missouri Stream Team Watershed Coalition
Lorin Crandall, Missouri Coalition for the Environment
Robert Brundage, Newman, Comley & Ruth, P.C.

Commissioner Bennett made a motion to approve the Proposed 10 CSR 20-7.031 Water Quality Standards Regulations as proposed by the Department. Commissioner Warren seconded the motion. The motion passed with a roll call vote:

Commissioner Wood: Yes
Commissioner Bennett: Yes
Commissioner McCarty: Yes
Commissioner Warren: Yes
Commissioner Leake: Yes
Commissioner Cowherd: Yes
Chair Parnell: Yes

Proposed 10 CSR 20-7.015 Effluent Regulations
Agenda Item #4

John Rustige, Engineering Section presented the proposed 10 CSR 20-7.015 Effluent Regulations. In brief Mr. Rustige noted the revisions were 1) updated bacteria limits and monitoring requirements, 2) clarified language regarding the definition of wastewater treatment plant bypasses to align with federal language and specifically stated that blending does not constitute a bypass, 3) required quarterly effluent monitoring of nutrient concentrations for large wastewater facilities, 4) provided clarification regarding whole effluent toxicity testing, 5) allowed for electronic reporting, 6) included provisions for developing limits with regard to various situations like impaired waters, alternative limits during high flows, and the use of local stream data to adjust limits, 7) reduced monitoring frequency for facilities that consistently comply with effluent limits, 8) eliminated schedules to comply phosphorus limits for discharges to Table Rock and Taneycomo Lake because the dates have already passed, 9) required limits for the discharge of nitrates that may impact specific drinking water wells, 10) specified that permits may include schedules of compliance in accordance with federal regulations, and 11) reorganized and clarify several elements of the rule.

The following stakeholders also commented on the Effluent Regulations proposed Order of Rulemaking:

Robert Brundage, Newman Comley & Ruth P.C.
Phil Walsack, Missouri Public Utility Alliance
Trent Stober, HDR
Roger Walker, REGFORM
Steve Meyer, City of Springfield

Commissioner Cowherd made a motion to approve the Proposed 10 CSR 20-7.015 Effluent Regulations Order of Rulemaking as proposed by the Department with the following change. Replace the sentence in subsection 9(G) that reads “Blending is the practice of diverting wet-weather flows around any treatment unit and combining a those flows within the treatment facility, while providing primary and secondary or biological treatment up to the available capacity, consistent with all applicable effluent limits and conditions, is not considered a form of bypass.” with the sentence, “Blending is the practice of diverting wet-weather flows around any treatment unit and recombining those flows within the treatment facility, while providing primary and secondary or biological treatment up to the available capacity, consistent with all applicable effluent limits and conditions.” Commissioner Leake seconded the motion. The motion passed with a roll call vote:

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

PRESENTATIONS

Missouri Clean Water Commission’s Focus on the Future and Procedures

The Commissioners discussed the role of the Commission and their interest in dealing with the policy matters involved. They expressed their personal interests in water and their commitments to doing their parts in taking care of the resource, and improving the efficiency of the Commission’s work. They considered changes in the Commission procedures that would follow this perspective, including conducting quarterly meetings, changing the start time of the meetings to 10:00 a.m., limiting closed sessions to times they are needed rather than routinely, reducing the amount of paper and other measures. The Commission directed staff to prepare a top ten list of the Department’s priorities to present to the Commission at the January 8, 2014 meeting and noted the Commission would also make a list. They also asked that the stakeholder submit a top ten list from their point of views.

Director’s Report

John Madras, Director, Water Protection Program noted he did not have any items to report to the Commission at this time. No action taken by the Commission.

Our Missouri Waters Update

Jennifer Hoggatt, Director’s Office, Department of Natural Resources updated the Commission on the Our Missouri Waters initiative. No action taken by the Commission.

Public Comment and Correspondence

Two individuals addressed the Commission, including:

- Mike Alesandrini, URS Corporation followed up on a question that had been asked by the Commission during the Our Missouri Waters update regarding whether the Department was seeing any resistance from the public when going to the watersheds. Mr. Alesandrini noted that he was speaking in the capacity as a friend of the Commission/Department not as a representative of URS Corporation. He stated that if the public were to make a top ten list they would tell you they do not trust the government in general and would like for them to go away. He noted that the Department needs to have better out-front communication and be more transparent.
- Phil Walsack, Missouri Public Utility Alliance acknowledged Ed Galbraith for his leadership in spearheading the process with all the stakeholders in getting the Water Quality Standards Regulations through the process. Mr. Walsack also followed up on the Commission's question regarding what needs to happen next on the watershed issue. He noted he would like to have three questions answered; 1) How many assets are in watersheds, 2) where are they located, and 3) what are the conditions? He also expressed his concerns regarding the financial challenges we face regarding the ammonia issue.

No action was taken by the Commission.

Future Meetings

The Commission noted that the November 20, 2013 Commission would be a teleconference meeting and would begin at 9:00 a.m. They also decided that the January 8, 2014 Commission meeting time would be changed from 9:00 a.m. to 10:00 a.m.

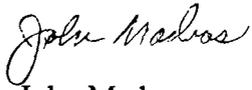
ADJOURNMENT OF MEETING

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

Commissioner McCarty:	Yes
Commissioner Warren:	Yes
Commissioner Leake:	Yes
Commissioner Cowherd:	Yes
Commissioner Wood:	Yes
Commissioner Bennett:	Yes
Chair Parnell:	Yes

The meeting adjourned at 12:25 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "John Madras".

John Madras
Director of Staff

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BEFORE THE DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

Missouri Clean Water Commission Meeting
Lewis and Clark State Office Building
LaCharrette/Nightingale Conference Rooms
1101 Riverside Drive
Jefferson City, Missouri

Public Hearing
on
Proposed Amendment to 10 CSR 20-6.011, Fees
November 6, 2013

(Public hearing start time: 9:03 a.m.)

I N D E X

1		
2		PAGE
3	SPEAKERS:	
4	John Madras	5:12
5	Kevin Perry	8:13
6	Phil Walsack	9:17
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BEFORE THE DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

Missouri Clean Water Commission Meeting
Lewis and Clark State Office Building
LaCharrette/Nightingale Conference Rooms
1101 Riverside Drive
Jefferson City, Missouri

November 6, 2013
Public Hearing
on
Proposed Amendment to 10 CSR 20-6.011

COMMISSION MEMBERS PRESENT:

- Ben A. Parnell, III, Chairman
- Ashley McCarty
- Samuel D. Leake
- John Cowherd
- Wallis Warren
- Dennis Wood
- Buddy Bennett

REPORTED BY:
Patricia A. Stewart, CCR 401, RMR, RPR
Midwest Litigation Services
3432 Truman Boulevard, Suite 207
Jefferson City, Missouri 65109
(573) 636-7551

1 P R O C E E D I N G S

2 CHAIR PARNELL: The Commission will begin the
3 public hearing on proposed amendment to CSR 26-6.011,
4 Fees.

5 The purpose of this public hearing is to
6 provide the Department an opportunity to present
7 testimony and to provide both the Department and the
8 public the opportunity to comment on the proposed
9 amendment.

10 This public hearing is not a forum for debate
11 or resolution of issues. The Commission asks that those
12 commenting limit their testimony to five minutes and not
13 repeat comments that others have already made.

14 The Commission will first hear testimony from
15 the Department. Following the Department's testimony
16 the Commission will give the public an opportunity to
17 comment.

18 We ask that all individuals present fill out
19 an attendance card so our records are complete. If you
20 wish to present verbal testimony, please indicate that
21 on your attendance card.

22 When you come forward to present testimony,
23 please speak into the microphone and begin by
24 identifying yourself to the court reporter.

25 Following the public hearing today the

1 Commission will review testimony presented and make
2 appropriate modifications to the proposed amendment to
3 10 CSR 20-6.011, Fees. The Commission plans to take
4 final action at the November 20th, 2013 meeting.

5 The court reporter will now swear in anyone
6 wishing to testify at this public hearing before the
7 Clean Water Commission today.

8 Will all of those wishing to comment please
9 stand.

10 (Speakers sworn.)

11 CHAIR PARNELL: Thank you.

12 MR. MADRAS: Mr. Chairman and members of the
13 Commission, my name is John Madras with the Water
14 Protection Program, and I'd like to present information
15 from the Department on the rule this morning.

16 You have been presented numerous times
17 information on clean water fees, and the first point
18 that I would like to make is to thank everyone who has
19 participated in this process.

20 There has been an ongoing discussion for now
21 two years, going through the activities that are
22 supported by fees and other sources of funding, as well
23 as opportunities to improve the process of how we work.

24 And I want to thank those who are in
25 attendance today and may offer comment, as well as all

1 of those who have also participated throughout the
2 entire process.

3 The rule itself was published October 1st in
4 the Missouri Register and lays out as close as we can
5 estimate a reasonable fee structure going forward, and I
6 would comment here a comment that you will hear several
7 times today.

8 This rule is not perfect. This rule could
9 use improvement. There are limitations that are both
10 recognized through the stakeholder process and also
11 imposed by the General Assembly earlier this year, and
12 those are all reflected in the rule before you today.

13 To an extent it is a place to start and have
14 future discussions. We hope to continue that work. We
15 do anticipate reconvening stakeholders to have further
16 discussions as the rulemaking process for setting fees
17 before the commissions can be taken up and revised every
18 two years.

19 So those discussions will continue hopefully
20 in short order so that we're not in a time crunch to
21 finish the rule as we are today.

22 I won't get into the specifics of the fee
23 structure itself. I believe it's fairly
24 self-explanatory. There may be other comments that you
25 hear regarding specifics there.

1 I would point out that there was one error
2 that we made in assembling the fee structure. While we
3 focused on the changes and modifications and the fees
4 related to those, we did not address the existing
5 modification for publicly owned treatment works that's
6 in the statute.

7 And so we will be revising it to a minor
8 extent just to address the separate category for
9 publicly owned treatment work modifications as the rule
10 goes forward and as we hopefully present the order of
11 rulemaking later this month.

12 With that I would answer any questions you
13 may have and look forward to proceeding with the rule.

14 COMMISSIONER MCCARTY: John, I have a quick
15 question for you.

16 The last page of what I believe to be the
17 fiscal note out of the Missouri Register, it says that I
18 understand the private projected annual cost of
19 1.8 million to almost 1.9 million projected additional
20 revenue to the Department. The final sentence, though,
21 jumps to 6.5 million, and this is page 1,548 in our
22 book.

23 Can you explain to me where the larger number
24 is calculated from?

25 MR. MADRAS: I believe that's the cost

1 projected over a number of years.

2 Usually we collect permit fees for private
3 facilities as -- well, progressively related to their
4 permits. So that would be kind of the lifetime cost
5 here.

6 COMMISSIONER MCCARTY: Thank you.

7 CHAIR PARNELL: Additional questions,
8 Commissioners?

9 Thank you, John.

10 MR. MADRAS: Thank you.

11 CHAIR PARNELL: I now invite input from the
12 floor. We'll start with Kevin Perry.

13 MR. PERRY: Good morning, Mr. Chairman, and
14 good morning, Commissioners. My name is Kevin Perry. I
15 work for REGFORM, the regulatory environmental group for
16 Missouri here in Jefferson City.

17 I represent folks from around the state who
18 comply with environmental regulations and particular
19 water regulations.

20 I come before you today just to express our
21 support for this proposed rule. We hope that you will
22 adopt it. It represents, as John has characterized,
23 probably the best outcome that we could get from the
24 year long or more process that we undertook, and we hope
25 that you will support this rule with your votes.

1 I will also just parenthetically take this
2 time to remind you that we hope that the Commission and
3 the staff will continue to work with us on eliminating
4 the reliance on the half percent admin fee for the State
5 Revolving Fund. That has been added on, as well as
6 reliance on some grant money which we've been told is
7 going to go away.

8 So, you know, we'd really like to get those
9 off the table so that we're relying on fees that are
10 available.

11 So I appreciate your consideration of my
12 comments, and I'm happy to answer any questions that you
13 might have, but we are in support of this fee schedule.

14 Thank you.

15 CHAIR PARNELL: Thank you, Kevin.

16 Phil Walsack. •

17 MR. WALSAK: Good morning, Commissioners.

18 Phil Walsack, Missouri Public Utility
19 Alliance, representing 110 municipal governments here in
20 Missouri.

21 We too support the fee schedule that is
22 before you. We were at those stakeholder group meetings
23 for several years, and many stakeholder groups starting
24 in the year 2000.

25 We have previously kicked the can down the

1 road expertly. We would like to stop doing that and
2 right this ship a bit and get this fee schedule passed
3 so that we can move forward with other more pressing
4 issues, because you have more pressing issues.

5 Thank you very much for the opportunity to
6 comment this morning.

7 Any questions?

8 Hearing none, thank you very much.

9 CHAIR PARNELL: Thank you, Phil.

10 I move forward with the next order of
11 business, which is the approval of the September 11,
12 2013 minutes.

13 MR. MADRAS: I think you may have more.

14 CHAIR PARNELL: I only have two cards.

15 The Commission will receive written testimony
16 on the proposed amendment to 10 CSR 20-6.011, Fees, by
17 five o'clock on November 13, 2013.

18 You may submit this written testimony to
19 Mr. John Madras, Water Protection Program Staff
20 Director, Missouri Department of Natural Resources,
21 Water Protection Program, P.O. Box 176, Jefferson City,
22 Missouri 65102 prior to that deadline.

23 On behalf of the Commission I thank everyone
24 who has participated in this process. This hearing is
25 now closed.

1 WHEREIN, the public hearing was concluded
2 at 9:10 a.m.
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CERTIFICATE

I, Patricia A. Stewart, RMR, RPR, CCR, a
Certified Court Reporter in the State of Missouri, do
hereby certify that the testimony that appears in the
foregoing transcript was taken by me to the best of my
ability and thereafter reduced to typewriting by me;
that I am neither counsel for, related to, nor employed
by any of the parties to the action in which this
hearing was taken, and further that I am not a relative
or employee of any attorney or counsel employed by the
parties thereto, nor financially or otherwise interested
in the outcome of the action.

Patricia A. Stewart

CCR No. 401