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September 20, 2012

Mr. John Madras, Director
Water Protection Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

RE: Permit Shield

Dear John:

At the last Water Protection Forum meeting held in Jefferson City, Curt Gateley gave a permit shield presentation immediately after lunch. In his presentation, he said that EPA had objected to MDNR's removal of the general water quality criteria provision previously included in every NPDES permit. When EPA objected to the proposed language changes, they said that the new language failed to cover physical/hydrologic changes and turbidity. They alleged that removal of the General Criteria constituted backsliding. To address EPA's objections and veto threat, MDNR's PowerPoint presentation made several suggested changes.

First, MDNR suggested amending the reopener clause by adding the following subsection:

“(d) Address any situation where the discharge prevents full maintenance of the beneficial or designated uses of the receiving stream. This includes violations of General Criteria, which are applicable at all times including mixing zones.”

I do not object to this addition if “violation” were changed to “exceedance.”

MDNR also proposed to revise the language at the bottom of the effluent limitations tables in section A of the permits. Presently, all permits contain the following language:

“There shall be no discharge of floating solids or visible foam in other than trace amounts.”

MDNR proposes to revise this language as follows:

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“There shall be no discharge of visible oil, scum, floating solids or foam, or water with a visible sheen. There shall be no discharge of water that causes a discernible color change in the receiving stream.”

I suggest the following changes:

“There shall be no discharge of a visible ~~oil sheen, scum,~~ floating solids or foam in other than trace amounts, ~~or water with a visible sheen.~~ There shall be no discharge of sewage sludge or water that causes a discernible color change in the receiving stream.”

I added back the “trace amounts” wording. I added the prohibition to discharging sewage sludge to enhance the language. I do not think we can justify discharging sewage sludge.

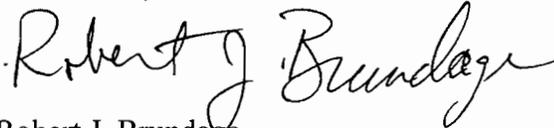
DNR floated the idea of adding additional permit language that could require daily stream surveys and documentation. Understandably, there was strenuous opposition to this requirement. In previous permits, there was no daily stream survey or recordkeeping requirements for the General Criteria included. So then why now require stream surveys when it wasn't required before? This is unacceptable and unnecessary.

In conclusion, I recommend we accept the reopener language, accept my proposed changes to the standard language at the bottom of Section A, reject stream surveys and require elimination of the General Criteria paragraph from all permits.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:


Robert J. Brundage

c: Urban Areas Coalition