**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**

**September 7, 2011**

**Present**

Sam Hunter, Chair, Missouri Clean Water Commission
William A. Easley, Jr., Missouri Clean Water Commission
Sam Leake, Missouri Clean Water Commission
Jan Tupper, 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, Region 7, Kansas City, Kansas
Karen Bataille, MDC, Columbia, Missouri
Dorris Bender, City of Independence, Water Pollution Control, Independence, Missouri
Joe Boland, Department of Natural Resources, Jefferson City, Missouri
Judith A. Browne, Friends of LaBarque Creek Watershed, LaBarque Creek, Missouri
Mary West Calcagno, Jacobs Engineering, St. Louis, Missouri
Emily Carpenter, Department of Natural Resources, Jefferson City, Missouri
John Carter, The Doe Run Co., Viburnum, Missouri
Robert Coffing, Missouri Stream Team, Catawissa, Missouri
John DeLashmit, Environmental Protection Agency, Region 7, Kansas City, Kansas
Frank Dolan, Gray Summit Sewer District, Jefferson City, Missouri
Adam Dorrell, Benton C. Associates, Kirksville, Missouri
Walter Fett, Department of Natural Resources, Jefferson City, Missouri
Ed Galbraith, Barr Engineering, Jefferson City, Missouri
Carol Garey, Department of Natural Resources, Jefferson City, Missouri
Doug Garrett, Department of Natural Resources, Jefferson City, Missouri
John Hoke, Department of Natural Resources, Jefferson City, Missouri
Leslie Holloway, Missouri Farm Bureau, Jefferson City, Missouri
Ted Koenig, Department of Natural Resources, Jefferson City, Missouri
John Lodderhose, Metropolitan St. Louis Sewer District, St. Louis, Missouri
Randy Lyman, City of Springfield, Springfield, Missouri
Refaat Mefrakis, Department of Natural Resources, Jefferson City, Missouri
Steve Meyer, City of Springfield, Springfield, Missouri
Claire Meyners, LaBarque Watershed Stream Team Assoc., Eureka, Missouri

Jan Millington, City of Springfield, Springfield, Missouri
Leanne Tippett Mosby, Department of Natural Resources, Jefferson City, Missouri
Ray E. Oberkramer, Land Owner in Watershed, Eureka, Missouri
Kevin Perry, REGFORM, Jefferson City, Missouri
Lorisa Smith, Department of Natural Resources, Jefferson City, Missouri
Trent Stober, Geosyntec, Columbia, Missouri
Scott Totten, Department of Natural Resources, Jefferson City, Missouri
Roger Walker, REGFORM, Jefferson City, Missouri
Phil Walsack, MPUA, 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 September 7, 2011 at 9:16 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 – 10 CSR 20-8.120 Design of Gravity Sewers Proposed Rulemaking**
**Agenda Item #1**

Emily Carpenter, Financial Assistance Center presented the Design of Gravity Sewers proposed rulemaking 10 CSR 20-8.120. Ms. Carpenter stated that in 2008, Department staff convened a stakeholders group to review and amend the Design of Gravity Sewers regulation to update the language and provide consistency and clarity. It was proposed and accepted that the Chapter 8 Design Standards rules would be based upon the 2004 version of the "Recommended Standards for Wastewater Facilities." (commonly referred to as the 10 States Standards). Missouri is one of the original members and continues to be a contributing state to this nationally recognized standard. A draft amendment was completed in the spring of 2011 and the Commission signed a Finding of Necessity for Rulemaking on May 4, 2011.

No one in attendance commented on the proposed rulemaking. The Commission, and the audience, were reminded that written comments will be accepted until 5:00 p.m. on September 14, 2011. The Commission will take final action at the November 2, 2011 meeting.

A Court Reporter from Midwest Litigation was in attendance and the official hearing transcript is attached.

**Approval of the July 13, 2011 Missouri Clean Water Commission Meeting Minutes**
**Agenda Item #2**

**Commissioner Easley made a motion to approve the July 13, 2011 meeting minutes as submitted. Commissioner Leake seconded the motion. The motion passed with a roll call vote:**

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| **Commissioner Easley:** | **Yes** |
| **Commissioner Tupper:** | **Abstained** |
| **Commissioner Leake:** | **Yes** |
| **Chair Hunter:** | **Yes** |

**State Revolving Fund Project List Revisions**
**Agenda Item #3**

Doug Garrett, Financial Assistance Center presented a proposed amendment to the State Fiscal Year 2012 Clean Water State Revolving Fund Intended Use Plan (IUP). The following changes were proposed:

- Increased the eligible project costs for the Metropolitan St. Louis Sewer District (Missouri River Wastewater Treatment Plant) from $34,769,712 to $39,769,712 to rectify a program error;
- Increased the eligible project costs for the city of Brashear from $648,500 to $1,266,100 as requested by the city;
- Removed the city of Greenfield from the IUP as they have received funding from other sources for their project; and,
- Added the city of East Lynne to the Planning List based on their submittal of an application for wastewater system upgrades.

**Commissioner Leake made a motion to approve the amended State Fiscal Year 2012 Clean Water State Revolving Fund Intended Use Plan as proposed. Commissioner Tupper seconded the motion. The motion passed with a roll call vote:**

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| **Commissioner Tupper** | **Yes** |
| **Commissioner Leake:** | **Yes** |
| **Commissioner Easley:** | **Yes** |
| **Chair Hunter:** | **Yes** |

**Finding of Necessity for the Proposed Amendment 10 CSR 20-7.031 Water Quality Standards**
**Agenda Item #4**

Chair Hunter read a statement on the Finding of Necessity stating that the question before the Commission was whether to direct staff to file the proposed rule and begin formal rulemaking discussion pursuant to Chapter 536, Revised Statutes of Missouri. He further stated that the public comment period on the regulatory impact report closed August 12, 2011, therefore, it would be inappropriate for the Commission to take comment at this time. Chair Hunter also stated that there will be additional opportunities to comment on the water quality standards as we proceed through the rulemaking process both in writing during the comment period and before the Commission when the rules go through a formal public hearing.

John Hoke, Watershed Protection Section presented the Finding of Necessity for the Proposed Amendment 10 CSR 20-7.031 Water Quality Standards. He stated that the purpose of the rulemaking was to update Missouri's Water Quality Standards, making them functionally equivalent to federal standards and at the same time improving their clarity, specificity and effectiveness. Included in the proposed amendment are revisions that apply "fishable/swimmable" use designations to more Missouri waters and update existing water quality criteria and use designation tables. The rule amendment will also revise sections of the regulation to allow additional flexibility in how the Department grants variances and schedules of compliance to permitted facilities

Mr. Hoke noted that the petition before the Commission regarding designation of LaBarque Creek as an outstanding state resource water was being withdrawn for reevaluation at a future triennial review. Due to additional comments, concerns, and uncertainty within the watershed the Program deemed further review was appropriate.

Ed Galbraith, Barr Engineering, commented that he was in support of the Finding of Necessity but would like to request a 30 day period be provided before the filing of the rule since the Commission and the stakeholders just received a copy of the proposed rule the morning of the meeting.

John Madras, Director of Staff, reiterated that the Finding of Necessity would be the Commission's direction for staff to proceed with the rule and that the actual timing of the rule is dictated by Chapter 536 as well as other requirements and that the Department would be willing to continue discussions until the filing of the rule.

**Commissioner Tupper made a motion to approve a Finding of Necessity for the proposed amendment 10 CSR 20-7.031. Commissioner Easley seconded the motion. The motion passed with a roll call vote. The Finding of Necessity was signed by the Commission.**

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| **Commissioner Tupper:** | **Yes** |
| **Commissioner Leake:** | **Yes** |
| **Commissioner Easley:** | **Yes** |
| **Chair Hunter:** | **Yes** |

## STAFF UPDATES

**Permits and Water Quality Review Sheet Update**
**Agenda Item #5**

Refaat Mefrakis, Permits and Engineering Section presented an update on permit performance. No action taken by the Commission.

**Financial Assistance Center Update**
**Agenda Item #6**

Joe Boland, Financial Assistance Center presented updates on the following:

- The Environmental Protection Agency's (EPA's) semi-annual review was scheduled for September 14 and 15.
- State auditors are currently auditing the Program;
- Independent auditors are scheduled for October;
- Staff are currently preparing for the Annual Reports which are due to EPA in the fall.

John Madras, Director of Staff, announced that Joe Boland would be moving from the Water Protection Program to the Environmental Improvement and Energy Resources Authority and wanted to publically thank Mr. Boland for his service to the Program. The Commission also thanked Mr. Boland for his service to the Commission.

No action taken by the Commission.

**Status of Rulemaking**
**Agenda Item #7**

Carol Garey, Rule Coordinator of the Water Pollution Control Branch of the Water Protection Program, presented an update on rulemaking indicating regulatory development priorities and the next significant rulemaking action. No action was taken by the Commission.

## STANDING ITEMS

**Legal Report**

Jennifer Frazier, Legal Counsel to the Commission did not have any items to report to the Commission. No action was taken by the Commission.

**Director's Update**

John Madras, Director, Water Protection Program, presented comments and updates on the following:

- Disinfection for the City of Fulton;
- Environmental Protection Agency's decision on 2009 Water Quality Standards;
- Reports due and changes in procedures due to the signing of House Bill 89;
- Commission/Department Planning Session is tentatively scheduled for November 1st.

No action was taken by the Commission.

## PRESENTATIONS

**Public Comment and Correspondence**

- Ed Galbraith, Barr Engineering, commented on the rulemaking for 10 CSR 20-7.031.
- John Carter, The Doe Run Company, commented on the rulemaking for 10 CSR 20-7.031.
- Kevin Perry, REGFORM, commented on the Finding of Necessity for 10 CSR 20-7.031.
- Claire Meyners, LaBarque Watershed Stream Team Association, commented on the LaBarque Creek designation as an outstanding state resource water.
- Phil Walsack, Missouri Public Utility Alliance, provided a presentation entitled "An Initial Cost Estimate Evaluation of the Proposed Stream Re-Classification – The Tales of Ten Cities."
- Ray Oberkramer, Land Owners of LaBarque Creek Watershed, comment on LaBarque Creek designation as an outstanding state resource water.
- Steve Meyer, City of Springfield, commented on 10 CSR 20-7.031 rulemaking.
- Frank Dolan, Gredell Engineering, commented on the Gray Summit Sewer District.

No action was taken by the Commission.

## ADJOURNMENT OF MEETING

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

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| **Commissioner Leake:** | **Yes** |
| **Commissioner Easley:** | **Yes** |
| **Commissioner Tupper:** | **Yes** |
| **Chair Hunter:** | **Yes** |

The meeting adjourned at 11:00 a.m.

Respectfully Submitted,

John Madras

John Madras
Director of Staff