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Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, MO 65102
cleanwater@dnr.mo.gov

Dear Mr. Madras,

The City of Poplar Bluff appreciates the Department's willingness to accept comments on its Draft Guidance for Conducting and Performing an Affordability Finding (the "Guidance") and also to set up an ad hoc stakeholder committee to refine its procedures. The City requests to participate on the stakeholder committee.

As you know, section 644.145 requires the Department to make a finding of affordability when issuing permits or enforcing provisions of the Missouri Clean Water Law and the Federal Water Pollution Control Act pertaining to combined or separate sanitary sewer systems or publicly-owned treatment works. The City submits the following comments regarding the Guidance dated March 2, 2012

I. General Comments

A. The legislation is designed to allow Missouri communities to implement cost-effective, affordable approaches to achieve Clean Water Act objectives. To that end, the Guidance should reflect the related Environmental Protection Agency's Guidance policy, which states that "EPA's existing regulations and policies provide EPA and states flexibility to evaluate a municipality's financial capability in tough economic times and to set appropriate compliance schedules, allow for implementing innovative solutions and sequence critical waste and storm water capital projects and operation and maintenance related work in a way that ensures human health and environmental protection."¹ The Guidance should include this stated policy and objective.

B. Because section 644.145 contains no exemptions, the Guidance should explicitly specify that it applies to all permitting and enforcement decisions, including, at a minimum: (1) new permits, (2) renewals of existing permits, (3) enforcement actions, and (4) any other

¹ U.S. Environmental Protection Agency, Memorandum: Achieving Water Quality Through Integrated Municipal Stormwater And Wastewater Plans, October 27, 2011.

determination impacting combined or separate sanitary sewer system or publicly-owned treatment works.

C. Section 644.145.3 provides that the specific criteria that must serve as the bases for the Department's affordability findings. The Guidance should specify that the Department will document the analysis of each of the listed criteria in section 644.145.3 in an affordability finding on each permit or enforcement decision. The Department should make available its documentation to the impacted community and request its feedback to ensure that all relevant information is included.

II. Specific Comments

A. Criteria 2 - *Affordability of pollution control options for the individuals or households of the community.* "Affordability" is "a measure of whether an individual customer or household can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household, taking into consideration the criteria described in subsection 3 of this section."² Accordingly, the Department should consider all relevant information regarding whether residents can pay resulting utility rates without undue hardship (i.e., median household income, low and fixed income segments, unemployment rates, other household expenditures, etc.).

B. Criteria 3 - *An evaluation of the overall costs and environmental benefits of the control technologies.* The Guidance should state that the Department will include relevant information pertaining to a "knee-of-the-curve"³ analysis where available.

C. Criteria 4 - *Ways to reduce economic impacts on distressed populations in the community...* In addition to adjusting implementation schedules, the Guidance should state that the Department will consider other innovative technologies and solutions and allow sequencing of environmental capital projects where necessary to reduce economic impacts.

D. Criteria 6 - *An assessment of factors set forth in the United States Environmental Protection Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards.* The Guidance should include reference to section 644.145 and state as follows: "Prescriptive formulas and measures used in determining financial capability, affordability, and thresholds for expenditure, such as median household income, should not be considered to be the only indicator of a community's ability to implement control technology and shall be viewed in the context of other economic conditions rather than as a threshold to be achieved."

² Section 644.145.2(1), RSMo.

³ A point at which the cost of controlling the marginal level of discharge increases rapidly and returns to the environment diminish rapidly per dollar spent.

The City would gladly provide its comments in the form of a redlined document at the Department's request. We appreciate the Department's consideration of these important issues. Please contact me at (573) 686-8003 with any questions.

BEST REGARDS,

A handwritten signature in black ink that reads "Bill Bach". The signature is written in a cursive style with a large, prominent initial "B".

Bill Bach
General Manager