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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**

January 12, 2011

Present

Ron Hardecke, Chair, Missouri Clean Water Commission
William A. Easley, Jr., Missouri Clean Water Commission
Sam Hunter, Missouri Clean Water Commission – Via Telephone
Sam Leake, 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

David “Scott” Adams, Department of Natural Resources, Macon, Missouri
Karen Bataille, MDC, Columbia, Missouri
Phil Bangent, Mistwood Bluff HOA, Camdenton, Missouri
Joe Boland, Department of Natural Resources, Jefferson City, Missouri
Robert Brundage, Newman, Comley & Ruth P.C., Jefferson City, Missouri
Emily Carpenter, Department of Natural Resources, Jefferson City, Missouri
John Carter, Doe Run, Viburnum, Missouri
Tom Coyle, Lion Point Home Owners, Gravois Mills, Missouri
Allen Decker, Missouri Rural Water Association, Gray Summit, Missouri
Jim Divincen, Tri Co. Lodging, Osage Beach, Missouri
Adam Dorrell, Benton and Associates, Kirksville, Missouri
Ronald Driskel, Dixie Landing Subdivision, Barnett, 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
Mike Hollis, Missouri Rural Water Association, Van Buren, Missouri
Gary Hutchcraft, Alliance Water Resources, Inc., Lake Ozark, Missouri
Bill Jackson, Missouri Levee and Drainage District Association, Brunswick, Missouri
Mark Krantz, Property Management, Lake Ozark, Missouri
Steve Kuhler – Via Telephone
Barbara Li, Department of Natural Resources, Jefferson City, Missouri
John Lodderhose, Metropolitan St. Louis Sewer District, St. Louis, Missouri
Merrill McCall, Mistwood Shores HOA, Camdenton, Missouri
Colleen Meredith, Department of Natural Resources, Jefferson City, Missouri

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Rocky Miller, Miller Companies, Osage Beach, Missouri
Kevin Mohammadi, Department of Natural Resources, Jefferson City, Missouri
Leanne Tippet Mosby, Department of Natural Resources, Jefferson City, Missouri
Terry Nelson, Department of Natural Resources, Jefferson City, Missouri
Nancy Osborne, Camdenton, Missouri
Bob Perry, Agriservices of Brunswick, Bowling Green, Missouri
Kevin Perry, REGFORM, Jefferson City, Missouri
Kristin Perry, Perry Law Office, Bowling Green, Missouri – Via Telephone
Mark Rosewell, Fish Eye, Rocky Mount, Missouri
Amanda Rouden, L.I.S. Resort Management, Lake Ozark, Missouri
Chuck Sharamitara, Fish Eye Subdivision, Rocky Mount, Missouri
Pat Smith, Department of Natural Resources, Jefferson City, Missouri
Brian Spencer, Miller Companies, Osage Beach, Missouri
Trent Stober, Geosyntec-MEC Water Resources, Columbia, Missouri
Mindy Stone, U.S. Resort Management, Camdenton, Missouri
Chad Stout, Lake Ozark Water and Sewer, Camdenton, Missouri
Russell A. Sweaney, Dixie Landing Association, Jefferson City, Missouri
Dennis Taylor, Maple Crest Homeowner Association, Lake Ozark, Missouri
Steve Thompson, Bridal Cave, Camdenton, Missouri
Scott Totten, Department of Natural Resources, Jefferson City, Missouri
Alan Trombley, Point Charles Homeowners Association, Sunrise Beach
M. Ann Trombley, Homeowners Association-Point Charles, Sunrise Beach, Missouri
Chad Vandenbrink, All Phase E-X, Eldon, Missouri
Roger Walker, REGFORM, Jefferson City, Missouri
Phil Walsack, MPUA, Columbia, Missouri
Tom Waters – Via Telephone
David T. Zah, Osage Beach, Missouri

CALL TO ORDER

Chair Hardecke called the meeting to order on January 12, 2011 at 9:10 a.m., at the Department of Natural Resources' Lewis and Clark State Office Building located at 1101 Riverside Drive, Jefferson City, Missouri.

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

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ADMINISTRATIVE MATTERS

Public Hearing – 10 CSR 20-8.110 Engineering Reports, Plans and Specifications

Agenda Item #1

The Commission conducted a Public Hearing for the proposed amended rule 10 CSR 20-8.110, Engineering – Reports, Plans and Specifications. Emily Carpenter of the Financial Assistance Center provided testimony for the Department. No public comments were received during the meeting. The Commission will receive written testimony on the Proposed Amendment to 10 CSR 20-8.110, Engineering – Reports, Plans and Specifications regulation until 5:00 p.m. on January 19, 2011. Written testimony should be submitted to Emily Carpenter at the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, Missouri 65102 prior to that deadline. The Commission plans to take final action at the March 2, 2011 meeting.

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

Election of Missouri Clean Water Commission Officers

Agenda Item #2

Commissioner Easley made a motion for Ron Hardecke to serve as the Chair of the Commission for 2011. Commissioner Leake seconded the motion. The motion passed with a roll call vote.

Commissioner Easley: Yes
Commissioner Hunter: Yes
Commissioner Leake: Yes
Chair Hardecke: Yes

Commissioner Leake made a motion for Sam Hunter to serve as the Vice-Chair of the Commission for 2011. Commissioner Easley seconded the motion. The motion passed with a roll call vote.

Commissioner Hunter: Yes
Commissioner Leake: Yes
Commissioner Easley: Yes
Chair Hardecke: Yes

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Approval of the November 3, 2010 Missouri Clean Water Commission Minutes

Agenda Item #3

Commissioner Easley made a motion to approve the November 3, 2010 Meeting Minutes as submitted. Commissioner Hunter seconded the motion. The motion passed with a roll call vote:

Commissioner Hunter: Yes
Commissioner Leake: Yes
Commissioner Easley: Yes
Chair Hardecke: Yes

The Commission approved to continue to have the minutes of the Missouri Clean Water Commission as audio minutes with summary hard copy minutes. The minutes will be posted on the Commission Website.

Small Borrower Loan for the City of Clarksville and City of Gilliam

Agenda Item #4

Joe Boland of the Financial Assistance Center presented two small borrower loans for funding, for the cities of Clarksville and Gilliam, to the Commission for funding approval.

Mr. Boland presented the city of Clarksville for a small borrower loan of \$94,300 to fund the costs of the construction of an ultraviolet disinfection system. The addition of the ultraviolet disinfection system to the existing wastewater treatment facility is to address the schedule of compliance in their current operating permit. The total project cost is estimated to be \$188,600. Grant funding for the amount of \$94,300 is being pursued from the Department of Economic Development Community Development Block Grant Program. The small borrower loan will complete the cost of construction.

Mr. Boland presented the city of Gilliam for a small borrower loan of \$32,000 to fund the costs of replacing failed pumps in the sanitary sewer lift station. This station pumps all of the sewage from Gilliam three miles to the City of Slater wastewater treatment plant. The lift station is completely inoperative without the two pumps; therefore the city is transporting the sewage via truck to Slater. The total project cost is estimated to be \$32,000. The small borrower loan will complete the cost of construction.

Commissioner Sam Leake made a motion to approve the two cities for funding as presented. Commissioner Easley seconded the motion. The motion passed with a roll call vote:

Commissioner Hunter: Yes
Commissioner Leake: Yes
Commissioner Easley: Yes
Chair Hardecke: Yes

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State Fiscal Year 2011 Clean Water State Revolving Fund Intended Use Plan Amendment **Agenda Item #5**

Doug Garrett of the Financial Assistance Center presented the Amendment of the State Fiscal Year 2011 Clean Water State Revolving Fund Intended Use Plan to the Commission.

Mr. Garrett noted that on November 17, 2010 the Environmental Improvement and Energy Resources Authority (EIERA) in conjunction with the Department of Natural Resources, issued Water Pollution Control and Drinking Water Revenue Bonds (State Revolving Funds Programs Series 2010B) totaling \$74,280,983, including premiums. The share allotted for the Clean Water State Revolving Fund (CWSRF) program totaled \$60,165,603. The proceeds of this issue will, in part, reimburse the CWSRF program for loan payments made to previous CWSRF participants.

Mr. Garrett proposed that due to the increased availability of funds, and in accordance with the readiness to proceed criteria contained in the State Fiscal Year 2011 Intended Use Plan (IUP), that the following changes be made to the IUP fundable lists. The proposed changes are:

- Include the proceeds from the EIERA bond issue on the Sources and Distribution of Funds table, increasing the available funds from approximately \$167 million to approximately \$177 million;
- Move the Huntsville project from the Contingency List to the Fundable List;
- Move the Franklin County PWS#1 (Pottery Road) and the Greenfield projects from the Planning List to the Fundable List;
- Update the MSD Missouri River projects to reflect the anticipated loan closing amounts and schedule as contained in the district's due diligence submittal;
- Move the Kansas City WSD Second Creek PS and FM project from the Contingency List to the Fundable Contingency List;
- Move the Cape Girardeau project from the Planning List to the Contingency List; and
- Increase the amount of funds for the Missouri Agriculture and Small Business Development nonpoint source project from \$3,533,312 to \$5,000,000.

Commissioner Easley made a motion to amend the State Fiscal Year 2011 Clean Water State Revolving Fund Intended Use Plan as presented by staff. Commissioner Leake seconded the motion. The motion passed with a roll call vote:

Commissioner Hunter:	Yes
Commissioner Leake:	Yes
Commissioner Easley:	Yes
Chair Hardecke:	Yes

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Resolution of the Environmental Protection Agency's Objection to the Lake Tishomingo Permit

Agenda Item #6

Refaat Mefrakis of the Permits and Engineering Section presented two topics related to E.coli. The first topic was the resolution to the Environmental Protection Agency (EPA) interim objection to the Lake Tishomingo permit. This involved establishing a short-term limit for E.coli. Several stakeholders thought the outcome of the resolution is reasonable and asked the Commission to pass a motion to direct the staff to include the recent short term E.coli numbers in the effluent regulation. The Commission recognized the need but did not take action. The Program acknowledged the request and will be revising the effluent regulation.

The second topic was E.coli monitoring frequency. Several members of the public representing small subdivisions, homeowner's associations, developers and contract wastewater treatment operators testified in regard to the large increase in cost that weekly testing would make on these small entities. The following participated in these discussions:

Tom Coyle, Lion Point Home Owners, Gravois Mills
Jim Divincen, Tri Co. Lodging, Osage Beach
Ronald Driskel, Dixie Landing Subdivision, Barnett
Mark Krantz, Property Management, Lake Ozark
John Lodderhose, Metropolitan St. Louis Sewer District, St. Louis
Rocky Miller, Miller Companies, Osage Beach
Nancy Osborne, Camdenton
Chuck Sharamitara, Fish Eye Subdivision, Rocky Mount
Trent Stober, Geosyntec, Columbia
Chad Stout, Lake Ozark Water and Sewer, Camdenton
Dennis Taylor, Maple Crest Homeowner Association, Lake Ozark
Phil Walsack, MPOA, Columbia
David T. Zah, Osage Beach

Commissioner Easley made a motion that the Commission direct the Department to proceed with amending 10 CSR 20-7.015 to reduce the sampling frequency required for E.coli to a lesser frequency, still protective of water quality standards, for smaller facilities, including those with discharges of 100,000 gallons per day or less. To the extent there are permits pending involving facilities with discharges of 100,000 gallons per day or less, the Commission directs that those permits be issued with their current sampling frequencies until 10 CSR 20-7.015 can be amended. Commissioner Leake seconded the motion. The motion passed with a roll call vote:

Commissioner Leake:	Yes
Commissioner Easley:	Yes
Commissioner Hunter:	Yes
Chair Hardecke:	Yes

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ENFORCEMENT

Mapaville Meadows #1 Subdivision Wastewater Treatment Facility – Referral to the Attorney General’s Office

Agenda Item #7

Kevin Mohammadi of the Compliance and Enforcement Section notified the Commission that a Settlement Agreement was reached with the Mapaville Meadows #1 Subdivision prior to the Commission meeting. Therefore the referral request was withdrawn.

Deer Meadows Subdivision – Referral to the Attorney General’s Office

Agenda Item #8

Mr. Mohammadi Deer Meadows Subdivision to the Commission and proposed that the Commission refer the Subdivision to the Attorney General’s Office.

Commissioner Easley made a motion that the Commission refer Deer Meadows Subdivision to the Attorney General’s Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and /or see any other appropriate form of relief. Commissioner Leake seconded the motion. The motion passed with a roll call vote:

Commissioner Easley:	Yes
Commissioner Hunter:	Yes
Commissioner Leake:	Yes
Chair Hardecke:	Yes

STAFF UPDATES

Permits and Water Quality Review Sheet Update

Agenda Item #9

Mr. Mefrakis presented an update on permit performance. No action was taken by the Commission.

As was requested by the Commission at the November 3, 2010 meeting, Mr. Mefrakis and Scott Adams of the Northeast Regional Office presented an update regarding SSS, Inc. permit modification. Mr. Adams noted that he had been in contact with Mike Stevenson of SSS, Inc. and it was his understanding that Mr. Stevenson was fine with the direction the Department was taking. Mr. Adams stated that the modification would be drafted by the Northeast Regional Office and there would be a public notice period for the public to comment on the draft permit.

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Bob Perry and Kristen Perry of Perry Law Offices in Bowling Green, representing SSS, Inc. expressed they were basically fine with the direction the Department was going but had a couple concerns regarding fairness of benchmarks and numeric criteria. After discussion regarding benchmarks and numeric criteria, Mr. Adams reiterated that he is still working on the draft permit and it will be going on public notice in a couple of weeks for the public to have an opportunity to review and express concerns. Mr. Perry and Ms. Perry noted they would take that opportunity to comment during the comment period.

No action was taken by the Commission.

Financial Assistance Center Update

Agenda Item #10

Mr. Boland presented an update on the \$50 Million Bond Sale. No action was taken by the Commission.

Mr. Boland updated the Commission on the new leveraged loan program. Mr. Boland stated that on November 17, 2010, the Department, in conjunction with the Environmental Improvement and Energy Resources Authority (Authority), sold bonds through a new leveraging structure to further capitalize the State Revolving Fund (SRF). A new hybrid cash flow model allows the Department to pledge existing direct loans to the Authority, who in turn, uses (leverages) the interest revenue from the existing loans to pay the debt service on new bonds. The proceeds from the new bonds are then used to initiate new loans as illustrated in the revised 2011 Intended Use Plan. The net proceeds from the bonds, including premium totaled \$74,280,983. The Clean Water SRF portion totaled \$60,165,603 while the remaining \$14,115,380 will fund the Drinking Water SRF.

Mr. Boland notified the Commission that a public hearing for the draft 2012 Clean Water Intended Use Plan will be needed at the March 2011 meeting.

Status of Rulemaking

Agenda Item #11

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.

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Status of Enforcement Cases Agenda Item #12

Mr. Mohammadi presented an update on status of Enforcement cases.

The Commission expressed concerns over lack of movement on cases at the Attorney General's Office. Jenny Frazier, Legal Counsel for the Commission, noted she would confer with her colleagues and update the Commission at the March 2, 2011 meeting.

No action was taken by the Commission.

STANDING ITEMS

Legal Report

Ms. Frazier 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, provided an update on the following items:

- The audio recording of the Commission's November meeting was posted on the Website and the resulting minutes were considerably shorter. Chair Hardecke earlier noted changing to a recording from a verbatim transcript saved about \$800 to \$1000 per meeting, although the Commission wants to make sure this continues to serve the same purpose.
- The Department has contracted for Sanitary Sewer Overflow Prevention Workshops across the state, and encourages attendance for those operating sewer systems. The workshops are free.
- There is a Water Protection Forum scheduled for February 3 at 9:00 a.m. at the Lewis and Clark State Office Building.
- With regard to the water permit fees, which expired December 31, 2010, two bills have been introduced that would extend the fees. HB 89 by Representative Pollock would extend the fees three years, and HB 97 by Representative Ruzicka would extend the fees five years. The Department looks forward to discussions on the fees.
- The Department is continuing to issue permits, provide technical assistance and conduct other activities, and will continue to provide these services to the extent possible.

No action was taken by the Commission.

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PRESENTATIONS

Public Comment and Correspondence

Bill Jackson of the Missouri Levee and Drainage District, Bob Perry and Kristin Perry of Perry Law Office, and Steve Kuhler, President of the Howard County Levee District expressed concerns related to an eroding bank of the Missouri River threatening a Howard County Levee District levee. This levee is across the river from the Corps of Engineers' Jameson Island Project. They expressed an interest in having the Corps repair the river bank below the levee, as well as conducting further work on the Jameson Island project, including a flow control structure and outlet channel. They expressed further concern the potential spring rise in the river may threaten the levee. It was noted that the District planned a meeting on January 26 to review the extent of the damage.

Commissioner Easley made a motion that the Commission direct the Department to work with the Corps of Engineers to issue such permits as are necessary to enable repairs to the Jameson Island Chute and realign the lower end of the chute and place grade structures at the upper and lower end of the chute as are consistent with this Commission's previous order dated March 12, 2008. Commissioner Leake seconded the motion. The motion passed with a roll call vote:

Commissioner Hunter:	Yes
Commissioner Leake:	Yes
Commissioner Easley:	Yes
Chair Hardecke:	Yes

Kevin Perry, REGFORM, asked the Commission to consider contributions from those who are not paying fees since the permit fee provisions expired. Mr. Perry stated some REGFORM members value the state program and would be willing to voluntarily support the program to the extent they would have paid fees previously. No action was taken by the Commission.

Phil Walsack, MPUA, discussed affordability, and noted a recent consent decree between EPA and the City of Evansville, IN. The decree included a median household income criteria of 2.5%, which is above the 2% that had previously been included in EPA guidance but never implemented in any rule or other settlement. Mr. Walsack suggested some criteria of this nature should be established in Missouri so communities would have a benchmark to plan future activities. No action was taken by the Commission.

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ADJOURNMENT OF MEETING

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

Commissioner Hunter: Yes
Commissioner Leake: Yes
Commissioner Easley: Yes
Chair Hardecke: Yes

The meeting adjourned at 2:05 p.m.

Respectfully Submitted,



John Madras
Director of Staff

