



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

August 19, 2020

Present via Telephone

Ashley McCarty, Chair, Missouri Clean Water Commission
Patricia Thomas, Vice-Chair, Missouri Clean Water Commission
Neal Bredehoeft, Missouri Clean Water Commission
Stan Coday, Missouri Clean Water Commission
John Reece, Missouri Clean Water Commission
Allen Rowland, Missouri Clean Water Commission
Tim Duggan, Legal Counsel, Missouri Clean Water Commission
Chris Wieberg, Director of Staff, Missouri Clean Water Commission
Krista Welschmeyer, Secretary, Missouri Clean Water Commission

Attending via Webex or Call-In

Michael Abbott, Missouri Department of Natural Resources
Kimberly Bauman, Mississippi Lime
Stacia Bax, Missouri Department of Natural Resources
Van Beydler, Missouri Department of Natural Resources
Jennifer Birger, Missouri American Water
Kurt Boeckmann, Missouri Department of Natural Resources
Bill Boland, EI ERA
Amy Branchill, Missouri Department of Economic Development
Ginny Bretzke, Missouri Department of Natural Resources
Robert Brundage, Newman, Comley & Ruth
Tim Canter, University of Missouri
David Casaletto, Ozarks Water Watch
Kurtis Cooper, Missouri Department of Natural Resources
Eric Crawford, Missouri Public Utility Alliance
James Crawshaw, Missouri Department of Natural Resources
Rebecca Cripe, Missouri Department of Natural Resources
Mary Culler, Stream Teams United
Aimee Davenport, Stinson Law Group
Sharon Davenport, Missouri Department of Natural Resources
Jane Davis, Missouri Department of Natural Resources

Lauren Dempsey, General Public
Joan Doerhoff, Missouri Department of Natural Resources
Julianne Epplin, Ameren Missouri
Angela Falls, Missouri Department of Natural Resources
Brant Farris, Missouri Department of Natural Resources
Ed Galbraith, Missouri Department of Natural Resources
Jodi Gerling, Missouri Department of Natural Resources
Peter Goode, Washington University St. Louis
Shane Graupman, Missouri Department of Natural Resources
Chuck Gross, Duckett Creek
Brent Herring, City of Kansas City, MO
Lacey Hirschvogel, Missouri Public Utilities Alliance
John Hoke, Missouri Department of Natural Resources
Tisha Holden, Missouri Department of Natural Resources
Leslie Holloway, Missouri Farm Bureau
Jay Hoskins, St. Louis Metropolitan Sewer District
Ramona Huckstep, Missouri Municipal League
Hannah Humphrey, Missouri Department of Natural Resources
Sherri Irving, City of Kansas City, MO
Michael Kruse, Missouri Department of Natural Resources
Misty Lange, Missouri Department of Natural Resources
Ann Lavaty, US EPA
Traci Lichtenberg, Missouri American Water
Collin Mackey, Missouri Department of Natural Resources
Patsy Mayberry, General Public
James McCleish, Horner & Shifrin
Anna McElfresh, Missouri Department of Natural Resources
Lynn Milberg, Missouri Department of Natural Resources
Judy Morrison, Missouri Department of Natural Resources
Nick Muenks, Geosyntec Consultants
Austin Nieman, St. Louis Metropolitan Sewer District
Michael Ohlemeyer, St. Louis Metropolitan Sewer District
Kent Peetz, City of Jackson, MO
Kevin Perry, Regform
Sara Pringer, Missouri Department of Natural Resources
Brian Quinn, Missouri Department of Natural Resources
Tom Ratermann, Boone County Regional Sewer District
Joel Reschly, Missouri Department of Natural Resources
Laura Rightler, Loch Group
Kristi Savage-Clarke, Missouri Department of Natural Resources
Amy Shields, US EPA
Julie Solori-O'Guinn, Duckett Creek
Jing Tao, City of Kansas City, MO
Melissa Vatterott, Missouri Coalition for the Environment
James VeVerka, Missouri Department of Natural Resources
Phil Walsack, Burns & McDonnell

Sunny Wellesley, US EPA
Steven Whitworth, Ameren Missouri
Sally Zemmer, Missouri Department of Natural Resources
Courtney Zimmerman, Missouri Department of Natural Resources

CALL TO ORDER

Chair McCarty called the meeting of the Missouri Clean Water Commission (CWC) to order on August 19, 2020, at 10:06 a.m.

Approval of Minutes

Approval of the April 2, 2020 Open Session Minutes

Agenda Item B-1

Commissioner Reece made a motion to approve the minutes as presented. Commissioner Rowland seconded the motion. The motion passed with a roll call vote:

Commissioner Bredehoeft: Yes
Commissioner Coday: Yes
Commissioner Reece: Yes
Commissioner Rowland: Yes
Vice Chair Thomas: Yes
Chair McCarty: Yes

DNR Reports and Updates

Director's Update

Agenda Item C-1

Chris Wieberg, Director, Water Protection Program, reported the following to the Commission:

- Permit Backlog is around 220 permits.
- Enforcement Report is included in the packet
- Most WPP team members are working from home. Some jobs require staff to be in the office, but staff are social distancing when in the office. The WPP main line continues to be answered during normal business hours with most staff having their desk phones forwarded to their personal phone. We are conducting all types of inspections as long as team members can maintain social distancing. We are currently on track to meet the majority of inspection commitments for FFY20 with the exception of a handful of pretreatment and MS4 inspections.
- COVID-19 Regulatory Relief and Regulatory Suspension guidelines are still in place.
- In accordance with an Executive Order, the Department temporarily suspended 10 CSR 20-6.300(2)(B); 10 CSR 20-6.300(3)(B)1; and 10 CSR 20-6.300(4)(A)1. These rule

suspensions do not apply to facilities that were not in operation on or before March 18, 2020. The primary issues that these suspensions sought to address was in situations where facilities temporarily exceed regulatory animal number thresholds due to pandemic related delays in meat processing facilities these facilities would not be required to have their permit changed or in some case have small AFO seek to obtain a permit for short term increases. These suspensions are in effect through the end of 2020.

- The Department also temporarily suspended 10 CSR 20-9.030(4)(B) and 10 CSR 20-14.020(4)(B) for wastewater treatment operators and CAFO operators whose certifications expired during the suspension of this rule. These rules require that before a certificate will be renewed, the operator must submit documentation of training sufficient to meeting the minimum hours for the certificate level. Training organizations had cancelled and postponed classes due to social-distancing requirements related to the COVID-19 emergency, and many professionals could not obtain the minimum training hours during the emergency despite their best efforts. The temporary suspension allowed certified operators to renew their certificates without obtaining the minimum amount of renewal training that otherwise would be required so they can continue providing professional services for wastewater and CAFO systems.

The decision to provide a temporary rule suspension supports the greater public health objectives by allowing certified operators to continue to serve their communities. Given the social changes in travel and public gathering, it was reasonable to allow an essential workforce a remedy that supported the greater goals of public health. This suspension is in effect until the end of 2020

- Due to events associated with the pandemic, the Department became aware of challenges associated with dairy production throughout the state in late March and early April. Given the decline in sales of dairy products to schools and the food service industry, milk production in the state was in excess, putting dairy farmers in the difficult position of determining how to properly dispose of raw milk. The Department, in response to this matter, issued guidance on the disposal of raw milk or other dairy products which can be found on our pandemic regulatory relief webpage. The guidance did not supersede any statutory or regulatory requirements.
- On March 24, 2020, the Department issued a statement in an attempt to facilitate continuity of operations for key Missouri industries impacted by a reduced workforce due to COVID-19. The Department recognized that certain environmental-compliance obligations may become difficult as more employees work from home, staffing is reduced, physical distancing measures are implemented for essential personnel remaining in the workplace, consultants working on behalf of regulated entities may experience travel restrictions, and supply chains face potential disruption. The state indicated that affected entities could make requests for relief. The WPP WPCB received 13 requests from regulated entities for regulatory relief as a result of the Covid-19 pandemic. Of those requests, six were granted. Two requests were denied for no direct correlation with COVID-19. Two entities, did not submit specific regulatory relief requests for a permitted facility. One facility submitted a request for relief from late DMR submission, however DNR staff verified the late submission would not create a violation in ICIS or ECHO, thus the issue was resolved. One facility withdrew their request after discussion

with KCRO staff. Additionally EPA took lead on one request related to an EPA Consent Judgment.

- Early in 2020 we held a couple of clean water fee discussions in an effort to gain consensus on a future rule to amend clean water fees or various permits and activities. Given the pandemic, downturn in economy, and the fact that projected shortfalls were out in 2028 we have opted to pause clean water fee discussion for the foreseeable future. We consider resuming discussions at a later date while considering shortfall projections and the time that it takes to get through the process before resuming the effort.
- Attorney's Fee Application arose from complaints previously heard by the Administrative Hearing Commission (AHC) in case numbers 18-0498 and 18-0501. The commission had directed staff to enter into a memorandum of understanding with the AHC to consider the applications and provide the CWC with a recommendation. On June 16, 2020, the MOU was fully executed and the applications were forwarded to the AHC. The AHC has set a hearing for November 6, 2020.
- A virtual public hearing is scheduled for September 1, 2020, at 5:00 pm on a recent request for a 316a variance for temperature at the Ameren Labadie power plant. The variance was placed on public notice and the Department received a request for hearing from the Sierra Club. A decision on the variance is planned for the commission agenda in October, or a special meeting later this year depending on the team's ability to get the information compiled and to the commission members.

Public Hearing

Public Hearing on Draft Fiscal Year 2021 Clean Water State Revolving Fund Intended Use Plan and Priority List

Agenda Item D-1

Hannah Humphrey testified on behalf of the Department on the Clean Water State Revolving Fund (SRF), Intended Use Plan (IUP) and Project Priority List for Fiscal Year 2021. The Department is required to prepare this plan identifying the intended uses of the funds in the SRF and describing how those uses support the goals of the SRF. The EPA must receive this plan prior to awarding the Clean Water SRF capitalization grant. Ms., Humphrey noted listing in the IUP and listing of a project is not a guarantee of funding. Applicants must comply with program requirements to receive funding.

The draft IUP was posted for public notice was on July 30, 2020. The Department expects to make changes to the IUP after all public comments are reviewed. Approximately \$534 million is available for new projects. The target interest rate remains 30% of market, index rate. Loans will continue to have a loan administration fee is 0.5% of the outstanding loan balance assessed on an annual basis. New this year is the express program authorization for extended term loans up to 30 years. Extended term loans will be available at a slightly higher interest rate than a traditional, 20 year loan, with an additional 0.5% interest. This added interest is designed to address the increased risk that extended term loans pose to the program, while maintaining a very low rate.

The Additional Subsidization section on page 6 describes available additional subsidization, or grants that will be available with the approval of the IUP by the Commission in October. The Department will continue to offer our three established CWSRF grants:

- affordability grants offered with loans based on project socio-economic criteria
- a grant that incentivizes regionalization by providing grant funds to sewer extension projects. This IUP commits to providing the following two new grant opportunities.
- continue offering engineering grants, but the Department will change the funding source from SRF administration fee funding to funding from the additional subsidization allocation from our capitalization grant.

Beginning in FY21, the Department is proposing to add two new grant programs with additional subsidization:

- The IUP indicates a plan to offer a Technical Assistance Grant (TAG) that will provide three years of funding to a not-for-profit corporation. The Department will offer the TAG via a Request for Proposals after Commission approval in October, and will score proposals and award the grant to one not-for-profit corporation to provide assistance to small and medium sized publicly owned treatment works.
- This IUP establishes an offer of grant funds for certain high priority water quality work. This Water Quality Incentive Grant funding will offset a portion of a loan when the borrower's project includes an eligible project component. Eligible project components are: flood mitigation infrastructure; upgrades for new permit limits or to meet requirements of Total Maximum Daily Load Wasteload Allocations; plant improvements intended to provide renewable energy generation; streambank stabilization a drinking water supply lake watershed; measures to manage, reduce, treat, or recapture stormwater; green infrastructure; inflow and infiltration rehabilitation; plant improvements serving citizens enrolled in a rate assistance program; and construct sewer extensions to serve customers in a district or city's service area. This new grant is expected to incentivize water quality improvements, provide debt relief to larger communities that have previously not had access to CWSRF grant dollars, and attract more borrowers to the program.

Appendix One starting on Page 10 contains the Project Priority Lists and Financial Tables. The total anticipated Clean Water State Revolving Fund EPA Capitalization grant amount available as of December 31, 2018 was \$80 million. This includes a portion of the FY19 capitalization grant, and an anticipated FY20 capitalization grant of \$44,053,000. \$106.8 million is the amount of previously undisbursed amounts committed to existing projects The Department estimates \$90 million will be committed for projects that are funded or will be funded through October 2020 adoption of the 2021 IUP. \$516 million is available for loans. \$17.9 million is available for grants based additional subsidization spending planned at this time. Details of that planned spending include the following. A total of \$11,530,540 is available as unused additional subsidization funds remaining from several previous years' capitalization grants (FY 16, 17, 18, 19). The FFY 2020 capitalization grant requires that 10 percent (\$4,405,300) be utilized for additional subsidization, and up to an additional 30 percent may be used as additional subsidization. Staff is recommending an additional \$2,000,000 (15 percent of the optional amount be reserved for FFY 2021 based on the need demonstrated by applications received as of CWSRF application deadline, and to meet the needs of other grants planned for award later in the year. This brings the total of available additional subsidization in this IUP to \$17,935,840.

This amount allows the Department to commit grant funds to all eligible applicants with projects on the Fundable Lists in this IUP and reserve \$5,529,041 for Regionalization Incentive Grants, Engineering Report Grants, and Technical Assistance Grants. More information about grant eligibility is included in Appendix 2.

The project lists will likely change between this draft IUP and the final version approved by the Commission based on each project's current schedule and progress since the draft plan was prepared and posted. Within the Project Lists Tables shown on pages 13- 18, the draft plan allocates approximately \$448 million in loans and grants to projects on the Fundable lists and about \$60,343,312 to the Fundable Contingency list. All these projects have a bond instrument in place and have submitted an acceptable facility plan to the Department. The draft plan allocates \$50.5 million to Planning List projects. Staff will assist these communities to move up to a Fundable List during the year. The Fundable List is composed of three groups: 15 projects are on the Small and Non-Metropolitan Areas and Districts Fundable List, 5 projects on the Large Metropolitan Areas & Districts Fundable List and one project is on the Department Initiatives List.

This Intended Use Plan was placed on public notice on July 30, 2020. Public comments will be accepted through August 31, 2020. The final Clean Water SRF intended Use Plan for Fiscal Year 2020 will be presented to the Commission for adoption at its October 26, 2020, meeting.

I would like to express my appreciation to all the staff that have prepared the IUP, especially Sharon Davenport, to all the staff that works daily to successfully administer the State Revolving Fund and to program participants.

Lacey Hirschvogel, Missouri Association of Municipal Utilities (MPUA) stated that MPUA will submit written comments at a later date, but wanted to highlight a few items within the IUP. MPUA appreciates the Department moving forward with the technical assistance and planning grant for nonprofit organizations. She summarized work conducted by MPUA through the pilot grant, and stated MPUA believes the work funded through the grant to be very beneficial to small and medium sized communities. MPUA is engaged with seven communities and assisted these communities with several applications for engineering grants, Rural Sewer Grants and SRF. MPUA is also working on several projects that will provide statewide communities with tools such as asset management. MPUA is also appreciative of the proposed water quality incentive grant opportunity, believes it is a creative initiative indicative of the Department's willingness to put communities first. Also, MPUA supports the proposed water quality incentive grants for Perryville and Centralia, two MPUA members that are working hard to provide quality and affordable service to their residents.

Recommended for Adoption and Actions to be Voted On

New Business

Appeals and Variance Requests

Open Comment Session

Future Meeting Dates

Missouri Clean Water Commission Meetings

Agenda Item I

- October 26, 2020, via Webex and call-in only
- January 7, 2021, Lewis and Clark State Office Building
- April 8, 2021, Lewis and Clark State Office Building
- August 9, 2021, Lewis and Clark State Office Building
- October 12, 2021, Lewis and Clark State Office Building

Closed Session

There was no closed session during this Clean Water Commission meeting.

Meeting Adjournment

Chair McCarty adjourned the open meeting at 11:06 a.m.

For more information contact:

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Respectfully Submitted,

Chris Wieberg

Chris Wieberg
Director of Staff