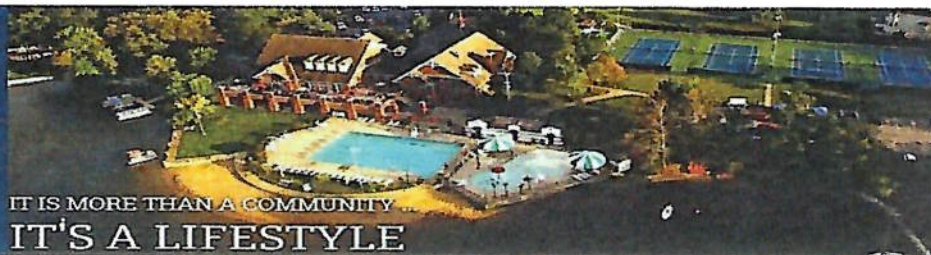


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June 6, 2024

Department of Natural Resources
Water Protection Program
PO Box 176
Jefferson City, Missouri 65102-0176

RE: NPDES Operating Permits/Permit Comments, Permit No. MO-0140503

Dear Sir or Madam:

Please accept this correspondence as the Lake St. Louis Community Association's (the "Association") public comments to the Missouri Department of Natural Resources (the "Department") and the Water Protection Program (the "Program") regarding deficiencies in the above-referenced, proposed operating permit for American Foods Development Co., LLC ("American Foods"), which demonstrate why such a permit is unsatisfactory to the downstream, receiving communities of the Perouque Creek Watershed ("Perouque Creek") and Lake St. Louis.

Significantly, American Foods admitted in their Water Quality and Antidegradation Review ("AD Report") that all pollutants of concern ("POC") will significantly degrade the receiving stream of Perouque Creek. AD Report, Section 1, p. 3 (March 2023). Perouque Creek is already on the 2022 Clean Water Act, § 303(d) Impaired Waters List ("§303(d) List") for low dissolved oxygen ("DO") and low aquatic macroinvertebrate diversity. Similarly, Lake St. Louis, which receives Perouque Creek, is also on the 2022 §303(d) List -but due to Chlorophyll-a. A demonstration of insignificance was deemed unnecessary by American Foods because American Foods admitted its treated effluent will be significantly degrading. AD Report, Section 6G, p. 11. The Program's response number 3 in Appendix 2 of the AD Report "Comments and Responses" references an internal opinion of Tier 2 AD Report significance, which is irrelevant to a Tier 1 assessment.

When recently queried, a representative of the Program advised an Association resident that the residents of Lake St. Louis need not worry about contamination because the assimilative capacity calculations showed that Perouque Creek could handle the contaminant amounts. It is unclear how the Program's representation squares with the statement within the AD Report that assimilative capacity calculations were not completed to support a minimally degrading review, because "all POC's are significantly degrading". AD Report, Section 6G, p. 11. How can the Program make such public representations when the calculation was not done? Additionally, the Program representative also advised the Association resident that there is no problem with runoff from American Foods because flow volumes would be lower due to the new property development. This representation by the Program does not seem to take into account the increases in impermeable surfaces (i.e., concrete and asphalt) and commercial process water from the new treatment plant and continuing commercial development.

At the beginning of the public meeting on May 30, 2024, Department officials stated that "we have no legal reason to not approve this permit;" however, after numerous public comments critical of the permit by the attendees of the meeting, the Department modified its stance stating "the permit was not a done deal but was still in careful review due to public commentary." The public attendees, including residents of the Association noted that there were multiple incomplete elements of the required permit. These include but are not limited to: listing only one downstream property owner; failing to include appropriate United States Geological Survey ("USGS") maps to identify locations or owners; Form C had a "NO" box incorrectly checked, yet the consultant report shows sludge generation and storage; and, Form D has not been submitted at all.

The lack of transparency with respect to ownership leads to the biggest issue for the Association; sedimentation load was never reviewed in the antidegradation consideration, and sedimentation load is a harm specific to the Association. Sediment flows with both effluent and storm water from the un-stabilized Perouque Creek and picks up excess nutrient load of total P (phosphorus) and total N (nitrates), which ultimately collects in both Lake St. Louis (larger lake) and Lake St. Louise (smaller lake). The Total Maximum Daily Load's ("TMDL") developed by the Modeling Unit of the Department indicate that the American Food permit can allow for release of 10,654 lbs/yr of TP (total phosphorus) and 117,198 lbs/yr TN (total nitrogen). Since phosphorus attaches to sediment material, and nitrogen can promote phosphorus release,



a complex chemical flux is exacerbated in the lakes. As flow slows upon entering the lake, and sediment particles drop to the lake bottom, nutrients contribute to excessive eutrophication and decreased DO (dissolved oxygen). These sediments are therefore transported to and collected in the lake. Such sediment can only be removed (at best incompletely) by expensive and laborious dredging. The Department previously implied that total suspended solids (TSS) TMDL's were sufficient to assess total solids released in earlier conversations, but clearly, no suspended sediment calculations ("SSC") were ever considered. Excess flow up to 3.5 million gallons per day in Peruque Creek will further degrade water quality with suspended sediment and total suspended solids.

Sediment as a lake contaminant has gradually increased in both lakes over the lakes' 55 years of life. The Association and residents downstream from the water treatment facility have borne the brunt of the cost of dredging as a mechanical removal method, while also maintaining offsite basins for passive dewatering on Association property. Increased commercial development along I-70 upgradient to the headend of Peruque Creek near Warrenton, Missouri is adding significantly to the Association's costs of maintaining the lake. Currently, the Association calculates the added volume of effluent, treated water from American Foods and PWSD2, may increase flow down the Peruque Creek by approximately 5% per year -equal to damages in the hundreds of thousands of dollars. Construction sites sediment fencing and buffer strips unfortunately are not being imposed or regulated at this time in at least Wentzville, Missouri or Wright City, Missouri resulting in an additional contaminant threat beyond American Foods operations alone.

The AD Report is required because American Foods admits there will be significant degradation of Peruque Creek. This AD Report is supposed to document that the use of a waterbodies assimilative capacity is justified. It should be noted that the AD Report clearly states that assimilative capacity calculations were not completed because American Foods has affirmed that they will significantly degrade Peruque Creek. If the proposed activity results in significant degradation (which it will) then a demonstration of necessity and a determination of social and economic importance are required. This is a Tier 1 determination for at least dissolved oxygen and Biochemical Oxygen Demand ("BOD"), and those analytes are prohibited from being further degraded. The Association, Lake St. Louis, and our community can tolerate no more contaminant effluent.

The Antidegradation Implementation Plan ("AIP") specifies that this permit requires a demonstration of necessity (e.g. – alternatives analysis) and a determination of social and economic importance. The consultant for the AD Report references under the Necessity of Degradation Section "a previous study", without sufficient information to identify it and which is not included in the appendix. This "previous study" purports to assert that a transfer or regionalization of flow is impractical without material justification for that assertion. The reason the regionalization alternative to transfer flow to a non-impacted water body is claimed to be impractical is because one possible wastewater treatment facility (Providence Estates) has insufficient open land due to a planned residential development in the vicinity. Lake St. Louis, on the other hand, has a 55-year old, fully developed residential community of nearly one billion dollars in real property value. Perhaps the regionalization alternative should be reconsidered by factoring in the variable of rezoning the land.

With respect to the determination of social and economic importance, the Association fully rejects the attempted summary of necessity in the AD Report and the ADA (Antidegradation Application). This summary appears to be nothing more than a limited benefit promise for Wright City with no reference to true costs or threats to: Wright City itself, St. Charles County, Warren County, residents on Peruque Creek, or residents of Lake St. Louis. This determination states that median household income will increase in Wright City (already at \$60,125 in 2019, while Warren County is \$55,461 in 2015), but Wright City's median household income is already significantly higher than Missouri's average. The poverty level will reportedly decline, but poverty statistics in Wright City show only 13.4% of the community is below poverty level as of 2020. Not a significant need as compared to rural Missouri, and any poverty statistic would improve with the addition of 1,300 jobs. But, at what cost to the community in this instance?

The AD Report claims new PWSD2 capacity will allow new commercial development and new jobs. No actual metrics other than 1,300 jobs and one-billion-dollar economic impact are included. No clear budget for roads, social service expenses, emergency services, and law enforcement for a near doubling of local population. Anecdotally, the slaughterhouse labor community has a notorious record of difficulties with crime, particularly non-violent crimes like alcohol, substance abuse, and domestic abuse. Our community and our lake cannot handle a 5% or more increase in water volume and 5.3 Tons/yr. increase in phosphorus and 58 Tons/yr. increase in nitrogen due to American Foods let alone the probable increase in contaminants and flows which will emerge from the future commercial development.

This economic development proposal is not about need, it is about want. The Department sees the American Foods investment in wastewater treatment as a possible solution to the failed Wright City South Waste Water Treatment Facility. The Department has failed to hold Wright City Waste Water Treatment South accountable for historic non-compliance. Necessity for the community begs the question of how expansive or narrow is the community you are attempting to serve. Protecting downstream neighbors of Peruque Creek is a more fitting Department and Program challenge than selling the benefit to Wright City, and the Association and our community demands candid environmental support.



The Association notified the Department during the public question and comment period months ago that we were worried that downstream impacts may impact property values and the quality of life for our Lake St. Louis community, a community of 15,000 people. In response to the Associations concerns, the Department stated:

The Department acknowledges the [Lake St. Louis] community's concern; however, the MO Clean Water Law and its implementing regulations do not establish requirements specific to quality of life, property values, or property use. These issues do not fall within the scope of the [AD Report] nor [sic] within the scope of the operating permit. ... Peruque Creek studies, and modeling; all which follow MO Clean Water Law. [sic] Therefore, these appropriate effluent limitations protect the designated uses of Peruque Creek and downstream water bodies.

Appendix II, Antidegradation Review Comments and Department Responses, Response 8, p. 3 (April 12, 2024). The Association vigorously disagrees with the Department's position that this is protective of the Peruque Creek or the Lake St. Louis community. The Department appears to interpret social and economic benefit to the permittee as relevant but not to the recipients of the downstream waste.

The Association believes an extensive Peruque Creek stabilization project over time would be required to assimilate new contaminants of any appreciable amount in our already impaired waterway -a project that may cost in the millions of dollars. The Department's permit documents undersell or never address the impact on the receiving community of the total effluent and understate Wright City's inability to control its own municipal waste. We note there are numerous Missouri communities with a more significant need for jobs and higher income than Wright City, and that at least some of those communities have waters not listed on the Clean Water Act's §303(d) List. The Association respectfully suggests the Department and American Foods place its facilities in one of those other locations.

Sincerely,

The Lake Saint Louis Community Association



Heather Becker

General Manager

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