

1                   BEFORE THE CLEAN WATER COMMISSION  
2                   DEPARTMENT OF NATURAL RESOURCES  
3                   STATE OF MISSOURI

4  
5                   MEETING OF:

6  
7                   JULY 1, 2009

8  
9                   CONDUCTED BY:

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11                  CHAIRMAN RON HARDECKE

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## 1 P R O C E E D I N G S

2 CHAIRMAN HARDECKE: At my right is Sam Hunter from  
3 Sikeston, Frank Shorney from Lees Summit, and Jan  
4 Tupper from Joplin, Todd Parnell will be  
5 participating on the phone. He's from Springfield.  
6 And Bill Easley is from Cassville.

7 And on my left is Earl Pabst the acting director  
8 of staff for the Commission and the Water  
9 Protection Program and also deputy director of the  
10 Division of Environmental Quality, next is Jennifer  
11 Frazier the legal counsel to the Commission and  
12 Malinda Overhoff, secretary to the Commission.

13 So I want to take -- thank each of you for  
14 taking time to come to the meeting today and we'll  
15 begin with the hearing --

16 MR. PABST: Mr. Chairman?

17 CHAIRMAN HARDECKE: Yes.

18 MR. PABST: If I may, I'd like to also recognize, I  
19 believe, Davis Minton is here who is from the  
20 director's office, Department director's office and  
21 Gary Gaines our regional director from Southeast  
22 Regional Office is here and maybe perhaps some of  
23 Gary's staff as well.

24 MR. GARY GAINES: Thank you, Earl. Let me introduce  
25 Tim Mattingly our staff person from our Madison

1 County Satellite Office in Fredericktown.

2 MR. PABST: Thanks, Gary.

3 CHAIRMAN HARDECKE: Okay. Thank -- thank you for  
4 coming. Todd, are you on the phone?

5 (No response.)

6 CHAIRMAN HARDECKE: I don't guess he's gotten on yet.

7 We'll begin with **Tab No. 1 as a public hearing**  
8 **on proposed rulemaking 10 CSR 20-6.010, Construction**  
9 **and Operating Permits.** The Commission will begin the  
10 public hearing on the proposed amendment to 10 CSR  
11 20-6.010, Construction and Operating Permits.

12 These rule changes were published for public  
13 comment in the Missouri Register, Volume 34, Number  
14 8, on April 15th, 2008. The purpose of this public  
15 hearing is to provide the Department opportunity to  
16 present testimony and to provide an opportunity for  
17 the public to provide comments on this proposed  
18 rulemaking.

19 The public hearing is not a forum for debate or  
20 resolution of issues. The Commission asks that  
21 those commenting limit their testimony to five  
22 minutes and not to repeat that -- not repeat comments  
23 that have already been made.

24 The Commission will first hear testimony from  
25 the Department following the Department's testimony

1 the Commission will give the public an opportunity to  
2 comment. We ask that all individuals present fill  
3 out an attendance card so our records are complete.  
4 If you wish to present verbal testimony, please,  
5 indicate that on your attendance card.

6 The Commission is holding this hearing to assist  
7 the public in commenting on the proposed rulemaking.  
8 The public comment period will close on July 8th,  
9 2009, at 5:00 p.m.

10 When you come forward to present testimony,  
11 please, speak into the microphone and begin by  
12 identifying yourself to the court reporter. I'd ask  
13 the court reporter to swear in those wishing to give  
14 testimony. All those, please stand.

15 (Public Hearing heard in regards to Proposed  
16 Amendment 10 CSR 20-6.010, Construction and Operating  
17 Permits, presented by John Rustige, Permits and  
18 Engineering, transcribed by Ms. Wanda Greenlee of  
19 Midwest Litigation Services, 3095 Lexington, Suite  
20 300, Cape Girardeau, Missouri, 63701. Transcript of  
21 the public hearing proceedings will be found in a  
22 separate transcript provided by Ms. Wanda Greenlee.)

23 CHAIRMAN HARDECKE: The Commission will receive  
24 written testimony on these -- these proposed rule  
25 changes until 5:00 p.m. on July 8th, 2009. You may

1 submit this written testimony to John Rustige,  
2 Missouri Department of Natural Resources, Water  
3 Protection Program, P.O. Box 176, Jefferson City,  
4 Missouri prior to that deadline.

5 On behalf of the Commission I thank everyone who  
6 has participated in this process. This hearing is  
7 now closed.

8 Okay.

9 We'll move to **Tab No.2**; is another public  
10 hearing. The Commission will begin a **public hearing**  
11 **on proposed rule changes to the storm water**  
12 **regulations in 10 CSR 20-4.061**. These rule changes  
13 were published for comment in the Missouri Register,  
14 Volume 34, Number 8, on April 15th, 2009.

15 The purpose of this public hearing is to provide  
16 the Department opportunity to present testimony and  
17 to provide both the Department and the public the  
18 opportunity to comment on this proposed rulemaking.

19 The public hearing is not a forum for debate or  
20 resolution of issues. The Commission asks that the  
21 testimony be brief and to the point. The Commission  
22 will first hear testimony from the Department following the  
23 Department's testimony the Commission will give the  
24 public an opportunity to comment.

25 We ask that all individuals present -- present

1 fill out an attendance card so our records are  
2 complete. If you wish to present verbal testimony,  
3 please, indicate that on your attendance card.

4 The Commission is holding this hearing to assist  
5 the public on commenting on the proposed rulemaking.  
6 Public comment period will close on July 8th, 2009, at  
7 5:00 p.m. When you come forward to present  
8 testimony, please, speak into the microphone and  
9 begin by indentifying yourself to the court reporter.

10 The court reporter will now swear in, anyone  
11 wishing to testify at this public hearing before the  
12 Clean Water Commission, today. All those wishing to  
13 provide testimony, please, stand.

14 (Public Hearing in regards to Propose Amendments 10  
15 CSR 20-4.061, Storm Water Grant and Loan Regulations,  
16 Joe Boland, Financial Assistance Center, transcribed  
17 by Ms. Wanda Greenlee of Midwest Litigation Services,  
18 3095 Lexington, Suite 300, Cape Girardeau, Missouri,  
19 63701. Transcript of the public hearing proceedings  
20 will be found in a separate transcript provided by  
21 Ms. Wanda Greenlee.)

22 CHAIRMAN HARDECKE: The Commission will receive  
23 written testimony on these proposed rule changes  
24 until 5:00 p.m. on July 8th, 2009. You may submit  
25 this written testimony Richard A. Harris, Missouri

1 Department of Natural Resources, Water Protection  
2 Program, P.O. Box 176, Jefferson City, Missouri,  
3 prior to that deadline.

4 On behalf of the Commission I thank everyone who  
5 has participated in this process. This hearing is  
6 now closed.

7 Okay. Next on the agenda is **Tab No. 3**, the  
8 minutes from the last meeting. I'd entertain a  
9 motion for approval of the minutes. That was the  
10 **June 10th, 2009**, meeting.

11 **COMMISSIONER HUNTER:** I move the minutes be  
12 approved.

13 **COMMISSIONER EASLEY:** Second.

14 **CHAIRMAN HARDECKE:** Malinda, you want to take the  
15 vote?

16 **MS. MALINDA OVERHOFF:** Commissioner Easley?

17 **COMMISSIONER EASLEY:** Yes.

18 **MS. MALINDA OVERHOFF:** Commissioner Shorney?

19 **COMMISSIONER SHORNEY:** Yes.

20 **MS. MALINDA OVERHOFF:** Commissioner Tupper?

21 **COMMISSIONER TUPPER:** Yes.

22 **MS. MALINDA OVERHOFF:** Commissioner Parnell?

23 (No response.)

24 **MS. MALINDA OVERHOFF:** Commissioner Hunter?

25 **COMMISSIONER HUNTER:** Yes.

1 **MS. MALINDA OVERHOFF: Chair Hardecke?**

2 **CHAIRMAN HARDECKE: Yes.**

3 Okay. **Tab No. 4.**

4 MR. JOHN HOKE: Thank you, Chairman Hardecke. Good  
5 morning. My name is John Hoke. I'm a unit chief in  
6 the Water Quality Monitoring and Assessment Section.  
7 I'm pleased to present to you, this morning, the  
8 details of the efforts of the Department on the  
9 State's Water Quality Standard Rule at 10 CSR 20-  
10 7.031 and to go over comments and responses that --  
11 to the draft rule that was published in the  
12 Missouri Register on March 2nd 2009.

13 There's a public comment period that ensued, the  
14 Department received 52 comments, which is a  
15 correction from what's in your packet. We missed one  
16 and we received those comments from 14 sources, which  
17 was one less and that is also in your packet. One of  
18 the commenter's was counted twice in that count, so -  
19 -

20 A public hearing was held on May 6th, 2009, to  
21 gather more comments and then the public comment  
22 period ended on May 13th, 2009. What I'd like to do  
23 today is briefly go through the ten comments that  
24 resulted in changes to the rule that was published in the  
25 Missouri Register -- as well as the comment -- as well as the



1 Department's responses to those comments.

2           And at the end I'll be happy to answer any  
3 questions that you may have and ask for your  
4 approval for the final order of rulemaking for staff  
5 to file that with the Secretary State's Office and  
6 the Joint Committee on Administrative Rules.

7           If you turn to Page 41 in your  
8 packet, Comment No. 8, on ammonia criteria; the  
9 United States Environmental Protection Agency both in  
10 writing and at the public hearing made a comment to  
11 the effect that the ammonia criteria that the Department  
12 was proposing in the rule were based on  
13 criteria that was formulated back in 1999 by the EPA  
14 and that they were in consultation with the Fish and  
15 Wildlife Service to revise that criteria because it  
16 was determined that the criteria were not protective  
17 of sensitive mussel species in riverine  
18 systems.

19           They issued a memo to all states that were  
20 implementing or planning on adopting this criteria  
21 recommending that they wait to implement or adopt  
22 this criteria until such time as EPA and Fish and  
23 Wildlife Service came up with a new criteria.  
24 So as a result of that comment the Department's  
25 withdrawing its proposed revisions on the ammonia criteria

1 and removing that section from the rule and reverting  
2 back to what was originally in the rule prior to  
3 these changes.

4 The second comment that resulted in changes on  
5 Page 42, Comment 12; the EPA submitted a number of  
6 comments on recreational designated use changes that  
7 the Department was proposing. This is one of a few -  
8 - of a few comments that they had. They had a  
9 general comment about -- on the data that were collected  
10 for the UAAs. Predominately when the Department  
11 consider recreational UAAs, we consider data that was  
12 gathered using the protocol that was approved by the  
13 Commission in 2007, which was a very structured and  
14 scientific approach to gathering that depth data.

15 EPAs comment, though, was that because the  
16 criteria in the Recreational Use Attainability  
17 Protocol contains a maximum depth criterion that all  
18 data that was collected, provided it was collected on  
19 the right conditions provided was collected in a  
20 structured manner, should be considered and they  
21 named about 16 water bodies, I believe, that had  
22 maximum depth did -- depth data that was greater than  
23 1 meter.

24 So in response to that comment the Department  
25 went back and looked at those 16 waters and kind of

1 had litmus test of going through and looking  
2 at those waters in determining whether or not those  
3 data were, Number one, collected in a scientific  
4 manner meaning it was a measured value not an  
5 observed value from say like bridge crossings or  
6 something of that nature.

7       That the -- that the measurement was collected  
8 during appropriate conditions meaning base flow  
9 conditions in the water not during high flows, not  
10 during -- or after rainfall events. And checking  
11 that rain- -- checking the rainfall events that were  
12 provided in the UAA to make sure that they were  
13 accurate and we went back and reviewed not only NOAA  
14 Data but the National Climatic Data Center to make  
15 sure the precipitation numbers were right.

16       And then to make sure, thirdly, that the  
17 location was not taken at a hydrologic anomaly  
18 meaning behind a beaver dam or someplace like that  
19 where it was a temporary pooling of water that might  
20 have been a meter but then after the next storm event  
21 it would be washed out and moved down.

22       After reviewing that data the Department  
23 determined that 13 of those water body segments had  
24 depth during those surveys that were sufficient to  
25 attain whole body contact so we're recommending that

1 the whole body contact use be added back to those  
2 water bodies.

3 For those -- it met the criteria, the  
4 depth was -- the depth data were measured, it was  
5 during a base flow condition, it was not immediately  
6 after a rainfall event that would elevate the  
7 -- the water body and it was not collected in a place  
8 where it was anomalous for the water body segment as  
9 a whole.

10 Three of those water bodies though we did look  
11 at the data and we affirmed our conclusion that  
12 the data were not -- were representative that we had  
13 in the later surveys that the data collected during  
14 the earlier surveys was not representative. So we  
15 affirmed our recommendation to remove the use for  
16 those -- for those water bodies where we thought that  
17 the data didn't bare it out.

18 The second comment from EPA is Comment No. 15 on  
19 Page 44. There were a number of waters that EPA said  
20 that the UAs failed to successfully rebut the  
21 presumption of a swimmable water body based on  
22 the data collected. A number of these waters were  
23 actually waters that were included in the previous  
24 comment meaning that they had depth readings greater  
25 than a meter and that we had failed to look at those

1 for Use Attainment.

2 So a number of those waters kind of fell in the  
3 same category as the previous comment and so since we  
4 already done the analysis that was an easy comment to  
5 reconcile and we recommend it where the data  
6 was appropriate that the depth was met and the use  
7 use be restored.

8 There were a few waters, however, where we did  
9 not have enough data to successfully rebut the  
10 presumption and under the Clean Water Act it's a  
11 rebuttal presumption so it must be applied until it's  
12 rebutted by a structured scientific assessment called  
13 a UAA. We did restore the whole body contact use a  
14 default to those water bodies. However, we do have  
15 UAAs that were conducted on those waters and we do  
16 have data in-house that will review and analyze for  
17 those waters where we restored that default use. And  
18 any changes as a result of those UAAs would be  
19 forthcoming in the next triennial review of the Water  
20 Quality Standards.

21 EPA's next comment is Comment No. 16 on Page 45.  
22 There are a number of waters where EPA required some  
23 clarification for the Department to substantiate the  
24 removal of whole body contact. The clarification  
25 usually had to do with how the protocol was used in

1 making that determination for that water or how the  
2 data were collected.

3       We re-visited a lot of those -- those  
4 recreational UAs for those waters and when we felt  
5 there was sufficient information to confirm our  
6 recommendation we provided a ration- -- rational for  
7 EPAs consideration. However, were we felt sufficient  
8 information existed to revise the recommendation, we  
9 also did that. And those waters are listed  
10 in that table.

11       Comments No. 19 and 20 on Page 48. Both deal  
12 with Maline Creek in St. Louis City and St. Louis  
13 County. We received two comments on that water body,  
14 one, was from Washington University, Environmental  
15 Law Clinic on behalf of the Grace Settlement  
16 House asking that we look at depth data from the  
17 2005/2006 surveys 'cause it had a meter depth.

18       This was one of the water bodies that EPA asked  
19 us to look at and we did confirm that it had the --  
20 the sufficient depth for whole body contact and  
21 recommended adding the whole body contact to that  
22 water body.

23       We also received a comment from the St. Louis  
24 Metropolitan Sewer District that indicated there was  
25 a lower-water dam on Maline Creek down towards the

1 mouth that, basically, hydrologically modified the  
2 water such that below the dam it was sheet flow  
3 water. It did not obtain depths in any of the  
4 surveys that were taken back in '05/'06 and  
5 subsequent to that did not contain the depth  
6 sufficient for whole body contact.

7 And MSD's recommendation was to remove whole  
8 body contact from that -- below that low-water dam  
9 but have whole body contact above the dam where it  
10 was -- was attaining the whole body contact depth.  
11 So in essence the Department sub-segment that water  
12 body.

13 We reviewed all the data and -- and that  
14 conclusion bared out so what we're recommending in  
15 the rule is whole body contact and secondary contact  
16 recreation above that low-water dam and only  
17 secondary contact below -- down from the low-water  
18 dam down to the -- down to the mouth. We fill the  
19 data bares that out and it's in accordance with the -  
20 - with the UA protocol.

21 Lastly, on the UAAs at the end of Comment No. 24  
22 on Page 50; it's kind of summary table of all the  
23 changes that were made as a result of the Use  
24 Attainability Analysis. In addition to those  
25 comments received by EPA and -- and Wash U, there

1 were a couple comments received from the public  
2 during the public notice of the  
3 proposed rule. And we restored whole body contact  
4 based on comments of existing use on Raccoon Creek in  
5 Grundy County and Wolf Creek right here in Cape  
6 Girardeau County.

7 We had comments that we substantiated via staff  
8 following up with all of the comments that were made  
9 and confirming that those uses do actually exist. So  
10 we are recommending that those whole body contact  
11 uses be added.

12 The next comment is Comment No. 25 on Page 51.  
13 Site specific DO criteria for West Fork Sni-A-Bar and  
14 Sni-A-Bar creeks, the Department's been working with  
15 EPA and the City of Blue Springs on the site specific  
16 criteria for this water body. The City of Blue  
17 Springs revised their petition for site specific DO  
18 criteria and requested a number of changes that are  
19 detailed on Page 51.

20 The Department accepts those suggested  
21 revisions and made them to Table K in the proposed  
22 rule. In addition the Department, as a kind of  
23 response, indicates remove the proposed sites to the  
24 criteria for West Fork Sni-A-Bar as this segment is  
25 above the point where effluent from the City of Blue



1 Springs facility would enter. So we didn't -- we  
2 felt that that site specific criteria was not needed  
3 in that -- for that part of the segment.

4       There were a number of comments that  
5 kind of take up some space in the Commission packet  
6 on nutrient criteria from the Environmental --  
7 Environmental Protection Agency. After reviewing  
8 these comments and after providing responses it's the  
9 staff's belief that these comments from EPA were not  
10 a challenge to the criteria that are proposed  
11 in the advanced rule -- or the proposed rule. Sorry.

12       But rather that the comments were more of a  
13 clarification and more of a documentation for their  
14 administrative records so that when they act upon the  
15 rule they'll have a complete record of the  
16 Department's rational and justification for the  
17 processes and the procedures in the criteria that  
18 we're proposing.

19       So we felt that wasn't a challenge to the  
20 veracity of our -- of our work, but more for their  
21 purposes to document how we got to where we got on  
22 this criteria.

23       Specifically, however, we did receive a comment  
24 from EPA, Comment No. 45 on Page 65; total  
25 phosphorous criteria contributory arms of major

1 reservoirs. An early version of this table, Table N,  
2 was inadvertently included in the proposed rule that  
3 had values that had not been calculated or  
4 substantiated. So we replaced this earlier version  
5 with one that only includes criteria for reservoirs  
6 where sufficient data were available to calculate  
7 total phosphorous criteria. So that table  
8 is shortened significantly down to only Lake of the  
9 Ozarks and Table Rock Lake.

10         However, as more data become available for other  
11 reservoirs we will consider that data and modify  
12 those -- include new criteria for those reservoirs in  
13 subsequent triennial reviews of the Water Quality  
14 Standards.

15         The last comment that changed the rule  
16 was Comment No. 50 on Page 67; data requirements for  
17 calculating nutrient concentration. EPA comments  
18 regarding the minimum data requirements for actually  
19 calculating nutrient concentrations for total  
20 phosphorous, total nitrogen and chlorophyll in  
21 reservoirs. In particular, the requirement in the  
22 proposed rule that four consecutive years of data be  
23 used to calculate those criteria. The Department re-  
24 wrote that portion of the rule to state that four  
25 years of data required but not necessarily from

1 consecutive years.

2           The revision also clarified that the data must  
3 be representative meaning if there were older data  
4 there were to be included in the analysis the  
5 Department would analyze that data to make sure that  
6 it was still relevant for calculation of the  
7 criteria.

8           Those are the ten comments that changed the  
9 proposed rule that went on -- went into the Missouri  
10 Register as -- in light of those changes the  
11 Department went back and investigated whether  
12 the additional costs particularly for the Use  
13 Attainability Analyses where whole body contact  
14 recreation would be added to water bodies where  
15 previously it had not had it, whether that would  
16 change the fiscal note that was included with the  
17 Regulatory Impact Report for the proposed rule.

18           We went back and ran calculations on those water  
19 bodies that have facilities that would now to  
20 disinfect as a result of that change in the rule.  
21 Using the same methodology we used to calculate the  
22 fiscal impact for the RIR and what we found was the  
23 cost was less than 10 percent for both -- for both  
24 the public and private facilities and so  
25 because it was less than 10 percent the Department

1 does not feel we need to go back and re-visit that  
2 Regulatory Impact Report. So the estimates were  
3 within 10 percent.

4 I have a copy of a memo to a file with those --  
5 with those figures that -- that Malinda can  
6 hand out.

7 We did after that after the Commission packets  
8 went out, so I apologize for the -- for the delay in  
9 getting this to you. But it basically summarizes all  
10 of the water bodies where the changes were made and  
11 for those where whole body contact was added. Some  
12 calculations on cost of insulation and disinfection,  
13 both, chlorination and ultra-violent, yearly  
14 operation and maintenance costs as well as testing  
15 costs. And the analysis that demonstrates that for  
16 both the public and private fiscal side the  
17 costs would not be more than 10 percent of the total  
18 costs proposed in the Regulatory Impact Report that  
19 you have seen previously.

20 And with that I would be happy to answer any  
21 questions you may have on any comments we received or  
22 the revised fiscal note.

23 CHAIRMAN HARDECKE: Anyone have any questions?

24 (No response.)

25 MR. JOHN HOKE: If there are no -- if there are no

1 questions, I would like to again recommend that the  
2 Commission adopt the order of rulemaking to Amendment  
3 10 CSR 20-7.031 of the Water Quality Standards and  
4 direct the Department to file that with the  
5 Secretary of State's Office and the Joint Commission  
6 (sic) -- Joint Committee on Administrative Rules.

7 CHAIRMAN HARDECKE: Have you had time to look over  
8 the additional data here and any questions on that?

9 COMMISSIONER SHORNEY: John, would you mind just reviewing  
10 the costs again.

11 MR. JOHN HOKE: Sure.

12 COMMISSIONER SHORNEY: Just so everybody kind of knows  
13 where we're headed on this thing.

14 MR. JOHN HOKE: Okay. This memorandum in the file  
15 June 12th, 2009, was -- basically the comments we  
16 received through the public notice of the proposed  
17 rule, we made some recommended designated use changes  
18 to some waters in Table H of the Water Quality  
19 Standards. For the Regulatory Impact Report we  
20 focused on those waters where we were adding whole  
21 body contact to waters that previously had not been  
22 included in the Regulatory -- previous Regulatory  
23 Impact Report. So these are the additional costs as  
24 a result of these new use changes.

25 And then we went back and used the methodology

1 and the bench marks that we used to determine the impact for  
2 the Regulatory Impact Report. So we used the same  
3 methodology that we used previously to  
4 calculate the costs.

5 And the updates for propose- -- proposed mend- -  
6 - amendment will cost public entities about 4.2  
7 million in aggregate for construction and -- of waste  
8 water treatment system upgrades, and an additional  
9 1.4 million approximately in aggregate for system  
10 operation, maintenance and reporting.

11 In regards to the original estimate, the updates to the  
12 proposed amendment recommend a 1.3% increase in construction  
13 costs and a 4.9% increase in operation and maintenance on the  
14 public side. On the private side it will cost private entities  
15 due to the additional whole body contact about 402,000 roughly in  
16 aggregate for construction of wastewater treatment facilities and  
17 282,000 roughly for operation and maintenance for those facilities.

18 In regards to the original estimate that increase for construction  
19 is also a 1.3% increase which is the same essentially as the  
20 public increase was for the construction but for operation and  
21 maintenance it was a 7.1% increase over the original estimates, so  
22 in aggregate all of those values both summed and collectively are  
23 less than 10% of the overall original costs proposed in the  
24 Regulatory Impact that you saw at previous Commission meetings.  
25 And the calculations are the 2<sup>nd</sup> attachment to that. Overall

1 there was a total of 40 facilities both public and private that  
2 would be affected that are included in those costs numbers.

3 CHAIRMAN HARDECKE: Any other questions or -- we have  
4 two cards. John Lodderhose.

5 MR. JOHN HOKE: Thank you.

6 MR. JOHN LODDERHOSE: Chairman Hardecke, thank you.

7 I'm John Lodderhose, the Assistant Director of  
8 Engineering for the Metropolitan St. Louis District.

9 Just one quick comment this morning; I wanted to  
10 express my support of classifying the lower River Des  
11 Peres for secondary contact recreation. MEC Water  
12 Resources on behalf of the MSD performed a UAA back  
13 in 2005 and it did show there is no existing or  
14 attainable whole body contact recreational uses.  
15 There's been numerous public comment periods since  
16 2005, there's no indication that there's an existing  
17 use in that lower part of River Des Peres.

18 EPA has already approved removing whole body contact  
19 recreation from the lower two-and-a-half miles and  
20 DNR's adding another 3.7 miles for secondary contact  
21 and EPA did not comment removing whole body contact  
22 in that new section. So, I think, everything's  
23 cleared for this to -- to be approved for EPA.

24 Glad to answer any questions.

25 CHAIRMAN HARDECKE: Thank you.

1 MR. JOHN LODDERHOSE: Thank you.

2 CHAIRMAN HARDECKE: Curtis Zell.

3 MR. CHRIS ZELL: Yes. My name is Chris Zell with MEC

4 Water Resources --

5 CHAIRMAN HARDECKE: I'm sorry.

6 MR. CHRIS ZELL: Well, that's fine. That's fine.

7 And I just wanted to go ahead and support John

8 Lodderhose's comments regarding the River Des Peres

9 UAA determination made by the Department.

10 If you have any questions from me regarding the

11 data collection I would be glad to address those.

12 CHAIRMAN HARDECKE: Any questions?

13 (No response.)

14 CHAIRMAN HARDECKE: Thank you.

15 MR. CHRIS ZELL: All right. Thank you very much.

16 CHAIRMAN HARDECKE: Phil?

17 MR. PHIL WALSACK: Good morning, Commissioners. Phil

18 Walsack, Missouri Public Utility Alliance. In light

19 of the fact that there's a new memo to the file MPUA

20 would love to see that memo and -- and make comment

21 on it. I understand fully that the Department

22 doesn't believe that the costs rise significantly but

23 we'd love to -- to take a look at that data and --

24 and have a second set of eyes look at that.

25 I appreciate it. Thank you very much.



1 CHAIRMAN HARDECKE: Thank you.

2 (Laughter.)

3 CHAIRMAN HARDECKE: Where's your card?

4 MR. ROBERT BRUNDAGE: It got lost in the shuffle.

5 CHAIRMAN HARDECKE: Oh. Okay.

6 MR. ROBERT BRUNDAGE: Mr. Chairman, members of the  
7 Commission, I'm Robert Brundage. I represent the  
8 City of Moberly and I wanted to express my  
9 disappointment concerning the designation of whole  
10 body contact for Sweet Spring Creek. Back in -- and  
11 I think, John, reminded me it was 2005 when we first  
12 did the -- the rulemaking on designating whole body  
13 contact and at the time the City of Moberly had  
14 conducted a UAA on Sweet Spring Creek which flows off  
15 the west side of Moberly in Randolph County and  
16 eventually empties into east fork of the Chariton  
17 River after 10 or 15 miles.

18 That UAA showed that there was -- there was  
19 depths no greater than about 1 foot, 4 inches or so,  
20 something like that. And, therefore, the Department  
21 of Natural Resources agreed that whole body contact  
22 was not attainable and recommended removing or not  
23 applying the use at the time.

24 However, due to a -- just a -- an oversight the  
25 little X in the box in the regulations was left for

1 Sweet Spring Creek instead of being erased like the  
2 Department said in their -- in their remarks that it  
3 shouldn't be there, but it accidentally got in there.

4 So after that whole body contact was applied to  
5 Sweet Spring Creek even though the UAA, at the time,  
6 said it wasn't supposed to be. So I ask that that be  
7 fixed in the next triennial review, which is what  
8 we're doing here today.

9 Subsequently EPA hired a contractor named  
10 Picket, Ray & Silver who conducted a UAA in October  
11 of 2007. I think that's correct? Yes. And at the  
12 very last site before it empties into the East Fork  
13 Locust Creek their data shows that there was a pool  
14 that had a depth greater than 1 meter. And  
15 apparently EPA pointed that out to DNR, DNR on Page  
16 45, I think, of -- in your briefing document. I have  
17 46 --

18 CHAIRMAN HARDECKE: Forty-six?

19 MR. ROBERT BRUNDAGE: Forty-six about a third of the  
20 way down, Sweet Spring Creek talks about Site 7 had  
21 sufficient depth. So apparently and EPA contractor  
22 subsequently out of, I guess, their very last site  
23 before the creek emptied into East Fork Locust Creek  
24 found 1 meter.

25 I couldn't recall the process but John -- I was

1 talking to John and he reminds me that apparently --  
2 you know, even if one site, even at the very bottom  
3 of a stream before it -- before a confluence of the  
4 next stream exceeds 1 meter then we're going to go  
5 all the way back upstream to the very head waters and  
6 call it whole body contact.

7 Now, the City of Moberly is way up at the head  
8 waters. And I was looking at the map that's in the  
9 EPA UAA and I was just eyeballing this thing so this  
10 -- but it looked liked it was 7 to 10 miles maybe  
11 from the City of Moberly down to this site where  
12 apparently more than 1 meter of water was located.  
13 And I'm looking at the map here and it's about maybe  
14 a half a mile before it empties into East Fork Little  
15 Chariton River.

16 So this is a situation where if that's -- that's  
17 what the rules are, I guess, that's what the rules  
18 are. But it's -- to me it's an inequity to call this  
19 whole stream whole body contact when there's been at  
20 least two or three UAAs done and only one location  
21 found a pool greater than 1 meter. And it's very  
22 disappointing that we're at this -- this point where  
23 I don't know if you have any other options and -- and  
24 -- you know, John Hoke, and the other Department  
25 staff may want to respond to that, but I just wanted

1 to point the kind of history of just one kind of case  
2 study and where -- and how things can fall out with  
3 this protocol that we have where in my mind it's  
4 probably not a just result to apply whole body  
5 contact to this stream, so --

6 That concludes my remarks.

7 CHAIRMAN HARDECKE: Do you want to respond, John?

8 (No response.)

9 MR. ROBERT BRUNDAGE: Oh. I forgot.

10 (Laughter.)

11 MR. ROBERT BRUNDAGE: Sorry. I did want to say  
12 something. The EPA UAA said that within 10 days  
13 prior there was 4.29 inches of rain in the watershed.  
14 John tells me that they've checked upon that  
15 subsequently and found out that it wasn't that much  
16 and I trust he's telling me the truth, but it makes  
17 you wonder about the contractor trying to report 4.29  
18 inches. And if it's supposed to be at base flow  
19 conditions; are we really sure it was base flow  
20 conditions?

21 On Page 46 or whatever, it says that from  
22 looking at the photos it appears to be at base flow  
23 condition, but do we really know the base flow  
24 condition. I don't know if we know that or not  
25 'cause if it wasn't then we shouldn't take into

1 account these readings if there was some kind of  
2 rainfall where it was above base flow conditions at  
3 the date that the data was collected.

4 MR. JOHN HOKE: Thank you.

5 After discussions with Robert, earlier this  
6 morning, I kind of did some fact checking. The --  
7 the 2005 UAA that was conducted by the City of  
8 Moberly was done prior to adoption by the  
9 Commission of the structure in Scientific  
10 Recreational UAA Protocol.

11 So back in 2007 we sent -- the Department  
12 contracted with Pickett, Ray & Silver who's an  
13 engineering firm, one of many, that we hire to do  
14 these UAAs to go out and investigate waters that EPA  
15 wanted us to take a closer look at or that facilities  
16 wanted us to take a closer look at.

17 In 2007 they went out and surveyed and did find  
18 at that last site, as Robert mentioned, there was a  
19 depth greater than a meter. But they also reported  
20 that there was over 4 inches of rain in the watershed  
21 prior to that survey. Well, that usually raises red  
22 flags when we do these reviews so I had staff  
23 especially for this -- in these instances where EPA  
24 makes comments to go back and review that data.

25 They found that greater than 4 inches of rain

1 was an error. They usually get a precipitation  
2 station that was not within the correct watershed.  
3 When we looked at the NOAA data and the National  
4 Climatic Data Center data the City of Moberly in that  
5 area didn't even receive 4 inches of the whole month  
6 of October, which is when the survey was done.

7 It was actually more on the -- on level three  
8 and in the 10 days prior it was less than about six-  
9 tenths of an inch and none of that was before the  
10 survey was -- two or three days before the survey was  
11 taken.

12 So that means -- for that particular stream  
13 there was -- was sufficient time after than rain, for  
14 that stream to come back down to base flow  
15 conditions. And looking at the photographs, what  
16 they tend to look for, in addition to training the  
17 field staff when they go out to look for these  
18 things, they make sure that the water's not turbid,  
19 which would indicate storm water runoff influence.  
20 They look at how the channel looks. If there's  
21 emerging vegetation in the channel that's a pretty  
22 good indication that there probably hasn't been a  
23 rain in a while otherwise it would be flattened,  
24 covered with mud, covered with silt that sort of  
25 thing.

1           So looking at the photos we get a pretty good  
2 idea of -- if that is indeed representative of base  
3 flow conditions. But because of that -- that  
4 recording of greater than 4 inches, we wanted to take  
5 another look. So in 2008 we actually contracted with  
6 -- I think, it was a different firm. We went back  
7 and looked at Sweet Spring Creek again with a separate  
8 survey --

9 (TAPE ONE, SIDE A CONCLUDED.)

10 MR. JOHN HOKE: -- a number of locations upstream  
11 closer to the City of Moberly in that segment.

12           So we feel the data that was collected -- after  
13 seeing that second set of data feel the data that was  
14 collected during the 2007 is representative as well  
15 as giving some confirmation to the -- to the  
16 recommendation that there is depth sufficient in that  
17 creek to -- to meet the whole body contract criteria  
18 as spelled out in the recreational protocol.

19 CHAIRMAN HARDECKE: So you're saying in the 2008 UAA;  
20 was it an official UAA that was done then?

21 MR. JOHN HOKE: Yes.

22 CHAIRMAN HARDECKE: You found more than the one hole?

23 MR. JOHN HOKE: They found more than just that site.  
24 That site had depth but there are a number of sites  
25 upstream from that that actually had depth of greater

1 than 1 meter as well.

2 CHAIRMAN HARDECKE: How many?

3 MR. JOHN HOKE: I might have -- I took some notes  
4 from staff. Right. The 2007 UAA, which had the 1  
5 meter was -- was deemed inconclusive by the  
6 Department because of that, like, I said that -- that  
7 rain figure so we went back out and re-surveyed it.  
8 I don't have the exact sites, but usually where you  
9 have a bridge crossing your -- your measurements are  
10 going to be pretty close to where the previous sites  
11 were taken. Whereas, in the 2007 survey there was  
12 just that one, most downstream site.

13 Follow-up in 2008 had a meter at Site 5, a  
14 meter at Site 4, a meter at Site 3 and this is going  
15 -- all going back upstream towards the city. And  
16 then at Site 1 there was a meter depth as well.

17 This classified segment starts actually about  
18 five miles downstream from the City of Moberly's  
19 outfalls that drain to Sweet Springs Creek. So it's  
20 a sufficient ways -- ways down from that.

21 COMMISSIONER SHORNEY: Do you know where Site 1 was?

22 MR. JOHN HOKE: Because I kind of did this real  
23 quick, I can't confirm the exact same Site 1, but  
24 Site 1's the upper most site; the number from  
25 upstream to downstream, one to however many. So I



1 can't confirm it's the most upper one. Is it exactly  
2 at the same Site 1 from the previous survey, I can't  
3 say for sure.

4 COMMISSIONER TUPPER: Segment is five miles long?

5 MR. JOHN HOKE: The segment's roughly about -- I  
6 think, it's 11 miles along. That's what in my review sheet  
7 here.

8 CHAIRMAN HARDECKE: So you say the City of Moberly is  
9 5 miles above the 11 mile segment?

10 MR. JOHN HOKE: Yes, sir, roughly.

11 CHAIRMAN HARDECKE: Any other questions?

12 MR. ROBERT BRUNDAGE: I just want to say that -- I  
13 didn't talk to you about this third UAA. That's not  
14 because I'm trying to hide anything. When I reviewed  
15 the Department's webpage, I don't think it was on  
16 there so I didn't know about it. So I haven't had a  
17 chance to look at it.

18 And as far as I know it's not part of the  
19 administrative rulemaking record if it wasn't on the  
20 webpage. So I don't even know if you can consider it  
21 or not.

22 Plus, in the write-up here on Page 46 of your  
23 briefing document there's -- there's no mention of  
24 this third UAA or no analysis of it. So I -- I  
25 simply didn't know about. And I don't know if you

1 can even consider it just from a legal standpoint.

2 CHAIRMAN HARDECKE: Did you want to say something  
3 else, Phil?

4 MR. PHIL WALSACK: Good morning, Phil Walsack, with  
5 Missouri Public Utility Alliance. I am looking at  
6 the memo from June the 12th that was included into the  
7 DNR file set. I don't see the 25 percent contingency  
8 that is listed on Page 514 and 515 of our briefing  
9 packets included in those numbers.

10 And as you would understand, that I represent  
11 municipal utilities and any costs that are associated  
12 with municipal utilities are important to me and  
13 important to them, 120 members or so, but I don't see  
14 that contingency number in there and I'd like an  
15 opportunity to discuss that with the -- the  
16 Department.

17 CHAIRMAN HARDECKE: Now, run that by again.

18 MR. PHIL WALSACK: There's a 25 percent contingency  
19 in the Regulatory Impact Report, for example, I just  
20 happen to be looking at one line here, UV light and  
21 we come down to a 25 percent contingency factor  
22 that's added. And I don't see that in the memo dated  
23 June the 12th.

24 CHAIRMAN HARDECKE: Is that in this --

25 MR. PHIL WALSACK: It is. It's on page -- the one

1 I'm specifically I'm talking is on Page 515. Oh,  
2 'bout a third of the way down the page.

3 CHAIRMAN HARDECKE: You got different numbers than we  
4 do.

5 MR. PHIL WALSAK: Oh. I'm sorry. I didn't realize  
6 that.

7 So on yours it would be Page 311, I believe.  
8 Mine our double numbered here.

9 I'm not sure that that affects the overall 10  
10 percent number. It would seem to me that it does  
11 not, but that's something of interest to municipal  
12 utilities.

13 Thank you.

14 CHAIRMAN HARDECKE: Does anybody have any questions  
15 about that?

16 (No response.)

17 COMMISSIONER SHORNEY: Could you --

18 MR. JOHN HOKE: Yes.

19 COMMISSIONER SHORNEY: Could you comment?

20 MR. JOHN HOKE: Oh. Yeah. This was -- when we did  
21 the revised fiscal cost we just did a straight up  
22 cost. We didn't do the 25 percent contingency cost  
23 for that, but 25 percent of 1.3 percent is not going  
24 to be a whole lot. It's going to be half -- a  
25 quarter of a percent if that. And it wouldn't bump

1 any of those individual estimates above the 10  
2 percent.

3 CHAIRMAN HARDECKE: Okay. Any other comments on this  
4 section?

5 (No response.)

6 COMMISSIONER SHORNEY: Well, it seems like even if  
7 you threw out the 2008 data for technical reasons. Still  
8 we have an incidence of over a meter depth, don't we?

9 And if you put the 2000 data and maybe it wasn't  
10 properly presented there was what three or four sites  
11 --

12 COMMISSIONER HUNTER: At least four.

13 COMMISSIONER SHORNEY: Four?

14 MR. JOHN HOKE: Yeah. It's at least four. And we  
15 did that, not just to confirm that that 1 meter down  
16 low was not just an aberration is was a result of a -  
17 - we looked at it and considered it to kind of give  
18 it -- to get a look at. And we were looking for was there an  
19 opportunity to sub-segment this segment -- you know,  
20 to sort of provide some relief, you know, if it  
21 indeed it was really dry all the way up and it was  
22 just that one could we sub-segment to offer some  
23 relief. So we looked at the new data to say, well,  
24 if we looked at this during the next rulemaking when  
25 we make a different decision and the fact that -- you

1 know, there were three or four sites above that site  
2 that had the depth. We wouldn't have made it -- been  
3 able -- wouldn't have been able to sub-segment and so  
4 we felt that, you know, retaining whole body contact  
5 on the segment was appropriate.

6 COMMISSIONER SHORNEY: I was going to ask that  
7 question. Segmenting does -- does not make sense,  
8 then? Could you repeat, why?

9 MR. JOHN HOKE: Right. When we looked at the 2008  
10 data we were looking -- would there -- would there be  
11 an opportunity to sub-segment meaning divide that  
12 segment and have whole body contact only on a portion  
13 of it. Perhaps, you know, have whole body contact  
14 start at Site 7 and just go down to the mouth.

15 So to confirm that that site was not kind of an  
16 outlier and to con- -- to see if we could sub-segment  
17 we looked at this new data that we gathered and  
18 because of the new data from 2008 showed depth  
19 greater than a meter at more than one site, we felt  
20 there was not an opportunity to sub-segment and it  
21 also confirmed our -- our recommendation that -- that  
22 whole body contact be placed on that water body,  
23 based on that data.

24 So while the data on its own could stand to have  
25 whole body contact for -- based on the 2007 UAA,

1 after staff reviewed it, the additional data helps us  
2 confirm that, the recommendation.

3 COMMISSIONER TUPPER: It seems to me that if we were  
4 using the new data to classify would be one thing and  
5 all were doing is using it to retain the  
6 classification that was already there.

7 CHAIRMAN HARDECKE: Does somebody wish to make a  
8 motion?

9 COMMISSIONER SHORNEY: Mr. President, I move the  
10 Commission adopt the order of rulemaking for Water  
11 Quality Standards approving the changes made as a  
12 result of public comment and the Department file the  
13 order with the Joint Committee on Administrative  
14 Rules and the Secretary of State.

15 COMMISSIONER HUNTER: Second.

16 CHAIRMAN HARDECKE: Malinda, take the vote, please.

17 MS. MALINDA OVERHOFF: Commissioner Shorney?

18 COMMISSIONER SHORNEY: Yes.

19 MS. MALINDA OVERHOFF: Commissioner Tupper?

20 COMMISSIONER TUPPER: Yes.

21 MS. MALINDA OVERHOFF: Did Commissioner Parnell ever

22 --

23 CHAIRMAN HARDECKE: Todd are you on the phone?

24 (No response.)

25 MS. MALINDA OVERHOFF: Commissioner Hunter?

1 COMMISSIONER HUNTER: Yes.

2 MS. MALINDA OVERHOFF: Commissioner Easley?

3 COMMISSIONER EASLEY: Yes.

4 MS. MALINDA OVERHOFF: Chair Hardecke?

5 CHAIRMAN HARDECKE: Yes.

6 MR. JOHN HOKE: Thank you.

7 CHAIRMAN HARDECKE: Thank you.

8 Okay. We'll move to **Tab No. 5**. And it's --

9 MR. JOHN RUSTIGE: Okay.

10 CHAIRMAN HARDECKE: John?

11 MR. JOHN RUSTIGE: I'm here to summarize the comments  
12 and responses for 10 CSR 20-6.200, Storm Water  
13 Regulations can be found at Tab No. 5, Page 325 of  
14 the briefing document.

15 The purpose of -- of this amendment is to align  
16 the state rule with the federal rule and avoid  
17 mandating municipal separate storm sewer systems or  
18 MS4 requirements to non-urban areas with population  
19 density less than 1,000 people per square mile. And  
20 this is being accomplished by correcting the  
21 definition of a regulated MS4 to exclude low  
22 population density, non-urban geographies that really  
23 aren't intended to be part of the Program.

24 Boone County was the only entity to provide  
25 written comments and testimony on the proposed

1 amendment. Boone County has a county-wide Storm  
2 Water Program in addition to their county-wide MS4  
3 Permit. Boone County has a stream buffer ordinance.  
4 And I also understand that they have another proposed  
5 storm water ordinance. Boone County was not in  
6 support of the rule correction because under the  
7 proposed definition change they believe that their --  
8 their county-wide approach would be limited to a  
9 very small area, the urbanized area just outside of  
10 Columbia or Centralia.

11 Boone County commented that the -- the  
12 federal definition and therefore the proposed amend-  
13 -- definition in the proposed amendment is really  
14 sort of a poor way of structuring the boundaries of  
15 an MS4 Program.

16 Relying on a census that defines an urbanized  
17 area and relying on the census for population data,  
18 density data creates the potential for boundaries  
19 that can change over time and also can create  
20 individual tracts that are regulated while  
21 neighboring geographies wouldn't be.

22 Boone County also commented that they have over  
23 50 square miles of land that is currently outside the  
24 urbanized area, but is zoned for urban density  
25 development. Located in Boone County are two streams



1 Hinkson and Grindstone Creeks that have water quality  
2 impairments that are impacted by urbanization and  
3 TMDLs are being developed for these streams. And the  
4 county also has state resource waters included the  
5 Bonne Femme and Little Bonne Femme watersheds.

6 In their comments Boone County made a strong  
7 case that a county-wide program is needed for them to  
8 protect -- to protect these waters and make the  
9 Program workable from sort of a practical standpoint.  
10 But if the definition isn't changed then we really  
11 haven't solved the problem for the other eight -- 38  
12 counties in the state that -- that we've identified  
13 that really should be excluded from the Program.

14 So, based on Boone County's comments on this  
15 rule correction the Department decided to specially  
16 designate Boone County as a regulated MS4 under a  
17 separate provision in the rule under sub-Paragraph 1(C)  
18 24(b). And that special designation of Boone County  
19 in its entirety would allow the county, Boone County,  
20 to continue their storm water management efforts and  
21 while at the same time allow us to move forward with  
22 the proposed regulation and get the rule aligned with the  
23 federal definition.

24 Therefore, we haven't recommended changes to the  
25 amendment as a result of Boone County's comments.

1 EPA has indicated that the method for establishing  
2 this MS4 boundaries will -- will likely be -- be  
3 visited sometime in the next few years with a federal  
4 rulemaking. And EPA is aware of the problems that  
5 Boone County has identified with regards to these  
6 evolving geographies or evolving demographics.

7 So once the federal rulemaking is done then the  
8 Department expects to -- to come back and re-visit  
9 this issue. With that the Department recommends that  
10 the Commission adopt the amendment as it was  
11 proposed.

12 Any questions?

13 (No response.)

14 CHAIRMAN HARDECKE: Well, I want to compliment the  
15 Department for working with Boone County to meet  
16 their needs as well as provide consideration for the  
17 other 38 counties to not bring regulations on them  
18 that would be over burdensome. So that's good.

19 Any other questions or comments?

20 (No response.)

21 CHAIRMAN HARDECKE: Somebody want to make a motion?

22 COMMISSIONER EASLEY: I move the Commission adopt the  
23 order of rulemaking for 10 CSR 20-6.200 and the  
24 Department file the order with the Joint Committee on  
25 Administrative Rules and the Secretary of State.

1 COMMISSIONER TUPPER: Second.

2 CHAIRMAN HARDECKE: Malinda, call the vote.

3 MS. MALINDA OVERHOFF: Commissioner Tupper?

4 COMMISSIONER TUPPER: Yes.

5 MS. MALINDA OVERHOFF: Commissioner Hunter?

6 COMMISSIONER HUNTER: Yes.

7 MS. MALINDA OVERHOFF: Commissioner Easley?

8 COMMISSIONER EASLEY: Yes.

9 MS. MALINDA OVERHOFF: Commissioner Shorney?

10 COMMISSIONER SHORNEY: Yes.

11 MS. MALINDA OVERHOFF: Chair Hardecke?

12 CHAIRMAN HARDECKE: Yes.

13 Okay. Tab No. 6, Forty Percent Construction

14 Grant List. Joe, again.

15 MR. JOE BOLAND: Good morning, again. Joe Boland,

16 with the Financial Assistance Center. Tab No. 6 is -

17 - we're asking for a couple of changes to the FY2009

18 Intended Use Plan. As you recall the 2009 IUP is

19 still in place. The 2010 IUP is still under

20 development for lack of a better term because of all

21 the stimulus activity and the Stimulus Intended Use

22 Plan we postponed the adoption of the 2010 IUP

23 basically to wait for the dust to settle.

24 And that's occurring right now. We have several

25 projects that are -- that were on the regular IUP

1 that are now on the Stimulus IUP and vice versa. We  
2 have some that are on the Stimulus IUP that may not  
3 proceed on to the American Recovery and Reinvestment  
4 Act.

5         So as I said the dust is settling right now.  
6 We'll be moving -- we'll be finalizing that 2010 IUP  
7 and bring it to you in September. But in the  
8 meantime we do have a couple projects that are moving  
9 forward on the Forty Percent Construction Grant List.  
10 And one of those is Silver Creek who is dropping off  
11 this list because they chose to go the stimulus  
12 route. They have more grant money available to them  
13 through the stimulus avenue so they did notify us  
14 that they are withdrawing their application for the  
15 Forty Percent Grant.

16         So that's -- that's one change we'd like to  
17 make. The next one is the City of Cross Timbers --  
18 or the Village of Cross Timbers rather has opened  
19 bids and the bids came in a little bit high so  
20 they're requesting an additional \$76,925.

21         St. Elizabeth is in a similar situation. They  
22 are moving forward, actually opened bids and they're  
23 requesting an additional \$268,000.

24         And we do support these changes and request that  
25 you approve these changes. If you have any

1 questions, I'd be more than happy to answer them.

2 CHAIRMAN HARDECKE: Questions?

3 (No response.)

4 CHAIRMAN HARDECKE: If not, we'll entertain a motion.

5 COMMISSIONER TUPPER: Mr. Chairman, I move that the

6 Commission approve the proposed changes to the State

7 Forty Percent Construction Grant List.

8 COMMISSIONER SHORNEY: Second.

9 CHAIRMAN HARDECKE: Malinda, take the vote.

10 MS. MALINDA OVERHOFF: Commissioner Hunter?

11 COMMISSIONER HUNTER: Yes.

12 MS. MALINDA OVERHOFF: Commissioner Easley?

13 COMMISSIONER EASLEY: Yes.

14 MS. MALINDA OVERHOFF: Commissioner Shorney?

15 COMMISSIONER SHORNEY: Yes.

16 MS. MALINDA OVERHOFF: Commissioner Tupper?

17 COMMISSIONER TUPPER: Yes.

18 MS. MALINDA OVERHOFF: Chair Hardecke?

19 CHAIRMAN HARDECKE: Yes.

20 MR. JOE BOLAND: Thank you.

21 CHAIRMAN HARDECKE: You're on again with No. 7.

22 MR. JOE BOLAND: It's very convenient.

23 This is a request for two Small Borrower Loans.

24 The first is for St. Elizabeth and this is in

25 conjunction with, again, their -- opened their bids

1 and they're requesting a Small Borrower Loan of  
2 \$100,000 to cover some of that overage. We also have  
3 a direct loan with them, Rural Sewer grant and Forty  
4 Percent Grant to complete that funding package.

5 The City of Rocheport is requesting only \$38,000  
6 Small Borrower Loan to pay for an ultraviolet  
7 disinfection system.

8 And at this time we're asking for your approval  
9 for these loans as well.

10 COMMISSIONER SHORNEY: Mr. Chair?

11 CHAIRMAN HARDECKE: Yes.

12 COMMISSIONER SHORNEY: I move to approve the Small  
13 Borrower Loans to St. Elizabeth for \$200,000  
14 and Rocheport for \$38,115.

15 COMMISSIONER HUNTER: Second.

16 COMMISSIONER TUPPER: Second.

17 CHAIRMAN HARDECKE: Malinda, take the vote, please.

18 MS. MALINDA OVERHOFF: Commissioner Hunter?

19 COMMISSIONER HUNTER: Yes.

20 MS. MALINDA OVERHOFF: Commissioner Easley?

21 COMMISSIONER EASLEY: Yes.

22 MS. MALINDA OVERHOFF: Commissioner Shorney?

23 COMMISSIONER SHORNEY: Yes.

24 MS. MALINDA OVERHOFF: Commissioner Tupper?

25 COMMISSIONER TUPPER: Yes.

1 **MS. MALINDA OVERHOFF: Chair Hardecke?**

2 **CHAIRMAN HARDECKE: Yes.**

3 MR. JOE BOLAND: Thank you.

4 CHAIRMAN HARDECKE: Thank you.

5 Since we're moving along so well, we'll take a  
6 10 minute break, now, and then we'll move on to Tab.  
7 No. 8.

8 (Break in Proceedings.)

9 (This portion of audio is summarized for **Item No. 8,**  
10 Targeted 2008-2009 Section 319 Nonpoint Source Grant  
11 Request for Proposals, Greg Anderson, Watershed  
12 Protection Section, due to a recording error.)

13 MR. GREG ANDERSON: 1. Combined grant: Due to some  
14 delays related to negotiations with EPA we are  
15 submitting a combined grant request of 2008 and 2009.  
16 2008, \$3,431,234. 2009, \$4,463,700.

17 2. The Department elected to target State cost share  
18 funds to "critical agricultural watersheds" to fulfill  
19 the states commitment to the Nonpoint Source  
20 Management Plan. These collaborative watershed  
21 projects will be targeted by the 319 Nonpoint Source  
22 staff based upon criteria presented to the Commission  
23 in 1996.

24 3. These projects will be "hybrids" of the two  
25 programs, having characteristics of both 319 and

- 1 traditional cost share.
- 2 4. Consequently, most 319 grant funds will be  
3 targeted to non-agricultural projects in priority  
4 watersheds. Priority non-agricultural are those  
5 water bodies that are on the 303(d) List, impaired by  
6 non-agricultural sources such as mining, urban, or  
7 other hydrologic modification.
- 8 5. For 75 percent of the funding, an active  
9 stakeholder driven watershed group should be in  
10 place, the water body impaired and listed for NPS  
11 contaminants, a nine-element watershed plan must be  
12 approved for the watershed, and the project must  
13 implement practices described in the plan.
- 14 6. The remaining 25 percent will be available for  
15 other typical NPS projects such as Info Ed or  
16 technology transfer.
- 17 7. Aside from the main RFP, funding will be set  
18 allocated for the mini-grant program and for the  
19 Watershed Planning Grant Program as well. The amount  
20 needed is undetermined at this time but should not  
21 exceed \$300,000 total.
- 22 8. With the RFP is a proposed schedule that will be  
23 slightly revised to expedite the award process; i.e.  
24 dates will probably be moved up by about two weeks.
- 25 9. A multi agency review committee will provide



1 ranking recommendations to the Department and then  
2 the Commission (probably early in 2010). Upon  
3 approval by the Commission the projects will be  
4 submitted to EPA for final approval.

5 10. I'll be glad to answer any questions, at this  
6 time.

7 (Any remaining audio regarding Item No. 8, Targeted  
8 2008-2009 Section 319 Nonpoint Source Grant Request  
9 for Proposals, Greg Anderson, Watershed Protection  
10 Section will be concluded at this time.)

11 MR. EARL PABST: -- it's not to supplement  
12 those efforts. It would be some local proposal to  
13 address maybe a portion of that -- or a local --  
14 particularly local issue. We do need to be careful  
15 with this particular area with EPA's efforts on addressing  
16 the lead (inaudible) that were not duplicating efforts or were  
17 not getting crossways there. (Complete statement  
18 inaudible.)

19 COMMISSIONER SHORNEY: I see.

20 And -- and I think you addressed it, but the first  
21 question I had is we kind of went from an  
22 agricultural aspect to a mining; and is that just  
23 following the money or is it following greatest potential water  
24 quality problems are? How do we go -- it seems like we're  
25 always talking agricultural nonpoint source and now

1 we're focusing on mining; how did that happen again?

2 MR. GREG ANDERSON: Well, we're still going to fund -  
3 - I'm sorry.

4 CHAIRMAN HARDECKE: Maybe -- I talked to Davis  
5 Minton about kind of given a broader overview of what  
6 the Department is trying to do between the Soil and Water  
7 and I think that would help answer Frank's question;  
8 if that's okay?

9 MR. GREG ANDERSON: Sure. Absolutely.

10 CHAIRMAN HARDECKE: Davis, you want to kind of give  
11 us an overview of what's being looked at here.

12 MR. DAVIS MINTON: Obviously, my awareness of the  
13 process is new because I've been on staff for such  
14 a short period of time. But my familiarity with the  
15 Soil and Water Program is more extensive than  
16 probably the Water Program. Let me, first of all,  
17 say that it's important as we start addressing  
18 nonpoint source pollution issues that we -- and one  
19 of the criteria for this is, on the first line is, is  
20 evaluation.

21 And while we had an emphasis with the salt  
22 projects for many years and they were very  
23 successful. We have to look at those successes and  
24 see what the next step is. As a result of  
25 the salt projects and their consistent

1 movement throughout the entire agricultural community  
2 in those defined watersheds one of the things that we  
3 saw as a result of that was the passage of House Bill  
4 250, which expanded our cost share docket, our regular cost  
5 share docket with the Soil and Water Conservation  
6 Program.

7 That added approximately four more -- 40 more  
8 practices to the things that we can do to address the  
9 agriculture community. The Governor signed that, I  
10 guess, last week. And so now that is a part of the  
11 Program, the Soil and Water Prog- -- the Soil and  
12 Water Program.

13 What we don't have and what the Soil and Water  
14 Program hasn't been able to do in which you-all can  
15 do is we can use these 319 monies now for evaluation  
16 and determination of what positive impacts that --  
17 that all these millions of dollars that we've  
18 spending for the last 25 years, through the cost  
19 share that we have, we can now start to evaluate and  
20 show significant impacts on various watersheds.

21 It's important, I think, to realize this is a  
22 beginning step. This is a new movement. A  
23 transition from the way we've done business to the  
24 way hopefully we can do business in the future.

25 One of the things that I'll digress for a

1 moment. One of the things that I think it will be  
2 important for this Commission to do as well as the  
3 Soil and Water Conservation Commission; I would look  
4 forward at some point in time to the two Commissions  
5 having a joint meeting. A half-a-day meeting and  
6 then you break up and you go to your individual  
7 concerns.

8 I think it's important for the Soil and Water  
9 Conservation Commission to become better educated as  
10 to what this Commission can do and has done in the  
11 past. I had the privilege of serving on the Clean  
12 Water Commission for a number of years and I think  
13 there's a disconnect between awareness of what the  
14 two programs do and how they can facilitate  
15 nonpoint source pollution.

16 Because this is a change in the way we have -  
17 - the way we're doing business, I think, it's  
18 important to proceed with caution. I think the Soil  
19 and Water Conservation Commission who is obviously  
20 directly related to the agriculture community needs  
21 the guidance on clean water. And they will need the  
22 support to understand that these things cannot be  
23 accomplished overnight, the positive impacts from all  
24 the things that we do and the monitoring that shows  
25 positive results to ultimately get streams off the

1 303(d) List.

2 That's a really big overview from a really high  
3 altitude. I -- first of all, when I first personally  
4 started reading this I thought, well, you know, some  
5 how or another the agriculture community is being  
6 disconnected because we're losing the salt projects.  
7 But if anything, I think, this is a progression to  
8 the next generation or the next direction that the  
9 two commissions need to go.

10 Once again this is -- this is something that, I  
11 think, will need continued evaluation, but at the  
12 same time not to go back -- or not -- or to just  
13 continue to do business the way we've always done it  
14 is not gaining us anything with regard to the  
15 environmental community. How are we positively  
16 impacting nonpoint source pollution?

17 And I think this is a very first beginning of  
18 how we can evaluate that via agriculture as well as  
19 MPS from other sources. So are we -- are we losing  
20 something? On the surface, it may appear to be that.  
21 If you're looking at it from the perspective of  
22 agriculture community, but in reality I think we're  
23 gaining far more than -- than the quote/unquote loss  
24 that you might see on the surface.

25 CHAIRMAN HARDECKE: And I think what Davis is saying,

1 some of this money, 319 money will be used to monitor  
2 and evaluate the positive impacts that the soil and  
3 water cost share funds are having.

4 MR. DAVIS MINTON: I'm going to use --  
5 if I can find it here, real quickly. The language  
6 actually says, is to be used for evaluation of those  
7 issues. So -- and that is - that is the  
8 reason why I think that the Soil and Water  
9 Conservation Program will be a benefactor from a  
10 change in philosophy.

11 If we don't do that -- if we don't start  
12 monitoring and evaluating what we're doing; how can  
13 we in the future justify a continuation of our -- of  
14 our dedicated sales tax? We have got to start --  
15 we've got to start demonstrating a positive result  
16 from all the monies that we're spending.

17 Now, we all logically know that as you reduce  
18 sediment in receiving streams then you've obviously  
19 impacted -- you know, the water quality of those cit-  
20 -- of those streams. But how? What were the  
21 impacts? What were the measurable impacts? How much  
22 phosphorous did we eliminate going into the receiving  
23 stream? What was the lack of nitrogen loading as a  
24 result of -- of Terasen in highly erodible lands for  
25 -- in corn production?

1           We can't tell you that. And as a result it's  
2 going to be more and more difficult as time passes  
3 for us to justify what we're doing with these mass- -  
4 - massive expenditures of money.

5 CHAIRMAN HARDECKE: Does that help answer your  
6 question?

7 COMMISSIONER SHORNEY: Yeah. That's fine. I was  
8 just curious.

9 CHAIRMAN HARDECKE: Of the half that is going  
10 to be passed through this money that's going to be  
11 used for monitoring in the Soil and Water Program  
12 does that come out of the half that's retained or  
13 will it be a portion of the other half?

14 MR. DAVIS MINTON: I'll have to defer to somebody  
15 else to answer that one.

16 CHAIRMAN HARDECKE: Or do you --

17 MR. GREG ANDERSON: I think the plan right now is beginning  
18 (inaudible) in three watersheds. In monitoring of the  
19 plan will not come from the (inaudible).

20 CHAIRMAN HARDECKE: Okay.

21 MR. GREG ANDERSON: The monitoring was planned to be  
22 done by the Department.

23 CHAIRMAN HARDECKE: Okay.

24 I think that's a very good start  
25 because like Davis said, there's dedicated sales

1 taxes been spent for the last 25 years and we know  
2 that it's had tremendous soil benefits as well as  
3 improvement of water quality but it just hasn't been  
4 documented. And if we can use some of these funds to  
5 document that and then we can show EPA and others  
6 that the benefit that we're getting out of that as  
7 -- as we move forward.

8       So I think I -- I think that's a good idea and  
9 thanks for --

10 MR. DAVIS MINTON: Well, once again, -- you know, I  
11 would -- this is just from personal experience, you  
12 know, of sitting where you gentlemen are sitting  
13 today. This -- when the discussion of this comes up  
14 in the future, for future years it would be a great  
15 opportunity for the two commissions to spend a part of your  
16 day together.

17       And so they can understand the issues that you  
18 have and your concerns and why you have those  
19 concerns because we're somewhat, from the other side  
20 -- the other Program, we're somewhat divorced from  
21 that. We're more -- that Commission deals with more  
22 of putting things on the ground, so to speak,  
23 actually seeing something tangible.

24       And those two -- those two comm- -- ideas, those  
25 two concepts have to be married together. We cannot



1 -- we should not work in the future as disconnected  
2 as we have in the past.

3       So I'd encourage you to do that.

4 CHAIRMAN HARDECKE: Thank you.

5 COMMISSIONER SHORNEY: Thank you.

6 COMMISSIONER TUPPER: Those -- on 367, those mining  
7 sites over in southwest Missouri represent  
8 (inaudible) essentially. EPA has been in that for several  
9 years now -- relatively smaller projects, but recently  
10 they got a settlement from the mining companies so  
11 we'll be awarding another contract. But it's going on.  
12 They're essentially pushing the (inaudible) back in  
13 the holes and then (inaudible). They've done a lot  
14 of surprises. Used tons of that, in the bypass  
15 around the east side of Joplin, they built the road  
16 beds with the (inaudible) and then covered them with real  
17 dirt, and then with rocks.

18 UNKNOW SPEAKER: But we got plenty more if you  
19 want.

20 COMMISSIONER TUPPER: Bring your truck.

21 CHAIRMAN HARDECKE: Okay. Greg, sorry to interrupt,  
22 but I thought that would help clarify. Do you have  
23 some more?

24 MR. GREG ANDERSON: I just wanted to mention John  
25 Hoke said he thought that Village Creek, the area

1 next to Cape was impaired by Zinc and Lead. But I  
2 didn't have anything else unless there were more  
3 questions from the Commission. I think this is just  
4 for informational purposes only. I don't think a  
5 motion is necessary.

6 CHAIRMAN HARDECKE: I've got one more question. You  
7 -- if I understand right, 75 percent is going to go  
8 to projects that are actually putting some physical  
9 attribute to work?

10 MR. GREG ANDERSON: Yes.

11 CHAIRMAN HARDECKE: Correct?

12 MR. GREG ANDERSON: That is the plan.

13 CHAIRMAN HARDECKE: I -- I think that's very  
14 important. Myself, I think that's -- we need to be  
15 spending our money to actually do something. It's --  
16 info-ed is fine but unless we get -- actually get  
17 something done we're not going to see the tangible  
18 benefits to water quality, so --

19 I wouldn't be upset if that 75 percent went  
20 higher. Keep that in mind the next time.

21 MR. GREG ANDERSON: Okay.

22 CHAIRMAN HARDECKE: Okay. Any other questions for  
23 Greg?

24 (No response.)

25 CHAIRMAN HARDECKE: And you'll keep us advised of the

1 review committee meeting in case any of the Commissioners wants  
2 to attend.

3 MR. GREG ANDERSON: Yes, sir. We'll do that.

4 CHAIRMAN HARDECKE: Oh. One other question, the 319  
5 Grant for the sub-surface irrigation; do you have an  
6 update on where that is? I understand that EPA's  
7 approved it. Do we have any further --

8 MR. GREG ANDERSON: I didn't hear that EPA had  
9 approved it. What I --

10 MR. EARL PABST: We got verbal approval, but you and I  
11 talked, Greg, a couple of weeks ago, the next step  
12 that we have to do.

13 MR. GREG ANDERSON: I'm going to rewrite it into a  
14 sub-grant format and submit it back to EPA. This is  
15 what I was asked to do.

16 CHAIRMAN HARDECKE: So what kind of time frame are we  
17 looking at on that?

18 MR. GREG ANDERSON: We're working on that now. I  
19 would estimate probably within a month I  
20 should have it drafted and submitted back to  
21 EPA.

22 CHAIRMAN HARDECKE: Okay. How -- will the rec- -- is  
23 the recipient required to be a part of the -- that  
24 application or --

25 MR. GREG ANDERSON: Well, we'll probably have to

1 contact the recipient to get -- to get some updated  
2 figures so we can rewrite the -- they call it, a  
3 Project Implementation Plan. We'll have to update --  
4 or get updated on some of the figures on that and  
5 then submit it back to EPA for approval, final  
6 approval.

7 CHAIRMAN HARDECKE: Maybe it would be helpful if  
8 you'd contact him and let him know what's going on.

9 MR. GREG ANDERSON: Oh. Sure.

10 CHAIRMAN HARDECKE: Okay.

11 MR. GREG ANDERSON: Um-huh. I'll do that.

12 CHAIRMAN HARDECKE: Okay. Anything else on this?

13 (No response.)

14 CHAIRMAN HARDECKE: Thank you.

15 MR. GREG ANDERSON: Thank you.

16 CHAIRMAN HARDECKE: Okay. **No. 9.**

17 MR. ROB MORRISON: Good morning Commission members.

18 CHAIRMAN HARDECKE: Morning.

19 MR. ROB MORRISON: My name is Rob Morrison, Chief of  
20 the Water Pollution Control Branch. I want to bring  
21 to you an issue this morning. One of which, I  
22 think, is a step in the right direction. It's a step  
23 toward regionalization of some issues in Boone  
24 County involving the Boone County Sewer District and  
25 the City of Columbia.

1           Many of you are aware of our requirements in the  
2 regulations in Chapter 6, specifically, there in  
3 6.010 Sub-para- -- or in Section 3 regarding Level 2  
4 continuing authorities. Currently in the state of  
5 Missouri, I'm not aware of any officially approved  
6 Level 2 continuing authorities and I'll probably get  
7 an e-mail on this when I get back to the office, but  
8 the -- the -- as far as I know, I'm not aware of any  
9 official ones. I have heard rumors of a couple of --  
10 or one example of a Level 2. I really -- I don't  
11 know if that's approved. I'm not sure how germane it  
12 is to this issue.

13           But sufficed to say, that the Commission at this  
14 opportunity has this -- at this time an opportunity  
15 to move forward with a proposal on -- towards  
16 regionalization of sewers in Boone County  
17 and involving, as I said, Boone County Sewer District  
18 and the City of Columbia.

19           We've had extensive discussions with Boone  
20 County and the City of Columbia regarding many issues  
21 that you'll -- they'll be speaking today in detail  
22 about. Many of the private sewers that are in  
23 Columbia and some of the issues and challenges that  
24 that brings to them in terms of efficiency of  
25 operation and water quality.

1           And this is really from our perspective. It's  
2 about waste quality protection and enhancing those  
3 efforts as we move forward. So today in your packet  
4 what you have is a conceptual white paper. We wanted  
5 to bring this issue before you to see what questions  
6 you might have, what concerns, what issues you would  
7 like for us to address in the final proposal.

8           In the back of your packet, I'm certain, the  
9 folks from Columbia and Boone County will go through  
10 this but the key items there are eight key items that  
11 will be included in the final submittal. And it will  
12 address the requirements contained in the -- in the  
13 regulations.

14           The process for this would be that the -- that  
15 Boone County, Columbia would submit that to the  
16 Department. The Department would make a  
17 determination and then we would bring that  
18 recommendation forward to you for final  
19 approval.

20           And as I mentioned the plan is to do this in  
21 September so you can -- everything going as planned  
22 you could expect to see a proposal in the September  
23 packet for this final proposal.

24           So without that any further comments on my part.  
25 I just wanted you to know that we have been involved.

1 We are generally supportive of the concept and  
2 are ready to bring this issue forward to the  
3 Commission.

4 Today, you will have three gentlemen from --  
5 representing Boone County Regional Sewer District,  
6 David Shorr, and Tom Ratermann and then from Colum- -  
7 - City of Columbia will be Mr. Steve Hunt.

8 So, with that, I will ask David Shorr if he  
9 would come to the podium.

10 MR. DAVID SHORR: Thank you, Rob. Appreciate it.

11 Good morning, Mr. Chairman, members of the  
12 Commission. My name is David Shorr. I'm an attorney  
13 with the law firm of Lathrop & Gage. I'm in  
14 Jefferson City, Missouri.

15 Today, my representation is somewhat unique.  
16 And it's germane to the -- the discussion. Before  
17 you as Rob indicated the matter is on background.  
18 It's for a joint request by the City of Columbia and  
19 Boone County Regional Sewer District to establish  
20 Tier 2 Authority in the majority of Boone County.

21 This is a coordinated effort. That's my part of  
22 this discussion is to emphasize to you that this has  
23 been a group effort by these government authorities  
24 in order to come up with a concept working with Rob's  
25 team.

1           I represent the City of Columbia, Boone County Regional  
2 Sewer District in the county of Boone, so all three  
3 have been coordinated as a result of this effort at  
4 their request by us. I also want to emphasize that I  
5 am the vice-chair of the Boone County Regional Sewer  
6 District so this is a direct request from our  
7 Commission, our Board of Trustees to pursue what the  
8 citizens of Boone County have been demanding of both  
9 the county and the Columbia governments. Greater  
10 coordination, greater harmony between what they're  
11 doing. And this is one of the examples that we can  
12 point to, to our citizens that we are working  
13 together.

14           Let me give you some brief information before  
15 Tom gets up and talks in a little more detail about -  
16 - about my clients. First of all, Boone County is a  
17 first class county and that's important in this  
18 conversation. The population is about 145,000.  
19 Importantly it has the power to zone.

20           And in that power, as its police powers it has  
21 required county-wide that no new development can  
22 occur that has a centralized sewer system unless it  
23 is owned and operated by the Boone County Regional  
24 Sewer District. So when we get a proposal from a  
25 developer that comes into Boone County and goes into



1 Planning and Zoning and they are not adjacent to one  
2 of our satellite systems or the City of Columbia,  
3 that developer is going to have to do a proposal that  
4 the Boone County Regional Sewer District is going to  
5 accept with regard to sewage if it wants to have a  
6 concentrated development. And that's regardless of  
7 the location inside Boone County.

8 This means that all new subdivisions requiring  
9 service, sewer service since the date of the  
10 inception of zoning which was 1973 have been built to  
11 Boone County Regional Sewer District's standards and  
12 then turned over to the sewer district. Generally  
13 speaking if it's a Boone County Sewer District  
14 project area it has a general rate that is amortized  
15 through the entire district. So you may have a  
16 separate plant and you may only have 20 houses on it or you  
17 may have one that has 1,000 houses on it in another  
18 part but they all pay generally the same rates. And  
19 there's some differences relating to the sewer system  
20 whether it's pressurized, whether it's not et cetera,  
21 et cetera. But generally speaking it's the same  
22 rate.

23 The District operates 43 separate wastewater  
24 treatment plants in order to accomplish this. That  
25 is a significant number for a small district to do.

1 And I will tell you that Tom Ratermann does a  
2 wonderful job.

3 In order to comply with recent regulatory  
4 changes including changes authorized by this  
5 Commission we have been faced with phasing out about  
6 20 lagoons due to disinfection requirements alone.

7 We're in the process of replacing these lagoons  
8 with mechanical plants with disinfection or  
9 connecting them with other plants either owned by the  
10 Boone County Regional Sewer District or to the City  
11 of Columbia to meet our obligations under the law.

12 In order to do so, the residents of Boone County  
13 have authorized a bond issue for \$21 million to  
14 achieve this goal. Through consolidation and  
15 upgrades the Board of Trustees expects to meet the  
16 2013 disinfection requirement on sewer district  
17 plants.

18 This will result in a sewer rate increase of  
19 over 100 percent for the people in Boone County and  
20 the sewer district. I am one of them. The average  
21 rate payer in the Boone County Regional Sewer  
22 District will pay \$65 a month in order to continue to  
23 meet the requirements.

24 The City of Columbia is a city of approximately  
25 100,000. They operate a regional wastewater

1 treatment plant which provides service to the City of  
2 Columbia and by agreement the Boone County Regional  
3 Sewer District. It is a regional facility in its  
4 greatest context. It services the outlying areas  
5 plus the main plant plus the center city -- part of  
6 the city. It is a regional facility.

7       You will recall that this plant is unique, in  
8 fact, that it has a wetland complex at its discharge  
9 location in order to continue to advance both habitat  
10 and treatment requirements. The citizens of Columbia  
11 have also authorized a significant bond issue to upgrade  
12 the regional wastewater treatment plant in order to  
13 comply with new regulations in an amount of  
14 approximately \$60 million.

15       So jointly the citizens of Boone County, just  
16 the two major entities have bond issues already  
17 passed for \$81 million in order to comply with the  
18 upgrades. All these upgrades are required as a  
19 result of regulatory changes and will result in rate  
20 increases within the boundaries of the City of  
21 Columbia.

22       The city and the sewer district are asking for  
23 this Tier 2 Authority. In doing our regional  
24 wastewater planning we are hampered by the presence  
25 of DNR permitted facilities. Individual permitted

1 facilities still exist within the boundaries of Boone  
2 County, which Tom will talk about. And these  
3 individual permitted -- permitted facilities have  
4 certain property rights that they're entitled to  
5 under law and they go through the process through  
6 Rob's group of getting permit renewals and that's the  
7 point in which Tier 2 Authority specifically impacts  
8 the Boone County Regional Sewer District.

9 Many of these are directly adjacent to waste- --  
10 to sewer lines of either the city or the county. So  
11 one of these plants could be directly adjacent to the  
12 sewer line and we don't have the right to technically  
13 intercept it if DNR has a specific permit related to  
14 it without Tier 2 Authority the Department is unable  
15 to deny permits even when they are directly adjacent  
16 to sewer which could intercept and remove a  
17 discharge.

18 Our goal is to reduce the number of net  
19 discharges in Boone County. And in order of that  
20 comply and help us with the Department Tier 2  
21 Authority -- we need Tier 2 Authority.

22 In addition, the City of Columbia wishes to have  
23 Tier 2 Authority to review sewer distinctions within  
24 its boundaries. The City of Columbia is at a size in  
25 where it can be more efficient to the citizens of its

1 community to fix sewers and implement sewer  
2 expansions without having to have to go through the  
3 Department of Natural Resources. This will provide a  
4 further expedited process to ensure appropriate  
5 sewage within the city limits, and with regard to  
6 expansions going out into the county areas served by  
7 the Boone County Regional Sewer District. With that  
8 --

9 (TAPE ONE, SIDE B CONCLUDED.)

10 MR. DAVID SHORR: -- the operator -- operating  
11 engineer for the city of Columbia over the wastewater  
12 treatment authority.

13 MR. TOM RATERMANN: Morning Mr. Chairman, members of  
14 the Commission.

15 CHAIRMAN HARDECKE: Morning.

16 MR. TOM RATERMANN: My name's Tom Ratermann. I'm the  
17 General Manager of the Boone County Regional Sewer  
18 District in Columbia, Missouri.

19 And I believe this multi-colored map was in your  
20 mailed out packet along with the conceptual white  
21 paper that Rob referred to before. And I'd kind of  
22 like to step you through this. This is a map of  
23 Boone -- all of Boone County, home of Columbia  
24 Missouri and University of Missouri. What we've  
25 outlined in red are the city limits of the cities in

1 Boone County. The City of Columbia is in the center,  
2 bisected east, west by Interstate 70, north, south by  
3 Highway 63. Up in the far northeast corner is the  
4 City of Centralia, the second largest city in Boone  
5 County.

6 About half-way between Columbia and the Missouri  
7 River to the south is the City of Ashland. There's  
8 other cities in Boone County of a -- of smaller  
9 populations.

10 The next think I'd like to point out, what we're  
11 showing in the multi-colored background are the  
12 watersheds of Boone County and then for lack of a  
13 better word the blue blobs are the sewer service  
14 areas. And you can see that most of the sewer  
15 district service areas are in a ring around the City  
16 of Columbia. But we do go as far south almost to  
17 Callaway County where 63 crosses into Callaway  
18 County.

19 We have some service areas half-way between  
20 Columbia and Harrisburg. We have three service areas  
21 near Hallsville. The next thing I'd like to draw  
22 your attention to are the black dots. And the black  
23 dots, you can see one at the very northern most part  
24 of the map, almost in Randolph County. There's 50  
25 black -- over 50 black dots on the map and those are

1 private DNR permitted facilities. And typically  
2 those are DNR permits to private individuals.  
3 There's a list up in the upper left hand corner of  
4 the map.

5         You'll probably notice a half-a-dozen mobile  
6 home parks, convenience stores, diners, facilities of  
7 that nature. The University's Channel 8 T.V. Station  
8 is far enough outside the city's service area that  
9 has -- that it has a private DNR permitted facility.  
10 You'll also notice that most of those private DNR  
11 permitted facilities are in a ring around the City of  
12 Columbia.

13         And David mentioned that both the City of  
14 Columbia voters and Boone County voters approved bond  
15 issues to make improvements to the sewer treatment  
16 inflection systems in Boone County. And as part of  
17 the planning that the sewer district does to make  
18 these improvements, we access the State Revolving  
19 Fund and we're required to plan for the 20 year  
20 design life of the treatment facility and -- and the  
21 service area that it would serve.

22         And in those areas where there's existing loads  
23 from these private DNR permitted facilities we're  
24 required to do the planning for them and build  
25 treatment capacity to serve them. Yet we don't have

1 the authority to require them to connect. And that's  
2 what we're applying for here in this joint  
3 application by the sewer district and the City of  
4 Columbia for Tier 2 Authority.

5 And basically this -- if this Tier 2 designation  
6 were conveyed to the City of Columbia and the sewer  
7 district this would memorialize a lot of the planning  
8 efforts that have been going on between the sewer  
9 district and the City of Columbia since the 19- --  
10 since the late to 1980s.

11 The sewer district has about 6,000 customers.  
12 So we have -- we service a population of probably  
13 18,000 to 24,000 people and about a third of those  
14 people are already connected to the City of Columbia.  
15 And every time the sewer district connects to the  
16 City of Columbia a connection agreement is required  
17 between the sewer district and the City of Columbia.  
18 There's -- there's over 20 different connection  
19 agreements between the sewer district and the City of  
20 Columbia.

21 So the planning level efforts are going on and  
22 have been ongoing for -- since the late 1980s. And  
23 what we'd like to do is memorialize that by you folks  
24 considering this in September and considering  
25 conveying a Tier 2 Continuing Authority to the sewer



1 district so where the sewer district has the  
2 capacity. It can provide service to these private  
3 DNR permitted facilities and they can be required to  
4 connect and protect the public health and protect  
5 water quality and provide service to those people  
6 that are on private facilities.

7 With that I'd like to turn it over to Steve Hunt  
8 and he can talk about some of the advantages to the  
9 City of Columbia if this Tier 2 Continuing Authority  
10 --

11 Yes, sir. Did you have a question?

12 CHAIRMAN HARDECKE: Can I ask you a question?

13 MR. TOM RATERMANN: Sure.

14 CHAIRMAN HARDECKE: What would your plans be for say  
15 that dot up at the very northern most Boone County  
16 because, obviously, you're not going to pipe that  
17 anywhere?

18 MR. TOM RATERMANN: Right. A lot of these  
19 facilities, private facilities the sewer district  
20 will not be able to serve and what we would envision  
21 is that when DNR is ready to issue a draft operating  
22 permit on one of these facilities it would be sent  
23 both to the sewer district and the City of Columbia  
24 and the City of Columbia and the sewer district would  
25 have an opportunity to comment on these formally and

1 inform the Department whether or not capacity is  
2 available.

3       And if capacity is available then the permit  
4 would not be reissued and the operator of that  
5 private system would be required to connect. And  
6 that's -- we really see that as being a local  
7 governance issue. And that's the purpose of the  
8 Columbia City Council and the Board of Trustees of  
9 the Boone County Regional Sewer District to make sure  
10 that those costs to the -- of connection are  
11 reasonable.

12 CHAIRMAN HARDECKE: Okay. So what about those  
13 individuals where -- I mean, if they -- if you --

14 MR. TOM RATERMANN: To directly answer your question.  
15 In that case up on the Randolph County line we would  
16 say, we don't have the ability to serve and we have  
17 no objection to the operating permit being reissued.

18 CHAIRMAN HARDECKE: Okay.

19       But someone closer -- I mean, you wouldn't  
20 consider taking over the operation of that system.

21 MR. TOM RATERMANN: No. We wouldn't.

22 CHAIRMAN HARDECKE: As the continuing authority?

23 MR. TOM RATERMANN: If capacity is available we would --  
24 we would advocate that they connect. Most of these  
25 50 private DNR permitted facilities are lagoons that

1 are rapidly becoming obsolete due to the disinfection  
2 standard and the age of the facilities.

3 That's what we're finding at the sewer district. We  
4 have close to 20 lagoons that we plan on taking out  
5 of service between now and 2013 to stay in compliance  
6 with disinfection. And that's really what's driving  
7 our \$21 million bond issue that voters approved.

8 COMMISSIONER SHORNEY: So, Tom, what would the rate  
9 impacts likely be if you took over a say a private  
10 system?

11 MR. TOM RATERMANN: Right now sewer district  
12 customers pay -- the typically customer pays \$35 a  
13 month. By 2013 they'll be paying about \$65 a month  
14 to stay in compliance with disinfection.

15 CHAIRMAN HARDECKE: You said 2013?

16 MR. TOM RATERMANN: Correct.

17 When a -- when one of these private DNR permitted  
18 facilities connects to the sewer district they would  
19 pay the same rate as sewer district customers. Now,  
20 there would be a connection fee involved in providing  
21 that treatment capacity or maybe that interceptor  
22 sewer to them. In my mind, the best way to defuse  
23 that capital cost is through the Neighborhood  
24 Improvement District Program.

25 The Boone County Commission has the authority to

1 issue, voter approved authority to issue up to five-  
2 and-a-half million dollar bonds -- five-and-a-half  
3 million dollars in general obligation bonds to  
4 finance sanitary sewer projects. And those -- what  
5 the County Commission does is they build the project  
6 and then tax bill the property owners through a  
7 special assessment. And that special assessment is  
8 collected by the Boone County Collector in the same  
9 manner as real estate taxes.

10       And you know I don't want to sugar coat it.  
11 It's expensive. We're working with a neighborhood  
12 right now that has 88 homes, single-family homes that  
13 are 30 to 35 years old that have septic tanks and  
14 leach fields. And we're bringing them a grinder pump  
15 system. Right now we've got about 50 of the 88  
16 connected. We'll probably have them all connected by  
17 the end of the month. And the special assessment to  
18 those property owners is between \$18,000 and \$23,000  
19 per lot.

20       But probably a dozen of those are in failing --  
21 failing and the county health department has cited  
22 them. In one instance there is three homes sharing  
23 the same lagoon which probably by state regulations  
24 should be DNR permitted. It makes it difficult for  
25 those people to market those -- their homes. So that

1 same Neighborhood Improvement District Program can be  
2 used to help these property owners that have private  
3 systems to connect to a public system.

4 COMMISSIONER TUPPER: What -- what role is the County  
5 Commission going -- I mean, they're avoided here, but  
6 that's where the person that doesn't want to be  
7 picked up is going to go to complain.

8 MR. TOM RATERMANN: Right.

9 COMMISSIONER TUPPER: And those guys are elected.

10 MR. TOM RATERMANN: Right.

11 The Boone County Regional Sewer District is  
12 essentially separate from the Boone County  
13 Commission. The trustees are appointed by the Boone  
14 County Commission but our -- our finances are  
15 separate. Boone County Sewer District revenues are  
16 99 percent user rates. The Boone County Commissions  
17 role, to answer your question, is through the zoning  
18 ordinance.

19 The -- the reason that Boone County, I believe,  
20 is unique in the state of Missouri is that for a  
21 predominately rural county it has planning and  
22 zoning. So as David alluded to or mentioned before  
23 earlier, if a developer wants to build a subdivision  
24 and it's dense enough to require wastewater treatment  
25 and collection it's the Boone County Commission's

1 zoning ordinance that requires that the treatment and  
2 collection system be conveyed to the Boone County  
3 Regional Sewer District.

4 And that in my mind is what essentially stops  
5 the bleeding in that we won't be back here 10 years  
6 from now and say there's 100 private DNR permitted  
7 facilities. You know, it's these -- it's these 50 or  
8 so that are in existence right now that are  
9 problematic I think from an enforcement perspective  
10 often times. And just from an age and obsolescence.

11 Did that answer your question?

12 (No response.)

13 CHAIRMAN HARDECKE: Okay. You gave an example of the  
14 area that does -- that was on septic tanks --

15 MR. TOM RATERMANN: Um-huh.

16 CHAIRMAN HARDECKE: -- supposing you have a, well,  
17 just for example a trailer park. They've got a  
18 collection system to their facility, treatment  
19 facility and it's right across the street from your  
20 line so connection is not going to be a huge cost.

21 MR. TOM RATERMANN: Right.

22 CHAIRMAN HARDECKE: And they have already have  
23 invested in their system so are they -- are you going  
24 to assess them the same as you would if you had to  
25 lay a whole new system in or what kind of

1 considerations --

2 MR. TOM RATERMANN: The Board of Trustees has brought  
3 authority to set their connection fees. And right  
4 now their connection fees are -- the philosophy  
5 behind connection fees is the connection fee defrays  
6 the cost of building the treatment and  
7 collection system.

8 And so to date that's been kind of been a site  
9 specific issue. In some issu- -- in some geographic  
10 areas the capital costs haven't been as high to  
11 provide treatment and collection. In other  
12 geographic areas it is a little higher.

13 Where there's connection possible to a sewer  
14 district service area that's connected to the City of  
15 Columbia typically those connection fees are a lot  
16 lower. A good example is the Prathersville area,  
17 just north of Columbia, there's seven private DNR  
18 permitted facilities within a quarter-mile to a half-  
19 mile of each other and a sewer district, sewer line  
20 that has been connected to the City of Columbia by a  
21 connection agreement that's probably five, ten years  
22 old.

23 There was a little capital project five or ten  
24 years ago to take a sewer district lagoon out of  
25 service and connect it to the city. So that

1 particular geographic area is already governed by a  
2 connection agreement. Yet there's seven or eight  
3 private DNR permitted facilities that neither the  
4 city nor the sewer district can require to connect.  
5 And to have seven or eight private DNR permitted  
6 facilities within a quarter-mile or to a half-mile of  
7 each other really kind of presents a public health  
8 issue.

9       On top of that there's about 30 single-family  
10 homes that are also on septic tanks and leach fields  
11 and we can't do anything with the single-family homes  
12 because we can't get the private DNR permitted  
13 facilities to do their part. And we can't get the  
14 private DNR permitted facilities to do their part  
15 because we can't get the single-family homes to do  
16 their part.

17       And if we had this Tier 2 Level Authority it  
18 would facilitate the connection of those private  
19 facilities, some of which are having compliance  
20 problems with the Department.

21 CHAIRMAN HARDECKE: I guess, my concern, in those  
22 instances would be that -- you know, when you're  
23 given that authority you can go in there with a big  
24 hammer and say, you know, we got you. But I would  
25 hope that you would look at it as a benefit to all to



1 have this happen and not just hold a hammer over  
2 somebody's head.

3 MR. TOM RATERMANN: Right.

4 And I really think that's the role of the sewer  
5 district's Board of Trustees. They're appointed by  
6 the County Commission. One of the County  
7 Commissioners, one of the elected County  
8 Commissioners sits on the sewer district's Board of  
9 Trustees and really they're the -- the local  
10 governing body that is the check on the  
11 reasonableness of the costs.

12 CHAIRMAN HARDECKE: So what is -- what is the local  
13 response to this been? Is there a lot of opposition  
14 or --

15 MR. TOM RATERMANN: When we have a connection  
16 agreement with the -- with the city -- do you want to  
17 speak to that.

18 MR. DAVID SHORR: Let me put on my Board of Trustees  
19 hat.

20 CHAIRMAN HARDECKE: Okay.

21 MR. DAVID SHORR: Seeing as how I am the vice-chair.  
22 I've not received one call. I am appointed. Karen  
23 Miller, who you've all met before, I believe, last  
24 meeting she was present. She is the go-to person.  
25 She's the southern district commissioner.

1           She has received only one call. That one call,  
2 one plant having a conversation that's going to  
3 impact 1,000 or so residences, is one where you have  
4 to question whether you use a waiver or a variance,  
5 as part of the Board, to what's your connection fee  
6 and what's your connection requirements. Part of it  
7 is; what are they going to do with regard to  
8 transition?

9           So for example, if it's a trailer park and we've  
10 had this conversation, if it's a trailer park that's  
11 got 34 units and it's a plant that was going to cost  
12 \$150,000 to upgrade or to connect and DNR has it in  
13 violation already, I think, it's all in our interest  
14 for that plant to be eliminated.

15           Now, the question becomes for us. How is that  
16 going to be expedient for us? In providing a  
17 universal rate which is what we provide across the  
18 Board for that connection. And I will tell that we  
19 will be considering whether that party who has the  
20 plant is willing to install meters, because meters  
21 are important to us. Whether they're willing to  
22 investigate their individual lines for connections  
23 and if they're going to be doing those type of  
24 expenditures in order to connect we're going to weigh  
25 that as part of our decision regarding the connection

1 fee, and whether that connection fee will be directed  
2 towards his improvements or whether it be directed  
3 towards ours.

4         And for example, Prathersville is a very good  
5 example. Our property owners that we -- that Tom  
6 referenced are less fortunate. They cannot afford to  
7 eliminate and connect. We have an opportunity with  
8 the stimulus package that we've been working with  
9 your staff on trying to figure out, how do we do it?  
10 Yet we got seven plants sitting in the middle of this  
11 matrix that if they do not participate we cannot  
12 provide the service to the other area.

13         So the question becomes; how do you make that  
14 leap and that's where this example really came,  
15 Commissioner, is that we've been working through this  
16 and you're going to hear in your enforcement section  
17 about one of the plants that's in Prathersville and  
18 that is in violation. And how do we address it,  
19 jointly? How does the Department address it? Do  
20 they reissue a permit or do they just turn around and  
21 say no issue 'cause you can't remain in compliance?  
22 Does the AG make a demand to -- for them to connect?

23         It's a chaotic scenario that doesn't given any  
24 certainty right now and what we're trying to do is  
25 get to a point where at least a point of contact is

1 narrowed down to -- really two spots, the Department  
2 and whichever Tier 2 Authority.

3 I also want to indicate that this is applicable  
4 inside the limits of the City of Columbia. There's  
5 at least one plant inside the City of Columbia  
6 limits. Surrounded completely by the City of  
7 Columbia and is discharging into the same streams  
8 that the City of Columbia is trying to clean up.

9 And so here we have, in fact, is that one a  
10 303(d)?

11 MALE SPEAKER: No. Cow Branch isn't.

12 MR. DAVID SHORR: Okay. But -- but if -- if we were  
13 in that situation we would be coming to you sitting  
14 in there saying we have a plan on a 303(d) stream  
15 that we can't even do anything about. And we don't  
16 have the legal authority to even talk to them about  
17 it because we're not Tier 2.

18 So our goal and objective is just to -- to  
19 funnel this all down so that we can make these  
20 decisions at the lowest point possible. And the  
21 example that you gave, I can tell you that the Board  
22 has already discussed that example when we went  
23 through the exercise, the plant all the way up near  
24 the Randolph County border. There's probably no way  
25 that we're going be involved in that plant unless of

1 course we see that there's the prospect for there to  
2 be multiple users connected to that plant in the  
3 immediate future.

4 I will tell you that one of the unique features  
5 of Boone County Regional Sewer District is that, and  
6 one thing Tom didn't mention was about the other map,  
7 but we have also been solicited by other counties to  
8 help them operate systems that are developing in  
9 their areas surrounding Boone County.

10 So we're getting all these kind of situations  
11 that are unique, political, locally based issues that  
12 don't fit in the square hole. And so we're having to  
13 have to work through these things. And this Tier 2  
14 Authority appears to be what can help both the city  
15 and the county to carry it out.

16 I will tell you that the Commission, and your  
17 question about the Boone County Commission, the  
18 reason why when we structured -- there is -- we have  
19 five, six --

20 MR. TOM RATERMANN: Five.

21 MR. DAVID SHORR: We only have five board members on  
22 our Board, one is a Commissioner. And so that puts a  
23 pretty heavy vote conscience on the Commission  
24 and I will tell you that it is developed based upon  
25 how protocol goes that when a Commissioner has a real

1 problem with what's going on with our policies and  
2 practices we tend to be backed off and go to another  
3 meeting to discuss the issue simply because we can't  
4 -- we can't get the contact that the Commission can.

5 We also hold public periods which the Commission  
6 directs people to come to our meeting to discuss  
7 their issues in terms of mostly variance related  
8 activities, just like the variance activities that  
9 you have before you. They're not all perfect. And  
10 it's the best way we can possibly get through it.

11 COMMISSIONER TUPPER: Tell me what has been done to  
12 put the word out -- you know, saying you've only got  
13 the one call doesn't mean anything if I know more  
14 about the project than the average Boone County  
15 resident.

16 MR. DAVID SHORR: The word out regarding  
17 consolidation or Tier 2?

18 COMMISSIONER TUPPER: The whole proposal.

19 MR. DAVID SHORR: The proposal has been public at  
20 every meeting that we have had. Every meeting, it  
21 has appeared on the agenda that we've talked about  
22 it. It is not -- we have talked about this for years  
23 in Boone County. This is not a new subject. The  
24 issue has been; how do we work with the Department to  
25 get there? Rob, how -- ever -- I remember this when

1 I was at DNR being discussed which was 11 years ago.  
2 So this -- this has been a very long --  
3 COMMISSIONER TUPPER: I know that, but typically that  
4 involves only the people that are active in doing  
5 things. I'm talking about the person that lives in  
6 the county and has no idea.  
7 MR. DAVID SHORR: I would -- I would have to say to  
8 you that most of the people who are constituents of  
9 either of these instrumentalities have been advised  
10 in some way, shape or form either through counsel,  
11 Commission, agenda or Board agenda. I would say that  
12 the folks, for example, if somebody were in the  
13 absolute hinter land in northeast Boone County the  
14 answer would probably be, no. The only place that  
15 they'd have notice of it would be Commission agenda.  
16 COMMISSIONER TUPPER: And you're telling them that in  
17 four years their sewer bill is going to be \$65 bucks  
18 a month?  
19 MR. DAVID SHORR: Oh. Rates?  
20 COMMISSIONER TUPPER: Yeah.  
21 MR. DAVID SHORR: Oh. Rates are voted on by all the  
22 people in the county. Okay? All the rate  
23 discussions that we've done, every rate that we've  
24 raised as a direct result of a change in regulation  
25 that comes from either EPA or the Department of

1 Natural Resources has been addressed by our rate  
2 actions. Our rate actions are all public. They're  
3 all bonds. They must go to all the voters in Boone  
4 County.

5 And we have a unique scenario in Boone County  
6 where we have 6,000 customers whose fate are decided  
7 by the other 140-some-thousand residents of Boone  
8 County. So, for example, me, who lives in southwest  
9 Boone County, my rate once the Board of Trustees says  
10 we're going to the voters will be decided by all the  
11 voters of Boone County.

12 Now, that's not the same for the citizens of  
13 Columbia. Citizens of Columbia only vote on their  
14 bond issue. Okay? But the citizens of Columbia are  
15 citizens of Boone County and they get the right to  
16 vote on my sewer rate.

17 So let's see that's 100,000 to 6,000 odds if  
18 they want me to expand my sewer system to have  
19 improved water quality, they're probably going to  
20 vote for it. The citizens -- I was on all the bond  
21 issues. We have gone to the public on all of our  
22 bond issues on rate increases.

23 So all of our rate increases are approved by  
24 everybody. Okay? Does that answer your question on  
25 rates?



1 COMMISSIONER TUPPER: Yeah.

2 MR. DAVID SHORR: Yeah.

3 All of our rates have been approved by vote.

4 COMMISSIONER TUPPER: There's another thing that can  
5 figure rates though and that's on unbridled growth.

6 MR. DAVID SHORR: Unbridled growth?

7 COMMISSIONER TUPPER: Yeah. Expansion. Taken over  
8 some of these other things can also trigger a need  
9 for more money. That's a rate increase.

10 MR. DAVID SHORR: It's one of the reasons why we're  
11 fortunate that we have county-wide zoning. And if  
12 you're not -- if you want sewerage you're going to  
13 have to go to one of the areas that sewers are  
14 provided or else you're going to have demonstrate,  
15 you're going to put in a plant that's going to be  
16 capable of carrying it out for the long-term future.

17 So I hope that answers your question.

18 COMMISSIONER TUPPER: Well, I -- I agree with the  
19 proposal. I don't have a problem with it. I think  
20 that we're plowing new ground and there are some  
21 dangers that we need to be very careful.

22 COMMISSIONER SHORNEY: David? David?

23 MR. DAVID SHORR: Yes.

24 COMMISSIONER SHORNEY: On the bond issues can you  
25 tell us a little bit of the statistics; how many

1 people voted, what percentage was -- voted for it.

2 MR. DAVID SHORR: I can't remember the total number  
3 of voters but the vote totals were both in excess of  
4 65 percent. In fact, ours was -- what were we --

5 MR. TOM RATERMANN: We were about 69 percent. I  
6 think the City of Columbia's was slightly over 70.  
7 And the City of Columbia and the sewer district have  
8 gone to the voters jointly in '97, 2003 and 2008. In  
9 '97 the sewer district, it was asking for about 3.8  
10 million and the City of Columbia was asking for about  
11 18 million. And the percentage approvals were about  
12 the same.

13 It's about 69 percent for sewer district, about  
14 70 percent, a little over 70 for the City of  
15 Columbia. The same thing in '03, the city was  
16 seeking about 18 million, the sewer district was seeking about  
17 3.8 million approval percentages were about the same.  
18 And then in '08 the city was seeking about 60 million  
19 --

20 MR. STEVE HUNT: Seventy-seven million.

21 MR. TOM RATERMANN: Seventy-seven million and the  
22 sewer district was seeking 21 million and the  
23 approval percentages were about the same. Sewer  
24 district about 68 percent. The City of Columbia just  
25 over 70 percent.

1           We go to the voters at the same time, as David  
2 mentioned all Boone County residents, registered  
3 voters vote on sewer district bond issues. So that  
4 means the City of Columbia voter gets to vote on  
5 sewer district customers' bond issues. And then the  
6 City of Columbia voter actually sees two questions on  
7 their ballot. The sewer district's ballot question  
8 and the City of Columbia's ballot question.

9 MR. DAVID SHORR: We have a demonstrated effort. You  
10 could ask, why would I want to be one of the people  
11 who would want to raise rates 100 percent? My  
12 neighbors are thrilled about it. I can tell you  
13 that.

14           But the fact is, is what we've done is we've  
15 always gone with a coordinated approach. We've  
16 already talked -- always talked about the area as a  
17 system not a political subdivision. We explain the  
18 political subdivisions with regard to who's paying,  
19 but they understand that it's a coordinated effort.

20           And, I think, that's -- I think, that's one of  
21 the things that the public in, at least, Boone County  
22 is calling for. And I think we have delivered. And  
23 I think our votes have demonstrated it when you're  
24 asking for that kind of money.

25           If you were to ask me, is the well tapped out?

1 I tell you that that is probably getting there. I  
2 don't think we'll see that kind of response the next  
3 go around.

4 Steve, you want to quickly represent --  
5 MR. STEVE HUNT: Thanks, David. I just -- I'll be  
6 brief. I just have a couple items I'd like to  
7 mention.

8 One of them is our -- is that the city has one  
9 wastewater facility that serves the entire city metro  
10 area as Tom and David mentioned. We are planning on  
11 making about a \$60 million improvement to this  
12 facility funded through the SRF Program.

13 We are in final design of that process. We hope  
14 to bid that project in September. Once this facility  
15 is completed the wastewater facility for the City of  
16 Columbia and Columbia metro area should be pretty  
17 well set through the year 2025, 2030 depending on  
18 growth and depending on what additional regulations  
19 are coming down from EPA or from -- from DNR.

20 But -- but the point being is that the capacity  
21 for serving the entire metro area will be there. The  
22 city is committed to providing service area -- or  
23 providing sewers for Columbia, for the -- for the  
24 area in blue there on the left map as the city  
25 continues to grow we are committed to provide sewer

1 and make the necessary improvements to our system.

2 With these improvements in place, the \$60  
3 million improvement project Columbia's sewer rates  
4 will be around \$20 per month by the year 2013. We  
5 were fortunate and we took advantage of a lot of EPA  
6 construction grant monies that were available  
7 throughout the '80s so our rates have been fairly  
8 competitive.

9 But the point being is that -- that we are  
10 willing and able to provide service. We've got a  
11 long history of working with the sewer district. We  
12 intend to -- to continue that in the future. And  
13 from the city's perspective -- excuse me -- from the  
14 city's perspective our goal in this process is to  
15 continue to have one facility, one wastewater  
16 facility in the city to keep these wastewater -- to  
17 keep new wastewater facilities from being created to  
18 see that existing wastewater facilities that are in  
19 our service area are systematically removed when it's  
20 feasible, when we have sewers available.

21 The city typically bears most of the cost to  
22 connect these facilities to our system. The one  
23 facility that's in -- that's within the city, right  
24 now, it's a small lagoon. It's up on the north part  
25 of town. We actually have a city sewer line that

1 runs within feet of this lagoon. It would literally  
2 take less than 10 feet of pipe to connect this  
3 facility to our system.

4 So we're not talking about a big dollar  
5 investment from these individuals that have private -  
6 - private facilities to connect to our system. It's  
7 just a matter of getting it done and so that the  
8 citizens can enjoy -- enjoy the benefits of having  
9 streams in town that are -- that are protected.

10 It's our goal to have the highest water quality  
11 in our streams as we can. And we see that this Tier  
12 2 Authority will allow us to do that to keep these  
13 facilities from discharging to the streams.

14 As David mentioned we're also pursuing the sewer  
15 extension delegated authority. The city has a number  
16 of professional engineers on staff, myself, being one  
17 of them, we've got a system in place; we currently  
18 review all the sewer extensions that are to be built  
19 in the city by private development and by -- by our  
20 own construction projects. We currently re- --  
21 review those in-house, then we send the plans down to  
22 the state, down to DNR once they meet our  
23 requirements and then the -- and then the state  
24 reviews them as well.

25 So we feel like our internal program is

1 sufficient and it meets the -- meets the requirements  
2 of the delegated program. We're seeking that -- that  
3 authority as well.

4 I'd be happy to answer any questions you might  
5 have of me.

6 CHAIRMAN HARDECKE: What was your rate by 2013?

7 MR. STEVE HUNT: It's roughly 20, \$20 per month for  
8 the -- that's for a residential user.

9 CHAIRMAN HARDECKE: Okay. It's that -- what is it  
10 now, then?

11 MR. STEVE HUNT: Now, it's -- its \$15 a month.

12 CHAIRMAN HARDECKE: So yours isn't going to go up as  
13 much as the sewer district?

14 MR. STEVE HUNT: No, sir. The city, we have about  
15 40,000 residential customers and an additional three  
16 almost 4,000 industrial, commercial customers so our  
17 -- our scale is a little bit bigger than the sewer  
18 districts.

19 MR. DAVID SHORR: I just want to -- I want to answer  
20 one question that you should have asked. Okay?

21 What we're asking for is on the green map over  
22 here. In the blue is the City of Columbia that would  
23 be their 2 Tier -- Tier 2 Authority zone and  
24 the green would be the counties. There are white  
25 zones that appear on the map. Those white zones are

1 existing, incorporated cities within the boundary of  
2 Boone County that have their own systems and have  
3 their own independence and their own councils and  
4 they are not included in the Tier 2 request because  
5 they have their own option of what to do.

6 Now, the question that is out there would be,  
7 well, what if they would want one of the Tier 2  
8 Authorities to potentially work with them. The  
9 answer is, is there is two examples already, one, is  
10 Rocheport, which many of you know Boone County Sewer  
11 District by contract operates the Rocheport facility  
12 and -- and we provide the services for them. And  
13 then there's also Hartsburg. We're under contract  
14 and we operate their facility and it is not our rate  
15 base, but we provide them the professional expertise  
16 that they need in order to take care of their  
17 business.

18 That would be a question for the Board of  
19 Trustees whether they would wish to accept additional  
20 activity and whether we would accept them as a  
21 district customer versus a contractee. So that would  
22 be the only other issue that I -- I would see in the  
23 matrix of -- of what I would want to ask if I were a  
24 Commissioner, so --

25 Any other further questions?



1 CHAIRMAN HARDECKE: Would they -- do you think there  
2 would be the -- if the black dot at the top of the  
3 map desired to have the district operate their system  
4 on a contractual basis for -- I mean, is that a  
5 possible?

6 MR. DAVID SHORR: Commissioner, that's been brought  
7 up.

8       The biggest problem that exists is they'd still  
9 have to pay the capital costs. Hartsburg pays all  
10 its capital costs. So when we -- when we go to  
11 disinfection, you just approve Rocheport -- a loan  
12 for Rocheport for disinfection. Rocheport makes that  
13 decision. Rocheport decides its rate. All we do is  
14 provide the professional operation capability. I  
15 would think that would be a question for the Board  
16 that if a customer wished us to be an operating  
17 enterprise whether we would take that under contract  
18 or not as a private entity. To date, we've never  
19 done that.

20       We've got an interesting scenario coming up in  
21 north Col- -- or in north Boone County a proposed  
22 racetrack that has been in Boone County and mostly  
23 out of Boone County. It's now been annexed into  
24 Clark and Randolph. What question will be posed to  
25 us since we're the closest sewer authority to -- to

1 participate in any way? And we've already told the  
2 Randolph County Commissioners we're there and  
3 available for technical assistance but that would be  
4 an inner-agency agreement that I don't even know if  
5 we can do under law.

6 So I hope that answers your question.

7 CHAIRMAN HARDECKE: If -- if you were able to bring -  
8 - you have any idea how many customers you would add  
9 if you were able to bring a large percentage of these  
10 individual entities in? I mean, would that help --

11 MR. DAVID SHORR: Defray costs and lower rates?

12 CHAIRMAN HARDECKE: -- your rate to not be as --

13 MR. DAVID SHORR: I would actually probably take the  
14 gut reaction that it might even be a little more  
15 stress on the rate. A lot of these areas we would  
16 not get one-to-one off of with regard to the capital  
17 improvement expense. So it be -- have to be  
18 amortized amongst the other customers.

19 Also, in our -- one other item for your interest  
20 in all the agreements that we've done in what I call  
21 the modern era with the city; one of the issues is as  
22 the city grows it sometimes, like, an amoeba comes  
23 around and starts coming around sewer district  
24 property and area. And we've already made a  
25 provision in our agreements for the city to be able

1 to reincorporate citizens of Columbia into their  
2 system when they become citizens of Columbia. And  
3 the whole function in those agreements is maintaining  
4 our minimum rate base to pay off our bonded indebtedness.

5       So to answer your question, it fluctuates. And  
6 -- and so we have to speculate how many customers  
7 we're going to have and we use a minimum standard  
8 versus maximum in order to make sure that we can  
9 maintain the ability to pay down debt. We have to do  
10 that because Columbia is growing. And we want it --  
11 we want those citizens to receive service from their  
12 community and not have this political unrest that  
13 occurs when they're -- when they have this.

14       Does that answer your question?

15 (No response.)

16 MR. DAVID SHORR: Thank you. We appreciate it.

17 CHAIRMAN HARDECKE: Thank you.

18 MR. ROB MORRISON: Just a quick reminder, as I  
19 mentioned, we intend to bring this back to you in  
20 September. If you have any questions feel free to  
21 contact me or -- and I can either pass your question  
22 along or we can answer that at that time.

23       So with that any questions for me, right now,  
24 that -- that are -- are -- are on your mind for the  
25 Department?

1 (No response.)

2 MR. ROB MORRISON: All right. Thank you.

3 CHAIRMAN HARDECKE: Okay. Any other comments on that

4 or --

5 If not, we're going to break for lunch and --

6 before we get into the next topic. So are you ready?

7 COMMISSIONER SHORNEY: Mr. Chair, I move the Clean

8 Water Commission go into closed session to discuss

9 legal, confidential or privileged matters under

10 Section 610.021(1), RSMo; personal actions -- personnel

11 actions under Section 610.021(3), RSMo; and personnel

12 records or applications under Section 610.021(13),

13 RSMo.

14 COMMISSIONER HUNTER: Second.

15 CHAIRMAN HARDECKE: Malinda, you want to take the

16 vote?

17 MS. MALINDA OVERHOFF: Commissioner Easley?

18 COMMISSIONER EASLEY: Yes.

19 MS. MALINDA OVERHOFF: Commissioner Shorney?

20 COMMISSIONER SHORNEY: Yes.

21 MS. MALINDA OVERHOFF: Commissioner Tupper?

22 COMMISSIONER TUPPER: Yes.

23 MS. MALINDA OVERHOFF: Commissioner Hunter?

24 COMMISSIONER HUNTER: Yes.

25 MS. MALINDA OVERHOFF: Chair Hardecke?

1     **CHAIR HARDECKE: Yes.**

2             Thank you. We'll see you -- how long? At one  
3 o'clock.

4     (Break in proceedings.)

5     **MR. MOHAMMADI: You're on.**

6             Good afternoon, Mr. Chairman, members of the  
7 Commission we have four items for referral to the  
8 office of Attorney General Office for you this  
9 afternoon.

10            The first one is **Frank Davis and Davis Rental,**  
11 **L.L.C. also known as Upper Deck.** Davis Rentals,  
12 L.L.C. owns a tavern and restaurant known as the  
13 Upper Deck located in Boone County. Wastewater from  
14 the tavern and restaurant is treated by the  
15 wastewater treatment facility consisting of a septic  
16 tank and aeration unit. The facility operates  
17 pursuant -- pursuant to Missouri State Operating  
18 Permit, which expired by its own term on April 2007.

19            Since June 2002, the Department has conducted  
20 several inspections of the facility serving the Upper  
21 Deck. During this inspection and review of the  
22 discharge monitoring report staff documented that the  
23 effluent discharging from the facility has  
24 chronically failed to comply with its effluent  
25 limitation.

1           In addition, Department record indicates that  
2 the Department has not received the annual sludge  
3 reports for years from 2004 to 2008. For the past  
4 several years Department staff has made numerous  
5 attempts with Mr. Frank Davis to obtain voluntarily  
6 compliance with Missouri Clean Water Law.

7           However, Mr. Davis has failed to correct the  
8 violations. Therefore, staff recommends the matter  
9 to be referred to the office of Attorney General  
10 Office for appropriate legal action.

11 CHAIRMAN HARDECKE: Okay. Is there anyone here from  
12 Davis Rentals?

13 COMMISSIONER EASLEY: Yes.

14 MR. FRANK DAVIS: Good afternoon, Commissioners. I'm  
15 Frank Davis, Davis Rentals L.L.C.

16           On the permit when I -- I actually originally  
17 opened the Upper Deck in 2001, 2002. I sold it in  
18 2004 to another gentleman. I bought it back in late  
19 2006. The operating permit in my mind was five  
20 years. I forgot about it. Only -- not that it  
21 didn't extend out five years for me that I had to do  
22 it -- I have no defense except I forgot and had five  
23 years in my head and that's it on that one.

24           On the rest of it, most of it is about the  
25 effluent and the sludge report. The effluent when I

1 got it back was -- the whole system was in disarray  
2 from where I originally put it in. And it took me a  
3 long time to get it back into actually operating  
4 capacity to where it would actually take care of this  
5 -- the building and the business.

6 From May 2008 to April 2009 there was only one  
7 report on total suspended solids that was out of  
8 compliance, which was 36 instead of 30 on that. So  
9 there's almost a year now that it has been in  
10 compliance.

11 In May, this year, I got another report it was  
12 at 41. And I'm like the sys- -- in my mind the  
13 system has ran perfect for a year almost now, maybe a  
14 little over a year. Now, all of a sudden it's going  
15 out again. The next month in June I actually was  
16 there when they took the sample. The guy sampling  
17 it, he opened the bottle up, he drops it right down  
18 in the water, picks it up, hoses the outside off and  
19 props it up underneath the discharge pipe to take a  
20 sample. So I called the office about it. They said  
21 they know his habitats. He doesn't do stuff like  
22 that. And I said I saw him do it.

23 So I'm fighting with them about whether he did  
24 or not. And they went ahead and reran -- I thought  
25 they were going to come and get another sample. They

1 didn't. They just reran the sample. Rerunning the  
2 same sample came back at, I think, it was at 52 the  
3 first time. They have an amended one and I have a  
4 copy of here, too, that is now at 42. So those  
5 10 differences in less than a week on the same sample  
6 that was in their office.

7 I'm actually trying -- I'm actually talking to  
8 other companies and get somebody else that's more  
9 reliable, more dependable. Hopefully, they can make  
10 sure that the samples are done right. If not, I'm  
11 going to start taking the samples myself.

12 And I've been talking Tom Redding (sic) -- or  
13 Ratermann, I am one of his black dots on that map  
14 that you heard earlier. I've been talking to them  
15 for -- they're saying 11 years, it's been over 12  
16 years. And I've owned the convenience store up there.  
17 There was a carwash, at one time, rental house; they  
18 were all on one lagoon. The building where this is  
19 at now I had it also. So I had several permits. I  
20 tried and tried to get sewer. I could not get it. They  
21 refused to let me hook on to the sewer when they let  
22 others just 1,000 feet from me hook on. I was going  
23 to pay 100 percent, myself, to put the pipe in and  
24 everything.

25 They're talking now that they can't get



1 easements for the sewer. We're -- I'm trying to work  
2 with Tom, now, to try to talk to some of the other  
3 people. I'm not a government official. They'll  
4 listen to me, I think, better. Maybe they can  
5 understand my words better than they can there's.  
6 And hopefully we can get sewer in that area and do  
7 away with this permit.

8 I do not want the permit, but I have to have it  
9 right now. I've been trying for years. And that's  
10 all we can do with it.

11 The sludge reports, I don't even remember  
12 anybody saying anything about a sludge report. I've  
13 never, to my knowledge, ever sent one in from back in  
14 '02. Nobody has ever put anything on a non-compliant  
15 until this year about a sludge report.

16 They have also on here '04, '05 and '06. Late  
17 '04 I sold the business. I didn't buy it back until  
18 late '06, so there's some years in there that I  
19 didn't even own the property at that time.

20 And I've just -- I'm really taking care of the  
21 system, now. I've got it down. I've just got to get  
22 somebody else that's going to do the testing right.

23 If --

24 CHAIRMAN HARDECKE: You're hiring a company to do the testing?

25 MR. FRANK DAVIS: Hiring another company to do the

1 sampling and testing besides this one. The way  
2 they're doing things is less than desirable. And I'm  
3 -- I don't -- this is a waste of my time being here.  
4 It's their fault this time on these last few. How  
5 many before that, I don't know. I didn't check on  
6 them. And every -- it was always the system.  
7 Something wrong with the system, that's everybody's  
8 excuse constantly.

9       So I'm not an engineer. I'm not a scientist. I  
10 don't even know how to do these tests. I know how to  
11 take a sample. And if that's what it takes that's  
12 what I'm going to start doing myself.

13 (TAPE TWO, SIDE A CONCLUDED.)

14 CHAIRMAN HARDECKE: -- Boone County Sewer District,  
15 what kind of time table did they give you to get  
16 hooked on there?

17 MR. FRANK DAVIS: There're saying they have to have these  
18 easements by February to get the stimulus money,  
19 which will be half of the grant money, which will  
20 help everybody in the neighborhood by half on their  
21 actual cost.

22 COMMISSIONER EASLEY: They obtained all the  
23 easements?

24 MR. FRANK DAVIS: They have not -- they've got ten, I  
25 think, out of 36. But I know a lot of the others

1 that are up there. I've been -- I've had a business  
2 up there for over 18 years of some kind or another so  
3 I know a lot of the people there. I'm going -- Tom  
4 and I are going to get together next week. We're --  
5 he's going to go through with all the lines of  
6 where's city, where's county. He's going to give me  
7 names and addresses of people I know. I'm going to  
8 go around and try to get the easements myself if I  
9 can.

10 CHAIRMAN HARDECKE: So they will have to lay a sewer  
11 line to your property; is that correct?

12 MR. FRANK DAVIS: They -- I don't know that they  
13 would lay it through mine --

14 CHAIRMAN HARDECKE: If they get the easements? I  
15 mean, through the properties where you get the  
16 easements --

17 MR. FRANK DAVIS: Yes.

18 CHAIRMAN HARDECKE: -- to hook on to your property?

19 MR. FRANK DAVIS: Yes.

20 And my property, actually, is about 1,000 feet  
21 from sewer. But I can't get hooked on. I've been  
22 talking to the city --

23 CHAIRMAN HARDECKE: And there's 36 properties in that  
24 1,000 feet is that --

25 MR. FRANK DAVIS: And -- the rest the properties are

1 past me to the north.

2 CHAIRMAN HARDECKE: Oh.

3 MR. FRANK DAVIS: And I'm -- they would all have to

4 come -- this line would have to come across me or on

5 the other side of the road, down that side.

6 CHAIRMAN HARDECKE: But they won't build it until

7 they get the whole thing?

8 MR. FRANK DAVIS: Until they get the easements and

9 they can't -- well, they can't get the stimulus money

10 until they get the easements in place. And that has

11 to be done by February.

12 CHAIRMAN HARDECKE: Right. But I'm saying they won't

13 build the line to you unless they can build the whole

14 thing is that the problem?

15 MR. FRANK DAVIS: Well, this is --

16 CHAIRMAN HARDECKE: No. Beyond -- you said the line

17 would go on beyond you?

18 MR. FRANK DAVIS: It would be -- yeah. It would go

19 past me to the north.

20 CHAIRMAN HARDECKE: Part of the easements that they

21 don't have are beyond you?

22 MR. FRANK DAVIS: Right.

23 CHAIRMAN HARDECKE: Can you get -- I guess, my

24 question is, if you're only 1,000 feet how many

25 easements are between you and them to get to your

1 property? Or how many of those do they have?

2 MR. FRANK DAVIS: Two at the most depending on which  
3 direction they went. I'm right at a state right-of-  
4 way and a county right-of-way. And they just put in  
5 a new roundabout and everything. So they've already  
6 got easements through a lot of that for --

7 CHAIRMAN HARDECKE: So have you talked to him about  
8 getting the line in, as far as you, outside of -- you  
9 know, to just expedite the process for you?

10 MR. FRANK DAVIS: That's what he's going to talk to  
11 me about next week. I guess I am in -- the city has  
12 expanded their line for sewer out into the county.  
13 He's telling me today that I am in the city part so I  
14 would actually have to deal with the city and him to  
15 try to get just mine hooked on if nothing else. And  
16 at least now we're getting some dialog, so --

17 CHAIRMAN HARDECKE: Now, have you talked to Kevin  
18 about this situation or the possibility of getting  
19 hooked on?

20 MR. FRANK DAVIS: I haven't talked to anybody about  
21 it. I just found out today about the stimulus money  
22 and not getting the easements.

23 He even told me they had a meeting at another  
24 building, which is not very far from me, a couple of  
25 blocks, and property owners to show up for signing

1 easements and all this. Out of 36 there was 10 that  
2 showed up.

3 I didn't even know anything about the meeting  
4 because of me being in the city part of the county.  
5 And it doesn't make sense to me, right now, he's  
6 going to show me all the maps and everything and  
7 explain to me where it's all going, so -- we're their  
8 plans are going with it.

9 CHAIRMAN HARDECKE: All right.

10 MR. FRANK DAVIS: And I do agree with their second  
11 authority. I forget what it's called.

12 CHAIRMAN HARDECKE: Level 2 Authority.

13 MR. FRANK DAVIS: Yes.

14 CHAIRMAN HARDECKE: Continuing Authority.

15 MR. FRANK DAVIS: And make them hook on. It's --  
16 especially the Prathersville area. There are lagoons  
17 up there that are running into other people's  
18 backyards up by their houses. And we've called the  
19 health department. We've actually -- I've actually  
20 talked to Macon, the office of DNR in Macon and they  
21 said it's out of their hands. It's personal  
22 property. There's no permit on it or anything. And  
23 it's -- it's a place that's really in need of sewer.  
24 It's in need of some help.

25 CHAIRMAN HARDECKE: Do you have any comments in

1 regards to his?

2 MR. KEVIN MOHAMMADI: I do.

3 I agree with Mr. Davis that connection --  
4 connection to the Boone County is the ultimate  
5 solution to this and I'm glad to hear that he's  
6 willing to work with Boone County Regional Sewer  
7 District. And that's what we are -- we hope to have  
8 in place.

9 The purpose of referral is that the system that  
10 Mr. Davis has its very high maintenance, intense,  
11 requires lots of maintenance in order to keep it  
12 going and running, staying in compliance. And that's  
13 one of the problems we had with him that whether it  
14 was somebody else who owned the property or Mr. Davis  
15 operated it; they didn't stay on top of this thing  
16 for some legitimate reason I assume.

17 What we would like to have in place is if this  
18 matter is referred to the Attorney General Office, we  
19 have his settlement agreement with Mr. Davis that Mr.  
20 Davis agrees to connect to the Boone County Regional  
21 Sewer District or work with Boone County Regional  
22 Sewer District to comply with the requirement in  
23 order to get the connection with adjoining  
24 neighborhood improvement sewer district or finding some --  
25 signing some sort of contractual agreement.

1           And meantime from right now till the time sewer  
2 becomes available and his property is connected to  
3 the Boone County Regional Sewer District he agrees to  
4 operate and maintain that it meets requirement of the  
5 law and complies with this Commission regulation.

6           And at the same time we will have some sort of a  
7 stipulated penalty if the facility doesn't -- is not  
8 being operated and maintained or Mr. Davis fails to  
9 connect when sewer becomes available, there is a  
10 stipulated penalty that way that settlement agreement  
11 is enforceable itself in force. That's what we  
12 envision.

13 CHAIRMAN HARDECKE: You understand that?

14 MR. FRANK DAVIS: I didn't understand all of it, but  
15 I got -- I've got the gist of it.

16 CHAIRMAN HARDECKE: Well, what he's saying is, if we  
17 refer to the Attorney General then the settlement  
18 agreement would agree -- you would agree to connect  
19 to Boone County Sewer District as soon as it becomes  
20 available and until that time you agree to maintain  
21 yours in proper working order, is that --

22 MR. KEVIN MOHAMMADI: That's correct.

23 MR. FRANK DAVIS: That's what I'm trying to do right  
24 now.

25 CHAIRMAN HARDECKE: So if we refer it to the Attorney



1 General that would be a vehicle for you to use to  
2 help get connected to the sewer district; is that a  
3 fair statement, Kevin?

4 MR. KEVIN MOHAMMADI: Yes.

5 MR. FRANK DAVIS: That would help me get hooked up to  
6 the sewer?

7 CHAIRMAN HARDECKE: Sure.

8 It would -- it would be -- well, can you explain  
9 it better?

10 MR. KEVIN MOHAMMADI: Basically, what we would have  
11 Mr. Davis, in place is a settlement agreement between  
12 the state and you. The state -- with the Missouri  
13 Department of Natural Resources and Attorney General  
14 Office that you agree to work with Boone County  
15 Regional Sewer District whether signing a contract  
16 with them to join neighborhood improvement sewer  
17 district, whatever the requirement is or get the  
18 easement. And when sewer becomes available you will  
19 connect to the -- to their system. Meanwhile,  
20 between now and the time that that becomes reality  
21 you agree to operate and maintain your treatment  
22 facility that you comply with Missouri Clean Water  
23 Law and you won't exceed your limit and so forth.  
24 There will be a stipulated penalty in order for that  
25 settlement agreement to have teeth in it and to be

1 enforceable. There is a stipulated penalty if you  
2 don't meet any provision of the settlement agreement  
3 you have to pay a penalty.

4 COMMISSIONER EASLEY: Kevin, would he also have to  
5 apply for and obtain a permit, an operating permit?

6 MR. KEVIN MOHAMMADI: That's something that we have  
7 to look into in light of the fact that Boone County  
8 Regional Sewer District is coming before this  
9 Commission, wants to become Level 2 Continuing  
10 Authority. That's something that we will probably  
11 will put that application on hold for time being till  
12 this Commission sort out which way they want to go on  
13 that issue.

14 COMMISSIONER TUPPER: We're talking about Boone  
15 County but what I'm ready here he's actually going to  
16 be connected to the city.

17 MR. KEVIN MOHAMMADI: City provides the treatment,  
18 but Boone County provides the conveyance of  
19 collection system.

20 COMMISSIONER TUPPER: It says to the City of  
21 Columbia's collection system.

22 MR. KEVIN MOHAMMADI: I don't know exactly how the  
23 layout is going to be. Part of the collection system  
24 probably, Commissioner Tupper, belongs to the City of  
25 Columbia but, I think, that Boone County Regional

1 Sewer District is planning to come up with the money  
2 to form neighborhood improvement sewer district to  
3 build this line that connects to the City of Columbia  
4 collection system.

5 COMMISSIONER TUPPER: Okay.

6 CHAIRMAN HARDECKE: Your property is not in the City  
7 of Columbia, right?

8 MR. FRANK DAVIS: No.

9 CHAIRMAN HARDECKE: So that's why he would be a --

10 MR. FRANK DAVIS: Boone County --

11 CHAIRMAN HARDECKE: -- customer of the sewer  
12 district.

13 MR. FRANK DAVIS: -- Sewer District customer.

14 CHAIRMAN HARDECKE: The waste would be hooked to  
15 Columbia's system?

16 MR. FRANK DAVIS: Right.

17 It would be, like, those agreements that Tom was  
18 talking about between then and the city that I would  
19 hook on with them, be their customer but they would  
20 have an agreement with the city --

21 CHAIRMAN HARDECKE: Right.

22 MR. FRANK DAVIS: -- for my sewage.

23 CHAIRMAN HARDECKE: Right.

24 Okay. So if we refer you to the Attorney  
25 General then you'll work that agreement out such as

1 Kevin has -- has outlined and then that'll give you a  
2 way to move forward until you get hooked on to the  
3 sewer district?

4 MR. FRANK DAVIS: And I've actually told the city I  
5 would even sign an annexation agreement and would not  
6 fight it.

7 CHAIRMAN HARDECKE: Okay.

8 MR. FRANK DAVIS: So I've already told them that two  
9 months ago.

10 CHAIRMAN HARDECKE: Okay. Ready for the motion.

11 COMMISSIONER EASLEY: Okay. I move that the Missouri  
12 Clean Water Commission request the Missouri Attorney  
13 General to institute a civil action against Mr. Frank  
14 Davis and Davis Rentals, L.L.C. on behalf of the  
15 Missouri Clean Water Commission and the Missouri  
16 Department of Natural Resources requiring Mr. Frank  
17 Davis and Davis Rentals L.L.C. to comply with the  
18 Missouri Clean Water Law; pay a civil penalty for  
19 past violations; and any relief deemed appropriate by  
20 the Attorney General's Office.

21 COMMISSIONER TUPPER: Second.

22 CHAIRMAN HARDECKE: Malinda, will you take the vote?

23 MS. MALINDA OVERHOFF: Commissioner Tupper?

24 COMMISSIONER TUPPER: Yes.

25 MS. MALINDA OVERHOFF: Commissioner Hunter?

1 COMMISSIONER HUNTER: Yes.

2 MS. MALINDA OVERHOFF: Commissioner Easley?

3 COMMISSIONER EASLEY: Yes.

4 MS. MALINDA OVERHOFF: Commissioner Shorney?

5 COMMISSIONER SHORNEY: Yes.

6 MS. MALINDA OVERHOFF: Chair -- Chair Hardecke?

7 CHAIRMAN HARDECKE: Yes.

8 Thank you.

9 MR. FRANK DAVIS: Thank you.

10 MR. KEVIN MOHAMMADI: The second matter is Mr. **Tom**  
11 **and Ms. Shelly James, Holiday -- Holiday Lakes Resort**  
12 **Subdivision Club, Inc.** Mr. Thomas and Ms. Shelly

13 James own a seasonal recreational vehicle park known  
14 as Holiday Lakes Resort located in Lafayette County.

15 In addition, approximately 334 individual people  
16 own separate lots for their recreational vehicles.

17 The wastewater treatment facility that serves the  
18 resort is a single cell wastewater treatment lagoon that is  
19 operating without a Missouri State Operating Permit.

20 Since October 2007 the Department of Natural  
21 Resources has conducted several inspections of the  
22 facility serving the resort. During these  
23 inspections staff have documented that facility was  
24 constructed without a construction permit and that  
25 James' are operating a water contaminant sewer without

1 a valid operating permit.

2 Staff also -- staff has also observed that the  
3 service connection to one resident had been  
4 disconnected from the collection system and raw  
5 sewage was flowing out of the gravity pipe. Staff  
6 further observed wastewater leaking from the  
7 unpermitted holding tanks and water contaminant in  
8 the tributaries.

9 Furthermore, there does not appear to be a valid  
10 continuing authority for the wastewater treatment and collection  
11 system. For the past several years Department staff has attempted  
12 to obtain voluntary compliance. However, the owners  
13 have refused to comply.

14 In addition discharging untreated wastewater  
15 from the facility to waters of the state poses an  
16 immediate threat to the environment, human health, and  
17 the users of such waters. Therefore, staff  
18 recommends the matter to be referred to the office of  
19 Attorney General Office for appropriate legal action.

20 CHAIRMAN HARDECKE: Okay. Is there anyone here from  
21 Holiday Lakes?

22 (No response.)

23 CHAIRMAN HARDECKE: Do we have a motion?

24 COMMISSIONER TUPPER: Mr. Chairman, I move the  
25 Missouri Clean Water Commission request the Missouri

1 Attorney General to institute a civil action against  
2 Mr. Thomas and Ms. Shelly James, Holiday Lakes Resort  
3 Subdivision Club, Inc., and all property owners in  
4 the Holiday Lakes Resort on behalf of the Missouri  
5 Clean Water Commission and the Missouri Department of  
6 Natural Resources, requiring Mr. Thomas and Ms.  
7 Shelly James, Holiday Lakes Resort Subdivision Club,  
8 Inc., and all property owners in the Holiday Lakes  
9 Resort to comply with the Missouri Clean Water Law;  
10 pay a civil penalty for past violations; and any  
11 relief deemed appropriate by the Attorney General's  
12 Office.

13 COMMISSIONER SHORNEY: Second.

14 CHAIRMAN HARDECKE: Malinda, take the vote, please.

15 MS. MALINDA OVERHOFF: Commissioner Hunter?

16 COMMISSIONER HUNTER: Yes.

17 MS. MALINDA OVERHOFF: Commissioner Easley?

18 COMMISSIONER EASLEY: Yes.

19 MS. MALINDA OVERHOFF: Commissioner Shorney?

20 COMMISSIONER SHORNEY: Yes.

21 MS. MALINDA OVERHOFF: Commissioner Tupper?

22 COMMISSIONER TUPPER: Yes.

23 MS. MALINDA OVERHOFF: Chair Hardecke?

24 CHAIRMAN HARDECKE: Yes.

25 MR. KEVIN MOHAMMADI: Next matter is Garth Coleman

1 **Builders, Inc. and Mr. Garth Coleman, Kinkade**  
2 **Crossings, Plat 1, 2, and 3.** Garth Coleman Builders  
3 Inc. owns and is developing 31 acres of property in  
4 Boone County platted for 39 residential lots. This  
5 development is known as Kinkade Crossings, Plat 1, 2,  
6 and 3.

7 On May 2008, Department staff conducted a  
8 complaint investigation and observed that best  
9 management practices were not adequate to control the  
10 transfer of silt offsite. During subsequent  
11 complaint investigation on September 2008 and January  
12 2009 staff observed -- observed deep erosion gullies,  
13 unprotected storm water inlets, silt fences  
14 overtopping with sediment and heavy sediment deposit  
15 in tributary to Rocky Fork and in the streets.

16 Since May 2008, the Department has issued three  
17 notices of violation to Mr. Garth Coleman in an  
18 attempt to bring the site into compliance. On March  
19 2009 the Department sent a certified letter to Mr.  
20 Coleman offering to resolve the past violations  
21 through an out-of-court settlement agreement.

22 On April 2009, Mr. Coleman contacted Department  
23 staff by phone and discussed the process to resolve  
24 this matter. During this conversation staff  
25 requested the response to the Department offer and



1 Mr. Coleman stated that he would submit response by  
2 April 17th, 2009.

3 On April 23rd, 2009, the Department sent a second  
4 certified letter to Mr. Coleman as a final attempt to  
5 resolve this matter out-of-court. On May 20- -- May  
6 1st, 2009, Mr. Coleman contacted staff by phone and  
7 indicated he would submit a response.

8 To date, the Department has not received a  
9 response to its offer. Therefore, staff recommends  
10 the matter to be referred to the Office of Attorney  
11 General for appropriate legal action.

12 CHAIRMAN HARDECKE: Is there anyone here from Garth  
13 Coleman Builders?

14 (No response.)

15 CHAIRMAN HARDECKE: I guess will entertain a motion.

16 COMMISSIONER SHORNEY: Mr. Chair, I move that the  
17 Missouri Clean Water Commission request the Missouri  
18 Attorney General to institute appropriate legal  
19 action against Mr. Garth Coleman and Garth Coleman  
20 Builders, Inc., in a court of competent jurisdiction  
21 on behalf of the Missouri Clean Water Commission and  
22 the Missouri Department of Natural Resources to  
23 require compliance with the Clean -- Missouri Clean  
24 Water Law and its implementing regulations, payment  
25 of civil penalties for past violations and any relief

1 deemed appropriate by the Attorney General's Office.

2 COMMISSIONER HUNTER: Second.

3 CHAIRMAN HARDECKE: Malinda, do you want to take the  
4 vote?

5 MS. MALINDA OVERHOFF: Commissioner Hunter?

6 COMMISSIONER HUNTER: Yes.

7 MS. MALINDA OVERHOFF: Commissioner Easley?

8 COMMISSIONER EASLEY: Yes.

9 MS. MALINDA OVERHOFF: Commissioner Shorney?

10 COMMISSIONER SHORNEY: Yes.

11 MS. MALINDA OVERHOFF: Commissioner Tupper?

12 COMMISSIONER TUPPER: Yes.

13 MS. MALINDA OVERHOFF: Chair Hardecke?

14 CHAIRMAN HARDECKE: Yes.

15 MR. KEVIN MOHAMMADI: The last item is **Mathis Homes,**  
16 **Inc.** Mathis Homes Inc. developed property in  
17 Jefferson County known as Castle Heights. Castle  
18 Heights is a -- is platted for 171 residential lots  
19 and consists of approximately 76 acres being  
20 disturbed.

21 Arnold Cook Road L.L.C. owns the legal title for  
22 the property and financed the project for Mathis  
23 Homes. The Department of Natural Resources issued  
24 Missouri State Operating Permit to Mathis Homes on  
25 April 5th, 2006, which expired by its own terms on

1 March 8th, 2007.

2           On July 2007, the Department reissued Missouri  
3 State Operating Permit to Mathis Homes authorizing a  
4 discharge of a storm water to Rock Creek pursuant to  
5 requirement and conditions contained in the operating  
6 permit.

7           On May 2007, September 6th, 2007, and April 2008,  
8 Department staff conducted investigation of the  
9 development and observed that best management  
10 practices were not adequate to control the transfer  
11 of silt offsite. Staff also observed erosion  
12 gullies, sediment fences not being maintained and  
13 sediment deposits in tributary to Rock Creek.

14           Since June 2007, Department has issued one  
15 letter of warning and two notices of violation to Mr.  
16 Craig Mathis, President of Mathis Homes in an attempt  
17 to bring the site into compliance.

18           In July 2008, Mathis Homes left the project and  
19 Arnold Cook took over the responsibility of  
20 maintaining the BMPs onsite. A recent inspection  
21 conducted by the Department on April 2009 documented  
22 that Arnold Cook has brought Castle Heights into  
23 compliance with the Clean Water Law.

24           On March 6th, 2009, Department sent a certified  
25 letter to Mathis offering to resolve the past

1 violations through an out-of-court settlement  
2 agreement. The Department did not receive a response  
3 and sent another letter to Mr. Mathis on April 3rd,  
4 2009. On April 22nd, 2009, Mr. Mathis contacted  
5 Department staff by phone and informed staff that he  
6 did not own any of the property. He did not develop  
7 the property or buy and sell lots. And he has not  
8 been on the site for over a year.

9 Mr. Mathis further stated that he is not  
10 responsible for the violation and Mathis Homes will  
11 not pay a civil penalty. On May 11th, 2009,  
12 Department staff met with Mr. John Huzeker managing  
13 member of Arnold Cook and Mr. Josh Cox, engineer.  
14 During these conversations Mr. Huzeker informed staff  
15 that Mr. Mathis was platting, purchasing and selling  
16 lots for the development and Arnold Cook financed the  
17 project for Mathis Homes until Mathis Homes abandoned  
18 the project.

19 To date, the Department has not received a  
20 response from Mr. Mathis. Therefore, staff  
21 recommends the matter to be referred to the Office of  
22 Attorney General for appropriate legal action.

23 CHAIRMAN HARDECKE: Is there anyone here from Mathis  
24 Homes?

25 (No response.)

1 CHAIRMAN HARDECKE: A motion?

2 COMMISSIONER HUNTER: Mr. Chairman, I move that the  
3 Missouri Clean Water Commission request the Missouri  
4 Attorney General to institute appropriate legal  
5 action against Mr. Craig Mathis and Mathis Homes,  
6 Inc., in a court of competent jurisdiction on behalf  
7 of the Missouri Clean Water Commission and the  
8 Missouri Department of Natural Resources to require  
9 payment of civil penalties for past violations and  
10 any relief deemed appropriate by the Attorney  
11 General's Office.

12 COMMISSIONER TUPPER: Second.

13 CHAIRMAN HARDECKE: Malinda, do you want to take the  
14 vote?

15 MS. MALINDA OVERHOFF: Commissioner Easley?

16 COMMISSIONER EASLEY: Yes.

17 MS. MALINDA OVERHOFF: Commissioner Shorney?

18 COMMISSIONER SHORNEY: Yes.

19 MS. MALINDA OVERHOFF: Commissioner Tupper?

20 COMMISSIONER TUPPER: Yes.

21 MS. MALINDA OVERHOFF: Commissioner Hunter?

22 COMMISSIONER HUNTER: Yes.

23 MS. MALINDA OVERHOFF: Chair Hardecke?

24 CHAIRMAN HARDECKE: Yes.

25 MR. KEVIN HOHAMMADI: Thank you.

1 CHAIRMAN HARDECKE: Okay. Moving right along to **Tab**  
2 **No. 14.**

3 MR. ROB MORRISON: Good afternoon Commission, again.

4 CHAIRMAN HARDECKE: Hello.

5 MR. ROB MORRISON: It's me again.

6 I stand before you today in a little bit of  
7 morning. I lost my Permits and Engineering Section  
8 Chief. Many of you knew Refaat. He had been a long  
9 time Department employee. He took a job with a  
10 consultant there in Jefferson City and he is no  
11 longer with the Department. So we are in search of a  
12 section chief for the Permits and Engineering  
13 Section.

14 So anyway, that so, you've got me temporarily.  
15 So I'll be brief as I have been when I have done  
16 these in the past. The first page of this on 403 is  
17 a synopsis of the various types of permits that the  
18 Department uses or issues rather.

19 The comments that I'll make is that you see  
20 these public notice permits requiring that they have  
21 been -- been remaining fairly constant. Those are  
22 our site specifics. We're able to process those at a  
23 pretty good rate, keeping them in pretty good shape.  
24 The only thing I'll say is that they are a little bit  
25 cyclic in their nature, so -- you know, we have our

1 good times and our busy times so, --

2           With that, the general permits, as you can see,  
3 the trend has been down. With the down take in the  
4 economy that is also a concern -- or it's -- that's  
5 starting to show with our lack of issuance of land  
6 disturbance permits. The -- the meaning there is  
7 that we do lose revenue whenever we have a loss of  
8 land disturbance permits. So if you see that bottom  
9 line there, the totals -- you can go -- we were at --  
10 at a back -- or I'll say an aging list of 592 in  
11 October of last year and now we're down to 339. And  
12 these are our permits that don't require public  
13 notice. So these would be like our land disturbance  
14 and other types of general permits.

15           So, with that, if you'll direct your attention  
16 to 405; 405 is the graph. If you have any questions  
17 at any time feel free to stop me and I know you will.  
18 405 is the general graph. It is a graph of our --  
19 our permits, I believe, these are just site specific  
20 permits that we run. It's our backlog total. It's  
21 what EPA determines a backlog. The solid diamonds  
22 are sort of -- it's the goal that EPA wants us to  
23 shoot for. And as you can see our numbers have  
24 trended below that line for a number of reasons.

25           Obviously, the down take in the economy. We

1 don't have the general permits to work on. We can work  
2 on the site specifics and, also, we -- we have been  
3 processing -- we no longer are able to just have new  
4 permit applications have to come in through the  
5 Antideg process so that probably has slowed those  
6 down somewhat in terms of -- of those projects.

7 I'll not spend much time on the water quality  
8 certifications. As you notice over on Page 409 is  
9 our water quality review assistance summary. And you  
10 can see the totals there on the summaries of the  
11 categories. You can see we're beginning -- we do  
12 have quite a number. Our list is growing. We  
13 continue to receive them. That doesn't mean that all  
14 these projects will be built, but they're at least  
15 going through the Antideg process. So when you see  
16 that, we're starting to see a few of them coming in  
17 for public notice in terms of being issued in their  
18 draft operating permits. So you'll begin to that.  
19 We'll see what happens with those as we move forward.

20 So that process has been a good process. It's been  
21 a very complicated process getting started, but John  
22 and his staff have done a good job of managing the  
23 issues and getting the process in place. And as you  
24 can see we have a pretty good workload that we're  
25 still working on, but we are managing to stay current



1 on those -- on those projects.

2 Any questions on the antideg reviews at this point?

3 (No response.)

4 Lastly, the CAFO and Ag-Chem permits. If you  
5 look at that -- or the -- those permits, we have all  
6 those permits under review. We don't have -- I don't  
7 believe there are any -- and Darrick, on review?

8 MR. DARRICK STEEN: Yeah. There are a couple of  
9 them.

10 MR. ROB MORRISON: This list was obviously put  
11 together back on June 9th, so there's been -- a few of  
12 them have been processed from here. But generally  
13 everything is under review. We have nothing sitting.  
14 That is particularly noteworthy. It's kind of a  
15 unique thing. When I first came here we had several  
16 that were -- were -- you know, we took a while to get  
17 through the process, but now we've worked all those  
18 down. And Darrick and his staff are doing a fine job  
19 keeping that -- keeping that going as well.

20 Okay. And then the last page is just the  
21 summary of the MOGs and MORs. I'll direct your  
22 attention over to -- over to the last page there on  
23 416. The R22A and that one and, I believe, all those  
24 the R203, R22A and the R80H have all been issued now  
25 since the inception of this report, so I don't

1 believe we have any permits that are -- any of the  
2 general permits that are expired at this point.

3 So, with that, if there are any questions.

4 (No response.)

5 CHAIRMAN HARDECKE: Thank you.

6 MR. ROB MORRISON: Thanks.

7 CHAIRMAN HARDECKE: **Fifteen.** Once again for Joe.

8 MR. JOE BOLAND: Good afternoon. I just have a few  
9 items to update you on with the Financial Assistance  
10 Center.

11 First, being our \$50 million bond sale. A  
12 quick update on that is to date we have received 251  
13 applications for a total of \$103 million in projects.  
14 And the important number to note is we have awarded  
15 about twenty-two and a half million dollars of that  
16 \$50 million. So we're well on our way.

17 Again, the timeline runs out on that November of  
18 2010. So we're moving along quite well. And the  
19 other interesting note about this is outside of SRF  
20 loans we've pushed out about 76 of these  
21 grants and loans. So between our rural water, rural  
22 sewer and small borrower loans that's quite a bit of  
23 activity for the small amount of staff that's working  
24 on this. So I just wanted to note that for you.

25 Any questions on our bond sale?

1 (No response.)

2 MR. JOE BOLAND: If not, one more -- I know I  
3 mentioned early the 2010 Intended Use Plan. We will  
4 be coming back in September for the formal adoption  
5 of that once we settle out who's going stimulus and  
6 who is going regular SRF. So that's all being --  
7 falling out right now.

8 Other than that, what I wanted to spend the most  
9 time on, and it won't be very long, is the  
10 termination of these guarantee investment contracts  
11 with the Citigroup, which is the last item there.

12 As -- as you know, our leverage program  
13 provides the low interest loan subsidy through a  
14 reserve model where we put our capital --  
15 capitalization grant funds and our repayment funds  
16 into accounts that earn interest for -- on behalf of  
17 our loan recipients. And that's done through a  
18 series of investment agreements and one of those was  
19 with Citi.

20 In fact, six of our deals from 2004 on were  
21 with Citigroup. And, in fact, the paramount was \$325  
22 million as mentioned in the briefing there. And the  
23 write-up, kind of goes through in more detail when  
24 Citigroup downgraded and the events that took place  
25 after that, but just a quick summary.

1           Once Citi was downgraded the Department and the  
2 Authority have a certain amount of time to negotiate  
3 with them for them to either put up additional  
4 collateral to get beyond their downgrade. They can  
5 also assign these agreements to another -- another  
6 investment provider or we can negotiate another  
7 mutual fix, so to speak.

8           Well, none of those solutions were available  
9 this time. And we -- Citigroup was -- was amenable  
10 to terminate these -- these agreements as well. And  
11 the market conditions were right. So we worked with  
12 our financial advisor and terminated all the  
13 agreements, reinvested all those proceeds in agencies  
14 and treasuries and state and local government  
15 securities. And we are able to provide the same  
16 amount of subsidy to our recipients without posting  
17 additional money out of our own repayment account.

18           So that was an important thing. It did, I  
19 shouldn't say cost, but we did have to put up \$26  
20 million of our recycled money to fund up the reserve  
21 accounts. And I -- this gets very complicated once  
22 we start talking about the reserve accounts and --  
23 but some of these deals were relatively new. Some of  
24 the recipients were still under construction.

25           They had not depleted their construction

1 accounts completely which means their reserve accounts, were not  
2 fully funded. So some of the assumptions made in  
3 reinvesting were based on a fully funded reserve  
4 model. So what we did was pony up additional  
5 repayment money to fund up those reserves completely  
6 so the providers -- or whoever ends up getting these  
7 -- these contracts are actually bid to fulfill the  
8 security allegations.

9           They knew how much money to deal with. So that  
10 \$26 million we put up, we will be getting back here  
11 in the next two years as those construction accounts  
12 are fully depleted. So it's -- it's just kind of  
13 timing issue. But we will get that money back right  
14 away. So it did cost us any additional money at this  
15 time.

16           And that's the good news. So, again, it's --  
17 it was a big issue. It took a lot of  
18 effort on the -- on the -- from our finance team's  
19 point of view. And EI ERA hardly -- the Authority,  
20 spent a lot of time and effort on this as well so --

21           But it was -- we did remove ourselves from a  
22 lot of liability there in case Citi did go in a bad  
23 direction as far as market upgrades or downgrades.  
24 So we are happy to resolve that whole issue. And  
25 that was about half of what our reserve accounts

1 were, \$325 million. That's a pretty good chunk of  
2 change. So we're happy to have that problem solved.

3 Are there any questions on that?

4 (No response.)

5 MR. JOE BOLAND: That's was a very quick summary on  
6 what's been going on.

7 COMMISSIONER HUNTER: Do we have anybody else besides  
8 Citi that we should be worrying about?

9 MR. JOE BOLAND: Yes. We do.

10 I think several meetings back I provided a brief  
11 table or a summary on -- some of the others were AIG.  
12 We still have some agreements with them. We  
13 terminated several agreements with AIG last year.  
14 But we still have some small -- small ones out there.  
15 MBIA is another one; we've been keeping an eye on.  
16 And those two are really of most concern. But  
17 they're not -- they weren't acute problems like Citi  
18 was right now. Because the issue with Citi was once  
19 they were downgraded the Authority only has a certain  
20 amount of time to address that downgrade.

21 And as I said they can either post additional  
22 collateral. They can assign it to another provider  
23 or some other negotiation. Well, none of those were  
24 available so if the Authority did not take any action  
25 within that time period and that deadline passed, we

1 had absolutely no recourse on any further downgrades  
2 in the future of Citi. So if they would have been  
3 downgraded or even facing bankruptcy we could not  
4 have terminated those agreements unless they were  
5 willing to do so.

6 So it was kind of a window of opportunity that  
7 everybody agreed to move forward and -- you know, get  
8 rid of these liabilities as we kind of saw them, so -  
9 -

10 But the risk was we wanted to make sure we could  
11 replace that return we were getting from Citi because  
12 it was guaranteed out 20 years at various interest  
13 rates. And that's -- that's what took quite a bit of  
14 time in figuring out which securities and that kind  
15 of thing we -- we could replace that with, so --

16 Does that answer your question?

17 COMMISSIONER HUNTER: Yes.

18 MR. JOE BOLAND: Anything else?

19 CHAIRMAN HARDECKE: Any questions?

20 (No response.)

21 MR. JOE BOLAND: Thank you.

22 CHAIRMAN HARDECKE: Phil, you have some comments.

23 MR. PHIL WALSACK: I have one -- excuse me -- Phil  
24 Walsack, Missouri Public Utility Alliance. I had one  
25 question for Ed -- for Joe -- sorry about that -- and

1 then one comment.

2 I'm looking on Page 419 of your packet. I'm  
3 having trouble with the column on the table that  
4 says: Amount Possible. I'm sure there's a little  
5 typo in there that's making things difficult for me  
6 to understand and I was wondering if Joe would be so  
7 kind just to point out what that column is all about  
8 on Page 419; 1, 2, 3, 4, 5, 6, like the seventh  
9 column over.

10 MR. JOE BOLAND: Yeah.

11 That's kind of secret code we use in  
12 our group for basically projects that aren't -- how  
13 do I say this? When we receive applications they're  
14 either eligible or they're not eligible. If they are  
15 not eligible they kind of get kicked out of the --  
16 out of the possible funding category.

17 The difference between possible and probable has  
18 more to do with timing of their application whether  
19 they met certain readiness and possible just means  
20 they're sitting there on a waiting list. So there  
21 are possible projects we can fund, but to move to  
22 probable means your -- your timing had to be better,  
23 that you were in line before.

24 So is that -- does that help?

25 (No response.)



1 MR. JOE BOLAND: Possible just means you're on --  
2 you're on a waiting list. You're an eligible  
3 application.

4 MR. PHIL WALSHACK: Apparently, I need another staff  
5 briefing on that one 'cause I'm not quite following  
6 you. We can figure it out later.

7 CHAIRMAN HARDECKE: Another comment?

8 MR. PHIL WALSHACK: And I do have one comment after  
9 that, which is we wanted to thank Joe and his staff  
10 for -- you know, moving on this project.

11 This is a very difficult program to administer.  
12 A full-blown SRF Program from scratch with all new  
13 rules according to the federal government on a very,  
14 very, tight time frame. We appreciate Joe and his  
15 staffs' work on this. We appreciate Joe and his  
16 staffs' work on allowing other funding sources to be  
17 used as the match funds other than the State  
18 Revolving Loan Fund if the community so chooses.

19 That has given Missouri municipals an  
20 opportunity to co-fund their projects with other  
21 means and make more options available and we commend  
22 Joe -- and his staff for their hard work on this --  
23 on this particular ARRA Program.

24 Thank you. That concludes my comments.

25 CHAIRMAN HARDECKE: Okay. Thank you.

1           Okay. Next we have **update from Earl**.

2       MR. EARL PABST: Good afternoon, Commissioners. Just  
3       -- just a couple quick things, one, is maybe a  
4       follow-up from Joe.

5           We have talked about maybe having a separate  
6       briefing for the Commission to spend a little bit  
7       more time talking about the issues that Joe deals  
8       with in the Financial Assistance Center. In the  
9       past, we've had, like, on one of our away Commission  
10      the night before we got the Commission together so we  
11      can spend some time talking particularly about some  
12      issues.

13           And if that would be helpful for the Commission,  
14      Joe and I've talked about that and would be happy to  
15      do that.

16      COMMISSIONER HUNTER: To correct things.

17      (Laughter.)

18      MR. EARL PABST: It would give us a little bit more  
19      time to -- to spend on some of these issues 'cause we  
20      have such a short window of opportunity on some of  
21      these issues to present to the Commission. To talk a  
22      little bit more in depth on the -- on the whole  
23      Financial Assistance Center and the loan program,  
24      something the Commission could think about and let us  
25      know if you'd like to do that.

1           Really the -- the only other issue that I wanted  
2 just talk briefly about is our water fees. I  
3 mentioned at our May meeting that there was a bill to  
4 extend our water fees for one year. That Bill  
5 passed. So now instead of December of this year we  
6 have December of next year to get a Water Fee Bill  
7 passed. And -- and that is very critical for us.

8           We have such a short window of opportunity, we  
9 have to have a Bill probably this fall at least some  
10 draft language. And -- and just to be able to work  
11 with our stakeholders, which we haven't started, yet,  
12 that process. We hope by September we have started  
13 that process.

14           Part of a little bit of the delay is two years  
15 ago when we were working through the Interim  
16 Committee even though the Interim Committee report  
17 was never signed and finalized the proposal was 50  
18 percent would be funded out of general revenue and 50  
19 percent out of a fee increase to support the overall  
20 program needs. And there's -- with the change in  
21 administration, the change in the economy that's  
22 probably not as -- as viable as it was two years ago  
23 as a proposal.

24           So, right now, we're working with our -- the  
25 Governor's Office and Department administration for

1 some upfront direction on if whether we can  
2 proceed with looking at general revenue to supp- --  
3 help support the program or whether we need to  
4 go for a full increase or how we want to  
5 proceed.

6 We do expect to start having discussions with  
7 stakeholders, many of the same stakeholders that we  
8 worked with on the Interim Committee here in the next  
9 few weeks and we should have more to report to the  
10 Commission by September. I'll try to send out  
11 updates because there's a lot that needs to happen  
12 between now and our September meeting and so I'll try  
13 and send out maybe e-mail updates to the Commission  
14 to keep you-all in the loop.

15 But it's critical that we -- not only that we have a  
16 Fee Bill by next session, but that we have a Fee Bill  
17 that has some fee increase in it. I -- that -- the  
18 fund now it will be insolvent in another year or so.  
19 If we only have a Fee Bill that keeps the fees as is  
20 we're going to be going through a process to look at  
21 reducing some of the functions the Program now  
22 performs. And so we need to keep that in mind as  
23 well.

24 So just keep you updated on where we are  
25 with the fees and I'll send you e-mail updates. And

1 then we'll have more of an update, again, at our  
2 September meeting.

3           And the only other thing I had is again to thank the  
4 Commission for all the work you-all do. We certainly  
5 appreciate it. There's a lot of issues that you-all  
6 deal with. And I know on behalf of Mark Templeton as  
7 well he appreciates all the work that the Commission  
8 does.

9           Any other questions that I can answer?

10 (No response.)

11 MR. EARL PABST: Thank you.

12 CHAIRMAN HARDECKE: Thank you, Earl.

13           Okay. Robert, you have a **public comment**.

14 (Conversation regarding public comments held off  
15 record.)

16 CHAIRMAN HARDECKE: Phil, why don't you go ahead  
17 while we're waiting on Robert.

18 MR. PHIL WALSACK: What a pleasure to get Robert  
19 bumped. Thank you.

20 (Laughter.)

21 MR. PHIL WALSACK: Again, my name's Phil Walsack from  
22 Missouri Public Utility Alliance.

23           Earl is exactly right. The September meeting  
24 will be a watershed meeting, for some of the issues  
25 that we're dealing with, with wet weather for

1 wastewater permittees. I have a stack of handouts.  
2 I'd be happy to give to you that's preamble to some  
3 of our discussions.

4       Some of the discussions were given to you at  
5 last meeting, which was in May. And one of my  
6 colleagues asked for some more information based on  
7 Median Household Income comparing it to the census of  
8 2000. I have that information already packaged and  
9 ready for you for your consumption between now and  
10 the September meeting.

11       I'm going to hand this to Malinda in just a  
12 second.

13       And then my one comment, the other public  
14 comment that I had. I was wondering if Earl would be  
15 willing to talk about the Governor's latest statement  
16 that we're going to have some state employee cuts and  
17 what kind of cuts are the Department looking at in  
18 terms of trying to get back our -- our budget into  
19 the black.

20 MR. EARL PABST: I think it's probably to early, a  
21 little bit to early for me to tell you anything more,  
22 Phil. We know that we have some Department cuts.  
23 How that's going to affect our particular Program,  
24 it's undetermined yet.

25       Within the Division of Environmental Quality

1 most of the cuts, let me back up, are going to be general  
2 revenue related. That's water fee supported. And  
3 the (inaudible) cuts there in terms of looking at  
4 budget reductions.

5       Having said that within our division all of the  
6 general revenue and we don't have a whole lot, but  
7 the general revenue that we do have is in the Water  
8 Protection Program.

9       Last year we got a \$1.2 million GR supplement to help  
10 our solvency issue that we knew we had with the water  
11 fees. And so essentially that, that \$1.2 million  
12 which has already went through a reduction could see  
13 further reductions. We haven't got word, yet, from  
14 the Governor's Office what that could look like.

15       It could be as much as 20 or 30 percent reserve  
16 (inaudible) for instance. So we know in the next  
17 probably two to three weeks we're going to -- we'll  
18 know more, but right now that's -- that's really all  
19 I know. The scenario that we were informed by the  
20 Governor's Office to look at was a 10, 15, and 20  
21 percent reduction out of the general revenue. But  
22 we still owe our Department management by the end of  
23 this week kind of some scenarios how we would -- how  
24 we would implement that. And we haven't quite -- we  
25 haven't got there yet.

1           That's as much as I know on that.

2   CHAIRMAN HARDECKE:   Is Robert ready?

3   MR. ROBERT BRUNDAGE:   Ready.

4           As Earl mentioned, I think, he mentioned this at  
5   the Water Permit Fee Bill.  This session passed that  
6   extended the sunset just one year so -- which it  
7   means this coming legislative session starting in  
8   January the legislatures --

9   (TAPE TWO, SIDE B CONCLUDED.)

10  MR. ROBERT BRUNDAGE:  -- that there was litigation  
11  with the Missouri Soybean Association and one of my  
12  clients, Missouri Agribusiness Association and a  
13  couple other parties regarding a dispute on the  
14  303(d) List.

15           And the -- there was a court ruling that said  
16  that the 303(d) List did not have to -- was not a  
17  rule, did not have to go through a rulemaking.  Well,  
18  shortly -- the next legislative session some people  
19  in industry, I was not involved, got a Bill passed  
20  that said the 303(d) List had to go through a  
21  rulemaking.

22           And you, all know what a pain the rulemaking  
23  process is and how it really is not a good fit for the  
24  303(d) List because through the whole rulemaking the  
25  process if you consider the list- -- listing



1 methodology and revising that about every two years  
2 and then going through a rulemaking theirs is no --  
3 there is no way you can do a rule on the 303(d) List  
4 on the two year schedule that we're -- that the state  
5 of Missouri and every state's required to do under  
6 EPA regulations.

7       So, therefore, I put together language that --  
8 that deleted the provision at a state statute that  
9 the 303(d) List had to go through a rulemaking.  
10 Instead I wrote up a process that had public  
11 participation but it streamlined the process where it  
12 was short enough that the Clean Water Commission  
13 could meet the two -- the two year deadline to get  
14 the 303(d) List adopted every two years.

15       So I thought it was a fair process, at the time,  
16 the Department of Natural Resources was -- was very  
17 supportive of it because they didn't want to have to  
18 go through the rulemaking process. So anyway that  
19 was going to sunset this year.

20       I and several other organization went to the DNR  
21 and said we would like to have the -- this Bill  
22 continue, move this -- you know, either eliminate the  
23 sunset or extend the sunset on it early in the  
24 session for reasons I don't fully understand or  
25 appreciate the Department of Natural Resources was

1 not supportive and did not want to adopt this Bill,  
2 but later on in this session there was a change of  
3 heart. And I appreciate that.

4       The Department of Natural Resources supported  
5 it. And now that Bill, the sunset was moved from  
6 this year to next year to match up with the Water Fee  
7 Bill. So the reason I'm bringing this up to you is I  
8 would like you to consider, not necessarily today,  
9 but consider over the next coming months and I'm  
10 soliciting your support to extend the sunset or  
11 eliminate the sunset on this statute, which I think  
12 is 644.036.5, I believe that describes this 303(d)  
13 process.

14       And if the Department staff or any stakeholders  
15 have any ways to improve the process I am -- I am  
16 more than willing to discuss that, but I'm here today  
17 to try promote that Bill for next year. And over the  
18 next several months, I'd like you to consider it and  
19 would welcome your endorsement of that Bill to -- to  
20 keep this process in place because I think it's been  
21 a good process. It's been very open and you can't  
22 say that stakeholders really didn't have a shot of  
23 knowing what the data was and having public -- having  
24 an opportunity to comment on the whole 303(d) List  
25 process. So that's one thing.

1           The other thing that I'd like the Clean Water  
2 Commission to consider in the regards to new  
3 legislation here in the state of Missouri is a permit  
4 shield provision. In the Federal Clean Water Act  
5 there is a provision that says: If you comply with  
6 your permit and for some reason there is a violation  
7 of Water Quality Standards or some other issue you  
8 are not going to be held liable because you complied  
9 with your permit. So the permit shields you from any  
10 liability if you comply with the permit.

11           To me it's just a matter of fairness. You apply  
12 for the permit, the Department gives you what they  
13 think is an appropriate permit and it is your duty to comply  
14 with that permit. And if you comply with that duty  
15 you should not be held liable. And the Cong- -- the  
16 United States Congress saw that it was a matter of  
17 fairness that they include it in the Federal Clean  
18 Water Act.

19           For some reason there is no definitive provision  
20 in the Missouri Clean Water Law, that I can point to,  
21 that provides the equivalent of a permit shield. And  
22 I would submit to you that it is an issue the Clean  
23 Water Commission ought to endorse to include in the  
24 Clean Water Law, this next year, when the Clean Water  
25 Law is going to be opened up to include a permit fee

1 provision and hopefully a 303(d) List renewal of that  
2 Bill.

3           And I want you to, please, consider a permit  
4 shield provision. So I wanted to bring that to your  
5 attention. And as we proceed towards January, I'll  
6 be glad to visit with you more about it. And I think  
7 the Department knows that I've talked about this in  
8 the past and I would like them to consider it. They  
9 have been -- I hope this is a fair characterization;  
10 they have been cool to the idea. And, again, from a  
11 matter of fairness, I don't understand why but I'd be  
12 willing -- more than willing to talk about it and  
13 work through any issues and would like to see that  
14 included in legislation this next year and would even  
15 be glad, if the Department of Natural Resources would  
16 voluntarily include such a provision in the Water  
17 Permit Fee Bill.

18           That's what I was here to say today.

19 CHAIRMAN HARDECKE: Thank you, Robert.

20 MR. EARL PABST: Mr. Chairman, could I just --

21 CHAIRMAN HARDECKE: Yes.

22 MR. EARL PABST: It is the -- the intent of the  
23 Department and the Program as we go through the  
24 stakeholder process to include the two issues that -- that  
25 Robert mentioned. We'll have many of the same

1 stakeholders present as we did before including  
2 Robert, who's part of the process a couple years ago.  
3 And our intent is to discuss those two issues as we  
4 go through the stakeholder process on the water fees  
5 as well.

6 That's just to clarify.

7 CHAIRMAN HARDECKE: Thank you.

8 Okay. Go over this and then we're done, right?

9 (No response.)

10 CHAIRMAN HARDECKE: Okay. Our next meeting of this  
11 Commission will be in September in Springfield and  
12 then November in Jeff City or Columbia area.

13 MR. EARL PABST: Actually it will be in Columbia.

14 CHAIRMAN HARDECKE: It'll be in Columbia. Okay.

15 So if there isn't anything else, why we  
16 entertain a motion to adjourn.

17 **COMMISSIONER EASLEY: I move we adjourn.**

18 **COMMISSIONER SHORNEY: Second.**

19 COMMISSIONER TUPPER: Well, for a rookie Chairman,  
20 you did pretty good.

21 CHAIRMAN HARDECKE: Before we go we need to decide on  
22 location for the January meeting. Do you have  
23 preference?

24 COMMISSIONER HUNTER: Honolulu.

25 CHAIRMAN HARDECKE: Is that in Missouri?

1           It's been a little while since we've been to St.  
2   Louis area.

3   COMMISSIONER EASLEY:  Yeah.  That's a good time to go  
4   to St. Louis.

5   CHAIRMAN HARDECKE:  Okay.  St. Louis.  Okay.

6           Now, we got a motion, second, vote?

7   COMMISSIONER TUPPER:  Weather might be a factor  
8   there.

9   COMMISSIONER HUNTER:  Bill Easley made the motion.

10   COMMISSIONER SHORNEY:  Second.

11   CHAIRMAN HARDECKE:  Frank?

12   **MS. MALINDA OVERHOFF:  Commissioner Easley?**

13   **COMMISSIONER EASLEY:  Yes.**

14   **MS. MALINDA OVERHOFF:  Commissioner Shorney?**

15   **COMMISSIONER SHORNEY:  Yes.**

16   **MS. MALINDA OVERHOFF:  Commissioner Tupper?**

17   **COMMISSIONER TUPPER:  Yes.**

18   **MS. MALINDA OVERHOFF:  Commissioner Hunter?**

19   **COMMISSIONER HUNTER:  Yes.**

20   **MS. MALINDA OVERHOFF:  Chair Hardecke?**

21   **CHAIRMAN HARDECKE:  Yes.**

22           Thank you.

23   COMMISSIONER TUPPER:  My daddy always said don't go  
24   north in January.

25   (TAPE THREE, SIDE A CONCLUDED.)

## 1 CERTIFICATE OF TRANSCRIPTIONIST

2

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Respectfully Submitted,

Leanne Tippett Mosby  
Director of Staff

