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From: Ozarks Water Watch newsletter <contact@ozarkswaterwatch.org>
Sent: Monday, April 11, 2016 10:05 AM
To: Walter Wright
Subject: MO Clean Water Commission ruling could have far reaching implications

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Ozark Waters

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In This Issue

MO Clean Water Commission ruling could have far reaching implications

Reeds Spring bowfisherman wallops drum fish record at Table Rock Lake

Down the drain: Here's why we should use rainwater to flush toilets

Water Harvesting, Green Infrastructure, and Low Impact Development

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MO Clean Water Commission ruling could have far reaching implications

David Casaletto, Executive Director, Ozarks Water Watch

On February 17th, the Missouri Clean Water Commission (CWC) voted to deny the Trenton Hog Farm a CAFO (Concentrated Animal Feeding Operation) operating permit. In this newsletter, I am not taking any sides on that decision, but pointing out that the legal basis for this decision could have a far reaching impact on all permit holders that come under the jurisdiction of the Missouri Clean Water Commission, including wastewater treatment plants.

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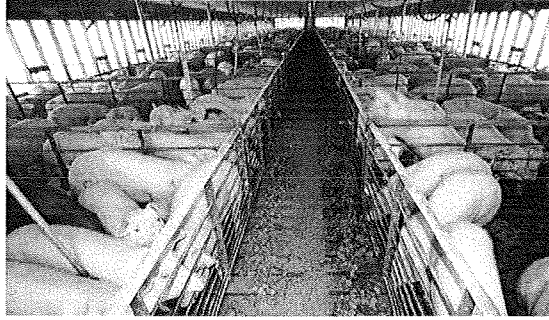
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[Table Rock Lake Water Quality](#)



Hog farm file photo.

The MO Department of Natural Resources (DNR) had approved Trenton Farms permit application, so the CWC decision overturned the decision by DNR to grant the permit. In the CWC written decision, the CWC had two issues. The first was they did not feel the application demonstrated that the site was protected from a 100 year flood event. Here is part of what was written on the second issue:

We disagree whether DNR met its burden of proving that Trenton Farms meets the requirements of 10 CSR 20-6.010(3). The regulation requires "that a permanent organization exists which will serve as the continuing authority for the operation, maintenance, and modernization of the facility for which the application is made". The phrase "continuing authority" is not defined in this Commission's regulations. We do not disagree that Trenton Farms' compliance with Section 347.037.3, RSMo 2000 shows that it is a permanent organization. But the regulation requires more than just a permanent organization. If duly filed corporate documents were enough, then the sentence would not include the phrase "which will serve as the continuing authority for the operation, maintenance, and modernization of the facility." But it does, and so this Commission determines DNR must prove that Trenton Farms can operate, maintain, and modernize the CAFO facility it intends to build. DNR showed only that Trenton Farms is a permanent organization. Therefore, we determine that DNR failed to meet its burden as it pertains to 10 CSR 20-6.010(3).



MO Clean Water Commission Meeting.

As far as I know, DNR has never required any entity applying for a permit to prove that they can financially "operate, maintain, and modernize" their facility. The entity just has to prove they are a

Beaver LakeSmart

James River Basin Partnership

Kings River Watershed

Illinois River Watershed Partnership

Elk River Watershed

Friends of the North Fork and White River

Save the Illinois River

Association for Beaver Lake Environment

Beaver Watershed Alliance

Missouri Stream Team Coalition

Multi-Basin Regional Water Council

Roaring River Parks Alliance

Springs Committee of Eureka Springs, AR

Watershed Conservation Resource Center

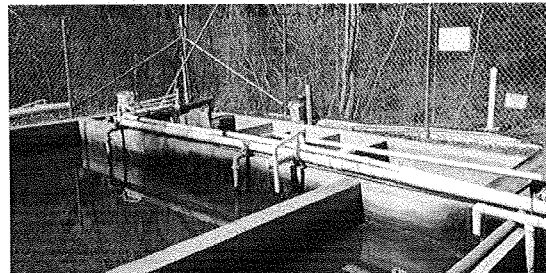
Northwest Arkansas Land Trust

Grand Lake Watershed Alliance Foundation

permanent organization and are in "good standing" with the state of Missouri. But this CWC decision now seems to indicate that DNR must prove that the applying entity has the financial capacity needed to take care of this permitted facility into the future. While this seems to be a very common sense idea, that anyone applying for a permit should have the money it will need to operate the facility and provide for upkeep, this has never been required in the past, and there are no existing rules or laws that would let anyone currently applying for a permit know what information they might need to provide. And the rule 10 CSR 20-6.010(3) pertains to all CWC permitted facilities, not just CAFOs.

In response to the CWC ruling, the Missouri House of Representatives has already passed and sent to the Missouri Senate HB1713 that contains the language:

If an applicant for a construction or operating permit under the provisions of this chapter is registered and in good standing as a corporation, partnership, limited liability company, or other business organization in this state, the continuing authority requirement under 10 CSR 20-6.010(3) shall be deemed satisfied.



Typical treatment plant permitted to a Home Owners Association.

Now, I have went on record in front of the CWC that the practice of allowing all developers and Home Owners Associations to get a permit for their wastewater treatment plant without proving they can and will operate that plant properly into the future has led to many cases of pollution to our waterways when that plant fails or falls into disrepair. So there is a need to make a decision on how that financial proof would be provided and at the CWC Commission meeting held on April 7th, DNR indicated that the rule making process would start soon to do exactly that. But changing a rule takes time, so while that is happening, it is somewhat unclear how DNR will process current permit applications. Plus, we will wait to see if the Senate agrees with the House and passes HB1713 which would make the rule making process unneeded.

Quote of the Week

"You can't stay in your corner of the forest waiting for others to

come to you. You have to go to them sometimes."

~ Winnie the Pooh

Reeds Spring bowfisherman wallops drum fish record at Table Rock Lake

Springfield News-Leader

April 7, 2016

A Reeds Spring bowfisherman knew the freshwater drum fish he shot at Table Rock Lake was big. But he had no idea the 30-pound, 15-ounce fish would smash the current Missouri record by nearly 5 pounds. Joshua Cole shot the record fish with bow and arrow on March 31 at 10 p.m. about one mile from Point 10 on Table Rock Lake. The fish was 33 inches long and had a girth of 30 inches.



"I can't believe I shot a state-record drum," Cole said in a conservation department news release. "I knew I was shooting at a big drum, but I didn't realize how big it was until we got it in the boat." Cole added that it took two arrows to get it in the boat. "It really didn't put up much of a fight with two arrows in it," he said. "I'm just glad we got it in the boat with no problems." The fish easily erased the previous alternative-method state record of 26-pounds, 8-ounces taken on the Lake of the Ozarks in 2008.

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Down the drain: Here's why we should use rainwater to flush toilets