



# Determination Regarding Applicability of Presumptive Beneficial Uses

Review and final determinations for the Springfield Sanitary Landfill as requested by the City of Springfield on August 14, 2017.

## **Purpose**

The Missouri Department of Natural Resources is providing this determination in response to a request submitted by the City of Springfield. The submittal requested that the Watershed Protection Section (WPS) examine the applicability of presumptive beneficial uses for a tributary to North Dry Sac River water body identification number (WBID) 3960, which flows through the Springfield Sanitary Landfill (Missouri State Operating Permit MO-0106658). The City of Springfield requested the WPS examine and remove, as appropriate, presumptive beneficial uses designated to these water bodies 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 Missouri Use Designation Dataset (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 Law<sup>1</sup> and Missouri's WQS regulation<sup>2</sup> 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 Act<sup>3</sup> 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;
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

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

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

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

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**

At the request of the City of Springfield, the WPS reviewed the tributary to North Dry Sac River (WBID 3960) that flows through the Springfield Sanitary Landfill to determine if the water features support their presumptive beneficial uses and meet the removal criteria at (2)(D)3.A. and D. Reasonable evidence includes correspondence with the City of Springfield detailing the site, satellite imagery, historic topographic maps, and parcel data. A WPS field investigation was conducted as well on October 26, 2017 to investigate the site and the landfill’s three permitted outfalls. These sources of information and evidence form the basis of the review for the tributary to North Dry Sac River.

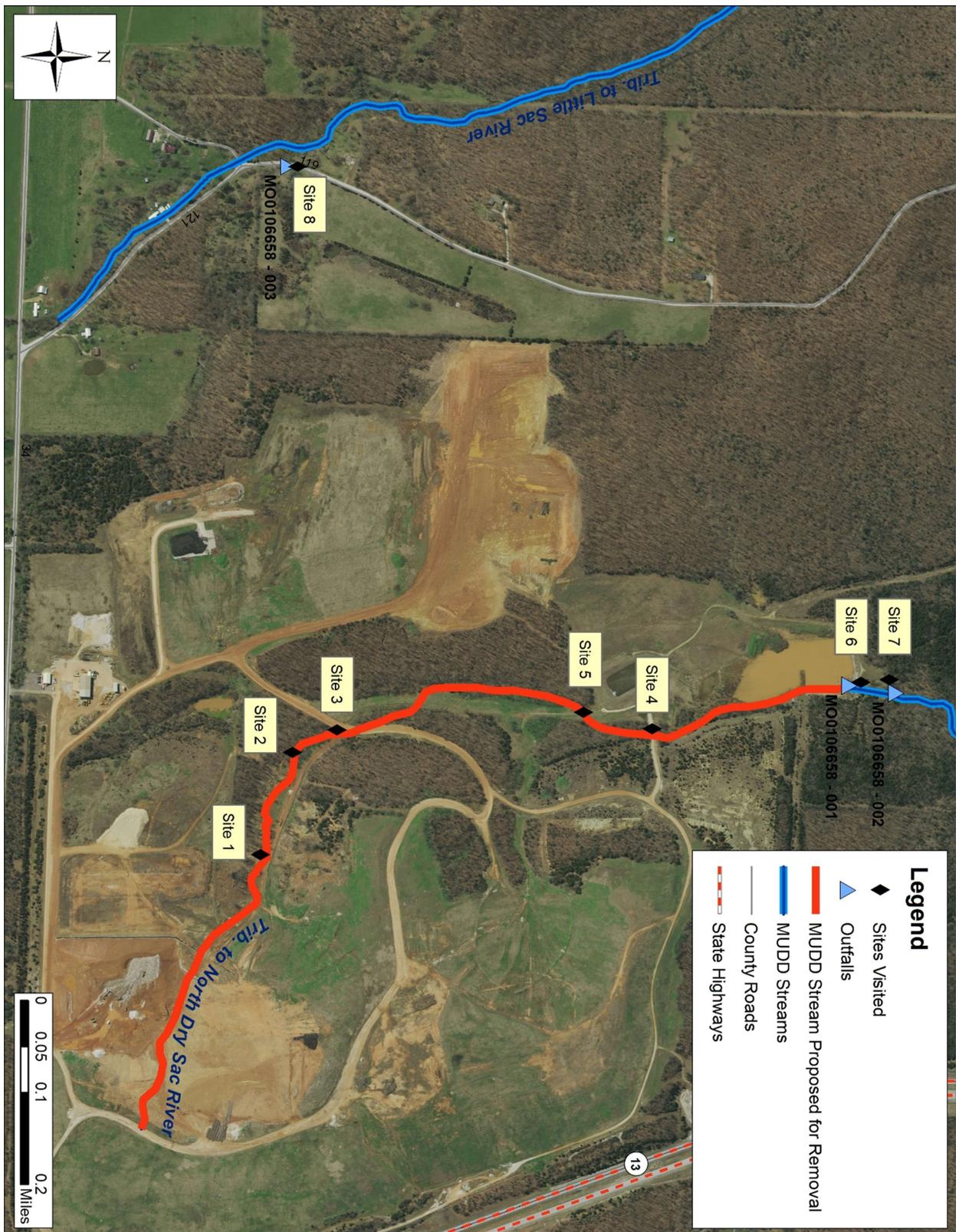


Fig. 1. Springfield Landfill Map.

## Findings

### Tributary to North Dry Sac River (WBID 3960)

The tributary to North Dry Sac River that flows through the Springfield Sanitary Landfill was reviewed during the field investigation and it was determined that there is no longer a discernible natural channel or stream in the location of the depicted flowline upstream of Outfall #001 at Site 6 (Figure 1), and does not support aquatic life uses. The segment of the depicted flowline upstream of Site 1 is now buried under the landfill (Figure 2). The Department concluded that the segment at sites 1 -4 conveys wastewater from the landfill to a sedimentation basin immediately upstream of Outfall #001 and meets the exemptions as a waste treatment system found in state regulation at 10 CSR 20-7.031(2)D)3.A. Using aerial imagery and parcel information, along with pictures taken from the site visit (Figures 2-9), the Department concluded that the segment also lacks jurisdiction under the Missouri Clean Water Law. Under Missouri Clean Water Law, jurisdictional Waters of the State are defined as waters not entirely confined and located completely upon lands owned by one landowner. Due to the fact that this segment is entirely located upon land owned by the City of Springfield and disconnected from downstream waters by the sedimentation basin, this segment is not a Waters of the State and, therefore, 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 entire segment, upstream of Outfall #001.



**Fig. 2. Upstream (left) and downstream (right) view at Site 1.**



**Fig. 3. Upstream (left) and downstream (right) view at Site 2.**



**Fig. 4. Upstream (left) and downstream (right) view at Site 3.**



**Fig. 5. Upstream (left) and downstream (right) view at Site 4.**



**Fig. 6. Downstream view at Site 5.**



**Fig. 7. Upstream (left) and downstream (right) view at Site 6 (Outfall #001).**



**Fig. 8. Upstream (left) and downstream (right) view at Site 7 (Outfall #002).**



**Fig. 9. Upstream view (left) and Outfall marker (right) at Site 8 (Outfall #003).**

## **Determinations**

The WPS' determinations are as follows:

Per 10 CSR 20-7.031(2)(D)3.A. and D., shorten the segment of the tributary to North Dry Sac River (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 3.5 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 at Outfall #001, immediately downstream of the sedimentation basin with the geographic coordinates 468297 E, 4138729 N and a new length of 2.3 miles.
- Reachcode – 10290106001212

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](mailto: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](http://dnr.mo.gov/sunshinerequests.htm).

**Date Completed:** October 31, 2019

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