

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

APRIL 21, 2011

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Charlotte Hubbell at 10:05 a.m. on April 19, 2011 in the Ingram Office Building, Windsor Heights, Iowa.

COMMISSIONERS PRESENT

Gene Ver Steeg
Charlotte Hubbell, Chair
David Petty
Susan Heathcote
Paul Johnson
Martin Stimson, Vice-Chair
John Glenn
Lorna Puntillo, Secretary – by phone
Dee Bruemmer

ADOPTION OF AGENDA

Motion was made by Dee Bruemmer to approve the agenda as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Susan Heathcote to approve the March minutes as presented. Seconded by John Glenn. Motion carried unanimously.

APPROVED AS AMENDED

DIRECTORS REMARKS

Director Lande said that he will be leaving at 11:00 today to meet with US EPA Administrator Lisa Jackson and US Secretary of Agriculture Tom Vilsack.

Update on 319 program transfer to IDALS – this bill has moved out of House with amendments and is currently in the Senate for debate. There's no support in the Senate for moving the water monitoring program to IDALS.

Director Lande presented appreciation plaques to Gene VerSteeg, Charlotte Hubbell, Paul Johnson and Susan Heathcote.

INFORMATIONAL ONLY

CONTRACT – IOWA STATE UNIVERSITY EXTENSION SERVICE – MANURE APPLICATOR CERTIFICATION TRAINING

Jeff Prier, Environmental Specialist Senior presented the following item.

The Department requests Commission approval of a contract in the amount of \$183,103.00 with Iowa State University Extension Service to provide manure applicator certification training and testing for the time period of July 1, 2011 through June 30, 2012. The training and testing are pursuant to Code of Iowa, Sections 459.314A and 459.315.

The purpose of this contract is to support activities to develop manure certification training and testing materials for commercial manure applicators and confinement site manure applicators. Topics covered in the training materials will include: certification and manure management requirements of Iowa law and DNR rules; proper procedures for the storage, handling and land application of manure; the potential impacts of manure on surface and groundwater; the development of safety and emergency action plans; and sources of additional technical and educational assistance.

Funding for this contract is provided by fees collected from the Manure Applicator Certification Program.

Gene VerSteeg asked questions about the fee and where the money was allocated to.

AFO fees are deposited into the animal agriculture compliance fund and are used to pay for the expenses of the DNR in administering the AFO program, including manure applicator certification training.

Motion was made by Lorna Puntillo to approve the contract as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT AMENDMENT – ARCHEOLOGY AND ARCHITECTURAL HISTORY SERVICES FOR THE STATE REVOLVING FUND PROGRAMS

Patti Cale-Finnegan in the Water Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for contract amendments for five master contracts for archeology and architectural history services. These contracts originally ran from April 1, 2009 to June 30, 2011. The amendments will extend the contract period until June 30, 2013 for each. The amendments will also increase the not-to-exceed amounts for Wapsi Valley Archaeology, the Louis Berger Group, and Marina Consulting Corp. to \$440,000 each (an increase of \$200,000

each to cover next two years). The not-to-exceed amounts for the University of Iowa's Office of State Archeologist (OSA) and the 106 Group will remain at \$60,000 each.

Funding Source:

The funding for these contracts comes from the administrative accounts of the Clean Water and Drinking Water State Revolving Fund (SRF) programs. The SRF programs receive funds for administration from federal capitalization grants as well as from the 1% origination fee charged on loans.

Background:

Reviews of the potential impact on natural and cultural resources are required for drinking water and wastewater infrastructure projects financed through the SRF. These reviews often require surveys and investigations by professional archeologists or architectural historians and must be completed before any construction activities can begin.

During the period from April 2009 through January 2011, a total of \$389,769 worth of archeological and architectural history survey work was awarded through the master contracts. This work provides clearance for the construction of approximately \$318 million worth of water and wastewater facilities.

Purpose:

When a survey is needed as part of the environmental review for an SRF project, the five firms with master contracts are asked to bid. One is then chosen based on price, timing, or special expertise, and a contract addendum is executed for the needed work. The use of the master contracts allows the SRF staff to better ensure the quality and timeliness of archeological or architectural history reports needed to obtain concurrence in the project by the State Historic Preservation Office (SHPO) as well as Native American tribes.

Contractor Selection and Rationale for Not-to-Exceed Amounts:

A competitive selection process was held in late 2008. The five contracts were executed in April 2009 with a clause allowing up to two 2-year renewals and stating not-to-exceed amounts. Contracts with Wapsi Valley Archaeology, The Louis Berger Group, and Marina Consulting Corp. were amended during 2009 and 2010 to increase the not-to-exceed amounts due to an increased workload resulting from state and federal stimulus programs. The OSA did not bid on any projects during the first term of the contract but may be available in the future. The fifth firm, The 106 Group, only covers architectural history, which is a less common need with SRF projects, and cannot bid on archeological studies.

Motion was made by Paul Johnson to approve as presented. Seconded by John Glenn. Motion carried unanimously.

Susan Heathcote praised the DNR's State Revolving Loan Fund program for passing the recent audit without any issues.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

ERIN ANTINOK, ICCI member thanked Commissioner Hubbell, Heathcote and Johnson for all of their service as clean water advocates for Iowa.

DAVID GOODNER, ICCI member echoed Erin's comments and also stated that they are concerned with House File 661, which transfers rulemaking authority from the commissions to the Director. We strongly oppose this rulemaking. Please stand up for clean water.

NATALIE SNYDER, ICCI member thanked the commissioners for standing up for clean water. We strongly oppose any bill that takes away authority from the DNR or EPC. Our waterways can't wait any more.

WANDA MANSARAY, from Muscatine Iowa submitted the following comments:

There is not a lot of fighting going on in my neighborhood. Mostly it is very quiet. You may hear a dog bark every once in a while. When I was younger there would be children everywhere; playing, riding bikes, running around just having fun. Today my neighborhood is almost silent. I live just off Oregon Street, on Schley Ave.

Today when I went outside to my van; that's when I saw it; like so many times that black smoke bellowing out of the pipes. A dark cloud is blowing the stinking smoke across my house. The smoke is coming from the factory (GPC), which is located at the end of my street.

It is hard to breathe, my lungs cry out for help! My eyes burn and say rinse me with water. My heart is pounding; pumping blood faster, while fighting the enemy attacking my body.

Last night the smell kept me from sleeping, because it seeps through the windows and doors. The fumes move through each room of my home. I wake up lots of nights, struggling to breathe.

People say GPC will clean up the air. I dare say many years have passed; yet I have not seen much change. The grain from the air covers my van. In the winter the snow looks yellow from the grain covering my ground. It falls no you when you are outside. I have to wear a mask over my mouth when I am working outside.

My daughter left last spring. She had breathing problems. Her doctors asked her if she lived next to a factory. She said GPC. Myself I cough all the time and my nose runs. My doctor is trying to find out why.

My dad died last April of stomach cancer. I found out that he had some kind of growth in his colon when he worked at GPC. The elementary school has closed down. It was just three blocks north of my house.

I worked for the Muscatine Salvation Army, with their summer program five years. We would take the children to the park across the street. The children hated it when the smoke moved over the park. They said it hurt their eyes and the smell was bad.

Sometimes there is a smell in the air that smells like the toilet. Will someone please clean up the air for the children's sake, and the people that are left?

MS. VAN HOOZER, from Muscatine Iowa submitted the following comments:

Muscatine was appealing because of its size, location and river beauty. I'm wondering if we made the right decision to move their after retirement.

Muscatine has an air pollution problem and has had for years.

I'm here today to support whatever you can do to clean up Muscatine's air, including referring GPC to the attorney general's office to impose stiffer fines for emission violations.

I ask that you require GPC to move quickly to make improvements to their stacks to remove particulates, SO₂, and other toxic emissions.

It's known that emissions from coal-burning plants contribute to serious health problems, including asthma, bronchitis, COPD, heart attacks, cancer, diabetes, birth defects, autism and even early death. Muscatine residents are at risk and many have serious health problems.

A University of Iowa cancer study, covering the years 2000 to 2005, documents Muscatine as having a high incidence of cervical and lung cancer and a high mortality rate for lung and colorectal cancer. I will submit study maps for the record.

I have seen plumes of red and black clouds spewing from smoke stacks and blanketing Muscatine. Sometimes they hang over the town; other times they spread north, south, east or west depending on the winds. Toxic emissions from Muscatine's plants affect a wide area and not just the city of Muscatine or one segment of the population. I have taken pictures and I will submit them for the record.

Finally, I'll leave you with this thought:

Wouldn't it make sense to offer incentives to companies that clean up their emissions and switch to cleaner alternatives, such as wind, solar, hydropower or natural gas?

Clean fuels will protect our air, water, health and climate. Clean air will improve our economy. People will be enticed to move to Muscatine and the city will thrive once again.

BOB WEATHERMAN, who previously worked for Grain Processing Corporation (GPC) explained that GPC would stage the plant when DNR would come and do site visits and inspections. And their plans to improve the plant would never materialize.

SHERRY LEONARD, stated her concerns with clean air and water in Muscatine. Our failing community is not going to get any better without your help. GPC has a long history of violations, please refer them to the Attorney General's office for further action.

-----End of Public Participation-----

CONTRACT AMENDMENTS – ISU GIS FACILITY – PROFESSIONAL GIS SERVICES TO GATHER GEOCODING DATA FOR 17 COUNTIES IN THE CENTRAL REGION OF IOWA

Chris Ensminger, Environmental Program Supervisor in the Environmental Services Division presented the following item.

The Department requests Commission approval of a contract amendment in the amount of \$109,329 with the Iowa State University GIS Facility to gather geocoding (address location) data for an 17 counties in the central region of Iowa. The time of performance will also be amended from 6/30/2011 to 12/31/2011.

This contract will allow the department to generate accurate address locations from county E911 addresses matched to building footprints derived from LiDAR and aerial photography. These data will be much more accurate than anything we have had in the past and will be used extensively with DNR and non-DNR programs across the state.

Funds for this project will come from Pooled Technology grant funds directed to the DNR GIS Section.

The ISU GIS Facility is uniquely equipped with the expertise, student labor, and GIS equipment needed to complete this work.

Gene Ver Steeg asked what the value is for this type of data.

Dee Bruemmer asked the DNR if they had checked to see if the counties already collected this data.

If you're getting this data from the counties that spent the money beforehand to have this done and now you're requesting this data, are you paying for that information? What about the counties that did not pay upfront for this data? Are they getting it free from the DNR?

Chris Ensminger said yes, we are getting that information from those counties that have it. They are willing to give us this information. The counties that don't have this data probably would have a difficult time paying for it at a later date.

Lorna Puntillo expressed concerns about the detailed mapping of hazardous waste materials and certain locations of the plant.

Chris Ensminger said that it would be only a specific point and then an address. It would not be specific enough to list out each building and the contents in it.

Wayne Gieselman said that the DNR is not funding this effort. It was given to us because we have the expertise on staff to do this type of work.

Motion was made by Lorna Puntillo to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACTS – 28E AGREEMENTS TO DELEGATE PRIVATE WELL PERMITTING AUTHORITY TO LOCAL COUNTY BOARDS OF HEALTH AND BOARDS OF SUPERVISORS

Russell Tell, Environmental Specialist presented the following item.

Recommendations:

Commission approval is requested for 28E Intergovernmental Agreements between the department and local County Boards of Health and Boards of Supervisors. These agreements will delegate a portion of the statewide private well program to each county who meets the department's delegation criteria. The agreements begin upon commission approval and will expire on June 30, 2015.

Funding Source:

This contract does not authorize any transfer of funds to the local county boards.

Background:

The department works in cooperative partnerships and agreements with local County Boards to establish and maintain local permitting authority for the private well program at the county governmental level. Local county permitting authority is an important step in statewide private well management and provides for a local resource for citizens in each county and allow for a monitored, more efficient Private Well Program that allows for a local contact for both local county control and Iowa DNR oversight.

Upon acceptance of permitting authority each county will be authorized to:

- Accept, qualify, and approve private well permit applications, collect necessary fees, perform site visits, and issue well construction permits for private drinking water and non-drinking water wells, irrigation wells, specific types of monitoring wells, dewatering wells, GHEX loop boreholes, sandpoint wells, and any other subsurface structure that meet the definition of “water well” in Iowa Code.
- Collect and submit a \$25.00 per well construction permit fee to the Department which is used to maintain the Private Well Tracking System (PWTS) and provide for private well information resources and technical assistance.
- Use the PWTS to enter and track well permit information, well log information, water testing information, well renovation information, and well plugging information.
- Engage in enforcement action against well owners, well contractors, and other individuals, entities, and organizations that create a groundwater hazard before, during, or after well construction, maintenance or service, anyone who fails to mitigate a groundwater hazard, or those who otherwise operate outside of the current private well rules.
- Provide technical resources to citizens of their county regarding private wells and well ownership including but not limited to:
 - Help the local citizens obtain water quality sampling, analysis and interpretation of their analysis report.
 - Help the local citizens understand the deficiencies that may exist in their private water supply well
 - Help to qualify viable well rehabilitation expenses for grant reimbursement to improve the quality of their drinking water.
 - Determine the status of existing water supply wells and help qualify un-needed or non-conforming wells for grant cost share funding to have the wells properly plugged.

The Department has been delegating the Private Well Program permitting authority to counties in this manner since 2001. The use of delegation agreements along with the internet based Private Well Tracking System allows the department to monitor the private well permitting statewide and collect a fee for each well installed to help offset the cost of operation of the private well program. The impacts to the State’s citizens and resources include increasing well user awareness regarding their drinking water quality and the health related impacts associated with their drinking water supply, increasing the protections to the groundwater/aquifers that may be used as a drinking water source, and sharing of the important data collected from reportable well activities including well construction, well reconstruction, drinking water testing, well plugging, well use, and water use.

Purpose:

The parties propose to enter into these agreements for the purpose of delegating the private well permitting authority to Local County Boards as set forth in Iowa Code section 455B.172 § 9.

Contractor Selection Process:

Iowa Code 455B.172 § 9 states that “pursuant to chapter 28E, the department may delegate its authority for regulation of the construction, reconstruction and abandonment of water wells specified in subsection 7 or the registration of water well contractors specified in subsection 8 to boards of health or other agencies which have adequate authority and ability to administer and enforce the requirements established by law or rule.” The department has delegated permitting authority to individual counties since 2001.

Our qualification process helps ensure that each participating county has in place minimum well program related ordinances, staff, and facilities to adequately manage the program.

Motion was made by David Petty to approve the 28E agreement as presented. Seconded by John Glenn. Motion carried unanimously.

Dee Bruemmer abstained from the vote because of a conflict of interest.

APPROVED AS PRESENTED

CONTRACT – IOWA DEPARTMENT OF PUBLIC HEALTH FOR ADMINISTRATION OF THE GRANTS TO COUNTIES WELL PROGRAM

Russell Tell, Environmental Specialist presented the following item.

Recommendations:

Commission approval is requested to amend the annual payment to the Grants to Counties Well Program as currently defined in contract number ESDG452RTELL100112. The current contract requires an annual assessment to determine if the available Grants to Counties funds available in the Groundwater Protection Fund are sufficient to distribute funds at a level greater than the current contract amount of \$1,660,000. If approved, the FY11 contracted minimum funding amount will be increased by \$200,000 from the current \$1, 660,000 to \$1,860,000. This will allow the department to fulfill the Section 7.3 of the original contract and allocate available funds. The total amount of this contract shall not exceed the annual revenues allocated to the department for the Grants to Counties program by the Groundwater Protection Fund as noted in Iowa Code 455E.11.

Funding Source:

This contract will be funded through Groundwater Protection Fund revenues dedicated for use in Grants to Counties program as stated in Iowa Code 455E.11, subsection 2, paragraph “b,” subparagraph (3), subdivision (b).

Background:

The Grants to Counties program is a statewide program funded through allocations by the Groundwater Protection Fund. The program works with local county environmental health agents to provide private drinking water well owners with resources for certain well services. These resources include grant based funding and technical support to help private well users:

- Understand the quality of their drinking water through a no cost/low cost drinking water testing program.
- Understand the deficiencies that may exist in their private water supply well and help qualify viable well rehabilitation expenses for grant reimbursement to improve the quality of their drinking water.
- Determine the status of existing water supply wells and help qualify un-needed or non-conforming wells for grant cost share funding to have the wells properly plugged.
- Eliminate un-needed cisterns that pose a risk to groundwater and physical safety.

The Grants to Counties program has been in place since 1988 and has helped provide nearly one half million qualified well services to private well owners statewide. The impacts to the State's citizens and resources include increasing well user awareness regarding their drinking water quality and the health related impacts associated with their drinking water supply, and increasing the protections to the groundwater/aquifers that may be used as a drinking water source.

The yearly funding amount for the Grants to Counties Well Program is based on the availability of funds dedicated for program use by the Groundwater Protection Fund. Each year the amount of money available to the program is dependent on the sales of pesticides within our state and fluctuates based on the state of the economy and the actual amount requested by county participants. In order to fulfill the obligations to the Grants to Counties Well Program as noted in Iowa Code 455E.11, we evaluate the available funds on a yearly basis and when possible, allocate additional funds to perform additional key tasks that fulfill the program goals. The request in front of the commission for this meeting is for authorization to allocate an additional \$200,000 from the funds currently available in the Groundwater Protection Fund to fulfill the commitments of the Grants to Counties Well Program.

Purpose:

To amend the FY 2011 Grants to Counties contract payment to reflect the payment of an additional \$200,000 of dedicated funding to fulfill the requirements of the Grants to Counties Well Program as defined in Iowa Code section 455E.11(3)(b) (2009.)

Contractor Selection Process:

Code of Iowa 455E.11, subsection 2, paragraph "b," subparagraph (3), subdivision (b) specifically states that Iowa Department of Public Health will be the receiving entity for the dedicated funds less any department administrative costs.

7.3 Budget. The budget for this Contract shall be as follows:

Annual Budget

Grants to Counties funds – Outside Services***	\$1,600,000
Administrative funds -	
Salary and Fringe	\$49,500
Travel	\$5,000
Office Supplies	\$500
Other Expenses	\$5,000
Administrative Fund Total	\$60,000
Contract Total	\$1,660,000

***This is the minimum amount allocated for outside services annually. The actual amount may increase dependent upon unexpended amounts from previous fiscal year contracts with local boards of health. An actual amount will be agreed upon annually by IDPH and IDNR.

Motion was made by Paul Johnson to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

Dee Bruemmer abstained from the vote because of a conflict of interest.

APPROVED AS PRESENTED

CONTRACT – IDALS DIVISION OF SOIL CONSERVATION FOR THE DRY RUN CREEK WATERSHED IMPROVEMENT PROJECT

Steve Hopkins, Coordinator of the Nonpoint Source Program presented the following item.

Recommendations:

Commission approval is requested for a contract with the Iowa Department of Agriculture and Land Stewardship Division of Soil Conservation (IDALS DSC) for the Dry Run Creek Watershed Improvement Project to implement watershed improvement practices identified in the Dry Run Creek Watershed Management Plan. The project will be administered through the Black Hawk County Soil and Water Conservation District. The total amount of this contract shall not exceed \$675,412.

Funding Source:

This contract will be funded through EPA Section 319 grant funds.

Background:

The following contract is presented for approval:

Dry Run Creek Watershed Improvement (IDALS DSC)	\$675,412
Total	\$675,412

Purpose:

The parties propose to enter into this contract for the purpose of implementing watershed improvement practices identified in the previously-approved Watershed Management Plan for Dry Run Creek, an impaired water.

Contractor Selection Process:

This project was chosen using a grant proposal application and committee review process.

Susan Heathcote said that the urban storm water project and tour is very enlightening.

Motion was made by David Petty to approve the contract as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

Commissioners went into closed session to discuss with counsel from the Iowa Attorney General's Office the pending lawsuit: Iowa Farm Bureau Federation, Iowa Renewable Fuels Association and the Iowa Water Environment Association v. Environmental Protection Commission and Iowa Department of Natural Resources pursuant to Iowa Code section 21.5(1)(c). The motion to go into closed session carried unanimously.

Motion was made by Susan Heathcote to go into closed session based on the reasons stated above. Seconded by David Petty. Roll call vote went as follows: Susan Heathcote – aye; Marty Stimson – aye; John Glenn – aye; Paul Johnson – aye; Dee Bruemmer – aye; David Petty – aye; Gene VerSteeg – aye; Lorna Puntillo – aye; Charlotte Hubbell – aye. Motion carried.

REFERRAL TO THE ATTORNEY GENERAL – GRAIN PROCESSING CORPORATION

Kelli Book, DNR Attorney presented the following comments:

In attendance today we have staff from the Department's Air Quality Bureau, Water Quality Bureau, and Field Office 6. The Department requests referrals to the Attorney General's Office for various reasons. The most common reason is that the Department believes the penalty exceeds \$10,000. Other reasons include: multi-media violations; previous action by the Attorney General's Office; or the need for injunctive relief. In this case all four of these reasons are

present and are the foundation for the Department's request to refer Grain Processing Corporation (GPC) to the Attorney General's Office.

DESCRIPTION OF FACILITY:

GPC owns and operates a corn processing facility in Muscatine, Iowa. GPC produces a variety of corn derivative products. The facility has numerous air emission sources and is considered a major source of air pollutants under both the Prevention of Significant Deterioration (PSD) and Title V Operating Permit programs. The actual emissions from GPC for 2010 were over 13,000 tons and GPC is one of the top ten emitters in the state of Iowa. The facility also has a National Pollutant Discharge Elimination System (NPDES) permit for its wastewater operation. It has six distinct outfalls and one theoretical outfall. The wastewater from the facility is treated by an activated sludge process and anaerobic digesters.

AIR QUALITY ISSUES:

This referral includes three main air quality violations: 1) failure to comply with permitted emission limits; 2) failure to obtain a PSD permit; and 3) failure to comply with the notification, reporting, and emission reduction requirements associated with the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing and for simplicity I will refer to those violations as MON violations.

As stated earlier, GPC has numerous air emission sources at its facility and holds many air quality construction permits. For this referral the only emission unit the Department will be discussing in connection with the permit violations is the #4 Gluten Dryer. This unit was first permitted in 1991 and the permit included PM and PM10 emission limits, creating a synthetic minor limit, allowing GPC to avoid PSD review. In 1992, the facility conducted a stack test indicating compliance with the emission limits. The permit was modified in 2006, raising the PM/PM10 emission limit. However, the limit continued the synthetic minor status; thus allowing GPC to avoid PSD review. In 2007, the facility conducted a stack test indicating compliance with the emission limits.

In March 2009, the permit was modified again at GPC's request to use biogas as a fuel. The modification maintained the synthetic minor limit of 5.31 lbs/hour for PM/PM10 to avoid PSD review. Additionally, the modification included a SO2 limit of 4.5 lbs/hours in order to avoid PSD review and to avoid the State Implementation Plan (SIP) maintenance plan modeling. Since there was a change in the fuel and because of the possible impact on emissions, the facility was required to conduct a stack test to demonstrate compliance with the permitted limits.

In June 2010, GPC conducted the stack test on the #4 Gluten Dryer for PM/PM10 and SO2. Most stack tests are made up of three runs. However in this case GPC stopped the testing after the first run. The results from the first run indicated that the PM/PM10 and SO2 permitted emission limits were not being met. The results showed that the PM/PM10 emissions were 16.07 lbs/hour, more than three times the permitted limit of 5.31 lbs/hour and the SO2 emissions were 30.65 lbs/hour, more than six times the permitted limit of 4.5 lbs/hour. A Notice of Violation letter was sent to GPC for the emission limit violations.

After communications between DNR and GPC, GPC adjusted the control equipment to improve the control efficiency and retested the #4 Gluten Dryer in August 2010. The results indicated that the PM/PM10 and SO2 permitted emission limits were still not being met. The results showed that the PM/PM10 emissions were 17.77 lbs/hour, more than three times the permitted limit of 5.31 lbs/hour and the SO2 emissions were 9.73 lbs/hour, just over two times the permitted limit of 4.5 lbs/hour.

In November 2010, another Notice of Violation letter was issued to GPC for the emission limit violations and for failing to submit PSD applications. In December 2010, GPC submitted a letter to DNR stating it would retest the #4 Gluten Dryer for PM/PM10 in January 2011 and would submit permit modifications for the SO2 exceedance when it could be determined how the facility would meet the limit. In February 2011, GPC submitted another letter to DNR stating that it had determined that the SO2 exceedance could be fixed; however because of financial considerations it would not be doing that, but rather would be stopping the use of the biogas. GPC indicated that it would retest once a new biogas scrubber was constructed. The letter also stated that GPC was reviewing its control systems and after successful engineer testing would contact the DNR to schedule a stack test for PM/PM10. A letter was sent by DNR in March 2011 indicating that GPC remained out of compliance with the emission limits until the #4 Gluten Dryer was tested in compliance for SO2 and PM/PM10.

The above facts indicate GPC's failure to comply with permitted emission limits as required by 567 IAC 22.3(3) and GPC's failure to submit a PSD application as required by 567 IAC 33.3(2)(b). 567 IAC 22.3(3) states that construction permits may be issued with specific conditions, including emission limits. The construction permit for the #4 Gluten Dryer contained a PM/PM10 emission limit of 5.31 lbs/hour and a SO2 emission limit of 4.5 lbs/hour. The June 2010 stack test indicated that the PM/PM10 emissions were three times over the permitted limit and the SO2 emissions were six times over the permitted limit. The August 2010 stack test indicated that the PM/PM10 emissions were three times over the permitted limit and the SO2 emissions were two times over the permitted limit. To date, GPC has not tested in compliance with the permitted emission limits and the Department still considers GPC out of compliance with the PM/PM10 and SO2 permitted emission limits.

567 IAC 33.3(2)(b) requires PSD review for major modifications. As you will recall the PM/PM10 and SO2 limits were placed in the permit to make the unit a synthetic minor, thus allowing GPC to avoid PSD review. The significance level for PSD is 25 tons of PM/year and 15 tons of PM10/year. Based on the emissions from the stack test, the emissions from #4 Gluten Dryer exceeded the PSD significance level for PM/PM10 by as much as 54.6 tons/year. PSD review prior to the modification ensures compliance with the national ambient air quality standards; that the PSD air increments; and the requirements to apply Best Achievable Control Technology are being met. GPC is located in a sensitive area of the state and any significant changes in these areas, meaning those changes which exceed the PSD significance levels must be evaluated to ensure there is no detrimental impact to is already sensitive area. As the commission is aware, Muscatine is an area of past and ongoing air quality concern both for PM 2.5 and SO2.

You may hear GPC say that it is compliance or that it soon will be in compliance with everything; however the DNR has not been provided with any information that the facility is in compliance with the permitted emission limits and has not been given any hard date as to when compliance may be achieved. Also GPC may express surprise that the DNR is attempting to refer this matter to the Attorney General's office rather than settling the case administratively. However, GPC should be surprised. GPC's first failed stack test occurred almost one year ago and GPC has failed to demonstrate compliance with the permitted emission limits since that time. This is a significant violation of Iowa's air pollution laws. Failing to obtain a PSD permit and failing to comply with the permitted emission limits are serious violations and given the fact that GPC was referred to the Attorney General's Office in the past for similar violations; GPC should not be surprised or confused as to why a referral is being requested at this time.

The remaining air quality violation included in this referral is GPC's failure to comply with the notification, reporting, and emission reduction requirements associated with the MON. The MON was established to regulate hazardous air pollutants from miscellaneous organic chemical manufacturing process units at major sources. Hazardous air pollutant emissions contribute to a wide variety of adverse health effects and also contribute to the formation of ground level ozone or smog. The fuel and industrial ethanol production at GPC subjects the facility to these requirements.

There are notification and reporting requirements required by the MON and those are discussed in the litigation report. In addition to the notification and reporting requirements, one of the main components of the MON is that subject facilities must implement leak detection and repair (LDAR), meaning that the facility must monitor units for leaking emissions of hazardous air pollutants and repair those leaks. When EPA proposed the MON rule in 2002, it stated that emissions from equipment leaks accounted for the largest fraction of hazardous air pollutant emissions from facilities in the source category, approximately 46% of the total. EPA estimated that the LDAR program required by the rule would reduce HAP emissions by 60-75%.

The MON required that an LDAR program be in place by May 2008, GPC was not in compliance with the requirements until June 2010.

You will likely hear GPC state that DNR itself didn't know GPC was subject to the MON and that GPC disclosed the violation to DNR. The fact is, DNR was informed by the facility in July 2006 that it was not subject to the MON because it only produced beverage alcohol. At that time, the facility representative stated he understood if industrial alcohol was produced that GPC would be subject to the MON.

In February 2010, GPC contacted DNR regarding the applicability of the MON to GPC and within a business day the DNR informed GPC that it was subject to the MON. It is important to note that there are 9 facilities in the state subject to the MON and all of the facilities except for GPC complied with all of the provisions of the MON in a timely manner.

As stated in the litigation report, this is not the first referral of GPC to the Attorney General's Office. In 2007, GPC entered into a consent order with the State of Iowa. The violations were

similar to those stated in this referral, except for different emission points. GPC paid a considerable civil penalty to resolve those violations.

WATER QUALITY ISSUES:

Turning now to the wastewater violation at the facility, the timeline of the violation is in the litigation report. GPC failed to obtain a construction permit prior to beginning construction on a 1.9 million gallon anaerobic settler. This settler doubled the capacity of the facility. The facility had previously been issued a permit to construct a .8 million gallon settler and a 1.0 million gallon settler. According to information submitted after the construction had begun, the bid for this project went out in March 2010, and construction started in May or June 2010. In late August 2010, GPC contacted the DNR and requested a project engineer for the project stating that construction had already started. Jim Kacer with DNR Field Office 6 visited the facility in September 2010 and discovered that the settler was approximately 75% complete. Construction workers were working on the settler when Mr. Kacer arrived. During the visit, Mr. Kacer spoke to Mick Durham, Director Environmental Services for GPC. Mr. Durham stated that GPC would like to continue construction so that the settler could be used for storage of the digester contents while one of the digesters were being repaired. Mr. Kacer said he could not give permission for that. As you can see from the pictures I am handing out, this is a large structure. The top picture was taken by Mr. Kacer during the September visit and the bottom picture was in January 2011 when Mr. Kacer was there for a site survey. As you can see the settler was completed in January. GPC did submit construction permit information in November 2010, more thorough information was requested in January 2011, and in March 2011 DNR sent GPC an As-Built Review letter stating that the sizing as it pertained to the design standards was acceptable. Since the application was not submitted prior to the construction, DNR was unable to verify that construction was in accordance with the concrete standards and an engineering report was never submitted.

CLOSING:

You may hear many reasons why GPC should not be referred to the Attorney General's Office, but please do not to lose sight of the actual violations that occurred – GPC failed to comply with emission limits established in its air quality construction permit and in doing so avoided costly and timely PSD review; GPC failed to comply with the MON requirements for at least two years, while at the same time other companies were spending the money and complying with the MON; and GPC failed to submit a construction permit prior to beginning construction on a 1.9 million gallon anaerobic settler. There are no excuses for these violations – they occurred – the facts and the scientific tests confirm the violations. Even if you hear that GPC believes it is now compliance with all the regulations; it is important to remember that we all want compliance and the DNR appreciates that the facility may be in compliance or is working toward being in compliance. However, the facility's compliance status cannot negate the violations that occurred for several months or in some cases several years. The penalties associated with the above-mentioned violations are in excess of \$10,000.00; this referral includes violations in two media – air and wastewater; GPC has a previous Consent Decree with the state of Iowa for similar air quality violations as those in this referral; and injunctive relief is requested so that the #4 Gluten Dryer operates in compliance with permitted emission limits. Based on the information presented today as well as the information provided in the litigation report, the Department requests that the Commission refer GPC to the Attorney General's Office for appropriate enforcement action.

Scott Young, Attorney representing Grain Processing Corporation made the following comments:

Settling Tank – Wastewater violations at the site. We've been working to find the problems and the issues that are involved as well as possible solutions. The engineering dept.'s solution was to build a settling tank. It was not permitted but they proceeded to build anyway. We did self report that to the DNR to proceed. The digester blade broke and we needed to drain the tank of the sludge and fix the problem. We got permission from the dept to proceed. We self reported this and we don't believe this is warrants referral. It's not how you should do business.

Stack testing. We applied for the permit. The test shocked GPC as well as DNR. We went back to find solutions to why we were exceeding limits. We trouble shooted and implemented certain tools and they failed. We were doing this in complete transparency. This is not the kind of activity that warrant a heightened referral. We stood up to the failure. There shouldn't be added penalty because we are trying something that failed. This should not result in referral.

MON regulations. We self reported but we did miss the deadline.

Wastewater discharge exceedances. I have other clients that had received the notice of referral before receiving the Notice of Violation.

In business since 1940.

Charlotte Hubbell asked why they didn't know about the requirements for permits.

Mr. Scott said that our Engineering Department was not aware of the environmental requirements that were required for construction.

Kelli Book said that the water quality violation is \$5,000 per day and air quality violations run \$10,000 per day. To be honest, we are not sure if it's a violation of multiple days but you do have to keep in mind their past violations.

Susan Heathcote asked what happened between 2007 and 2009.

Mr. Scott said that there were some fuel changes, a switch to bio-gas.

Kelli Book said that the DNR does not believe there is any correlation with PM and PM10 violations and bio-gas.

Marty Stimson questioned why GPC would enter into such a change that had a large exceedance. I struggle with the idea that you were really trying to stay into compliance.

Mr. Scott replied stating that GPC was trying hard to fix this problem. However, they were not able to effectively find a solution, therefore they abandoned the use of biogas 8 months ago. In February they returned to using natural gas.

Lorna Puntillo asked about the communication relationship between the DNR and GPC.

Mr. Scott said that GPC is in regular and daily communication with the department. This was an project was an experience and it did not work.

Kelli Book referenced the February 2011 letter. This letter states what types of issues we had concerns with and we still haven't seen a permit for the new scrubber.

Mr. Scott said that when we went back to using the natural gas system, we were back into compliance. We've had a long history of compliance.

Marty Stimson said that it appears GPC switched to bio-gas for a year for an economic gain.

Mick Durham said that GPC was attempting not to use bio-gas but rather to use natural gas. We mixed and changed the formula to limit sulfur.

Susan Heathcote stated her concerns with the PM10 violations.

Mick Durham said that we don't believe the fuel change was a result of these air quality violations (PM10).

Mr. Scott said that GPC is concerned with public health and we are working for solutions.

Lorna Puntillo said that our facility was just asked to review all sources of energy and checking if alternative sources, like propane could be used. It takes about 6 months for pilot projects to really take effect.

Kelly Book said that we don't know how long they have been out of compliance on the PM standards. They have a limit because of public health. We don't want to discourage the use of alternative resources, because we have facilities doing this but I don't believe the violations being discussed today are a result of that. This facility is located in an area of great concern.

Susan Heathcote said that I don't see how this case can fall under the \$10,000 administrative penalty. There are many issues referenced here.

Charlotte Hubbell said that this is not an indication of guilty but that we believe this warrants the attention of the Attorney General. I find it hard to believe that in 70 years of operation, you built structures that required permits with I'm assuming no problems at all and now you have issues with mis-communication and mis-understanding of the requirements.

Kelli Book said that the Commission needs to take into account what kind of public message they want to send today.

Mr. Scott said that construction began before a permit was issued but it was not used before we received a permit.

Air Quality violations – PSD and MON violations

Motion was made by Susan Heathcote to refer the air quality violations to the Attorney General's office. Seconded by Marty Stimson. Motion carried unanimously.

Gene Ver Steeg said that he would like to see another stack test.

Water Quality violations – Wastewater violations

Motion was made by Susan Heathcote to refer the water quality violations to the Attorney General's office. Seconded by Marty Stimson.

Lorna Puntillo asked the DNR if this item alone would warrant referral to the Attorney General's office.

Kelli Book said yes and there is potential that this could go over the \$10,000 limit. We do believe that there was a benefit to them for not receiving a permit beforehand. Benefits would include construction costs and storing of sludge.

Roll call vote went as follows: David Petty – nay; Susan Heathcote – aye; Dee Bruemmer – aye; Gene VerSteeg – nay; Marty Stimson – aye; Paul Johnson – aye; John Glenn – nay; Lorna Puntillo – nay; Charlotte Hubbell – aye. Motion carried.

REFERRED

MONTHLY REPORTS

Wayne Gieselman, Division Administrator, Environmental Protection Division, presented the following items.

The following monthly reports have been posted on the DNR website under the appropriate meeting month: <http://www.iowadnr.com/epc/index.html>

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

INFORMATION

GENERAL DISCUSSION

Randy Clark gave a brief update on the CAFO rules. Last November, EPC approved the NOIA that would incorporate the new federal regulations. This package will need to come back to the commission in June in order to meet the 180 day requirement in Iowa Code chapter 17A. However, recently, the federal rules were vacated in part by the Fifth Circuit US Court of Appeals. The DNR will need to review how it will respond to this case.

Wayne gave an update on the following topics:

- Next month's meeting will be held in Coralville.
- Title V rule – The current rule draft outlines what we can spend the Title V permit fee money on.
- We plan to form a small group that will look at air quality monitoring and modeling. We are calling this our “guiding light” approach. The purpose is to identify the problems (actual and perceived), prioritize them, and then implement solutions. The Director, Pat Boddy, Catherine Fitzsimmons, myself, Chuck Corell, ABI members and an environmental representative will make up this working group. They will also address wastewater type issues - not drinking water.
- Commissioners Dee Bruemmer & John Glenn were confirmed by the Senate.
- Nancy Couser has been appointed to fill Gene Ver Steeg's position. She has not yet been confirmed.
- New Commissioners Mary Boote, Brent Rastetter and Dolores Mertz were also approved by the Senate.

Lorna Puntillo suggested that there be a place on the DNR website where people could log on and give potential ideas and concerns.

NEXT MEETING DATES

May 17, 2011 – Johnson County

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Hubbell adjourned the meeting at 3:20 p.m., Tuesday, April 19, 2011.

Motion was made by Paul Johnson to adjourn. Seconded by Gene VerSteeg. Motion carried unanimously.



Roger L. Lande, Director

Charlotte Hubbell, Chair

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Summary

Environmental Protection Commission

Tuesday, April 19, 2011
DNR Air Quality Building
7900 Hickman Road
Windsor Heights, IA

Minutes for EPC monthly meetings are posted to the website after Commission approval.

10:00 AM – Meeting begins
10:30 AM – Public Participation¹
1:00 PM – Referral to the Attorney General

Agenda topics

- 1 Approval of Agenda
- 2 Approval of Minutes
- 3 Director's Remarks
- 4 **Contract** – Iowa State University Extension Service – Manure Applicator Certification Training Carried
- 5 **Contract Amendments** – Archeology and Architectural History Services for the State Revolving Fund Programs Carried
- 6 **Contract Amendment** – ISU GIS Facility - professional GIS services to gather geocoding data for 17 counties in the central region of Iowa Carried
- 7 **Contracts** - 28E Agreements to Delegate Private Well Permitting Authority to Local County Boards of Health and Boards of Supervisors Carried
- 8 **Contract Amendment** – Iowa Department of Public Health for Administration of the Grants To Counties Well Program Carried
- 9 **Contract** – IDALS Division of Soil Conservation for the Dry Run Creek Watershed Improvement Project Carried
- 10 Monthly Reports Information
- 11 General Discussion
- 12 Closed Session with Attorney General's Office to discuss the following lawsuit: Iowa Farm Bureau Federation, Iowa Renewable Fuels Association, and Iowa Water Environment Association v. Environmental Protection Commission and Iowa Department of Natural Resources (Polk County No. CV8371)
- 13 Referral to the Attorney General Carried
Grain Processing Corporation (Muscatine) – Air Quality / Wastewater
- 14 Items for Next Month's Meeting
 - May 16th – EPC Tour of Johnson County
 - May 17th – EPC Meeting in Coralville, Johnson County
 - June 21st – Windsor Heights

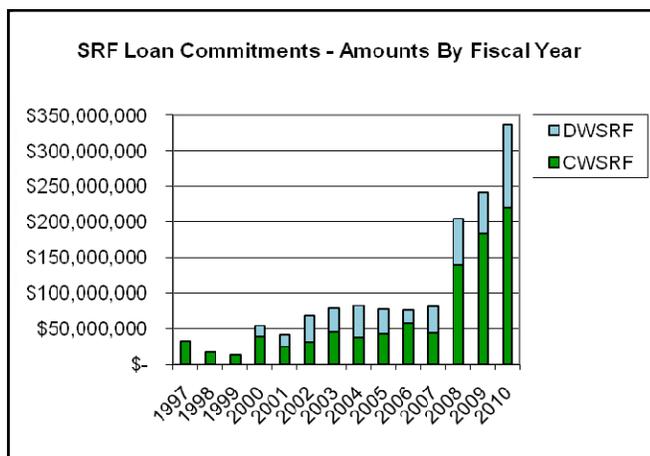
For details on the EPC meeting schedule, visit www.iowadnr.com/epc/index.html.

¹ Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

ENVIRONMENTAL REVIEW SERVICES



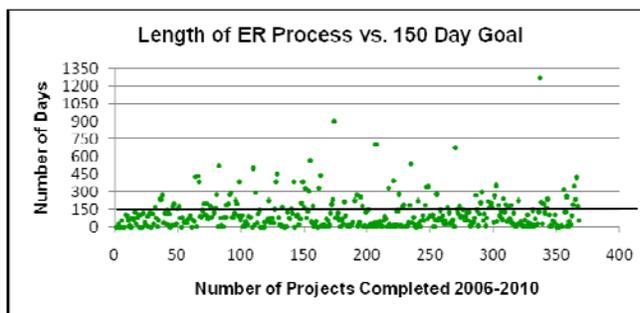
Before 2004, the Clean Water State Revolving Fund was underutilized and the Drinking Water State Revolving Fund was in its infancy. The two programs together provided an average of about \$30 million per year in loan assistance. A number of program improvements were made through the efforts of the Department of Natural Resources and the Iowa Finance Authority. The results of those improvements show in the increase in loan volume in recent years.



One of the improvements was the development of environmental review services in 2006. Previously, a major impediment to the use of SRF loans was the difficulty applicants had as they tried to navigate through environmental review requirements. A review must be completed for every SRF infrastructure project to determine the possible impacts on natural and cultural resources. The reviews involve consultation with federal and state agencies governing wetlands, flood plains, endangered species, historic preservation, and farmland conversion. Consultation

also occurs with Native American tribes and local cultural organizations, and ultimately, the general public has an opportunity for comment. Without a finding that no significant impacts will result from the project, no SRF dollars can be used.

In 2006 DNR hired an environmental review specialist and began conducting this process on behalf of the applicants. The average timeframe to complete the ER process before 2006 was 557 days. Currently the goal is 150 days. The chart shows that it is met for the majority of projects. DNR now has three ER specialists to handle the growing workload.

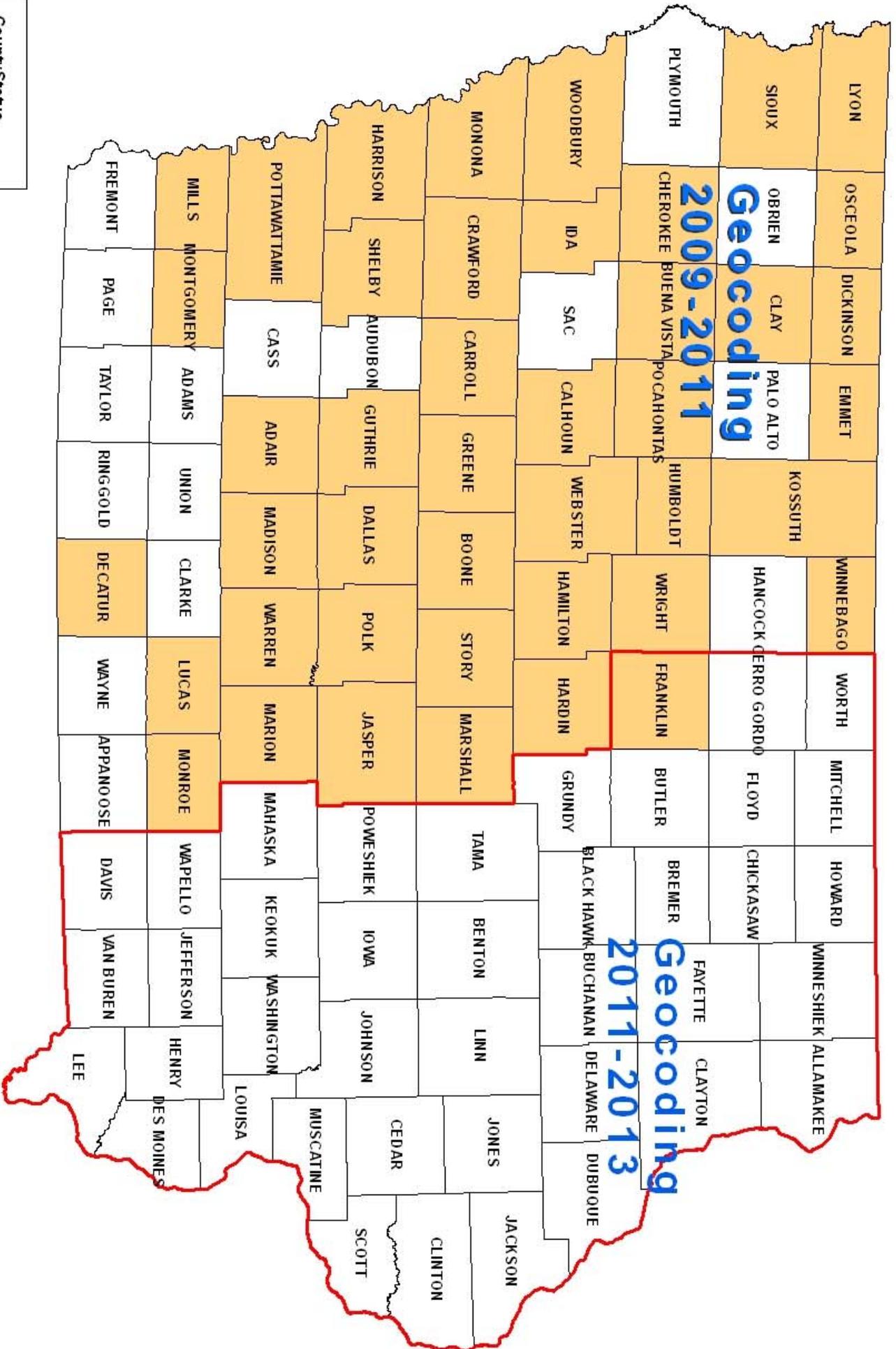


The department also began using income from loan initiation fees to complete necessary archeological or architectural history studies. In 2007 a request for proposals was issued to solicit qualified firms to enter into master contracts to conduct those studies. A second solicitation was held in 2009. These master contracts streamline the data gathering needed to demonstrate that historic and cultural properties will not be impacted.

The SRF Environmental Review Services help the federal and state clearance agencies, other consulting parties, project engineers, and other funding programs by centralizing and standardizing information. Most important, the ER staff help make the benefits of SRF assistance more accessible to Iowa communities.

“The Environmental Review Services made a seemingly convoluted process as streamlined as such a process could be. Thank you for all your assistance. It would not have been possible without you. Great customer service!” -- City of Council Bluffs

Iowa Geocoding Project



County Status
 In Process/Finished
 No Data

April 5, 2011

This is my Neighborhood

By Wanda Mansaray

There is not a lot of fighting going on in my neighborhood. Mostly it is very quiet. You may hear a dog bark every once in a while. When I was younger there would be children everywhere; playing, riding bikes, running around just having fun. Today my neighborhood is almost silent. I live just off Oregon Street, on Schley Ave. (1708)

Today is February 22nd. 2011. I went outside to go to my van; that's when I saw it; like so many times **that black smoke bellowing out of the pipes**. A dark cloud is blowing the **stinking smoke** across my house. The smoke is coming from the factory (G.P.C.); which is located at the end of my street.

It is hard to breathe, my lungs cry out for help! My eyes burn and say rinse me with water. My heart is pounding; pumping blood faster, while fighting the enemy **attacking** my body.

Last night the smell kept me from sleeping, because it seeps through the windows and doors. The fumes move through each room of my home. I wake up lots of nights, struggling to breathe.

People say that **G.P.C.** will clean up the air. I dare say many years have passed; yet I have not seen much change. The grain from the air covers my van. In the winter the snow looks yellow from the grain covering the ground. It falls on you when you are outside. I have to wear a mask over my mouth when I am working outside.

My daughter left last spring. She had breathing problems. Her doctor asked her if she lived next to a factory. She said **G. P.C.** Myself I cough all the time. My nose runs. My doctor is trying to find out why.

Mr. O'dell ← → Hughes My dad died last **April** of stomach cancer. I found out that he had some kind of growth in his colon when he worked at **G.P.C.** The elementary school has closed down. It was just three blocks north of my house.

I worked for the **Muscatine Salvation Army**, with their summer program **five** years. We would take the children to the park across the street. The children hated it when the smoke moved over the park. They said it hurt their eyes and the smell was bad.

Sometimes there is a smell in the air that smells like the **toilet**. **Will someone please clean up the air for the children's sake, and the people that are left?**

Why I Wear Black

By Wanda Mansaray

I wear black today; because of blackness that comes in my neighborhood. Also, for the pain which the families and community feels when a loved one is sick from **Cancer, Diabetes, Emphysema, Asthma, High Blood Pressure, Heart problems,** and other **diseases**, from polluted **Air and Water**. That pain is **indescribable** if you have not gone through it.

I have watched family members fight to live with most of these diseases. In the end **death** wins the battle. **It is** hard to say good-bye and to bury **a loved** one.

Large companies in my town that produce these pollution problems don't seem to want to fix them. Who pays for **doctors, nurses, hospital bills, and other health care agents;** the struggling families pay?

How many more must die?

Before you give Clean Air and Clean Water a try?

I'm Helen Van Hoozer. My husband and I moved to Muscatine after retirement. Muscatine was appealing because of its size, location, and river beauty. I'm wondering if we made the right decision.

Muscatine has an air pollution problem and has had for years.

I'm here today to support whatever you can do to clean up Muscatine's air, including referring GPC to the attorney general's office to impose stiffer fines for emissions violations.

I ask that you require GPC to move quickly to make improvements to their stacks to remove particulates, SO₂, and other toxic emissions.

It's known that emissions from coal-burning plants contribute to serious health problems, including asthma, bronchitis, COPD, heart attacks, cancer, diabetes, birth defects, autism and even early death. Muscatine residents are at risk and many have serious health problems.

A University of Iowa cancer study, covering the years 2000 to 2005, documents Muscatine as having a high incidence of cervical and lung cancer and a high mortality rate for lung and colorectal cancer. I will submit study maps for the record.

I have seen plumes of red and black clouds spewing from smoke stacks and blanketing Muscatine. Sometimes they hang over the town; other times they spread north, south, east or west depending on the winds. Toxic emissions from Muscatine's plants affect a wide area and not just the city of Muscatine or one segment of the population. I have taken pictures and I will submit two for the record.

Finally, I'll leave you with this thought:

Wouldn't it make sense to offer incentives to companies that clean up their emissions and switch to cleaner alternatives, such as wind, solar, hydropower, or natural gas?

Clean fuels will protect our air, water, health, and climate. Clean air will improve our economy. People will be enticed to move to Muscatine and the city will thrive once again.

Thank you.



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