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

August 21, 2013

Proposed Clean Water Fee Structure

Issue: Decision on Rulemaking on the Clean Water Fee Structure.

Background: Section 644.057, RSMo, which was passed as part of House Bill 28 (HB 28) earlier this year and signed by the Governor on July 12, allows the Missouri Clean Water Commission to promulgate a clean water fee structure by rule. The present fee structure was established by statute in 2000. Staff has worked with stakeholders to review the complete range of clean water activities conducted by the Department and the funding sources that support these efforts. The Department has solicited their thoughts on how the activities could be improved or costs reduced. There have been significant changes based on their input. The Department remains open for any additional suggestions that may come forward for future revisions to the fee structure. The Department appreciates the Commission's review of the clean water fee structure and requests the Commission proceed with rulemaking at this time. Following are some of the notable aspects of this fee structure proposal.

Recent History: Over the past two years, the Department has conducted extensive discussions with stakeholders on the activities conducted by the state's clean water efforts, and the funding sources that support those efforts. A series of eight day-long stakeholder meetings extended from November 2011 through June 2013. All of the meeting agendas, presentations and other materials related to these meetings are on the Department's website at http://www.dnr.mo.gov/env/wpp/cw-fees.htm. Similarly, video recordings of each of these meetings are also available at this same location. In addition, the Department met with representatives of the agricultural, business and industrial, land development, and municipal sectors individually to examine their specific desires of the Department related to clean water. The stakeholder and sector meetings covered all aspects of the clean water activities and funding sources, and provided many opportunities for those in attendance to suggest changes to either.

Through this process, stakeholders had the opportunity to understand the activities the Department conducts, including those that are required under delegation of the administration of the federal Clean Water Act, those that are required by state law and others that are not required by either but are carried out to make clean water management work in Missouri. The group discussed potential changes in several areas including 1) construction permits for nondomestic wastewater facilities and other activities that are relatively standard (such as simple sewer extensions), and 2) public participation for construction permits where the required changes had already been through a public notice process for the operating permit. As a result of these discussions, the Department has already made some changes that could be achieved by policy, and is conducting rulemaking for other changes.

Funding Shortfall: The annual funding shortfall for clean water work was estimated at $2.9 million. The Department has made up for this by taking advantage of some flexibility in federal funding for the Section 319 Nonpoint Source program, using administrative fees from the state revolving loan fund and taking other actions such as not filling certain vacant positions. The Environmental Protection Agency (EPA) has informed the Department that they no longer want to approve Section 319 funds (where federal appropriation has been decreasing) to be used for this purpose. With regard to the State Revolving Fund (SRF) administration funds, the Department agrees with stakeholders that using them for regulatory purposes, while entirely within the allowable use of these funds, is not the highest priority and best use of these funds. Three years ago the Department raised the administration fee rate to 1.0% from 0.5% to make administration funds available for priority projects such as grants to disadvantaged communities, and the Department would favor using these funds in that manner to the extent possible. Maintaining vacant positions and other actions may be effective in the short term, but do not provide for a sustainable high level of performance on clean water work. In addition, the Department's portion of General Revenue, a significant portion of which is used for clean water activities, has decreased significantly and contributed to the funding shortfall. Several stakeholders also suggested a more assertive effort toward cost recovery, essentially seeing that the "polluter pays" for the extra work stemming from incidents of noncompliance. The Department conducts some cost recovery now, and is exploring how this might be expanded.

House Bill 28: In addition to authorizing the Clean Water Commission to establish a clean water fee structure by rule, HB 28 also contained several features that directly or indirectly affects the fee structure. Most significantly, section 644.057 contained a $5000 cap on any individual fees. This is significant because representatives of some sectors, who have members at this level already, had agreed to accept a higher fee as part of this structure. Since the regulatory fee structure cannot exceed the statutory maximum fee, those fees that had previously been proposed to be increased are now proposed to be maintained without change. In addition, HB 28 established some fees directly, such as a lower fee for minor permit modifications, and those fees are reflected in this fee structure. Finally, HB 28 exempted some activities from construction permits, and those fees are removed from the fee structure.

The Fee Structure: The proposed fee structure shows the results of all of these stakeholder discussions and suggestions, as well as the statutory direction. It does not meet the funding shortfall for supporting clean water work, but does produce an increase in revenue that narrows the gap. The Department is committed to working with stakeholders to conduct clean water work so that it maintains delegation of the federal clean water act, as well as meeting the needs of the state. The Department will carry out this work to the extent possible, and advise stakeholders and the Commission of our successes and challenges in doing so.

Future Activities Related to Program Efficiency: The Department is continuing to pursue additional efficiencies, including: 1) centralization of most permitting work in the program office in 2012, 2) initiation of watershed-based permitting through the synchronization of permits by watershed in 2012, 3) implementation of electronic permitting for land disturbance general permits in 2012, and 4) roll out of electronic discharge monitoring reporting in 2013. While these projects had significant one-time costs, their effectiveness in the long term will save time and effort on the part of those receiving permits and ultimately allow the Department to direct staff resources toward more productive activities.

The Department is considering additional electronic applications that would result in time and cost savings for both project proponents and the staff. These are in the developmental stage and may be implemented over the next three years. The greatest efficiency in clean water work could be achieved by automating the permit application process. The submittal of forms and supporting documentation electronically saves time and expense, and improves accuracy. The permit review process can start days earlier, and issued permits are available immediately. No documents need to be scanned since they are already electronic. Consultants already produce reports and engineering plans and specifications in an electronic format, so no extra effort to print and mail would be necessary. Follow-up correspondence, by either e-mail or hard copy can be transmitted electronically with no time delay in mailing. The system developed for land disturbance general permits can be expanded to other general permits, such as the remaining sewer extensions that were not exempted by HB 28, small domestic wastewater treatment facilities or other general permits that are frequently requested. All of these projects would allow permits to be processed more quickly and free some staff time to be available for providing assistance in the field where it would be much more effective.

There have been suggestions that the clean water efforts be pared back to eliminate activities that are not required to meet federal delegation requirements. While this concept has some merit, and some changes are already reflected in new procedures, there are voluntary activities that carry a great value. Foremost among these is the Our Missouri Waters initiative. This initiative will encourage and allow local participation in decisions on how to manage our water resources, and this is where specific water resource management needs are best addressed. The watershed-based approach will also allow a common understanding of the roles, priorities and responsibilities of all partners and citizens within a watershed. With the diverse hydrologic and multi-water-related resources to manage, it makes sense to be able to tailor our activities to the unique challenges and opportunities specific to each watershed. The initiative will coordinate the efforts of all the agencies and individuals who have an interest in the watershed, and focus staff and financial resources on priorities and on solving water resource problems. In 2011 the Department established three pilot watersheds for this initiative, the Spring River, the Lower Grand and the Big River. This year the Department hosted summits in each of them, which focused on the specific issues needing attention in these diverse watersheds.

The Department is also conducting two other water-related projects that go beyond federal clean water requirements, the Community Services initiative and the Compliance Assistance initiative. The initiative for communities focuses on small communities that face significant environmental challenges but do not have their own staff expertise to effectively deal with them. We will assign a coordinator and establish a team of specialists to help the communities travel through the financial and technical landscape. The compliance initiative included meetings across the state to hear from businesses and citizens on what assistance would be most appreciated in meeting their environmental responsibilities.

Beyond the initiatives, there are many aspects of clean water where going beyond meeting minimum federal requirements is the best option for the state. For example, total maximum daily loads (TMDLs) are required under federal law for impaired streams. However, implementation plans that would phase in changes over time are a voluntary activity. The implementation of some TMDLs require individual treatment for a number of reasons: 1) sometimes models produce numbers that are not technically feasible, 2) some TMDLs work better through iteration or adaptive management that takes action and monitors progress over time or 3) there are TMDLs that can be achieved through creative solutions such as trading or fundamentally changing discharges rather than additional end-of-pipe treatment. A second

example is the statewide water quality monitoring effort. Under federal law, little monitoring is required. However, our efforts include an extensive monitoring system that carries a significant expense. This informs the permit process by providing a basis for many permit decisions where the Department can develop site-specific answers to criteria questions that would otherwise default to conservative assumptions. The lack of this monitoring would result in permit limits that are lower than necessary and the expense of treatment to achieve those limits could be significantly higher.

Future Activities Related to Fees: The fee-setting process established by HB 28 allows the Commission to revise the fee structure at two year intervals. While this fee structure had been in development for several years in anticipation of the fee sunsets in statute, the Commission may anticipate a regular rulemaking in 2015 to adjust fees as needed based on new information at that time. Such fees would follow the same path of rule promulgation, with General Assembly oversight, and become effective January 1, 2017. This incremental process would allow the Commission and General Assembly to examine the performance of the structure and make changes based on program changes and needs. The Department has received a request from some stakeholders to conduct a rate study to estimate the amount of effort devoted to managing clean water facilities by sector and by type and size of facility within each sector, and we are exploring ways to complete this study so that it can be used during the next cycle of reviewing clean water fees.

Recommended Action: The Department recommends the Commission approve the proposed clean water fee structure and direct staff to proceed to rulemaking pursuant to Section 644.057, RSMo.

Suggested Motion Language: I move the Commission proceed to establish the proposed clean water fees structure in rule by amending 10 CSR 20-6.011. This rule amendment may also contain other changes as appropriate to facilitate the operations of the Department's clean water responsibilities. I further move the Department continue to address comments related to the fee structure that have been identified through this stakeholder process, including but not limited to, costs of activities related to the types and sizes of facilities, further opportunities for efficiency changes and cost reductions, the scope of activities required by federal or state law, and the limitation placed upon the fee structure by statute.

List of Attachments:

- Proposed Clean Water Fee Structure

Proposed Clean Water Fee Structure, July, 2013

Fee Type	Current Fee	Proposed Fee
CONSTRUCTION PERMITS		
Sewer Extensions - less than or equal to one thousand (<1,000) linear feet of pipe and fewer than 2 pump stations	$75 per Application	$0
Sewer Extensions - other	$300 per Application	$300
Wastewater Treatment Plant or earthen storage structure if the design flow is less than five hundred thousand gallons per day (<500,000 gpd)	$750 per Application	$1,000
Wastewater Treatment Plant or earthen storage structure if the design flow is equal to or more than five hundred thousand gallons per day (≥ 500,000 gpd)	$2,200 per Application	$3,000
Ag Chem Construction Permits	$750 per Application	$0
Ag Chem Construction Permits	$2,200 per Application	$0
CAFO Construction Permits	$750 per Application	$0
CAFO Construction Permits	$2,200 per Application	$0
Anti-degradation review		
Anti-degradation review or water quality review analysis for a wastewater treatment plant that will be upgraded		$250
Anti-degradation review for a new wastewater treatment plant if the design flow is less than one hundred thousand gallons per day		$500
Anti-degradation review for a new wastewater treatment plant if the design flow is more than one hundred thousand gallons per day		$1,000
MISSOURI STATE OPERATING PERMITS		
SERVICE CONNECTIONS - PUBLICLY-OWNED TREATMENT WORKS		
Residential Connections:		
>35,000 customers	$0.40 per connection	$0.48
35,000 - 20,000 customers	$0.50 per connection	$0.60
20,000 - 7,000 customers	$0.60 per connection	$0.72
7,000 - 1,000 customers	$0.70 per connection	$0.80
<1,000 customers	$0.80 per connection	$0.80
Industrial/Commercial Connections (excluding fire suppression systems):		
1" service line	$ 3.00 per connection	$3
>1" up to 4" service line	$10.00 per connection	$11
>4" service line	$25.00 per connection	$29
GENERAL PERMITS		
Land Disturbance - up to 5-year permit paid at time of application		
Land Disturbance 1 to < 5 acres	$300 per Application	$500
Land Disturbance 5 to < 10 acres	$300 per Application	$600
Land Disturbance 10 to < 25 acres	$300 per Application	$750
Land Disturbance 25 to < 100 acres	$300 per Application	$1,500
Land Disturbance 100 to < 500 acres	$300 per Application	$3,000
Land Disturbance > 500 acres	$300 per Application	$5,000
Land Disturbance -multiple sites - less than 100 acres	$300 per Application	$1,500
Land Disturbance -multiple sites - 100 to <500 acres	$300 per Application	$3,000
Land Disturbance - multiple sites - ≥500 acres	$300 per Application	$5,000
General Permit for Domestic Wastewater		See Non-POTW
General Permit for Pesticide Applicators	$150 per year	$150
General Permit - Other (Car washes, limestone quarries, petroleum storage, metal farbrication, etc)	$150 per year	$200
General Permit - AgChem (wholesale distribution of chemical fertilizers and pesticides)	$50 per year	$100
General Permit - Aquaculture	$250 per year	$300
General Permit - CAFO (Class IB and IC) & AFO (Class II)	$150 per Application	
NPDES CAFO IA	$5,000 per year	$5,000
NPDES CAFO IB	$150 per Application	$450
NPDES CAFO IC/II	$150 per Application	$350
MSOP CAFO IB	$150 per Application	$300
MSOP CAFO IC/II	$150 per Application	$150
General Stormwater (Excludes MS4 communities)	$150 per year	$200
General Stormwater MS4s	$150 per year	$250

Proposed Clean Water Fee Structure, July, 2013

Fee Type	Current Fee	Proposed Fee
SITE-SPECIFIC PERMITS		
INDUSTRIAL PROCESS FLOWS		
Categorical ≥ 1,000,000 gallons per day (1mgd)	$5,000 per Year	$5,000
Categorical < 1,000,000 gallons per day (1mgd)	$3,500 per Year	$4,200
Non-Categorical ≥ 1,000,000 gallons per day (1mgd)	$2,500 per Year	$3,000
Non-Categorical < 1,000,000 gallons per day (1mgd)	$1,500 per Year	$1,800
INDUSTRIAL STORMWATER ONLY		
≥ 1,000,000 gallons per day (1mgd)	$2,350 per Year	$2,800
< 1,000,000 gallons per day (1mgd)	$1,350 per Year	$1,800
Concentrated Animal Feeding Operations (CAFOs) Class IA	$5,000 per Year	$5,000
DOMESTIC SEWAGE		
Non-POTW < 5,000 gallons per day	$100 per Year	$150
Non-POTW 5,000 to <6,000 gallons per day	$150 per Year	$300
Non-POTW 6,000 to <7,000 gallons per day	$175 per Year	$300
Non-POTW 7,000 to <8,000 gallons per day	$200 per Year	$300
Non-POTW 8,000 to <9,000 gallons per day	$225 per Year	$300
Non-POTW 9,000 to <10,000 gallons per day	$250 per Year	$300
Non-POTW 10,000 to <11,000 gallons per day	$375 per Year	$600
Non-POTW 11,000 to <12,000 gallons per day	$400 per Year	$600
Non-POTW 12,000 to <13,000 gallons per day	$450 per Year	$600
Non-POTW 13,000 to <14,000 gallons per day	$500 per Year	$600
Non-POTW 14,000 to <15,000 gallons per day	$550 per Year	$600
Non-POTW 15,000 to <16,000 gallons per day	$600 per Year	$1,000
Non-POTW 16,000 to <17,000 gallons per day	$650 per Year	$1,000
Non-POTW 17,000 to <20,000 gallons per day	$800 per Year	$1,000
Non-POTW 20,000 to <23,000 gallons per day	$1,000 per Year	$1,000
Non-POTW 23,000 to <25,000 gallons per day	$2,000 per Year	$1,000
Non-POTW 25,000 to <30,000 gallons per day	$2,500 per Year	$1,500
Non-POTW 30,000 to <100,000 gallons per day	$2,500 per Year	$3,000
Non-POTW 100,000 to <250,000 gallons per day	$2,500 per Year	$4,000
Non-POTW ≥250,000 gallons per day	$2,500 per Year	$5,000

OTHER FEES

401/404 Certification Fees - Dredging or filling activities in waterways		
401/404 Certification - Minor	$75 per Application	$150
401/404 Certification - Major	$75 per Application	$1,500
Permit By Rule - Hydrostatic Testing	$25 per Application	$150
General permit Modifications		$100
CAFO construction permit Major modification		25% Annual Fee
POTW - Major Modification	$200 per Application	25% Annual Fee
POTW - Minor Modification	$200 per Application	$100
Other Site Specific - Major Mods	25% Annual Fee	25% Annual Fee
Other Site Specific- Minor Mods Flat Fee	25% Annual Fee	$100
Permit Variance		$250