



Determination Regarding Applicability of Presumptive Beneficial Uses

Review and final determinations for the Centralia Land Application site as requested by the City of Centralia on June 22, 2017.

Purpose

The Missouri Department of Natural Resources is providing this determination in response to a request submitted by the City of Centralia. The submittal requested that the Watershed Protection Section (WPS) examine the applicability of presumptive beneficial uses for stream segments with water body identification number (WBID) 3960 within the Scattering Branch-Long Branch and Goodwater Creek watersheds, which flow through land application site permitted features (PF) #007, #008, #013, and #015 associated with the Centralia Wastewater Treatment Facility (WWTF) (Missouri State Operating Permit MO-0028789). These segments are designated with presumptive beneficial uses as part of the Missouri Use Designation Dataset (MUDD). The city requested the WPS examine and remove, as appropriate, presumptive beneficial uses designated to these segments as a result of the 2014 Water Quality Standards (WQS) rule.

This document is intended to communicate the process and supporting information used to determine the removal or retention of presumptive beneficial uses of surface water features. The information in this document will also be included in a future, proposed amendment to 10 CSR 20-7.031, which will be submitted to the U.S. Environmental Protection Agency (EPA), to communicate revisions to the MUDD. Consequently, any proposed revisions to the MUDD are not effective for federal Clean Water Act purposes until the proposed amendment is accepted by the Missouri Clean Water Commission and approved by the EPA.

Regulatory Responsibilities

The Missouri Clean Water Law¹ and Missouri's WQS regulation² describe actions the Department is required to take in response to petitions requesting examination of the applicability of presumptive beneficial uses for surface water features. In addition, the federal Clean Water Act³ requires the Department to modify or adopt standards, when applicable, as part of a triennial review of Missouri's WQS.

Specifically, Missouri's WQS require the Department to make a written determination regarding the applicability of presumptive beneficial use protections under Missouri Clean Water Law after it receives a request containing reasonable evidence to review if a surface water feature can support its presumptive beneficial uses. The Department will propose applicable revisions to the MUDD in the first available triennial review following a written determination.

Missouri's WQS regulation provides the basis the Department uses to determine which surface water features receive presumptive beneficial uses and are included in the MUDD. According to rule at 10 CSR 20-7.031(2)(A), the following surface water features are designated with presumptive beneficial uses as defined in regulation:

1. All perennial rivers and streams;
2. All streams with permanent pools;

¹ Missouri Clean Water Law, <http://revisor.mo.gov/main/ViewChapter.aspx?chapter=644>

² 10 CSR 20-7.031 Water Quality Standards, <https://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c20-7a.pdf>

³ Clean Water Act, <https://www.govinfo.gov/content/pkg/USCODE-2017-title33/html/USCODE-2017-title33-chap26.htm>

3. All rivers and streams included within the 1:100,000 scale National Hydrography Dataset (1:100K NHD) described at 10 CSR 20-7.031(1)(S); and
4. All lakes and reservoirs that intersect the flow lines of rivers and streams identified in 1 through 3 above.

The Department may propose the removal of presumptive beneficial uses and removal from the MUDD for certain surface water features if reasonable evidence indicates that any of the criteria outlined at 10 CSR 20-7.031(2)(D)3. are met –

3. Assuming reasonable evidence, presumptive beneficial use protections described above shall not apply to water bodies without designated uses pursuant to Tables G or H prior to November 6, 2013 that meet one of the following criteria:

A. Waste treatment systems, or prior converted cropland, which are excluded from the federal definition of “waters of the United States” under 40 CFR 122.2; or

B. Man-made structures which were constructed solely to treat or convey wastewater; or

C. Man-made bodies of water or structures which lack perennial flow and were constructed to treat, convey, or temporarily hold or slow stormwater following precipitation events (this may include certain structures associated with Best Management Practices such as sediment basins, wet and dry detention basins, bioretention basins, rain gardens, bioswales, etc.); or

D. Water bodies that lack jurisdiction under the federal Clean Water Act or Missouri Clean Water Law.

Review

The WPS conducted a review of the requested WBID 3960 segments that flow through Centralia’s WWTF PF #007, #008, and #013 within the Scattering Branch-Long Branch watershed and PF #015 within the Goodwater Creek watershed to determine if the water features support their presumptive beneficial uses or meet the removal criteria at (2)(D)3.D. Reasonable evidence includes correspondence with the city of Centralia detailing the site, satellite imagery of the site, and photos received from the city’s consultant. A WPS field investigation was conducted as well on August 23, 2017. These sources of information and evidence form the basis of the review for the WBID 3960 segments within the Scattering Branch-Long Branch and Goodwater Creek watersheds.

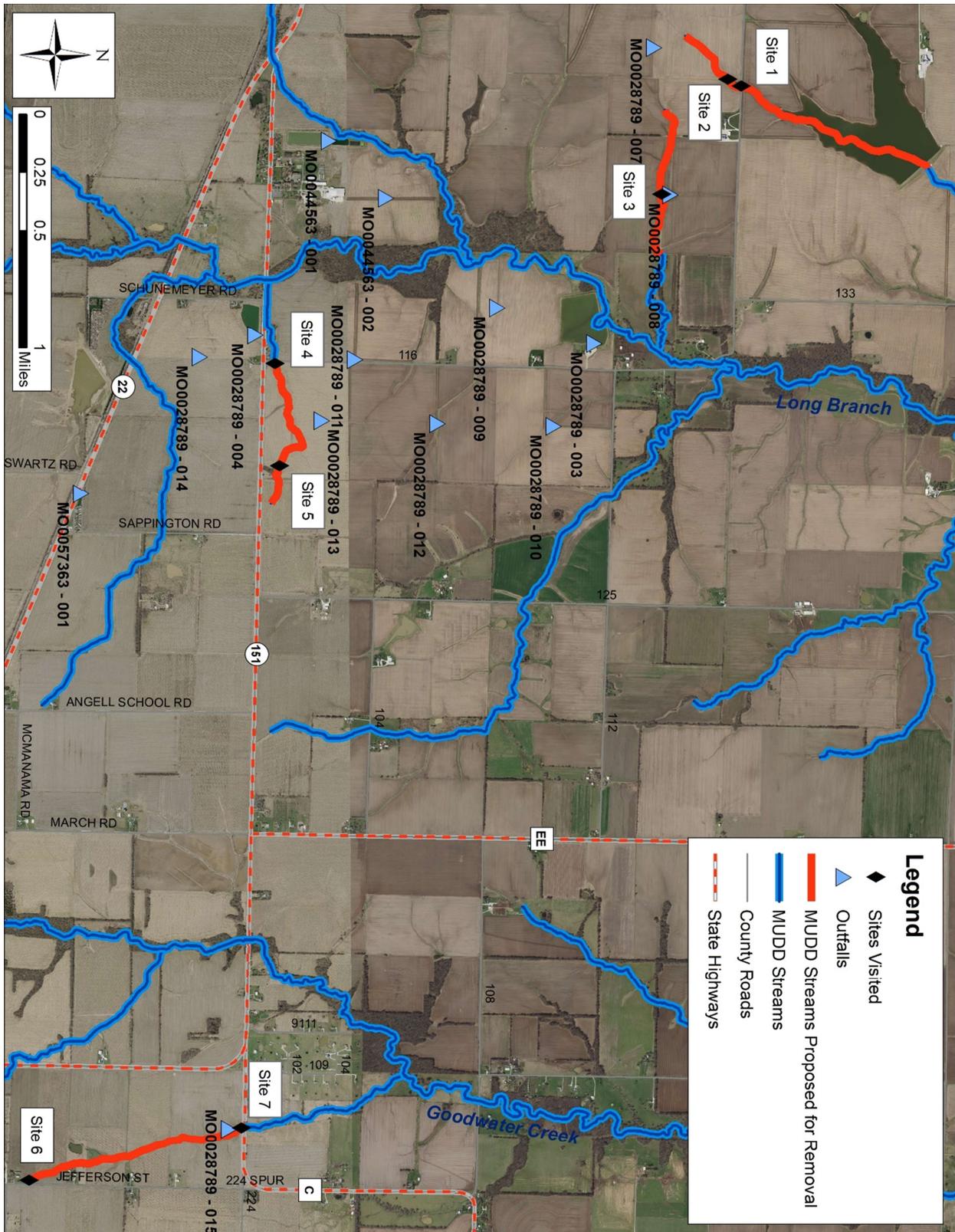


Fig. 1. Map of field investigation sites and streams proposed for removal of presumed uses.

Findings

Sites 1 and 2 – Stream Segment (WBID 3960) Crossing County Road (CR) 116 at PF #007

The MUDD segment that flows through PF #007 was reviewed during the field investigation and it was determined that there is not a discernible channel or stream in the location of the depicted flowline at Sites 1 and 2 (Figure 2), and does not support aquatic life uses. There also appears to be no discernible channel or stream downstream of Site 1 leading to an unclassified lake. The Department concluded that the stream segment at these sites is exempt from “waters of the United States” at 40 CFR 122.2 as a lawfully constructed grassed waterway and meets the exemptions found in state regulation at 10 CSR 20-7.031(2)(D)3.D. Presumptive beneficial uses will be removed for this segment until immediately downstream of the unclassified lake.



Fig. 2. Site 1 downstream at CR 116 (left) and Site 2 downstream towards CR 116 (right).

Site 3 – Stream Segment (WBID 3960) Impacting PF #007 and #008

The MUDD segment that flows through PF #007 and #008 was reviewed during the field investigation and it was determined that there is not a discernible channel or stream in the location of the depicted flowline at Site 3 (Figure 3), and does not support aquatic life uses. The Department concluded this site is exempt from “waters of the United States” at 40 CFR 122.2 as a lawfully constructed grassed waterway and meets the exemptions found in state regulation at 10 CSR 20-7.031(2)(D)3.D. Presumptive beneficial uses will be removed for this segment.



Fig. 3. Upstream (left) and downstream (right) view at Site 3.

Sites 4 and 5 – Stream Segment (WBID 3960) Crossing County Road 116 at PF #013

The MUDD segment that flows through PF #013 was reviewed during the field investigation and it was determined that there is not a discernible channel or stream in the location of the depicted flowline at Sites 4 or 5 (Figures 4 and 5, respectively), and does not support aquatic life uses.

The Department concluded that the stream segment at these sites is exempt from “waters of the United States” at 40 CFR 122.2 as a lawfully constructed grassed waterway and meets the exemptions found in state regulation at 10 CSR 20-7.031(2)(D)3.D. Presumptive beneficial uses will be removed for this segment.



Fig. 4. Upstream (left) and downstream (right) view at Site 4 near CR 116.



Fig. 5. Downstream view at Site 5 towards PF #013.

Sites 6 and 7 – Stream Segment (WBID 3960) Crossing Sate Highway C at PF #015

The MUDD segment that flows through PF #015 was reviewed during the field investigation and it was determined that there is not a discernible channel or stream in the location of the depicted flowline at Sites 6 or 7 (Figures 6 and 7), and does not support aquatic life uses. The Department concluded that the upstream portion of this stream segment at Site 6 is exempt from “waters of the United States” at 40 CFR 122.2 as an ephemeral feature that does not meet the definition of tributary, or a non-wetland swale, and meets the exemptions found in state regulation at 10 CSR 20-7.031(2)(D)3.D. The Department concluded that the stream segment further downstream at Site 7 is exempt from “waters of the United States” at 40 CFR 122.2 as a lawfully constructed grassed waterway and meets the exemptions found in state regulation at 10 CSR 20-7.031(2)(D)3.D. Presumptive beneficial uses will be removed for this segment.



Fig. 6. Upstream (left) and downstream (right) view at Site 6.



Fig. 7. Upstream (left) and downstream (right) view at Site 7.

Determinations

The WPS' determinations are as follows:

Per 10 CSR 20-7.031(2)(D)3.D., shorten the segment impacting the land application site PF #007 (Sites 1 and 2) (Figure 1) with presumptive beneficial uses, presented as 8-20-13 MUDD V1.0 (WBID 3960):

- Shorten the stream feature in the MUDD and its 1.5 miles that is part of the listing named "8-20-13 MUDD V1.0" in Table H. The new upstream boundary of this stream will be immediately downstream of the lake with the geographic coordinates 567830 E, 4348547 N and a new length of 0.3 miles.
- Reachcode – 07110006000821

Per 10 CSR 20-7.031(2)(D)3.D., shorten the segment impacting PF #007 and #008 (Site 3) (Figure 1) with presumptive beneficial uses, presented as 8-20-13 MUDD V1.0 (WBID 3960):

- Shorten the stream feature in the MUDD and its 1.2 miles that is part of the listing named "8-20-13 MUDD V1.0" in Table H. The new upstream boundary of this stream will be immediately downstream of the PF #008 land application field with the geographic coordinates 568420 E, 4346714 N and a new length of 0.6 miles.
- Reachcode – 07110006000823

Per 10 CSR 20-7.031(2)(D)3.D., shorten the segment impacting PF #013 (Sites 4 and 5) (Figure 1) with presumptive beneficial uses, presented as 8-20-13 MUDD V1.0 (WBID 3960):

- Shorten the stream feature in the MUDD and its 1.1 miles that is part of the listing named "8-20-13 MUDD V1.0" in Table H. The new upstream boundary of this stream will be immediately downstream of the County Road 116 crossing with the geographic coordinates 569152 E, 4344050 N and a new length of 0.4 miles.
- Reachcode – 07110006000829

Per 10 CSR 20-7.031(2)(D)3.D., shorten the segment impacting PF #015 (Sites 6 and 7) (Figure 1) with presumptive beneficial uses, presented as 8-20-13 MUDD V1.0 (WBID 3960):

- Shorten the stream feature in the MUDD and its 1.7 miles that is part of the listing named "8-20-13 MUDD V1.0" in Table H. The new upstream boundary of this stream will be immediately downstream of the State Highway C crossing with the geographic coordinates 574419 E, 4343849 N and a new length of 0.8 miles.
- Reachcode – 07110006000876

If you were adversely affected by this decision, you may be entitled to pursue an appeal before the administrative hearing commission pursuant to Section 621.250, RSMo. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.

Those interested in the spatial data or other information used in this review may request a copy of the administrative record by contacting the Department of Natural Resources, Water Protection Program, Attn: WQS Coordinator, P.O. Box 176, Jefferson City, MO 65102 or by email at wqs@dnr.mo.gov. This information is also available upon request under Missouri's Sunshine Law. Any request for information will be processed in accordance with Missouri's Sunshine Law (Chapter 610, RSMo) and the Department's administrative policies and procedures governing Sunshine Law requests. To submit a request, or to learn more about open record/Sunshine requests, please consult the Department's website at dnr.mo.gov/sunshinerequests.htm.

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