

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

NOVEMBER 19, 2014

DNR AIR QUALITY
7900 HICKMAN ROAD
WINDSOR HEIGHTS

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TABLE OF CONTENTS

Call to Order	2
Commissioners Present.....	2
Commissioners Absent.....	2
Adoption of Agenda	2
APPROVED AS PRESENTED	2
Approval of Minutes.....	2
APPROVED AS PRESENTED	2
Monthly Reports	3
INFORMATION.....	3
Directors Remarks	3
INFORMATION.....	3
Public Comment	4
Contract – University of Northern Iowa, Center for Social and Behavioral Research—Statewide Water Quality Survey	5
APPROVED AS PRESENTED	5
Notice of Intended Action – Chapter 81: “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems”	6
APPROVED AS AMENDED	6
Notice of Intended Action: Chapters 22, 23, 25, 31, and 33 – Rescission Rulemaking.....	7
APPROVED AS PRESENTED	8
2014 Diesel Emissions Reduction Grant Program - Recommendations	9
TABLED	9
Executive Order 80 (EO 80) Stakeholder Group Recommendation on Permits for Diversion, Storage, and Withdrawal of Water from the Cambrian-Ordovician (Jordan) Aquifer	10
POSTPONED.....	11
TAKEN FROM TABLE.....	11
2014 Diesel Emissions Reduction Grant Program - Recommendations	11
APPROVED AS PRESENTED	11
General Discussion	11
KOSSUTH COUNTY REQUEST FOR STAY OF CONSTRUCTION PERMIT; CONTESTED CASE DECISION – P & J PORK LLC	12
REQUEST DENIED	12

November 2014

Environmental Protection Commission Minutes

DEMAND FOR HEARING – HUMBOLDT COUNTY; HAWKER FARMS II, LLC13
PERMIT ISSUED 14

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Mary Boote at 10:00 a.m. on November 19, 2014 at the DNR Air Quality facility in Des Moines, Iowa.

COMMISSIONERS PRESENT

Mary Boote, Chair
Nancy Couser, Secretary
Cindy Greiman
LaQuanda Hoskins
Brent Rastetter
Bob Sinclair
Max Smith, Vice-Chair
Gene Ver Steeg

COMMISSIONERS ABSENT

Chad Ingels

ADOPTION OF AGENDA

Motion was made by Cindy Greiman to approve the agenda as presented. Seconded by Bob Sinclair. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Gene VerSteeg to approve the October 21, 2014 EPC meeting minutes. Seconded by Bob Sinclair. Motion carried unanimously.

APPROVED AS PRESENTED

MONTHLY REPORTS

Bill Ehm shared with the Commission:

- The Air Quality Stakeholder Group has met 5 times and is composed of various interest groups including Commissioner LaQuanda Hoskins. The group has developed a draft recommendation for financing the Department's air programs. The report will be presented to the Legislature December 1, 2014.
- During the first week of December, leadership from EPA Region 7, Missouri, Kansas, Nebraska, and Iowa will be meeting to discuss challenges and opportunities for environmental health and regulation.

The following monthly reports have been posted on the DNR website under the appropriate meeting month:

<http://www.iowadnr.gov/InsideDNR/BoardsCommissions.aspx>

1. Rulemaking Status Report
2. Variance Report
3. Enforcement Status Report
4. Administrative Penalty Report
5. Attorney General Referrals Report
6. Contested Case Status Report
7. Bypass Report

INFORMATION

DIRECTORS REMARKS

Director Gipp shared with the Commission the overall budget for the Department is around \$125 million, with over 200 funding sources each with specific usage requirements. Shifting funds from one account to another may be a violation of a law, rule, or grant with respect to the proper use of the funds. Since 2007, air pollutants have decreased by 33%. The larger permitted facilities believe smaller operations should provide some financial input. No matter what the Air Quality Stakeholder group recommends, legislative action will be required. The stakeholders have indicated a willingness to pay for their permits.

Director Gipp shared with the Commission all staff for the AFO program have been hired and, most importantly, consistently trained. The annual AFO Workplan Report indicated a lower volume of inspections occurred while team members were being trained, but now DNR is fully staffed. The AFO Workplan requires inspections to be completed in 5 years.

INFORMATION

PUBLIC COMMENT**Rick Tegtmeir – Des Moines Country Club**

Withdrew request to speak

Mary Clark – ICCI

Mary Clark shared with the Commission she lives on a farm in southeast Polk County with a contaminated well caused by fertilizer spread on the local fields. Her first child had a number of health issues after being born. Her second child did not survive after birth. The well water was tested and had nitrate concentrations beyond levels safe for human consumption. She is concerned that the hog manure being spread on the ground will contaminate the state's water supply.

Shari Hawk – ICCI

Shari Hawk shared with the Commission it has been seven years since ICCI joined the Sierra Club to enforce the Clean Water Act. The AFO Workplan was signed over a year ago and she expected to see an improvement in Iowa's water quality and waterways. She does not want Iowa to be a cesspool or the manure capitol. Since the workplan has been signed, there have been more manure spills and these facilities need to be issued a permit, fined, and required to fix problems before another spill occurs. The DNR website should show inspections and facility information. Strong fines should be issued to violators but also collected. Repeat offenders should not be able to continue. The state needs to cut back on manure being produced if there isn't money to support inspections. We want to be proud of the legacy we are leaving to our children and grandchildren.

Brenda Brink – ICCI

Brenda Brink shared with the Commission details of a manure spill caused by a failed connector at a facility with over 6,000 hogs and the last inspection was in March 2009. The DNR website indicated no fine was issued and the facility did a good job of containing the spill. Citizens should be aware of manure spills of this industrial magnitude. If there needs to be more inspections, the DNR needs to tell the Legislature to support more inspectors. She questioned who is going to bat for citizens.

Vern Tigges – ICCI

Vern Tigges shared with the Commission he is a retired family farmer. He summarized the spill history for two facilities with multiple spills since 2007. The DNR website does not indicate fines were issued for any of the manure spills or any other follow up information for these cases.

Jeff Wendel – Iowa Turfgrass Institute

Withdrew request to speak

Ryan Adams – Iowa State University

Withdrew request to speak

Justine Stevensen – Iowa Cattlemen's Association

Justine Stevensen shared with the Commission the Cattlemen's Association represent over 10,000 farmers and ranchers, small business owners, and restaurant members dedicated to the future success of Iowa's beef industry. During the October EPC meeting, several public comments were incorrect. She provided updated information related to the AFO Workplan, family farm data, manure spill volume, and impaired waters.

Janis Elliot – Self – Written Comments Submitted

I feel the DNR cannot follow its assigned inspection schedule due to lack of funding. They need more inspectors to carry out their mission and prevent Iowa from becoming the "Manure State."

END OF PUBLIC COMMENT

CONTRACT – UNIVERSITY OF NORTHERN IOWA, CENTER FOR SOCIAL AND BEHAVIORAL RESEARCH—STATEWIDE WATER QUALITY SURVEY

Mary Beth Stevenson, Watershed Coordinator of the Watershed Improvement Section of the Water Quality Bureau presented the following item.

The Department requested Commission approval of a one-year contract in the amount of \$82,757 with the University of Northern Iowa, Center for Social and Behavioral Research, to conduct a statewide water quality survey, from December 1, 2014– November 30, 2015.

Funding Source: Federal – Environmental Protection Agency

This project will be funded through Section 319 of the Clean Water Act.

Background:

EPA annually awards a grant of approximately \$3.4 million to the DNR under Section 319 of the Clean Water Act (CWA) to assist Iowa in implementing its CWA-required Nonpoint Source Management Plan (NPSMP). Under the terms of this annual grant, DNR must use the grant funds exclusively to implement the Goals and Objectives of this EPA-approved NPSMP. The current NPSMP, which is updated every 5 years, specifies under Goal 2, Objective 2.5, of the Plan that the State will "conduct a survey to establish a baseline of public understanding of and willingness to participate in improving water quality." EPA's FFY2013 Section 319 grant to DNR includes a line item budget to conduct this survey as part of this grant award.

This purpose of this contract with the University of Northern Iowa (UNI) Center for Social & Behavioral Research is to complete the survey requirement of the NPSMP by conducting a baseline survey of Iowans to assess general public knowledge, perceptions, awareness, values and activities related to nonpoint source water quality issues in Iowa. Proposals were solicited from all three Regents Universities. Two of the universities, UNI and the University of Iowa, responded with proposals. Upon proposal review by the selection committee, the committee unanimously selected UNI based on the quality of their survey plan. UNI was also the least cost proposal.

Purpose:

The parties propose to enter into this contract for the purpose of conducting a statewide survey of Iowans' perceptions on nonpoint source water quality issues in Iowa.

Contractor Selection Process:

This project was chosen using a proposal solicitation from the three Regents Universities in Iowa and a committee review process.

Mary Beth Stevenson answered questions of the Commissioners related to the survey question development and how the DNR solicited bids from universities and colleges.

Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Nancy Couser. Motion carried unanimously

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION – CHAPTER 81: “OPERATOR CERTIFICATION: PUBLIC WATER SUPPLY SYSTEMS AND WASTEWATER TREATMENT SYSTEMS”

Diane Moles, Executive Office of the Water Supply Section of the Water Quality Bureau presented the following item.

The Commission was asked to approve the Notice of Intended Action to initiate rulemaking to amend Chapter 81, “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems.”

Reason for Rulemaking:

These proposed rules will enable the department to meet the requirements of Senate File 303 (Home Base Iowa Act) signed by Governor Branstad on May 26, 2014. This new law requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt rules by January 1, 2015, on military service and veteran certification. The rules must address the process under which each board will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal licensure for veterans who are licensed in other states. The Department is the licensing board for the certification of water and wastewater operators (Iowa Code section 272C.1(6)(x)).

Chapter 81 sets out regulations for the certification of public drinking water supply and wastewater treatment operators and includes exam eligibility requirements, exam protocols, continuing education requirements, renewal requirements, reciprocity requirements and all corresponding fees. The Iowa Drinking Water Treatment and Wastewater Treatment Operator Certification Program has recognized that veterans represent a significant recruiting opportunity for the water industry and, since 2012, it has been working with the U.S. Department of Veterans Affairs, the U.S. Department of Labor, the Iowa Department of Education, and Propositions, a professional career transition company, to recruit and assimilate veterans into the water industry as quickly and seamlessly as possible. The Department’s water and wastewater operator certification program has included the experience and education obtained by military veterans for several years, but the proposed rule will add necessary clarification to meet the requirements of Senate File 303.

Summary of Proposed Changes

The proposed rule amendments will clarify the process by which the Department provides credit toward certification qualifications for military service, education and training and the procedures for reciprocal certification for veterans who are certified water or wastewater operators in another state.

Stakeholder Involvement

The rule amendments were presented to the stakeholders on October 3, 2014, and the Department received unanimous support for the rule making. The stakeholders represent the more than 3,400 certified water and wastewater operators in the state and the stakeholders assisting the transition of military service personnel and veterans into civilian jobs through retraining.

Public Comment Period and Public Hearing

If the Commission approves the proposed rulemaking, the Notice of Intended Action will be published in the Iowa Administrative Bulletin on December 24, 2014. The Department will hold a public hearing on January 14, 2015, at 11:00 a.m. at the Water Supply offices in the Wallace Building. The Department will accept written comments until 4:30 p.m. on January 15, 2015.

*Motion was made by Brent Rastetter to approve the agenda item as amended to publish the Notice of Intended Action in the Iowa Administrative Bulletin on December 24, 2014, hold a public hearing on January 14, 2015, and accept comments until January 15, 2015. Seconded by Cindy Greiman.
Motion carried unanimously*

APPROVED AS AMENDED

NOTICE OF INTENDED ACTION: CHAPTERS 22, 23, 25, 31, AND 33 – RESCISSION RULEMAKING

Christine Paulson, Environmental Specialist Senior of the Program Development Section of the Air Quality Bureau presented the following item.

The Department requested permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 22 "Controlling Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25, "Measurement of Emissions," Chapter 31, "Nonattainment Areas," and Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality."

Reason for Rulemaking

The purpose of the proposed air quality rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit Program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules rescinding conditional permits implements the requirements of Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014). The proposed rules will also implement a portion of the Department's 5-year rules review plan.

The Department proposes to **rescind** the following air quality rules:

- 1) Voluntary Operating Permit (VOP) program;
- 2) Conditional permits;
- 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and
- 4) References to air quality forms that no longer exist or are explained elsewhere in rule.

The Department is also proposing two rule **updates** to reduce regulatory requirements, as follows:

- 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addressed by federal regulations; and
- 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments.

Summary of Proposed Rule Changes

Rescission of VOP program

The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order (EO) 80 stakeholder group recommended that the Department work individually with each of the VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. The stakeholder group recommended to the Commission to rescind the rules with a target date of December 31, 2014.

All 18 facilities that had previously used the VOP program to establish limits to stay out of the Title V program have been transitioned over to other permitting options. This change reduced the regulatory burden for these facilities by eliminating the five-year renewal VOP requirement, thus saving the time to draft and submit the comprehensive VOP application. Since the VOP program is no longer in use, the VOP rules can be rescinded.

Rescission of conditional permits program

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The

Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that are no longer supported by statutory authority.

Rescission of air toxics standards and new source performance standards

The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or “NESHAP”) and federal new source performance standards (NSPS). The rescissions proposed affect industries such as mineral processing that do not currently operate in Iowa, and are unlikely to operate in Iowa in the future. *(Please see the attached table of NESHAP and NSPS proposed for rescission.)*

Sunsetting the mercury emissions testing and monitoring rules

The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Department recommends a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Department proposes that the facility continue to comply with the mercury emissions testing and monitoring rules until the date the facility is required to comply with MATS.

Removing compounds from the list of volatile organic compounds (VOC)

EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. The Department is proposing to adopt EPA’s revisions so that facilities no longer need to count the excluded compounds towards potential VOC emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rules for air quality forms in Chapter 20

567 IAC 20.3 includes names and descriptions of the Department’s air quality forms. The Department is proposing to eliminate this rule because some of the forms are no longer in use, and other forms are referenced elsewhere in the air quality rules.

Public Comments and Public Hearing

If the Commission approves the proposed rulemaking, the Department will hold a public hearing on Monday, January 26, 2015, at 1:00 p.m. at the Air Quality Bureau offices. The Department will accept written public comments until 4:30 p.m. on January 26, 2015.

Chair Mary Boote thanked the Department for cleaning up and removing outdated rules.

Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by LaQuanda Hoskins. Motion carried unanimously

APPROVED AS PRESENTED

2014 DIESEL EMISSIONS REDUCTION GRANT PROGRAM - RECOMMENDATIONS

Christiana Iiams, Program Planner 2 of the Program Development Section of the Air Quality Bureau presented the following item.

The Department requested that the Commission approve entering into a sub-grant award for the 2014 Diesel Emissions Reduction grant program. A total of **\$80,000.00** in funds will be awarded to the City of Dubuque to complete emissions control retrofits on qualified diesel vehicles that result in the greatest emissions reductions consistent with the funding available.

The sub-grant award is for full reimbursement to the City of Dubuque for diesel emissions reduction strategies purchased and installed on targeted 2006 or older diesel vehicles (primarily solid waste vehicles, construction and maintenance vehicles). The project will take place December 1, 2014 through September 30, 2015.

Funding Source

Funding in the amount of \$82,225 is provided by the U.S. Environmental Protection Agency (EPA)'s Diesel Emissions Reduction Act (DERA) - Award DS-97745501-0. The remaining DERA award funds not used for the sub-grant award have been allocated for Departmental administrative costs.

The statutory authority for the DNR to enter into this sub-grant award is 455B.103(5).

Background

This is the sixth DERA state allocation grant that the Department has received from EPA to reduce diesel emissions from mobile sources in Iowa. The City of Dubuque is an important location to encourage diesel emission reductions. Many diesel vehicles, including municipal service vehicles and regional transport authority busses, travel on the four U.S. and two state highways that serve the transportation needs of the area.

In February 2014, the City of Dubuque, Dubuque Metropolitan Area Transit Study (DMATS) and the Greater Dubuque Development Cooperation (GDCC), voluntarily began participation in EPA's PM (Particulate Matter) Advance program. PM Advance promotes local actions to reduce fine particle pollution (PM_{2.5}), and its precursors, in attainment areas to help these areas continue to maintain the PM_{2.5} National Ambient Air Quality Standards.

Voluntary reduction of diesel emissions is important to reducing levels of PM_{2.5} and other pollutants in Dubuque and surrounding areas. This sub-grant award will also assist the City of Dubuque in meeting the goals of the PM Advance program.

Christina Iiams and Jim McGraw entertained questions related to equipment specs, grant eligible vehicle makes and models, life cycle estimates, and the implementation schedule for the City of Dubuque.

Motion was made by Max Smith to table the agenda item for the Department to gather additional information. Seconded by Gene VerSteeg. Max Smith-yea, Bob Sinclair-yea, LaQuanda Hoskins-yea, Nancy Couser-yea, Gene Ver Steeg-yea, Cindy Greiman-yea, Brent Rastetter-nay, and Mary Boote-yea. Motion passes.

TABLED

EXECUTIVE ORDER 80 (EO 80) STAKEHOLDER GROUP RECOMMENDATION ON PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL OF WATER FROM THE CAMBRIAN-ORDOVICIAN (JORDAN) AQUIFER

Todd Steigerwaldt, Chair of the EO80 Stakeholder Group in conjunction with Dennis Alt, DNR Water Supply Supervisor, presented the following item.

Governor Branstad issued Executive Order 80 (EO 80) to increase stakeholder involvement and input on administrative processes and rules. The Director, in consultation with the Governor's Office, selected a stakeholder group to make recommendations and consider the need for rulemaking to better manage the usage of the Cambrian-Ordovician Aquifer (commonly called the Jordan Aquifer) in Iowa on a more localized level. The group made its recommendations to the Commission on June 17, 2014. Some of the recommendations would require rule changes to implement. The Commission is asked to consider the recommendations of the stakeholder group and to direct the Department to initiate rulemaking, decline to do so, or ask for additional information.

Background: Currently, the Iowa Administrative Code (567--Chapter 50, "Scope of Division," Chapter 52, "Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water," and Chapter 53, "Protected Water Sources) prohibits municipal, commercial, and industrial entities from water use in the Jordan Aquifer that would lower the groundwater table by more than 200 feet from historic levels. It also limits the rate of water withdrawals for industrial use to 2,000 gallons per minute. These restrictions may not be appropriate for everyone because the characteristics of the Jordan Aquifer vary greatly across the state. For example, protecting the Jordan Aquifer from overuse may be needed in some parts of the state but may not be necessary in other locations. A rule addressing water usage of the Jordan Aquifer on a more localized basis would allow additional usage of the aquifer where sufficient supply exists. It would also prevent someone from significantly investing in developing a Jordan well only later to find that the amount of water that can be withdrawn is severely limited.

The stakeholder group met on February 24, March 20, April 3, May 5, and May 16, 2014. Members of this committee and the representation the members provided are as follows:

<i>Name</i>	<i>Organization</i>	<i>Representing</i>
John Crotty	Iowa Environmental Council	Environmental advocacy group
Shawn Kerrick	Koch Nitrogen	Industrial user from business located in affected area
Gale McIntosh	Northway Pump	Water well contractor
Jill Soenen	Iowa Association of Municipal Utilities	Municipal utility association
Todd Steigerwaldt	City of Marion (Water Works)	Municipal user in affected area
Becky Svatos	Stanley Consultants, Iowa ABI	Professional consulting engineering firm, Business association
Nancy Couser	Environmental Protection Commission	State agency

The Commission was asked to consider the recommendations of the stakeholder group and to direct the Department to initiate rulemaking, decline to do so, or ask for additional information. The list of recommendations were attached to the brief, followed by estimates of work effort needed to accomplish the recommendations.

Todd Steigerwaldt and Dennis Alt entertained questions from the Commissioners related to well inspection schedules, industry survey results, water allocation modeling, and water rights.

Motion was made by Brent Rastetter to engage the Department in drafting rulemaking based on the recommendations. Brent Rastetter withdrew the motion.

Motion was made by Nancy Couser to postpone decision on rulemaking until the February 2015 EPC meeting in order for the Department to work with the EO80 Stakeholder Group to further clarify the EO80 Stakeholder Group recommendations as they pertain to rulemaking. Seconded by Max Smith. Motion carried unanimously

POSTPONED

Motion was made by Bob Sinclair to take up tabled item 2014 Diesel Emissions Reduction Grant Program. Seconded by Max Smith. Motion carried unanimously

TAKEN FROM TABLE

2014 DIESEL EMISSIONS REDUCTION GRANT PROGRAM - RECOMMENDATIONS

Christiania Iiams, Program Planner 2 of the Program Development Section of the Air Quality Bureau distributed handouts summarizing product specifications, grant qualifications, and other diesel emission reduction practices.

Motion was made by Max Smith to approve the agenda item as presented. Seconded by Nancy Couser. Motion carried unanimously

APPROVED AS PRESENTED

GENERAL DISCUSSION

- Chair Boote discussed with the Commission the importance of the upcoming annual report. Secretary Nancy Couser summarized subject matter ideas and entertained additional suggestions.
- Jerah Sheets summarized the logistics for the January EPC business meeting, Legislative meet & greet, and the Joint EPC/NRC meeting.
- Commissioners discussed tour options for May, July, and September 2015.

KOSSUTH COUNTY REQUEST FOR STAY OF CONSTRUCTION PERMIT; CONTESTED CASE DECISION – P & J PORK LLC

Randy Clark, Attorney of the Legal Services Quality Bureau presented the following item.

On August 19, 2014, as amended on September 8, 2014, the Commission reversed the Department's preliminary denial of a construction permit to P & J Pork, LLC (P & J Pork), deciding that Intervener/Kossuth County's Plum Creek Wildlife Area is not a public use area. Accordingly, the Department issued a construction permit to P & J Pork on September 11, 2014.

On September 18, 2014, Kossuth County filed a Petition For Judicial Review of the Commission's reversal decision. On September 22, 2014, Kossuth County filed with Director Gipp a Request For Stay of the construction permit issued to P & J Pork. In other words, Kossuth County requests that the construction permit issued to P & J Pork be placed on hold until the Court determines the propriety of the Commission's reversal decision.

Per the attached Order For Hearing issued by Chair Boote on October 3, 2014, briefs will be filed by Kossuth County and P & J Pork. Also, both parties will present oral argument on November 19, 2014.

Todd Holmes, County Attorney representing Kossuth County, requested a stay of the P&J Pork construction permit. Kossuth County filed a petition for judicial review. Kossuth County is not asking for P&J Pork to not build the facility but build the facility under the code. The statutory construction can be determined by a judge and thus Kossuth County is asking for a stay. The court can provide an answer on the proper interpretation of the law. If P&J Pork begins and/or completes construction prior to the decision and the judge rules in favor of Kossuth County, P&J Pork would be financially at risk.

Eldon McAfee, Attorney representing P&J Pork, disagreed with Kossuth County's characterization. A judicial review will not start over again the issuance of the permit but would look at the legality of the decision of the EPC. He disagreed with Kossuth County that EPC misinterpreted the law. He estimated P&J Pork won't begin construction until the spring due to the weather but it should be P&J Pork's decision when to begin construction. Kossuth County should not be saying it is in P&J Pork's interest to obtain a stay so it won't be financially at risk if the judge rules in favor of the county. If the Commission enters into a stay, courts often require a bond. Mr. McAfee requested that if a stay is entered, Kossuth County should be required to file a bond to offset any potential financial loss of P&J Pork if P&J Pork prevails in the court action.

Todd Holmes did not believe there will be a delay in the judicial proceeding. The hearing will not require additional evidence and will be reviewing the current evidence. Records have been submitted last week to the court and he estimated a hearing will soon occur. Delay should not be of a concern. There is no guidance from the administrative code or the Iowa code regarding a bond in this type of matter.

Commissioners engaged in discussion with the party representatives along with Dave Sheridan of the Attorney General's Office regarding the timing of the judicial process and the options available to the Commission regarding this stay request.

Motion was made by Brent Rastetter to deny the stay request. Seconded by Max Smith. Max Smith-yea, Bob Sinclair-yea, LaQuanda Hoskins-nay, Nancy Couser-yea, Gene Ver Steeg-yea, Cindy Greiman-yea, Brent Rastetter-yea, and Mary Boote-yea. Motion passes.

REQUEST DENIED

DEMAND FOR HEARING – HUMBOLDT COUNTY; HAWKER FARMS II, LLC

On October 1, 2014, the Department issued a draft construction permit to Hawker Farms II, LLC (Hawker Farms), indicating a preliminary decision to approve Hawker Farms' application to construct two new swine confinement finishing barns in Lake Township, Humboldt County. Notice of the preliminary decision was delivered to the Humboldt County Board of Supervisors (Humboldt County) via email on October 1, 2014. On October 13, 2014, Humboldt County notified the Department by facsimile of its intent to file a demand for hearing. Humboldt County's Demand For Hearing was received by the Department on October 29, 2014. Humboldt County has requested the opportunity to make oral statements. Pertinent documents relating to the Demand, and the Department's and Hawker Farms' responses to it, will be provided to the Commission.

Louis Fallesen and Dave Lee from the Humboldt Board of Adjustment shared with the Commission that the board denied the construction permit. Humboldt County representatives expressed concern for karst soils which provide conditions for surface water to get into ground water. Computerized mapping from the DNR indicated a potential for shale in the area. The area proposed for the building and manure application is low and floods approximately once a year. With karst and shale soils, the potential for ground contamination is increased. A map of the proposed site and manure application was distributed. Surface water that is not absorbed by the ground or collected by tile will drain to a ditch leading to the Des Moines river. Concern was expressed that the DNR did not conduct a site visit to determine accurate set back distances. Humboldt County has had past experiences where the proposed site construction stakes were located in one location during the site visit but were moved during construction and the facility was built in a different location. The county does not obtain a tax benefit for the construction of the facility. The county has a number of natural sink holes and karst areas which increase the susceptibility for groundwater contamination.

Rick Peterson, Humboldt County Supervisor, shared with the Commission he drives past the area daily and can testify the area is often wet. He has farmed the area about 2 miles away and often encounters limestone and possibly karst terrain. Humboldt County supports farming in its county and in its history has never denied a permit. He knows the land owners personally and they are good people. The proposed site is not located in a good location. For example, before the most current harvest, there were about 3 acres in two different spots where weeds had grown or were washed out and corn did not grow. He hopes they find a better site to build and spread the manure.

Mike Blaser, representing Hawker Farms, shared with the Commission 140 years ago Iowa had marsh land but in the past 80 years, this farm has been in existence. He summarized a list of construction and management practices Hawker Farms is planning to implement to address all the concerns expressed like manure storage and concrete thickness. The master matrix was utilized and Hawker Farms has achieved the points required to pass. The county has expressed concerns but Hawker Farms did not fail the matrix. The DNR did survey the site to determine separation distances. Hawker Farms also paid for an independent survey which is not included in the exhibits but was filed with the DNR. The proposed location is not a flood plain or wetland area. Pattern tiling is not a determination for manure application locations. The land owners who live in the area would know best the potential sites. The applicant has met all the requirements. He requested the Commission to deny the request from the county.

Randy Clark, DNR Attorney, with the assistance of Daniel Waterson, Field Office Inspector, and Paul Petitti, AFO Engineer, shared with the Commissioner the DNR's review of the application. The site satisfied all the requirements to be issued a permit. The State Geologist did not consider the area to have karst soils. The DNR does not advocate for or against the issuance of the construction permit.

Commissioners discussed the elevation of the proposed construction site and manure application areas in relation to water drainage and floodplain. A representative of Hawker Farms indicated that when the DOT inspected the site for installing a culvert and driveway, DOT did not express any water drainage concerns.

Rick Peterson reminded the Commission they have the option to override a permit even though all the rules have been met. There is no legal ability for Humboldt County to stop the facility but asked the EPC to deny the permit and have Hawker Farms find a new site.

Mike Blaser summarized for the Commission the many rules, hoops, and financial impacts an applicant must face to construct a facility. There are many sites in Iowa where the owner of the building incorporates methods to handle potential water issues. The site owners know their land the best and have complied with all the rules and regulations and they should be provided their permits.

Brent Rastetter recused himself from voting due to a personal relationship with the land owners and a professional relationship with Hawker Farms.

Motion was made by Gene VerSteeg to deny the appeal from Humboldt County and allow the permitting process to move forward because the construction permit meets all the requirements of the master matrix. Seconded by Bob Sinclair. Max Smith-nay, Bob Sinclair-yea, LaQuanda Hoskins-yea, Nancy Couser-yea, Gene Ver Steeg-yea, Cindy Greiman-yea, and Mary Boote-yea. Motion passes.

PERMIT ISSUED

Chairperson Boote adjourned the Environmental Protection Commission meeting at 2:30 p.m., Wednesday, November 19, 2014.



Chuck Gipp, Director



Nancy Couser, Secretary

Good afternoon Commissioners, my name is Justine Stevenson and I am the Director of Government Relations for the Iowa Cattlemen's Association. Our organization represents over 10,000 farmers and ranchers, small business owners and restaurant members dedicated to the future success of Iowa's beef industry. It is in their best interest by which we become engaged on regulatory issues.

At the October Environmental Protection Commission meeting there were several fabricated and deceptive comments made during the public comment period relative to Iowa's agricultural economy, specifically the livestock industry. As a representative and on behalf of our 10,000 member's livelihood, legacy, and future I wanted to set the record straight on fallacies presented during the meeting.

1. All animal feeding operations will receive an evaluation by the DNR. Last month the Administrative Rules Committee approved the Workplan Agreement, which received support previously from the Governor's office, Environmental Protection Agency, and Iowa Department of Natural Resources. Through this agreement all of Iowa's animal feeding operations will receive an inspection, if there is a manure release present that reaches a water of the state, owners will be tasked to permanently remedy the flow path or apply for an NPDES permit. Additionally owners could be assessed a fine if a water quality violation occurs, or a fish kill is a result of a fine. Through the workplan manure releases will be addressed and violators will be reproved.
2. A majority of Iowa cattle operations are family owned and operated. There was a statement made that 41% of cattle operations are no longer family owned, and that 8,500 Iowans own factory farms. These statements could not be farther from the truth. Data from USDA NASS indicates that 65% of cattle feeding operations maintain a capacity under 200 head while 87% of Iowa cattle operations are managed by a family or individual. Additionally, in a recent Iowa State University survey of Iowa's farmers and ranchers it was determined that not a single animal is fed or owned by a packer in the state. Iowa cattlemen run family-based operations and are truly independent in every facet of their farm.
3. The number of manure spills in Iowa was unverifiable. It was stated that Iowa has incurred 762 manure spills since 1996. According to the DNR the earliest reported manure spill occurred in 1998 and after 2000 all information surrounding a reported manure spill became available to the public via the IDNR Hazardous Material Release database. Nonetheless, 762 manure spills since 1996 would equate to an average of 42 manure spills per year, or roughly .5% of operations experiencing an accidental manure release. We know manure spills are accidents, and statute requires farmers and ranchers to report these accidental releases to the DNR. According to the 2012 Survey of Occupational Injuries and Illnesses conducted by the U.S. Bureau of Labor Statistics farmers have a seven times greater chance of having an accident on the job than having a manure release. The small fraction of manure releases that have occurred since 2000 is an attribute to the state regulations that are working to protect water quality.
4. The number of impaired waters was used out of context. Biological impairments are some of the most common impairments in Iowa streams, not nutrients. High biological content is a result of unknown causes affecting the biological communities, altered habitats, low oxygen levels and siltation. While the current list of Iowa waters includes a higher number than previous lists, that is not a direct correlation to degrading water quality in Iowa as was stated. Instead it indicates that more monitoring has occurred and thus more data collected than in previous years. It is important to note that water monitoring has only been occurring since 2000 and we have no data to concur what water quality was previously in any of Iowa's rivers or streams.

As a commissioner you were selected by the Governor and approved by the Senate to protect Iowa's environmental resources, and our members sincerely appreciate the dedication you have put forth in rulemakings and decisions. Thank you for your time.

Sheets, Jerah [DNR]

From: Janis Elliott <jelifecoach@gmail.com>
Sent: Wednesday, November 19, 2014 8:11 AM
To: Sheets, Jerah [DNR]
Subject: meeting

Due to the change in day of the week for this month's EPC meeting, I am not able to attend. I would like to voice my concern.

I feel the DNR cannot follow its assigned inspection schedule due to lack of funding. They need more inspectors to carry out their mission and prevent Iowa from becoming the "Manure State."

Janis Elliott.

Public Comments
Mary Clark

Thank you for allowing me to voice my concerns about water quality in Iowa. I live in rural Polk County; I have lived in the country and lived with well water for most of my adult life. I grew up in the city of Des Moines, then when I was 19 years old moved with my husband onto my grandfather's 40 acre farm outside of Des Moines. Our water source was a deep well that was located in the middle of a two acre yard. There were farm fields surrounding the farm house and yard, which polluted our well.

At that time, I didn't realize our well had a high nitrate level until we had our water tested after we had lived there for two years. We were drinking the polluted well water for 5 months and then I had my first child. My son had stomach problems, diarrhea all the time, with terrible diaper rashes, skin bleeding from small holes in his skin. I hadn't realized that we were drinking polluted water, until I was pregnant with my second child. We had the water tested, it came back that it was unfit for human consumption. The nitrate level was very high, 4 times the level for safe drinking water. Because we couldn't drink the water or use it for cooking, we carried in all of our drinking and cooking water for the next 7 years.

I now live in a small community surrounded by farm fields and I have a well. I am very concerned about manure runoffs from rains, and contaminating our wells. Rivers, streams and creeks are contaminated by the runoffs after a rain. And during heavy rains, the surrounding farm fields are flooded from the river nearby, and undoubtedly that manure runs back into the rivers and creeks after the flood waters recede.

I'm also very concerned that there are 30 million hogs raised in Iowa yearly, according to the Pork Producers website and those 30 million hogs make 90 tons of manure, according to the University of Iowa School of Agriculture.

I'm also concerned that there have been 47 Lakes in Iowa with Algae blooms, caused by manure/fertilizer runoffs, which are very dangerous to humans and livestock, according to the EPA. Also there are a number of fish kills in streams/lakes have been attributed from manure runoffs.

I am alarmed that a factory farm can put in a hog confinement without notifying the public to hear from the nearby residents that will have their quality of life extremely diminished, including their property values, and possibly their drinking water polluted.

1. There are 630 polluted waterways in Iowa.
2. There have been 741 manure spills since 1996
3. There are 8,500 to 9,300 factory farms in Iowa

4. There are too few farm inspectors to ensure farms are complying with the current regulations. If a farm only has to be inspected every five years, there is a great possibility of violations going undetected. Inspections must be increased to find and fix manure disposal problems.
5. there needs to be tougher fines and penalties for polluters and if a farm has had three violations, they need to be closed down.
6. The DNR needs to issue Clean Water Act permits to all factory farms.

I don't want to get rid of farmers or hogs in Iowa. Agriculture is a great source of income for many in Iowa. But I also don't want our water in Iowa being polluted by the large hog or cattle confinements.

The farmers could make their manure work for them and the state by creating "Poop to Power" facilities. Duke University's Carbon Offsets Initiative has helped a North Carolina farm solve a waste problem without making a stink. This farm is creating electricity from the methane gas, from the manure. In addition, use the byproducts to reduce odors and emissions. The \$1.2 million system was the first full-scale offsets project completed in the Carbon Offsets Initiative. It was fully funded by Duke University, Duke Energy and Google, from carbon offsets credits. I have an article about this program I would like to submit for consideration.

I think this type of progressive, sustainable approach to the manure problem in Iowa would be a win, win for everyone.

Thank you,

Mary S. Clark

Additional Information Related to DERA Grants

Types of Vehicles Eligible:

- On-Highway buses, medium or heavy duty trucks,
- Non-road engines, equipment, or vehicles,
- Marine Engines, and
- Locomotives

Funds cannot be used to:

- retrofit, repower, upgrade, convert or replace a bus, medium-duty, or heavy-duty highway vehicle that is a model year 1990 vehicle or older
- retrofit, repower, upgrade or replace a non-road engine or equipment that has less than seven years of useful life remaining.
- Repower or Replacement engines or vehicles that are currently scheduled for fleet replacement in the next three years.

Eligible Uses of Funding	Examples	Amount of funding eligible to use for project
Retrofit technologies that are verified or certified by either EPA or CARB	DOCs, CCVs, DPFs	100%
Idle-reduction technologies that are EPA verified	Auxiliary Power Units (APU), Truck Stop Electrification, Battery Air Conditioning Systems (BAC)	100%
Aerodynamic technologies and low rolling resistance tires that are EPA verified	Trailer skirts, gap reducers,	100% - ONLY if combine with a retrofit technology; otherwise not allowed as a project
Early replacement and repower with certified engine configurations (incremental costs only)	Must be replaced with a 2013 or newer certified model engine	40% - engine 25% - entire vehicle

Comparison of Retrofit Technologies (<http://www.epa.gov/cleandiesel/technologies/retrofits.htm>)

Technology	Typical Emission Reductions (percent)				Typical Costs (\$)
	PM	NOx	HC	CO	
Diesel Oxidation Catalyst (DOC)	20-40		40-70	40-60	material: \$600-\$4,000 installation: 1-3 hours
Diesel Particulate Filter (DPF)	85-95		85-95	50-90	material: \$8,000-\$50,000 installation: 6-8 hours
Active or Passive					

LNF/LXF Specific Information (<http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>)

Product Name	Technology Type	PM Reduction	NOx Reduction	Applicability
Donaldson LNF	DPF	85%	N/A	1993-2006 model year on-road; CARB diesel; biodiesel. CARB diesel; biodiesel.*
Donaldson LXF	DPF	85%	N/A	2002-2006 model year on-road; CARB diesel; biodiesel.*

~~Joseph~~
Ironman Cindy-

LNF & LXF Highlights

- Approved for most on-road engines:
 - LNF Muffler for MY 1993-2006 high NOx engines
 - LXF Muffler for MY 2002-2006 low NOx engines
- Extensive offering (over 60 installation kits)
- Passive DPF technology relies on engine duty cycle to provide the heat necessary for DPF regeneration. Data logging of the existing vehicle is required to confirm the application meets the device criteria (see page 7 for criteria).
- Requires ULSD Fuel (15 ppm or less sulfur content) that meets ASTM D975. Blends up to B20 BioULSD (20% biodiesel/80% ULSD) per ASTM D6751 diesel fuel specifications may also be used.
- Under normal operation, the DPF requires cleaning annually, every 50,000 miles, 1,800 hours or when the in-cab display alerts are illuminated, whichever comes first.

LNF & LXF Highlights

LNF and LXF Muffler

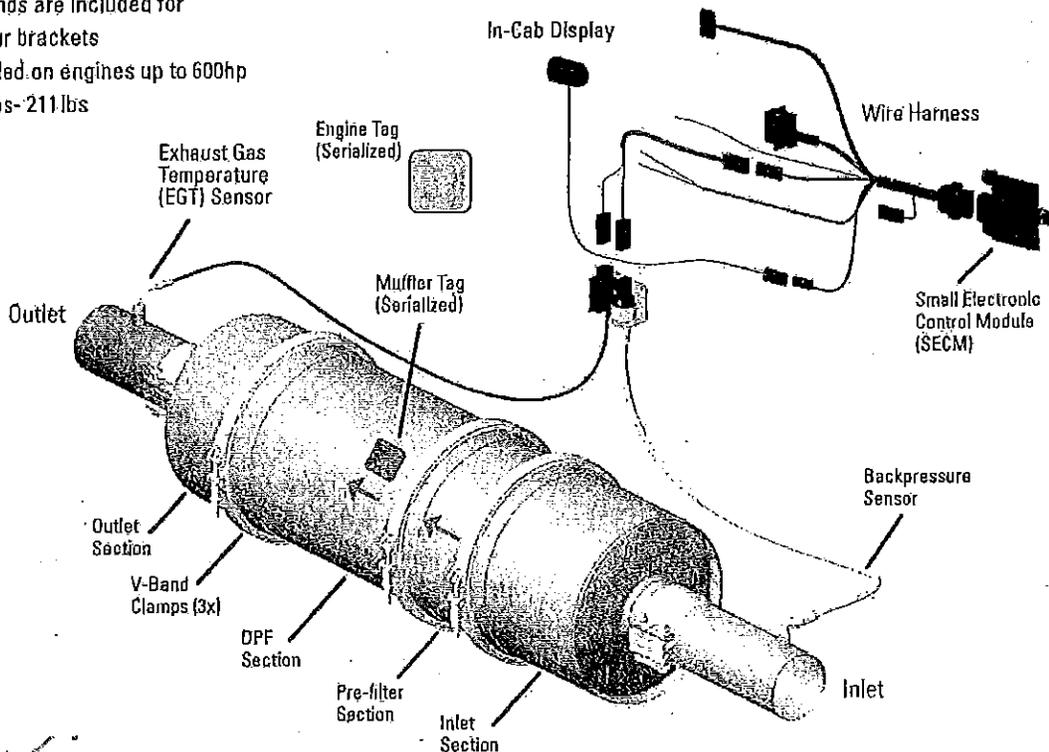
- Eliminates PM and gaseous emissions from diesel exhaust
- Uses exhaust heat to burn PM in the DPF
- Up to 3 times heavier than OEM Muffler

Dual LNF and LXF Muffler

- Mounting bands are included for attaching your brackets
- Can be installed on engines up to 600hp
- Weighs 177 lbs-211 lbs

Emissions Device Monitor (EDM)

- Monitors status of LNF/ LXF Muffler
- Indicates when DPF cleaning is required



Interstate Power Systems:

LNF = \$13,349⁶² w/o labor
 LXF = \$16,633¹⁷ w/o labor

The Key to Reliable Operation

Accurate Exhaust Gas Temperature Reading

Datalogging and EGT Profiling

It is IMPORTANT to understand the exhaust gas temperature (EGT) profile before applying an LXF/ LNF Muffler. Insufficient temperatures may lead to premature DPF plugging and increased maintenance to keep the filter clean and may potentially be a non-compliant device.

A data logger is a device used to record the EGT during engine operation. The recorder is operated for at least 24 hours under "normal" operating conditions to provide a reasonable snapshot of the EGT profile. Engine duty-cycle plays a big role in exhaust gas temperatures, and is influenced by factors such

as vehicle speed, load, idling, geography, ambient temperatures and driver tendencies.

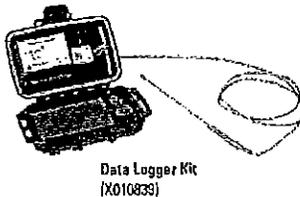
Reference: EGT Recording (Data Logging) document P480348.



The photo shows the thermocouple connection installed in an existing exhaust pipe ahead of the muffler inlet. The small, plastic data logger case (not shown) would be attached to the frame rail.

Data Logging Kit

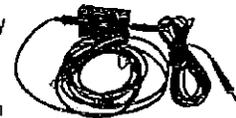
- 500,000+ data point memory
- Holds up to 30 days of data (@ 5 secs intervals)
- Meets California data logging requirements
- Installs on vehicle
- May need multiple kits for larger fleets



Data Logger Kit (X010839)

Other items you'll need:

- Software and link-up cable (X007948). You'll only need one kit, unless you may be gathering data from multiple fleet locations.
- Free Vehicle Profile Form available from Donaldson
- Computer with Microsoft® Windows® operating system (2003 or newer).



Software and Link-up Cable Kit (X007948)

Application Temperature Criteria

Donaldson requires that every vehicle be data logged prior to applying LXF or LNF Muffler Kits

LNF Muffler Exhaust Gas

Temperature Profile

The recorded duty cycle criteria must have:

1. A Weighted Average Temperature (WAT) that is at least 237° Celsius for each vehicle or,
2. An exhaust temperature profile that is either >235° Celsius for at least 40% of the time or,
3. >300° Celsius for at least 10% of the time.

LXF Muffler Exhaust Gas

Temperature Profile

The recorded duty cycle criteria must have:

1. A Weighted Average Temperature (WAT) that is at least 263° Celsius for each vehicle or,
2. An exhaust temperature profile that is either > 245° Celsius for at least 40% of the time or,
3. >310° Celsius for at least 10% of the time.

LXF-HT[†] Muffler Exhaust Gas

Temperature Profile

The recorded duty cycle criteria must have:

1. A Weighted Average Temperature (WAT) that is at least 270° Celsius for each vehicle or,
2. An exhaust temperature profile that is either > 275° Celsius for at least 40% of the time.

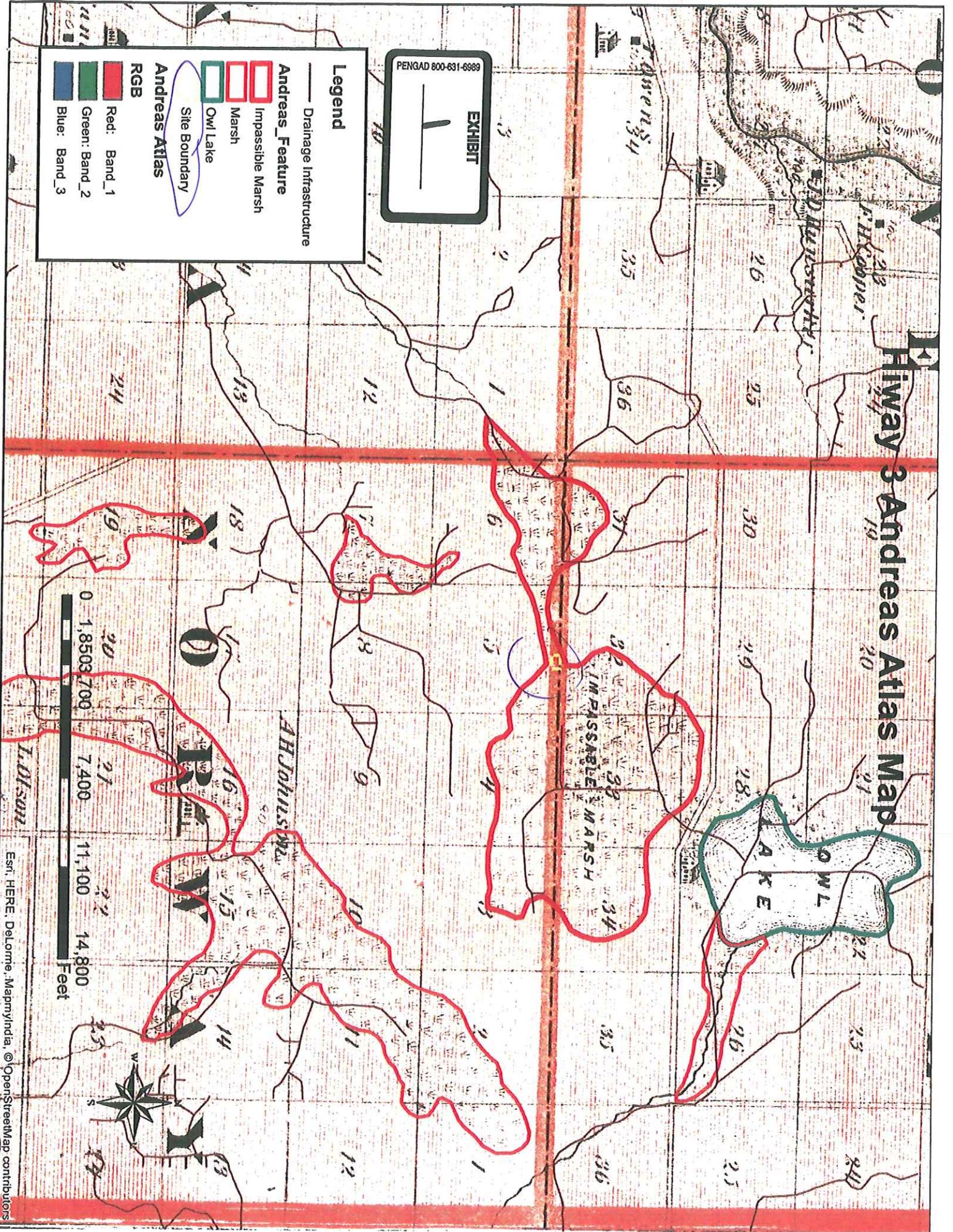
[†]High temperature LXF system applies only to engines with the specified criteria

// Humboldt County
Handout



Print Date: 11/17/2014
Image Date: 04/02/2011
Level: Community

#11 Humboldt County Hondout



Legend

- Drainage Infrastructure
- Andreas_Feature**
 - Impassible Marsh
 - Marsh
 - Owl Lake
- Site Boundary
- Andreas Atlas

RGB

- Red: Band_1
- Green: Band_2
- Blue: Band_3

PENGAD 800-631-6989

EXHIBIT

1

Highway 3 Andreas Atlas Map





Hog site

EO80 Jordan Aquifer Stakeholder Group's Recommendations

 Environmental Protection Commission Meeting
 November 19, 2014

1

EO80 Jordan Aquifer Stakeholder Group

Stake Holder Group Members:

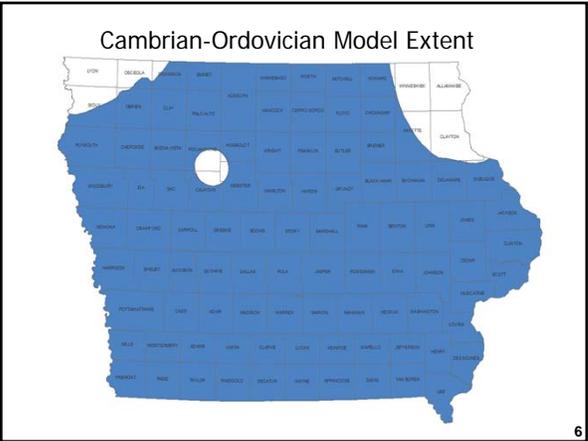
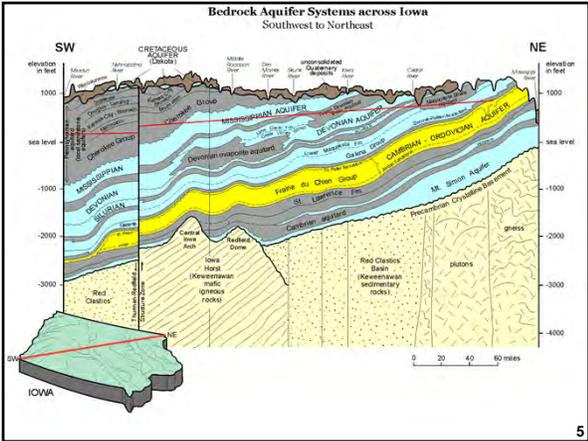
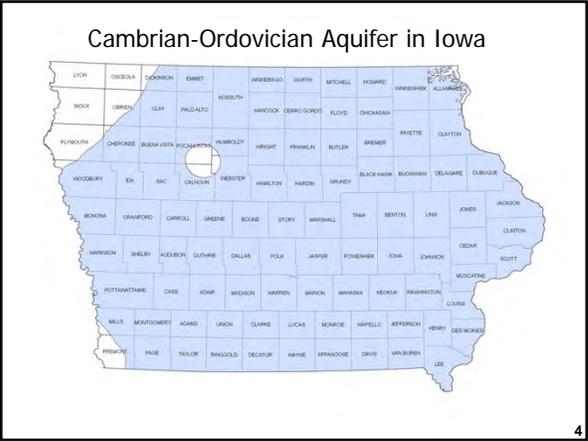
Name	Organization
John Crotty	Iowa Environmental Council
Shawn Kerrick	Koch Nitrogen
Gale McIntosh	Northway Pump
Jill Soenen	Iowa Association of Municipal Utilities
Todd Steigerwaldt	City of Marion (Water Works)
Becky Svatos	Stanley Consultants, Iowa ABI
Nancy Couser	Environmental Protection Commission

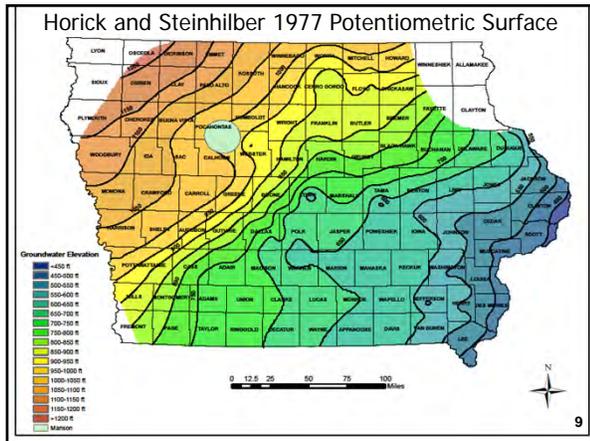
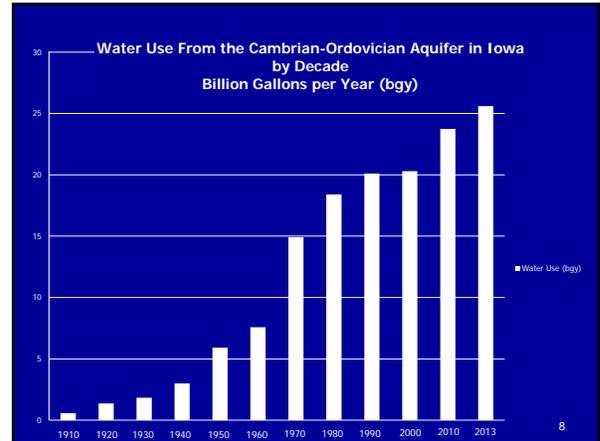
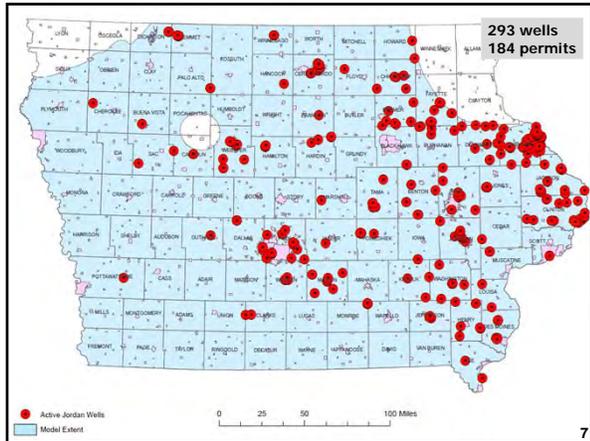
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Mission Statement –

Propose revisions to regulations and management policies that preserve and protect the Jordan Aquifer as a clean, reliable water resource for Iowa now and for Iowa's future growth and economic development.

3





[EO80 Group Recommendations](#)

Three-tiered regulatory approach with specifically defined regulatory trigger points for each tier:

Tier 1 Wells:

- Wells that are not yet to a level of concern based on current and proposed annual water use and drawdown reports. Applies only to existing Jordan wells.

13

Tier 2 Wells (Protected Source Area Wells - minimum level for all new wells):

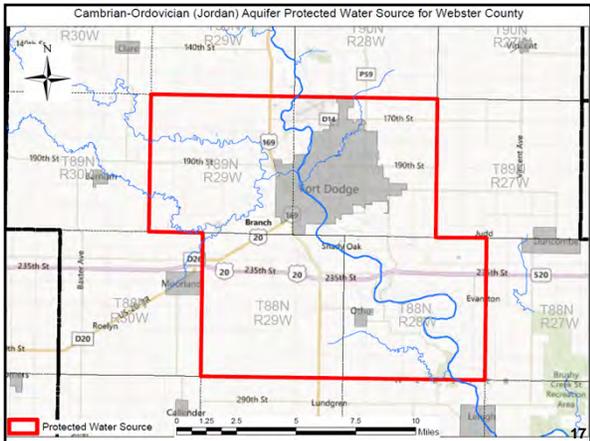
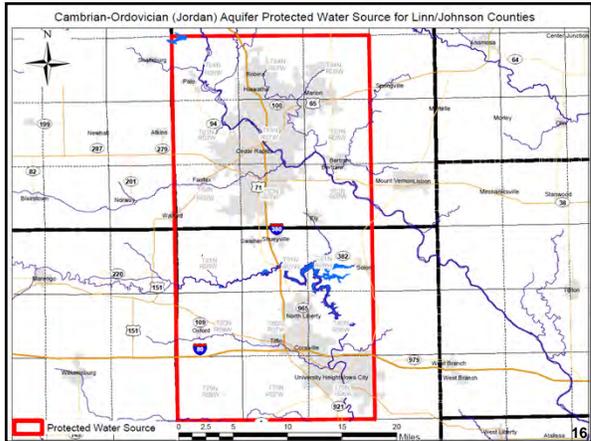
1. Define an action level by which a Tier 1 well becomes a Tier 2 well. Consider using pumping levels, past actual static levels, and/or models to determine the action level.
- Example: Use 350-foot pumping water level as measurement of concern at the well head. (Could be 400' or higher)

14

Tier 2 Wells (Protected Source Area Wells - minimum level for all new wells):

2. Define protected water source areas based on all available data (well levels, models, etc.). Include variance options that could lead to exclusion of a well from the protected area.

15



Tier 2 Wells (Protected Source Area Wells - minimum level for all new wells):

3. We recommend additional public notifications or updates occurring in protected water source areas. (Use of Listserve, email)
4. Require a site-specific water conservation plan that is reviewed and approved by IDNR (567 IAC 52.9).
 - a. The permittee should set a defined annual usage percent reduction target that will prevent them from reaching the Tier 3 drawdown limit.

18

Tier 2 Wells (Protected Source Area Wells - minimum level for all new wells):

- 5. We recommend enforcement if the conservation plan is not implemented.
- 6. We recommend reduced allocations if the conservation plan is not implemented.
- 7. We recommend revocation of permit if the conservation plan is not implemented.

19

Tier 2 Wells (Protected Source Area Wells - minimum level for all new wells):

- 8. We recommend implementing a process to ensure that water use allocations are reserved for existing users prior to issuance of new well construction permits by IDNR and county sanitarians.
- 9. Require water use allocation forecasts that are determined for entire pumping region prior to issuance of new well construction permits by DNR and county sanitarians.

20

Tier 3 Wells (Drop Dead Level):

- 10. Define an action level by which a Tier 2 well (or group of Tier 2 wells) becomes a Tier 3 well (or group of Tier 3 wells).
- 11. Consider using water pumping levels, past actual static levels, and/or models to determine the action level. We wanted to allow additional drawdown, but not a large additional drawdown that may have unanticipated negative consequences.

21

Tier 3 Wells (Drop Dead Level):

- 12. Require reduced allocations and other aggressive water conservation plans be implemented.
- 13. Once a well hits the drop dead level, they cannot increase their drawdown. This limit needs to be enforced.
- 14. Use model to determine future allocations. As model improves revise allocations.

22

Additional Recommendations/Suggestions

- 15. Define, for each individual well currently permitted to withdraw water from the Jordan, what the exact starting point/reference level is. (Datum)
- I.E. Tier 1 – No issue
- Tier 2 – Warning level: Example 350-450 ft. at pumping water level. (source water protected areas)
- Tier 3 – Drop-dead level: 450 ft.

23

Additional Recommendations/Suggestions

- 16. Recommend switching from static water level to pumping water level measurements. If implemented, IDNR must clearly define in permits how pumping levels should be measured (i.e., drawings, written guidance, IDNR on-site tech. support, etc.).
- 17. If static water level measurement remain part of the regulatory requirements, issue specific regulatory language or guidance about how to perform static water level testing.

24

Additional Recommendations/Suggestions

18. Creation of protected water source areas where the Flow Model has identified specific locations/regions where the Jordan Aquifer static water level is rapidly depleting. We agree with IDNR's proposed protected source areas.

19. The Jordan Aquifer groundwater model must be maintained and improved continuously as a management tool for the aquifer.

25

Additional Recommendations/Suggestions

20. Require all Jordan Aquifer water pump test results for existing and new wells be submitted to IDNR for use in improving the Jordan Aquifer model.

21. IDNR should require water pump test results for new wells or increased water use allocation from existing wells in protected source areas. IDNR may also require observation wells.

26

Additional Recommendations/Suggestions

22. Re-evaluate protected source area warning and drop-dead water area levels every 5 years based on new model that uses annual report data and new well test pumping data.

23. Recommend that IDNR hold annual public meetings and issue annual reports of the health of the Jordan Aquifer for those in the "Protected Source Areas only"

27

Additional Recommendations/Suggestions

24. Create a Jordan Aquifer email list serve for all existing Jordan well permit holders to allow public notification to existing well permittees when new allocations or wells are being considered or reviewed in the protected source areas.

25. Geothermal use wording in draft regulations document received from DNR April 2014 is acceptable (no 'pump and dump' geothermal withdrawals from the Jordan Aquifer). 52.4(3) b

28

Additional Recommendations/Suggestions

26. Recommend that no new Jordan Aquifer withdrawals for once-through (single-pass) cooling water use be allowed. If Jordan Aquifer water is allocated for cooling, the facility must use cooling towers or other methods to reuse the water.

27. The 200 gpm limits on agricultural, recreational, and aesthetic uses in existing rules are adequate

- Economics of constructing a Jordan well with a limit of 200 gpm would deter most applicants

29

Additional Recommendations/Suggestions

28. Require that initial contact for all new "major" Jordan wells go through IDNR (before county sanitarians). All boring logs get submitted to the DNR.

29. Require at issuance of new or renewed permit:

- Continuous totalized flow measurement from the well (meters). [567 IAC 52.6]
- Annual reports of measured monthly totals. [567 IAC 52.6]
- Justification of allocations greater than past annual water consumption (permit renewal process). In protected source areas, allocations beyond actual current need should be strictly limited.

30

Additional Recommendations/Suggestions

30. Recommend switching from 10-year permit renewal to 5-year permits for Jordan Aquifer users. [implement authority under 567 IAC 52.5(3)]

31. Recommend on-site inspection program for private permits holders for inspection of meters, on-site well systems, well level measurements, etc. [567 IAC 52.6] Could be every 2-3 years pending staffing limits.

31

Additional Recommendations/Suggestions

32. Recommend maintaining 2000 gpm limit on industrial withdrawals in existing rules.

33. Continual allocation of adequate funding and/or resources to maintain an accurate and up-to-date model. Example: Fee per million gallons withdrawn from Jordan Aquifer. Consider increasing water use fees or creating an additional fee or fund to help pay for these additional recommendations.

32

Contact Information

Todd Steigerwaldt, P.E.
General Manager, Marion Water Dept.
tsteigerwaldt@cityofmarion.org
(319) 743-6310

Questions?

33

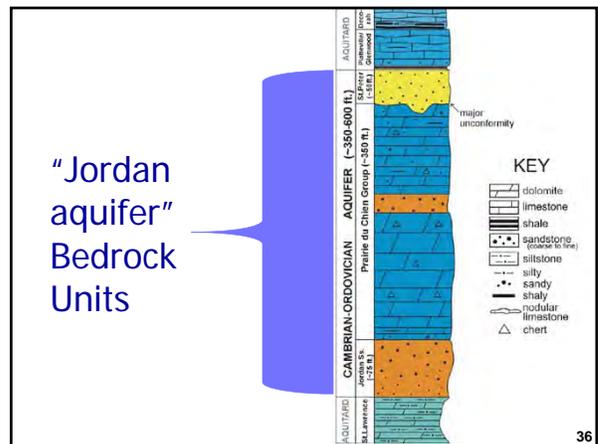
Updated Jordan Aquifer Information – Post Stakeholder

Chad Fields
Geologist 3 – Water Supply Engineering
Iowa Department of Natural Resources
chad.fields@dnr.iowa.gov

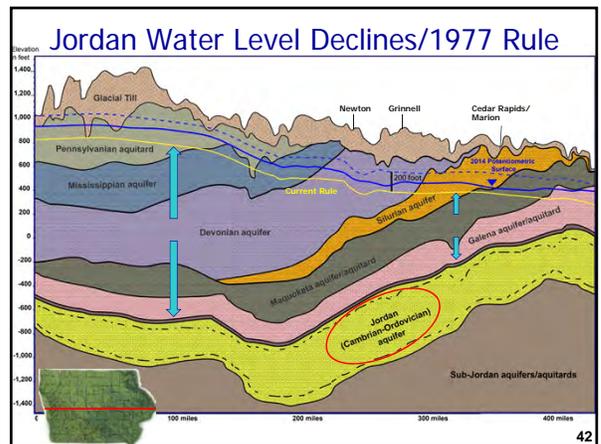
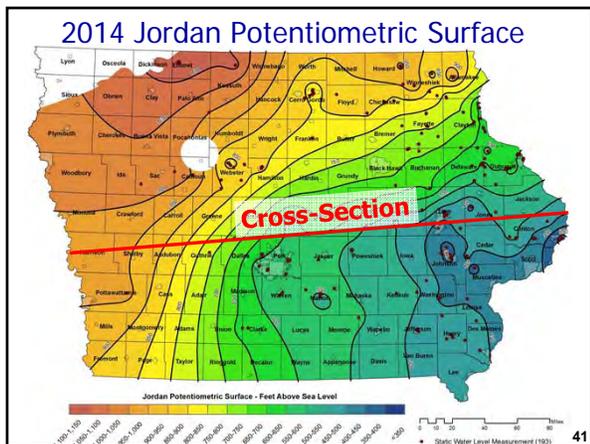
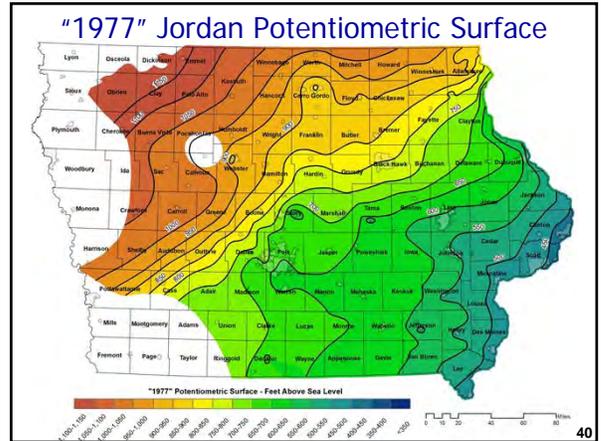
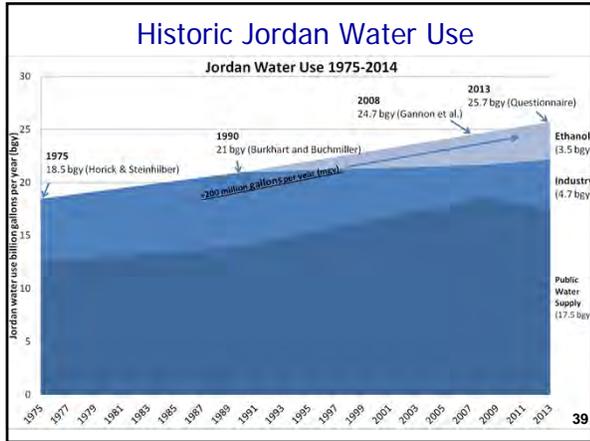
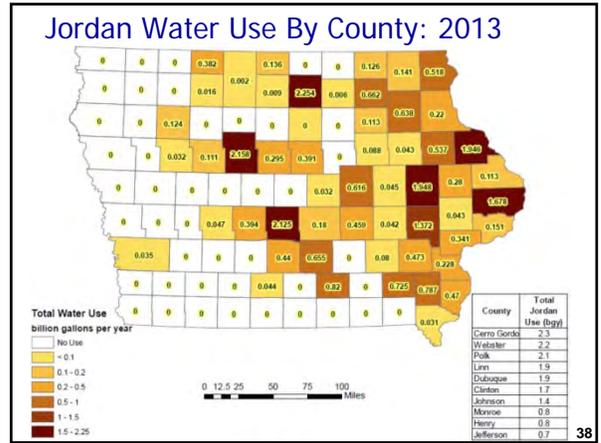
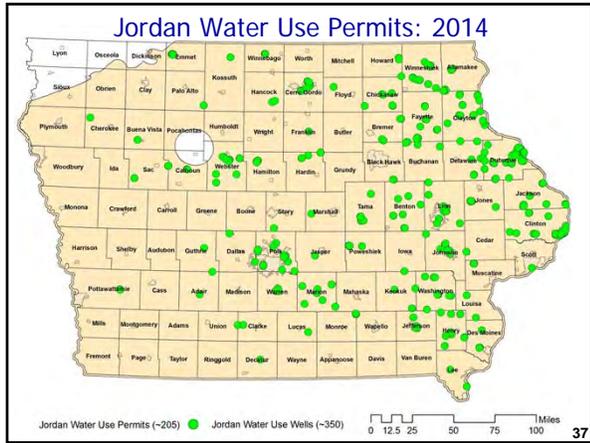
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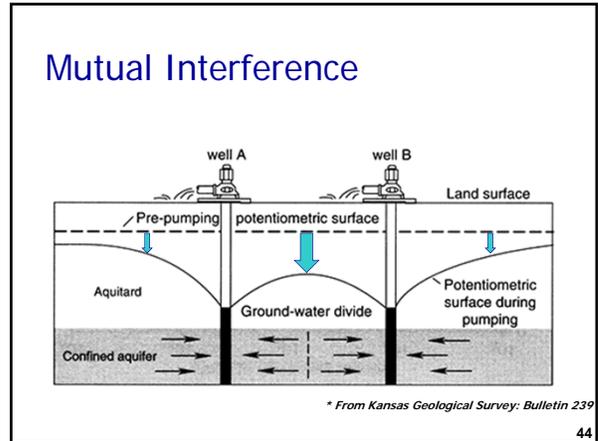
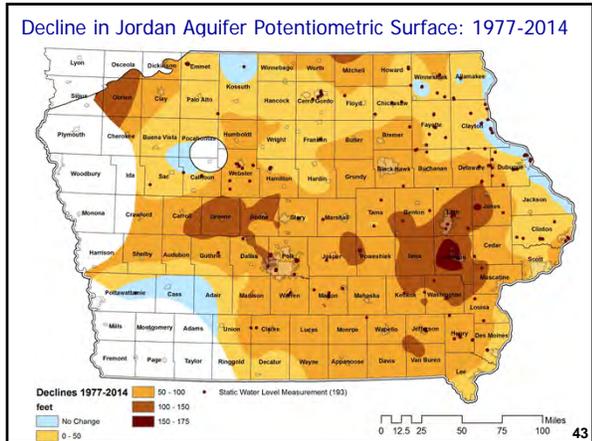


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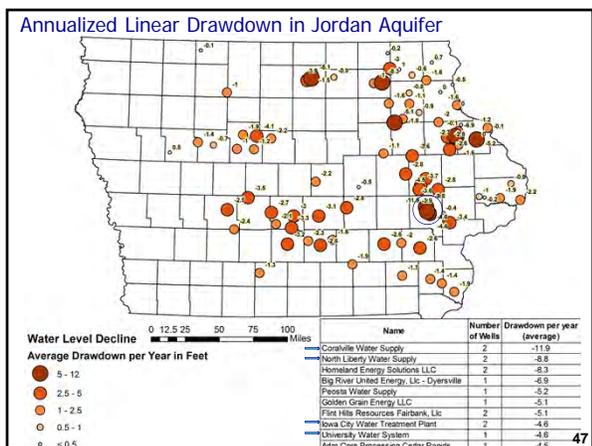
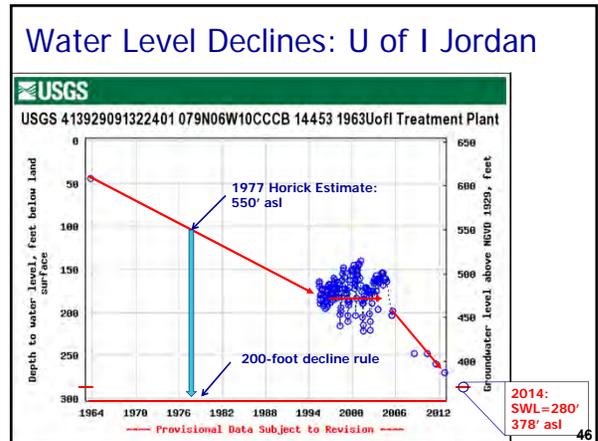


Current Rule

- IAC 567 Chapter 52.4(3)c.

Two hundred (200) foot limit on the decline of groundwater piezometric levels. The maximum collective long-term decline in groundwater piezometric levels in the Cambrian Jordan Sandstone Aquifer in any high use area will not be permitted to exceed 200 feet from the 1977 baseline as determined from available records of the department's Iowa Geological Survey (IGS).

45



DNR's Evaluation of the EO80 Stakeholder Group's Recommendations

Dennis Alt, Supervisor
Water Supply Engineering Section

November 19, 2014

48

Evaluation

- I'll discuss the 33 recommendations in three categories:
 - Fifteen recommendations that require rulemaking
 - Four recommendations that are already part of permit conditions
 - Fourteen recommendations where the department has the authority to implement but implementation has been limited or not done in the past.

49

Evaluation

- In the agenda brief (pgs 6-8), the recommendations are grouped into 3 categories with the item number matching the stakeholder group's list numbering on pgs 3-5.
- On pages 9 and 10, the amount of effort required to implement each recommendation was estimated. (You should have received the updated copy of these rough estimates last Friday.)
- Developing rules, policy/protocols, and taking formal legal action or resolving appeals have not been included into the estimates.

50

Fifteen Recommendations Require Rule Change

Tier 2 Wells

1. Define an action level by which a Tier 1 well becomes a Tier 2 well.
2. Define the protected water source areas based on all available data.
4. Require a site-specific water conservation plan that is reviewed and approved by IDNR.
5. Recommend enforcement if the conservation plan is not implemented.
6. Recommend reduced allocations of the conservation plan is not implemented.
7. Recommend revocation of the permit if the conservation plan is not implemented.

51

Fifteen Recommendations Require Rule Change (continued)

Tier 3 Wells

10. Define an action level by which a Tier 2 well/group of wells becomes a Tier 3 well/group of wells.
11. Consider using water pumping levels, past actual static levels, and/or models to determine the action level.
12. Require reduced allocation and other aggressive water conservation plans be implemented.

All Jordan Wells and Jordan Permits

16. Recommend switching from static water level to pumping water level measurements. Define in permits how pumping levels should be measured.

52

Fifteen Recommendations Require Rule Change (continued)

Additional Recommendations/Suggestions

18. Create protected water source areas where the Flow Model or Jordan Aquifer static water level is rapidly depleting.
25. No "pump and dump" geothermal withdrawals from the Jordan aquifer.
26. Recommend that no new Jordan aquifer withdrawals for once-through (single-pass) cooling water use be allowed.
28. Requiring initial contact for all new Jordan wells go through IDNR (before county sanitarians).
33. Continual allocation of adequate funding and/or resources to maintain an accurate and current model.

53

Universe

- About 200 existing Jordan well water allocation permits, with ~350 existing wells
 - Tier 1*: 160 permits
 - Tier 2*: 30 permits
 - Tier 3*: 10 permits
- *The number of permits that fall under each Tier are estimates and would change when the actual tiering criteria are set.
- Tier 1: Existing Jordan wells
 - Existing Jordan wells not at a level of concern based on current and proposed annual water use and drawdown reports

54

Universe

- Tier 2:
 - New Jordan wells within a protected source area
 - Minimum water levels set in the water use permits
 - Existing Tier 1 wells that now become Tier 2 wells due to drop in water level
- Tier 3:
 - Jordan Wells that are at or exceed the allowed level(s); no further drawdown allowed

55

Estimated Cost of Implementing Recommendations for IDNR

- Implementing initiatives requiring rule changes:
 - Initial or one time cost: \$56,760 (~1,000 staff hrs.)
 - Annual cost: \$26,730 (~490 staff hrs. / year)
- Implementing initiatives that don't require rule changes:
 - Initial or one time cost: \$6,930 (~130 staff hrs.)
 - Annual cost: \$192,580 (~3,500 staff hrs. / year)
 - However, \$151,000 of the annual cost would be for implementing annual inspections (Recommendation # 31)

56

Estimated Cost of Implementing Recommendations for Permit Applicants/holders

- Implementing initiatives requiring rule changes:
 - Initial or one time cost: \$8,195 (~150 hrs.)
 - Annual cost: \$0.00
- Implementing initiatives that don't require rule changes:
 - Initial or one time cost for current permit holders: \$330 (~20 hrs)
 - One time cost for new or modified permit applicants: \$17,880 (Recommendation 21: 72 hour pump test)
 - Annual cost: \$3,230 (~30 hrs / year)

57

Cost of Implementing Recommendations for IDNR

- Total Cost of implementing revised rule requirements and all recommendations:
 - Initial or one time cost: \$63,690
 - Annual cost: \$217,110

[note: These estimates do not include additional costs for staff support such as vehicles, developing the regulations, implementation guides, reporting forms, formal legal action needed, etc.]

58

Impact on Annual Water Use Fee

- Currently:
 - Maximum that can be collected from fees is \$500,000 annually
 - There are about 3,121 active permits that are assessed the annual fee
 - SFY 2015 annual fee is \$99/permit which will produce a total of about \$311,300
- SFY 2016 projections based on current program initiatives
 - Estimated need is \$118/permit to produce about \$368,300 to support program efforts (same staff effort, but reduced carryover of funds, etc.)

59

Impact on Annual Water Use Fee

- Adjustment to SFY 2016 Fee estimate:
 - One-time IDNR costs can be absorbed using existing staff and have no impact on budget or permit fee.
 - Annual implementation costs of recommendations requiring rule changes would have no impact on budget or permit fees since they are one-time costs.
 - Annual implementation of remaining recommendations would result in an increase from \$118 to \$188/permit to produce about **\$586,750**
 - Large increase for ~2,900 permit holders that do not have Jordan wells

[note: (1) assumes that amount allocated from General Fund remains unchanged; (2) considers only the annual cost of implementation (3) one time cost would be integrated with current resources]

60

Impact on Annual Water Use Fee

- Legislative change will be needed to increase the cap on the amount of funds that can come from fees above the current limit of **\$500,000**
- If some other fee plan is developed, legislative change would be needed

61

Agenda

Environmental Protection Commission

Wednesday, November 19, 2014
DNR Air Quality Suite 1
7900 Hickman Road
Windsor Heights, Iowa

EPC Business Meeting

- 10:00 AM – EPC Business Meeting begins
- 11:30 AM – Executive Order 80 (EO 80) Stakeholder Group Recommendation
- 1:00 PM – Kossuth County Request for Stay
- 2:00 PM – Demand for Hearing Humboldt County

Public Participation¹ – Requests to speak during the business meeting Public Participation must be submitted to Jerah Sheets at Jerah.Sheets@dnr.iowa.gov, 502 East 9th Des Moines, IA 50319, 515-313-8909, or in-person by the start of the business meeting. Please indicate who you will be representing (yourself, an association, etc.), the agenda item of interest, and your stance of For, Opposed, or Neutral.

If you are unable to attend the business meeting, comments may be submitted via mail and email for the public record. The Commission encourages data, reports, photos, and additional information provided by noon the day before the meeting to allow ample time for review and consideration.

Agenda topics

- | | | |
|-----------------------------|--|-----------------------------------|
| 1 | Approval of Agenda | |
| 2 | Approval of Minutes | |
| 3 | Monthly Reports | Bill Ehm
(Information) |
| 4 | Director's Remarks | Chuck Gipp
(Information) |
| Public Participation | | |
| 5 | Contract – University of Northern Iowa, Center for Social and Behavioral Research—Statewide Water Quality Survey | Mary Beth Stevenson
(Decision) |
| 6 | Notice of Intended Action – Chapter 81: “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems” | Diane Moles
(Decision) |
| 7 | Notice of Intended Action: Chapters 22, 23, 25, 31, and 33 – Rescission Rulemaking | Christine Paulson
(Decision) |
| 8 | 2014 Diesel Emissions Reduction Grant Program - Recommendations | Christina Iiams
(Decision) |
| 9 | Executive Order 80 (EO 80) Stakeholder Group Recommendation on Permits for Diversion, Storage, and Withdrawal of Water from the Cambrian-Ordovician (Jordan) Aquifer | Todd Steigerwaldt
(Decision) |
| 10 | Kossuth County Request for Stay of Construction Permit: Contested Case Decision – P & J Pork LLC | Ed Tormey
(Decision) |
| 11 | Demand for Hearing Humboldt County; Hawker Farms II, LLC | Ed Tormey
(Decision) |
| 12 | General Discussion | |

- EPC Annual Report

13 Items for Next Month's Meeting

- December 16, 2014 – EPC Business Meeting, Windsor Heights
- January 20, 2014 – EPC Business Meeting, Windsor Heights
- January 21, 2014 – Legislative Meet & Greet and Joint NRC/EPC Meeting

For details on the EPC meeting schedule, visit

<http://www.iowadnr.gov/InsideDNR/BoardsCommissions.aspx>

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.

Monthly Variance Report
September 2014

Item No.	Facility/City	Program	DNR Reviewer	Subject	Decision	Date
1	Fleck Farm & Feedlot	Animal Feeding Operations	Paul Petitti	allow private well less than required 400 foot to open lot runoff control basin	approved	5/2/2014
2	Flint Hills Arthur	Air Quality	Dennis Thielen	variance to extension to performing stack testing	approved	9/2/2014
3	Pattison Sand	Air Quality	Ann Seda	variance to install and operate crushing system and alternative components	approved	9/2/2014
4	City of Cedar Rapids	Wastewater	Marty Jacobs	variance from design standards for installing gravity sewer by directional boring	approved	9/8/2014
5	City of Waukee	Water Supply Construction	AJ Montefusco	variance from construction requirements at water main and storm sewer crossings	approved	9/8/2014
6	Little Sioux Corn	Air Quality	Ann Seda	variance to start construction of storage tank prior to issuance of permit	approved	9/11/2014
7	Gable Corp	Air Quality	Brian Hitchins	variance for receipt and installation of emergency generators	approved	9/12/2014
8	Louis Dreyfus Commodities	Air Quality	Reid Bermel	variance to install temporary grain storage pile	approved	9/12/2014
9	Cargill Inc Iowa Falls	Air Quality	Ann Seda	variance to increase facility production rate and start construction prior to obtaining modified permit	approved	9/12/2014
10	Rathbun Regional Water Assoc.	Water Supply Construction	Mark Moeller	variance from required standards that chemical feeders and pumps shall not operate at no lower than 20% fo feed range.	approved	9/16/2014
11	Sioux City City of STP	Water Supply Construction	Larry Brant	variance to allow trenchless installation of gravity sewer in lieu of open trench installation	approved	9/19/2014
12	Fairbank WWTF	Water Supply Construction	Jim Oppelt	variance from design standards for installing sanitary sewer lines by directional boring	approved	9/19/2014
13	Groeneweg Feedlot	NPDES	Courtney Cswercko	refund of fees due to revoked permit before annual fee was due	approved	9/29/2014

**DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
November, 2014**

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
BCB Ag, LLC Inwood (3)		Uncertified Applicator; Lack of Signage for Manure Service on Vehicle	Referred to Attorney General	Referred Petition Filed	4/15/14 7/29/14
Hoffman, Matt Hinton (3)	Animal Feeding Operation	Failure to Submit MMP and Fees	Referred to Attorney General	Referred	4/15/14
Kossuth County (2) NEW	Animal Feeding Operation		Defense	Petition for Judicial Review State's Answer	9/18/14 10/08/14
McMains, Phil Appanoose Co. (5)	Air Quality Solid Waste	Open Burning Illegal Disposal	Referred to Attorney General	Referred Petition Filed Answer Motion for Leave to Amend Petition Trial Date State's Motion to Compel Order Compelling Discovery Motion for Sanctions Hearing on Sanctions Default Judgment (\$60,000 Civil/ Injunction)	6/19/12 8/08/13 9/03/13 1/02/14 12/03/14 5/07/14 5/27/14 7/09/14 8/18/14 8/20/14
North Central Iowa Regional SWA Fort Dodge (2)	Solid Waste	Operating Permit Violations	Referred to Attorney General	Referred	9/17/13
North Iowa Area Solid Waste Agency Sheldon (3)	Solid Waste	Unapproved Leachate Collection System	Referred to Attorney General	Referred Petition Filed Answer Third Party Petition Against Elliot Waddell and Five States Engineering, PLC State's Resistance to Demand for Jury Trial Hearing Regarding Jury Trial Demand Ruling Denying Jury Demand Motion to Clarify Ruling Nunc Pro Tunc Order Jury Demand Allowed for 3 rd Party Defendant State's Motion to Strike or Sever 3 rd Party Petition Resistance to Motion to Strike Application for Default Judgment Order Granting Default Judgment Against 3 rd Party Defendant Trial Date	1/15/13 9/26/13 10/11/13 10/11/13 10/23/13 11/25/13 1/17/14 1/23/14 1/28/14 2/11/14 2/24/14 3/12/14 3/13/14 3/31/15

**DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
November, 2014**

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Peeters Development Co., Inc.; Mt. Joy Mobile Home Park Davenport (6)	Wastewater	Monitoring/Reporting; Compliance Schedule; Discharge Limits; Operation Violations; Certified Operator Discipline	Referred to Attorney General	Referred	3/18/14
Pet Memories, Inc. Warren Co. (5)	Solid Waste	Judicial Review	Defense	Petition Filed Answer Hearing Date	2/05/14 3/05/14 1/21/15
Scallon, Jim Austinville (2)	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	5/20/14

**Iowa Department of Natural Resources
Environmental Services
Quarterly Report of Wastewater By-passes**

During the period July 1, 2014 through September 30, 2014, 58 reports of a wastewater by-pass were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events or by-passes resulting in basement backups.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
1 ST Quarter '14	52(53)	0.379	0.007	4	0(0)
2 ND Quarter '14	78(97)	0.188	0.011	11	0(0)
3 RD Quarter '14	58(46)	0.184	0.008	8	0(0)
4 TH Quarter '13	46(40)	0.185	0.002	1	0(0)

(numbers in parentheses are for same period last year)

Total Number of Incidents per Field Office This Quarter:

Field Office	1	2	3	4	5	6
Reports	10	3	12	12	5	16

**DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES**

November, 2014

DATE RECEIVED	NAME OF CASE	F.O.	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
11/27/01	Dallas County Care Facility	5	Order/Penalty	WW	Hansen	10/03 – Letter to County attorney regarding appeal resolution. 1/04 – Letter to attorney regarding appeal. 4/04 – Dept. letter to attorney regarding appeal. 9/04 – Dept. letter to attorney regarding appeal. 6/26/07 – Appeal resolved. Facility connected to City WWTF. Consent order to be issued. 1/29/13 – Order amendment drafted.
10/29/09	Harlan Rudd; Karen Rudd; dba Rudd Brothers Tires	6	Order/Penalty	UT	Brees	Informal negotiation. CADR was submitted, partially rejected with options. Settlement letter sent 2/24/10.
2/25/10	Higman Sand & Gravel Inc.	3	Order/Penalty	FP	Clark	6/13/14 – Higman President agrees to have its engineer document completion of mitigation work and to pay penalty in Order upon his return to Iowa and execution of consent amendment to Order.
3/11/10	Bondurant, City of	5	Order/Penalty	WW	Hansen	7/2013-On hold pending further investigation.
12/29/10	Griffin Pipe Products Co., Inc.	4	Permit Conditions	AQ	Preziosi	Met with appellant 9/22/14.
1/31/11	Griffin Pipe products Co., Inc.	4	Tax Certification Request	AQ	Preziosi	Settled in concept. Met with appellant 9/22/14.
2/28/11	Manson, City of	3	Order/Penalty	WS	Hansen	4/1/11 – Settlement conference held with City. 6/22/11- Settlement offer received from City attorney. 6/28/11- More information requested from City attorney concerning the settlement proposal. 11/29/11- Settlement meeting with City regarding new well project. 12/2011 – City proceeding with project. 6/2012- Contractor worked on new well to remove debris in well. Test pump to be installed to do test of well capacity. 07/2012- City to abandon new well and select new site for well to increase PWS capacity. 10/2012- Water plant work to be done week of 12/10/12. 5/2013- New well project & appeal on hold, pending UDSA funding decision. 6/2/13 – USDA funding decision received. 6/26/13 – New bid date for well project. . 7/2013- Tentative schedule for new well received from City’s engineer. 8/13 – Drilling on test well begun by contractor. 9/13 – Test well not productive, new well site approved by Dept. New test well to be drilled. 10/13- Test well drilled but not successful. Test well abandoned. City Council to decide on next step. 1/24/14 – City’s engineer sent revised construction schedule for another test well and production well. 5/23/14- Test well drilled but not successful. City

**DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES**

November, 2014

DATE RECEIVED	NAME OF CASE	F.O.	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
						Council to determine next step. 6/20/14- Letter sent to City requesting plan of action and schedule by 8/30/14 for returning to compliance with order. 8/29/14 – New schedule received from City, to be incorporated into proposed consent amendment.
8-27-12	Ag Processing, Inc.; Sergeant Bluff	4	Permit Conditions	AQ	Preziosi	Met with appellant 1/31/14. Met with appellant 3/12/14. Negotiations continuing. Appellant to submit further information in April. Settled in concept. Last communication with appellant on 5/22/14. Communication from appellant 7/22/14. Internal meeting 9/5/14.
11-21-12	Ag Processing Inc.	6	Permit Conditions	AQ	Preziosi	Continuing negotiations. Last communication with appellant on 5/20/14. Communication from appellant 7/22/14. Internal meeting 9/5/14.
3-04-13	Anderson Excavating Co., Inc.	4	Order/Penalty	SW	Tack	Landfill closure underway. Settlement will occur after closure. Inspection on 8/20/14. Closure to be completed this fall.
6-10-13	Mike Jahnke	1	Dam Application	FP	Schoenebaum	Hearing held 7/30/14. ALJ upheld the permit issued by the Department.
10-28-13	Regional Environmental Improvement Commission/Iowa Co. SLF	6	Variance	WW	Tack	REIC meeting with WES on 6/17/14. Facility plan submitted 8/29/14. Antidegradation analysis needed next.
1-02-14	P & J Pork, LLC		Construction Permit Denial	AFO	Clark	6/10/14 – Proposed decision affirming DNR permit denial. 6/18/14 – P & J Pork appeals proposed decision. 8/19/14 – EPC reverses proposed decision. 9/18/14 – Intervenor, Kossuth County, files Petition for Judicial Review in Kossuth County.
1/16/14	Council Bluffs Water Works	4	Permit Conditions	WW	Tack	DNR response to settlement proposal sent on 9/08/14.
1/21/14	AG Processing, Inc.		Permit Conditions	AQ	Preziosi	Negotiations continuing. Last communication with appellant on 5/20/14. Communication from appellant 7/22/14. Internal meeting 9/5/14.
4/17/14	REIC/Iowa Co. Sanitary Landfill	6	Permit Conditions	WW	Tack	REIC meeting with WES on 6/17/14. REIC to submit facility plan.
8/29/14	Altoona, City of	5	Permit Conditions	WW	Schoenebaum	Negotiating before filing.

**DEPARTMENT OF NATURAL RESOURCES
 ENVIRONMENTAL PROTECTION COMMISSION
 CONTESTED CASES**

November, 2014

DATE RECEIVED	NAME OF CASE	F.O.	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
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9/08/14	Craig Ver Steegh	5	Permit Conditions	WW	Tack	Negotiating before filing.
10/01/14	Amsted Rail Company, Inc. (Griffin Wheel Co.)		Permit Conditions	SW	Tack	New case.

DATE: November, 2014

TO: EPC

FROM: Ed Tormey

RE: Enforcement Report Update

The following new enforcement actions were taken during this reporting period:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Adam Timmerman; AT Livestock Ent. South Cherokee Co. (3)	Animal Feeding Operation	Failure to Update Plan	Order/Penalty \$4,250	10/02/14
Wilton, City of (6)	Wastewater	Discharge Limits	Consent Order \$1,500	10/13/14
J&K Contracting LLC Storm Lake (3)	Wastewater	Prohibited Discharge	Consent Order \$7,500	10/13/14
Annie's, LLC; Togie Pub Limes Springs (1)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public Notice	Order/Penalty \$3,500	10/14/14
Newbury Management Co.; Newbury Living; EMM Assoc Des Moines (5)	Air Quality	Asbestos	Consent Order \$3,000	10/20/14

IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU

DATE: November 1, 2014
TO: Environmental Protection Commission
FROM: Ed Tormey
SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	3,825	3-15-96
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
James Harter (Fairfield)	WW	1,336	8-01-01
* Floyd Kroeze (Butler Co.)	AFO	1,500	2-20-01
Midway Oil Co.; David Requet (Davenport)	UT	5,355	9-20-02
Midway Oil Co.; David Requet; John Bliss	UT	44,900	2-28-03
Green Valley Mobile Home Park (Mt. Pleasant)	WW	5,000	4-23-03
Midway Oil Company (West Branch)	UT	7,300	5-03-03
Midway Oil Company (Davenport)	UT	5,790	5-03-03
Albert Miller (Kalona)	AQ/SW	9,780	9-26-03
Mike Messerschmidt (Martinsburg)	AQ/SW	500	4-13-04
Interchange Service Co., Inc., et.al. (Onawa)	WW	6,000	5-07-04
# Dunphy Poultry (Union Co.)	AFO	1,500	6-27-04
# Cash Brewer (Cherokee Co.)	AFO/SW	10,000	8-25-04
# Doorenbos Poultry; Scott Doorenbos (Sioux Co.)	AFO	1,500	10-09-04
# Doug Sweeney (O'Brien Co.)	AFO	375	12-21-04
Harold Linnaberry (Clinton Co.)	SW	1,000	5-18-05
# Joel McNeill (Kossuth Co.)	AFO	2,460	1 21-06
Affordable Asbestos Removal, Inc. (Monticello)	AQ	7,000	4-28-06
# Troy VanBeek (Lyon Co.)	AFO	3,500	10-16-06
Larry Bergen (Worth Co.)	AQ/SW	257	11-01-06
# Joshua Van Der Weide (Lyon Co.)	AFO	3,500	2-25-08
Jon Knabel (Clinton Co.)	AQ/SW	2,000	12-16-08
# Rick Renken (LeMars)	AFO	996	7-03-09
# Robert Fangmann (Dubuque Co.)	AFO	1,000	7-15-09
# Brian Lill (Sioux Co.)	AFO	2,865	7-18-09
Denny Geer (New Market)	SW	9,476	10-31-09
Shrey Petroleum; Palean Oil; Profuel Three (Keokuk)	UT	10,000	3-19-10
Melvin Wellik; Wellik-DeWitt Implement (Britt)	AQ/SW	2,900	4-08-10
Alchemist USA, LLC; Ravinder Singh (Malcom)	UT	8,260	5-03-10
# LJ Unlimited, LLC (Franklin Co.)	AFO/AQ/SW	3,500	5-27-10
Bret Cassens; J & J Pit Stop (Columbus Junction)	UT	8,700	6-20-10
# Christopher P. Hardt (Kossuth Co.)	AFO	2,000	7-07-10
AKD Investments, LLC; H.M. Mart, Inc. (Blue Grass)	UT	6,900	8-06-10
Eastern Hills Baptist Church (Council Bluffs)	WS	1,250	11-29-10

#Animal Feeding Operation
BOLD Entries Have Been Referred to DRF

# Joe McNeill (Kossuth Co.)	AFO	2,460	12-23-10
Gonzalez & Sons Express, Inc. (DeSoto)	WW	8,000	4-20-11
David C. Kuhlemeier (Cerro Gordo Co.)	AQ/SW	2,000	6-30-11
Steve Friesth (Webster Co.)	AQ/SW	7,857	11-26-11
Josh Oetken (Worth Co.)	AQ/SW	8,420	3-11-12
Jeffrey G. Gerritson (O'Brien Co.)	SW	2,000	4-16-12
Bhupinder Gangahar/Saroj Gangahar/International Business	UT	7,935	4-20-12
Finney Industrial Painting, Inc. (Fairfield)	AQ/WW	3,025	4-23-12
Terry Philips; TK Enterprises (Washington Co.)	AQ/WW	3,000	5-30-12
# Boerderij De Vedhoek, LLC (Butler Co.)	AFO	8,500	11-16-12
Noah Coppess (Cedar Co.)	AQ/SW	7,500	2-23-13
Shane Rechkemmer (Fayette Co.)	SW	1,000	3-01-13
Keith Durand; Durand Construction (Lee Co.)	WW	500	3-07-13
B Petro Corporation (Cedar Rapids)	UT	7,728	5-13-13
Ken Odom (Iowa Co.)	AQ/SW	5,000	4-26-13
Massey Properties, LLC; The Wharf (Dubuque)	WS	10,000	10-05-13
Robert Downing (Mahaska Co.)	AQ/SW	10,000	11-20-13
Shriners Hospital for Children, Inc. (Des Moines)	UT	8,890	12-03-13
Larry Eisenhauer (Woodbury Co.)	AQ/SW	4,675	3-01-14
Randy Wise; Wise Construction (Buena Vista Co.)	AQ/SW	3,000	4-10-14
Advanced Electroforming, Inc. (Cedar Co.)	AQ	1,500	4-03-14
Audra Early; Mid-States Mfg. & Engr. (Van Buren Co.)	AQ	2,500	4-03-14
Western Iowa Telephone Assoc. (Lawton)	WW	4,000	5-24-14
Wendall Abkes (Parkersburg)	SW	3,000	7-30-14
# Treven Howard; Northwest Manure Mgmt. (Ocheyedan)	AFO	6,000	10-09-14
Donna J. Jensen (Ringsted)	AQ/SW	3,000	10-17-14
# Charles and Patricia Henningsen (Ruthven)	AFO	2,000	10-19-14
Dennis Habben (Sioux Co.)	SW	10,000	11-01-14
	TOTAL	329,715	

The following penalties have been assessed but are not due at this time:

# Adam Timmerman; AT Livestock Ent. South (Cherokee Co.)	AFO	4,250	12-15-14
Wilton, City of	WW	1,500	-----
J&K Contracting LLC (Storm Lake)	WW	7,500	-----
Annie's LLC; Togie Pub (Lime Springs)	WS	3,500	-----
	TOTAL	16,750	

The following penalties have been placed on payment plans:

* Reginald Parcel (Henry Co.)	AQ/SW	110	4-23-05
* Country Stores of Carroll, Ltd. (Carroll)	UT	1,408	6-06-05
* Douglas Bloomquist (Webster Co.)	AQ/SW	3,500	12-01-07
* Jack Knudson (Irwin)	UT	10,000	1-15-08
# Jerry Passehl (Latimer)	SW/WW/HC	2,695	7-01-09
Jerry Wernimont (Carroll)	AQ/SW	1,500	4-19-10
# Ernest Greiner (Keokuk Co.)	AFO	500	10-10-10
Jim Scallon (Butler Co.)	SW	700	4-15-13
R.H. Hummer Jr., Inc.; 2161 Highway 6 Trail (Iowa Co.)	AQ/SW	3,643	9-15-13

#Animal Feeding Operation

BOLD Entries Have Been Referred to DRF

Patrick Baker; Stockton Auto (Davenport)	AQ/SW	415	10-15-14
Air Advantage, Inc. (Mt. Pleasant)	WW	1,500	4-01-15
Ellsworth Excavating Co. (Muscatine Co.)	AQ/SW	675	11-01-14
# Steve Grettenberg; Dragster LLC	AFO	2,500	11-20-14
Millard Elston III; The Earthman (Jefferson Co.)	AQ/SW	2,000	2-15-13
Simon Simonson (Kossuth Co.)	SW	4,400	11-30-14
ADA Enterprises, Inc. (Worth Co.)	WW	5,000	8-15-14
Niehouse Cleaners & Draperies, Inc. (Marshalltown)	AQ	2,500	9-15-14
# David Dahlgren (Clarion)	AFO	2,250	12-15-14
	TOTAL	5,296	

The following administrative penalties have been appealed:

Dallas County Care Facility (Adel)	WW	5,000
Harlan Rudd; Karen Rudd; Rudd Bros. Tires (Drakesville)	UT	10,000
Bondurant, City of	WW	10,000
Higman Sand and Gravel, Inc. (Plymouth Co.)	FP	10,000
Helen and Virgil Homer; Grandmas Snack Shop; (Aredale)	WS	8,461
Manson, City of	WS	10,000
Anderson Excavating Company, Inc. (Pottawattamie Co.)	SW	10,000
	TOTAL	63,461

The following administrative penalties have been collected:

Stephan A. Palen (Wapello Co.)	AQ	104
Stephan A. Palen (Wapello Co.)	AQ	208
Stephan A. Palen (Wapello Co.)	AQ	208
# David Dahlgren (Clarion)	AFO	750
Simon Simonson (Kossuth Co.)	SW	100
Wilton, City of	WW	1,500
Josh Oetken (Worth Co.)	AQ/SW	25
Finney Industrial Painting, Inc. (Fairfield)	AQ/WW	250
# Brian Lill (Sioux Co.)	AFO	173
Simon Simonson (Kossuth Co.)	SW	100
# Larrell DeJong; Jodi DeJong (Osceola Co.)	AFO	2,250
# Steve Grettenberg; Dragster LLC	AFO	500
	TOTAL	6,168

#Animal Feeding Operation
BOLD Entries Have Been Referred to DRF



**Iowa Department of Natural Resources
Environmental Services Division
Report of Manure Releases**

During the period July 1, 2014, through September 30, 2014, 11 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

		Total Incidents		Surface Water Impacts		Feedlot		Confinement		Land Application		Transport		Hog		Cattle		Poultry		Other	
Month	Year	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago
Jan	2014	2	1	1	0	1	0	1	1	0	0	0	0	1	1	1	0	0	0	0	0
Feb	2014	1	12	0	0	0	0	0	12	0	0	1	0	0	12	0	0	1	0	0	0
Mar	2014	2	14	1	0	0	0	1	14	0	0	1	0	2	14	0	0	0	0	0	0
Apr	2014	4	2	0	1	0	0	3	2	1	0	0	0	4	0	0	2	0	0	0	0
May	2014	2	6	1	2	0	0	1	3	0	1	1	2	1	5	1	1	0	0	0	0
Jun	2014	3	3	1	1	2	0	0	0	0	1	1	2	1	2	2	1	0	0	0	0
Jul	2014	2	2	0	0	0	0	2	0	0	0	0	2	2	1	0	1	0	0	0	0
Aug	2014	3	0	3	0	1	0	1	0	1	0	0	0	1	0	2	0	0	0	0	0
Sep	2014	6	5	3	1	0	0	5	4	0	1	1	0	1	3	4	2	1	0	0	0
Total		25	45	10	5	4	0	14	37	2	3	5	6	13	38	10	7	2	0	0	0

Total Number of Incidents per Field Office for the Selected Period	Field Office 1		Field Office 2		Field Office 3		Field Office 4		Field Office 5		Field Office 6	
	Current	Previous										
Total	2	1	1	0	5	4	2	2	1	0	0	0

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

5

DECISION

TOPIC

Contract – University of Northern Iowa, Center for Social and Behavioral Research—Statewide Water Quality Survey

Recommendation:

The Department requests Commission approval of a one-year contract in the amount of \$82,757 with the University of Northern Iowa, Center for Social and Behavioral Research, to conduct a statewide water quality survey, from December 1, 2014–November 30, 2015.

Funding Source: Federal – Environmental Protection Agency

This project will be funded through Section 319 of the Clean Water Act.

Background:

EPA annually awards a grant of approximately \$3.4 million to the DNR under Section 319 of the Clean Water Act (CWA) to assist Iowa in implementing its CWA-required Nonpoint Source Management Plan (NPSMP). Under the terms of this annual grant, DNR must use the grant funds exclusively to implement the Goals and Objectives of this EPA-approved NPSMP. The current NPSMP, which is updated every 5 years, specifies under Goal 2, Objective 2.5, of the Plan that the State will "conduct a survey to establish a baseline of public understanding of and willingness to participate in improving water quality." EPA's FFY2013 Section 319 grant to DNR includes a line item budget to conduct this survey as part of this grant award.

This purpose of this contract with the University of Northern Iowa (UNI) Center for Social & Behavioral Research is to complete the survey requirement of the NPSMP by conducting a baseline survey of Iowans to assess general public knowledge, perceptions, awareness, values and activities related to nonpoint source water quality issues in Iowa. Proposals were solicited from all three Regents Universities. Two of the universities, UNI and the University of Iowa, responded with proposals. Upon proposal review by the selection committee, the committee unanimously selected UNI based on the quality of their survey plan. UNI was also the least cost proposal.

Purpose:

The parties propose to enter into this contract for the purpose of conducting a statewide survey of Iowans' perceptions on nonpoint source water quality issues in Iowa.

Contractor Selection Process:

This project was chosen using a proposal solicitation from the three Regents Universities in Iowa and a committee review process.

Mary Beth Stevenson, Iowa-Cedar Basin Coordinator
Watershed Improvement Section, Water Quality Bureau
Environmental Services Division

DNR Section 319-Funded Project Summary

PROJECT NAME: STATEWIDE WATER QUALITY SURVEY

Amount: \$82,757

Time Frame: December 1, 2014 – November 30, 2015 (1 Year)

Description: Funding to conduct a statewide water quality survey.

Project Goal: To conduct a baseline survey of Iowans' perceptions on nonpoint source water quality issues in Iowa, as required by Iowa's Nonpoint Source Management Program plan.

EPA annually awards a grant of approximately \$3.4 million to the DNR under Section 319 of the Clean Water Act (CWA) to assist Iowa in implementing its CWA-required Nonpoint Source Management Program Plan (NPSMP). Under the terms of this annual grant, DNR must use the grant funds exclusively to implement the Goals and Objectives of this EPA-approved NPSMP. The current NPSMP, which is updated every 5 years, specifies under Goal 2, Objective 2.5, of the Plan that the State will "conduct a survey to establish a baseline of public understanding of and willingness to participate in improving water quality." EPA's FFY2013 Section 319 grant to DNR includes a line item budget to conduct this survey as part of this grant award.

This purpose of this contract with the University of Northern Iowa (UNI) Center for Social & Behavioral Research is to complete the survey requirement of the NPSMP by conducting a baseline survey of Iowans to assess general public knowledge, perceptions, awareness, values and activities related to nonpoint source water quality issues in Iowa.

The proposed survey will use two different survey methods: focus groups and telephone surveys.

In addition to soliciting statewide information, the survey will track responses from the four different quadrants of the state: northeast, southeast, northwest, and southwest. The survey will also track differences between rural and urban respondents. The contractor will provide a final presentation to the DNR Environmental Protection Commission at the completion of the project.

The survey project statement of work and timeline are below:

Obligation	Task Milestone Date
Task 1: Conduct Preliminary Planning Meetings Description: Meet up to 3 times with DNR staff to develop questions for focus group meetings and preliminary questions for the survey.	No later than March 1, 2015.
Task 2: Develop Focus Group Guides Description: Develop Focus Group Guides to be used for the 4 Focus Groups.	No later than January 15, 2015
Task 3: Conduct 4 Focus Groups Description: Conduct 2 urban focus groups and 2 rural focus groups. Of the 2 urban focus groups, one will be held in Des Moines and one in Cedar Rapids. Of the 2 rural focus groups, one will be held in southwest Iowa and one will be held in northeast Iowa.	No later than February 15, 2015.
Task 4: Review Transcripts & Develop Focus Group Reports Description: Review Focus Group transcripts and complete a report summarizing the findings of each of the focus groups.	No later than March 1, 2015.

<p>Task 5: Conduct Final Planning Meetings & Develop Surveys Description: Conduct planning meetings with DNR staff to develop the final survey questions and survey.</p>	<p>No later than March 1, 2015.</p>
<p>Task 6: Conduct Training, Pretesting & Cognitive Interviewing Description: Conduct Interviewer Training, Survey Pretesting, & Cognitive Interviewing</p>	<p>No later than March 1, 2015.</p>
<p>Task 7: Collect Telephone Survey Data Description: Collect Telephone Survey Data</p>	<p>No later than May 1, 2015.</p>
<p>Task 8: Analyze Survey Data & Develop Final Report Description: Analyze survey data, and develop a final report which describes all quantitative and qualitative data collection methods, quality control steps, sampling design, response rates, sample/population comparisons, findings and recommendations. A summary of the key themes from the focus groups will also be included in the final report with any identifying information redacted. The report will be provided in electronic format and hard copy (currently budgeted for up to 10 copies).</p>	<p>No less than 45 days prior to the end of the Contract.</p>
<p>Task 9: Prepare and deliver 3 final presentations Description: Prepare and deliver 3 final presentations in Des Moines summarizing key findings of the survey. Of the three presentations, one will be given to DNR staff, one will be given to a joint meeting of the Water Resources Coordinating Council and Watershed Planning Advisory Council, and one will be given to the DNR Environmental Protection Commission.</p>	<p>No later than October 15, 2015.</p>
<p>Task 10: Submit two quarterly reports Description: The Contractor shall submit to DNR a report of the progress made in the preceding quarter toward completion of the required project activities included in the most recently approved Work Plan and Budget, and a quarterly financial report of project expenses for the periods of December 1, 2014 to March 31 of 2015, and April 1 to June 30 of 2015.</p>	<p>No later than April 15, 2015 and July 15, 2015.</p>
<p>Task 11: Submit final report Description: The Contractor shall submit to DNR a final report which:</p> <ul style="list-style-type: none"> • provides a comparison of actual accomplishments to the objectives established for the project in accordance with Attachment C; if project objectives were not met, an explanation shall be included; • identifies the total documented project costs incurred, including federal Section 319 funds expended and other funds expended, during the term of the Contract; and • provides a description of project accomplishments, outputs and outcomes during the term of the Contract. 	<p>No less than 45 days prior to the end of the contract.</p>

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

6

Decision

TOPIC

Notice of Intended Action – Chapter 81: “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems”

The Commission is asked to approve the Notice of Intended Action to initiate rulemaking to amend Chapter 81, “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems.”

Reason for Rulemaking:

These proposed rules will enable the department to meet the requirements of Senate File 303 (Home Base Iowa Act) signed by Governor Branstad on May 26, 2014. This new law requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt rules by January 1, 2015, on military service and veteran certification. The rules must address the process under which each board will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal licensure for veterans who are licensed in other states. The Department is the licensing board for the certification of water and wastewater operators (Iowa Code section 272C.1(6)(x)).

Chapter 81 sets out regulations for the certification of public drinking water supply and wastewater treatment operators and includes exam eligibility requirements, exam protocols, continuing education requirements, renewal requirements, reciprocity requirements and all corresponding fees. The Iowa Drinking Water Treatment and Wastewater Treatment Operator Certification Program has recognized that veterans represent a significant recruiting opportunity for the water industry and, since 2012, it has been working with the U.S. Department of Veterans Affairs, the U.S. Department of Labor, the Iowa Department of Education, and Propositions, a professional career transition company, to recruit and assimilate veterans into the water industry as quickly and seamlessly as possible. The Department’s water and wastewater operator certification program has included the experience and education obtained by military veterans for several years, but the proposed rule will add necessary clarification to meet the requirements of Senate File 303.

Summary of Proposed Changes

The proposed rule amendments will clarify the process by which the Department provides credit toward certification qualifications for military service, education and training and the procedures for reciprocal certification for veterans who are certified water or wastewater operators in another state.

Stakeholder Involvement

The rule amendments were presented to the stakeholders on October 3, 2014, and the Department received unanimous support for the rule making. The stakeholders represent the more than 3,400

certified water and wastewater operators in the state and the stakeholders assisting the transition of military service personnel and veterans into civilian jobs through retraining.

Public Comment Period and Public Hearing

If the Commission approves the proposed rulemaking, the Notice of Intended Action will be published in the Iowa Administrative Bulletin on November 26, 2014. The Department will hold a public hearing on December 17, 2014, at 11:00 a.m. at the Water Supply offices in the Wallace Building. The Department will accept written comments until 4:30 p.m. on December 18, 2014.

An administrative rule jobs impact statement and fiscal impact statement are attached.

Diane Moles
Water Quality Bureau
October 25, 2014

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code sections 272C.4 and 455B.222 and 2014 Iowa Acts, chapter 1116 (Senate File 303), the Environmental Protection Commission hereby proposes to amend Chapter 81, “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems,” Iowa Administrative Code.

Chapter 81 sets out regulations for the certification of public drinking water supply and wastewater treatment operators and includes exam eligibility requirements, exam protocols, continuing education requirements, renewal requirements, reciprocity requirements and all corresponding fees. Chapter 81 is being amended as a result of Senate File 303 (Home Base Iowa Act) signed by Governor Branstad on May 26, 2014. This new law requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt rules by January 1, 2015, on military service and veteran certification.

The Iowa Drinking Water Treatment and Wastewater Treatment Operator Certification Program has recognized that veterans represent a significant recruiting opportunity for the water industry and, since 2012, it has been working with the U.S. Department of Veterans Affairs, the U.S. Department of Labor, the Iowa Department of Education, and Propositions, a professional career transition company, to recruit and assimilate veterans into the water industry as quickly and seamlessly as possible. For several years, the Department of Natural Resources (Department) has granted credit toward eligibility for education, training, and service obtained or completed by an individual while serving honorably in the military forces.

The proposed rule amendments will clarify the process by which the Department provides credit toward certification qualifications for military service, education and training and the procedures for reciprocal certification for veterans who are certified water or wastewater operators in another state.

The rule amendments were presented to the stakeholders on October 3, 2014, and the Department received unanimous support for the rule making. The stakeholder group included Hero2Hired (U.S. Dept. of Defense Contractor – IIF Data Solutions); the Iowa Department of Education—Veterans & Military Education; the Iowa Section of the American Water Works Association; the Iowa Association of Municipal Utilities; the Iowa Section of the Water Environment Association; the Iowa Association of Water Agencies; and, the Iowa Rural Water Association. These stakeholders represent the more than 3,400 certified water and wastewater operators in the state and the stakeholders assisting the transition of military service personnel and veterans into civilian jobs through retraining.

Any interested person may present written comments on the proposed amendments no later than 4:30 p.m. on _____, 2014. Such written materials should be sent to Diane Moles, Iowa Department of Natural Resources, WSE Section, 502 E. 9th Street, Des Moines, Iowa 50319-0034; or sent by e-mail, including the commenter's name, to diane.moles@dnr.iowa.gov.

There will be a public hearing on _____, 2014, at 11 a.m. in the Department's Water Supply Section Second Floor North Conference Room, located in the Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. The conference room is located within the Water Supply Section offices on the second floor. Persons attending the hearing may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department to advise of any specific needs.

After analysis and review of this rule making, it is anticipated that the proposed amendments would have a positive impact on jobs by facilitating the licensure of veterans for employment in Iowa.

These proposed amendments are intended to implement Iowa Code sections 455B.211 to 455B.224, Iowa Code chapter 272C, and 2014 Iowa Acts, chapter 1116, division VI (Senate File 303).

The following amendments are proposed.

ITEM 1. Amend rule **567—81.1(455B)** by adopting the following **new** definitions in alphabetical order:

“Military service” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“Military service applicant” means an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.

“Veteran” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

ITEM 2. Amend subrule **81.7(1)** as follows:

81.7(1) Education and experience requirements. All applicants shall meet the education and experience requirements for the grade of certificate shown in the table below prior to being allowed to take the examination. Experience shall be in the same classification for which the applicant is applying except that partial credit may be given in accordance with 81.7(2) and 81.7(3). Directly related post-high school education shall be in the same subject matter as the classification in which the applicant is applying. Directly related post-high school education will be granted education credit 2.0 times the number of semester, quarter or CEU credits until January 1, 2006. The director will determine which courses qualify as “directly related” in cases which are not clearly defined. A military service applicant may apply for credit for verified military education, training, or service toward any education or experience requirement for certification, pursuant to subrule 81.7(4).

ITEM 3. Adopt the following **new** subrule **81.7(4)**:

81.7(4) *Military education, training, and service credit.*

a. The applicant shall identify the experience or education certification requirements for which the credit is requested.

b. As part of the examination application pursuant to subrule 81.9(1), the applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

ITEM 4. Amend subrule **81.9(2)** as follows:

81.9(2) *Application evaluation.* The director shall designate department personnel to evaluate all applications for examination, certification, and renewal of certification and upgrading of certification. After evaluation of the application, the department will issue the applicant either a letter of examination eligibility or a letter of non-eligibility that includes a description of the education or experience requirements that have not been met. The director will review applications when it is indicated the applicant has falsified information or when questions arise concerning an applicant's qualifications of eligibility for examination or certification.

ITEM 5. Amend subrule **81.11(3)** as follows:

81.11(3) *Reciprocity application.*

a. All applicants. Applicants who seek Iowa certification pursuant to subrule 81.11(1)

or 81.11(2) shall submit an ~~application for examination~~ Operator Certification Reciprocity Application accompanied by a letter requesting certification pursuant to these subrules. Application for certification pursuant to 81.11(1) and 81.11(2) shall be received by the director in accordance with these subrules. The applicant shall be certified at the appropriate grade pursuant to subrule 81.7(1).

b. Veteran applicants. An applicant who is a veteran shall submit an Operator Certification Reciprocity Application pursuant to 81.11(3)“a” and shall also provide such documentation as is needed to verify the applicant’s status as a veteran under Iowa Code section 35.1(2). The veteran’s application shall be given priority and shall be expedited.

Date

Chuck Gipp, Director

**Administrative Rules
JOBS IMPACT STATEMENT**

1. BACKGROUND INFORMATION

Agency:	Department of Natural Resources (Department) / Environmental Protection Commission (Commission)
IAC Citation:	567-Chapter 81: Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems
Agency Contact:	Diane Moles, 515/725-0281, diane.moles@dnr.iowa.gov
Statutory Authority:	Iowa Code sections 272C.4 and 455B.222 and 2014 Iowa Acts, chapter 1116 (Senate File 303)

Objective:	Adopt the provisions of Senate File 303 (2014) regarding water and wastewater operator certification of veterans.
Summary:	Senate File 303 requires that each licensing board adopt rules by January 1, 2015 on military service and veteran licensure. The rules must address the process under which each board will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal licensure for veterans who are licensed in other states. The Department is the licensing board for the certification of water and wastewater operators. See Iowa Code section 272C.1(6)(x). The Department's water and wastewater operator certification program has included the experience and education obtained by military veterans for several years, but the proposed rule will add necessary clarification to meet the requirements of Senate File 303.

2. JOB IMPACT ANALYSIS

Fill in this box if impact meets these criteria:

No Job Impact on private sector jobs and employment opportunities in the State.
(If you make this determination, you must include the following statement in the preamble to the rule: "After analysis and review of this rulemaking, no impact on jobs has been found.")

Explanation:

Fill in this box if impact meets either of these criteria:

Positive Job Impact on private sector jobs and employment opportunities in the State.
 Negative Job Impact on private sector jobs and employment opportunities in the State.

Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities: The Department has already granted credit toward examination eligibility for education, training, and service obtained or completed by an individual while serving honorably in the military forces. The rule changes will provide clarification and facilitate the certification of veterans in Iowa.

Categories of jobs and employment opportunities that are affected by the proposed rule: Drinking water and wastewater treatment operators
Number of jobs or potential job opportunities: Not possible to determine
Regions of the state affected: Statewide
Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.") No additional costs are anticipated.

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

The proposed rule clarifies practices already in place for several years under the existing operator certification rules. There is no additional work involved for either state certification staff or the applicant, since review of the applicant’s experience and education is already conducted as part of the examination eligibility determination process, and the same application is used for all people.

4. FISCAL IMPACT

Please see the Fiscal Impact Statement for an identification and description of costs the Department anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will incur from implementing and complying with the proposed rule.

5. PREAMBLE

The information collected and included in this Jobs Impact Statement must be included in the preamble of the proposed rule, written in paragraph form. For rules that have no impact on jobs (see the first box in number 2 above), the following statement must be included in the preamble: “After analysis and review of this rulemaking, no impact on jobs has been found.”

**Administrative Rules
FISCAL IMPACT STATEMENT**

Date: October 21, 2014

Agency: Department of Natural Resources (Department) / Environmental Protection Commission (Commission)

IAC Citation: 567-Chapter 81 Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems

Agency Contact: Diane Moles, 515/725-0281, diane.moles@dnr.iowa.gov

Summary of the Rule: Senate File 303 requires that each licensing board adopt rules by January 1, 2015 on military service and veteran licensure. The rules must address the process under which each board will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal licensure for veterans who are licensed in other states. The Department is the licensing board for the certification of water and wastewater operators. See Iowa Code section 272C.1(6)(x). The Department's water and wastewater operator certification program has included the experience and education obtained by military veterans for several years, but the proposed rule will add necessary clarification to meet the requirements of Senate File 303.

Fill in this box if the impact meets any of these criteria:

- No Fiscal Impact to the State.
 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal Impact cannot be determined.

Brief Explanation:

The proposed rule clarifies practices already in place for several years under the existing operator certification rules. There is no additional work involved for either state certification staff or the applicant, since review of the applicant's experience and education is already conducted as part of the examination eligibility determination process, and the same application is used for all people.

Fill in this box if the impact meets this criteria:

- Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

Brief Explanation:

Assumptions:

These practices have already been done in the state under the existing rules for several years. The rules are being amended for clarification but there is no change in the process. There is no additional work involved for either state certification staff or by the applicant, since review of the applicant’s experience and education is already conducted for examination eligibility determinations, and the same application is used for all people.

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by Each Source:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
OTHER (Specify)	0\$	0\$
	0\$	0\$
TOTAL REVENUE		
Expenditures:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
OTHER (Specify)	0\$	0\$
	0\$	0\$
TOTAL EXPENDITURES		

NET IMPACT

This rule is required by State law or Federal mandate.

Please identify the state or federal law: State law: 2014 Iowa Acts, chapter 1116, division VI (Senate File 303).

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The Department will use existing resources to implement the proposed rule.

Fiscal impact to persons affected by the rule:

There is no adverse fiscal impact to persons affected by the proposed rule.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

There is no adverse fiscal impact to Counties or other Local Governments.

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

7

DECISION

TOPIC

**Notice of Intended Action: Chapters 22, 23, 25, 31, and 33 –
Rescission Rulemaking**

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 22 "Controlling Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25, "Measurement of Emissions," Chapter 31, "Nonattainment Areas," and Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality."

Reason for Rulemaking

The purpose of the proposed air quality rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit Program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules rescinding conditional permits implements the requirements of Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014). The proposed rules will also implement a portion of the Department's 5-year rules review plan.

The Department proposes to **rescind** the following air quality rules:

- 1) Voluntary Operating Permit (VOP) program;
- 2) Conditional permits;
- 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and
- 4) References to air quality forms that no longer exist or are explained elsewhere in rule.

The Department is also proposing two rule **updates** to reduce regulatory requirements, as follows:

- 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addressed by federal regulations; and
- 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments.

Summary of Proposed Rule Changes

Rescission of VOP program

The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid

having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order (EO) 80 stakeholder group recommended that the Department work individually with each of the VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. The stakeholder group recommended to the Commission to rescind the rules with a target date of December 31, 2014.

All 18 facilities that had previously used the VOP program to establish limits to stay out of the Title V program have been transitioned over to other permitting options. This change reduced the regulatory burden for these facilities by eliminating the five-year renewal VOP requirement, thus saving the time to draft and submit the comprehensive VOP application. Since the VOP program is no longer in use, the VOP rules can be rescinded.

Rescission of conditional permits program

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that are no longer supported by statutory authority.

Rescission of air toxics standards and new source performance standards

The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP") and federal new source performance standards (NSPS). The rescissions proposed affect industries such as mineral processing that do not currently operate in Iowa, and are unlikely to operate in Iowa in the future. *(Please see the attached table of NESHAP and NSPS proposed for rescission.)*

Sunsetting the mercury emissions testing and monitoring rules

The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Department recommends a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Department proposes that the facility continue to comply with the mercury emissions testing and monitoring rules until the date the facility is required to comply with MATS.

Removing compounds from the list of volatile organic compounds (VOC)

EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. The Department is proposing to adopt EPA's revisions so that facilities no longer need to

count the excluded compounds towards potential VOC emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rules for air quality forms in Chapter 20

567 IAC 20.3 includes names and descriptions of the Department's air quality forms. The Department is proposing to eliminate this rule because some of the forms are no longer in use, and other forms are referenced elsewhere in the air quality rules.

Public Comments and Public Hearing

If the Commission approves the proposed rulemaking, the Department will hold a public hearing on Monday, January 26, 2015, at 1:00 p.m. at the Air Quality Bureau offices. The Department will accept written public comments until 4:30 p.m. on January 26, 2015.

A table of NESHAP and NSPS to be rescinded, as well as a jobs impact statement and a fiscal impact statement, are attached.

Christine Paulson
Environmental Specialist Senior
Program Development Section, Air Quality Bureau
Memo date: October 27, 2014

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22 “Controlling Pollution,” Chapter 23, “Emissions Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 31, “Nonattainment Areas,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” of 567 Iowa Administrative Code.

The purpose of the proposed rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules will also implement a portion of the Department of Natural Resources' (Department's) 5-year rules review plan to accomplish the requirements of Iowa Code section 17A.7(2).

The Commission proposes to rescind rules for the following air quality programs:

- 1) References to air quality forms that no longer exist or are explained elsewhere in rule;
- 2) Conditional permits;
- 3) Voluntary Operating Permit program; and
- 4) Adoption by reference of several air toxics standards and new source performance standards that do not apply to any Iowa sources.

The Commission is also proposing to reduce regulatory requirements by:

- 1) Amending the definition of volatile organic compounds to remove several compounds;
- and
- 2) Sunsetting the requirements for testing and monitoring mercury emissions that are being addressed by federal regulations.

Volatile Organic Compounds

Background

Between July 2, 2012, and March 27, 2014, the United States Environmental Protection Agency (EPA) published revisions to remove several compounds from the definition of volatile organic compounds (VOC). The excluded compounds are HFO-1234ze, HFE-134, HFE-236cal2, HFE-338pcc13, H-Galden 1040X (H-Galden ZT 130, 150 or 180), SolsticeTM 1233zd(E), HFO-1234yf, and 2-amino-2-methyl-1-propanol (AMP). EPA removed the compounds because the compounds make a negligible contribution to tropospheric ozone formation.

The Commission is proposing to adopt EPA's revisions so that state rules will match current federal regulations. The rule change will be a benefit to the regulated community because affected facilities will no longer need to count these compounds towards potential or actual VOC emissions for permitting or emission inventory purposes.

Proposed Amendment

Item 1 amends rule 567—20.2(455B) to revise the definition of “volatile organic compounds,” or “VOC” to adopt by reference the current federal definition of “VOC” and to remove several compounds from the list of VOCs (see also Item 23).

References to Air Quality Forms

Background

Rule 567—20.3(455B) (Air quality forms – generally) includes the names and descriptions of forms that are used by the public. The Department reviewed this rule and found that forms referenced in the rule are either no longer in use, or are referenced elsewhere in other air quality rules. The Department recommends rescinding this rule to eliminate unnecessary rules and to meet the requirements of Iowa Code section 17A.7(2). Removing outdated rules will also make rules more accessible and understandable to the public.

Proposed Amendment

Item 2 rescinds and reserves rule 567—20.3(455B) to eliminate obsolete and duplicative references to air quality forms.

Conditional Permits

Background

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The Commission is proposing to remove rule provisions for conditional permits as part of the 5-year rules review required in Iowa Code section 17A.7(2). Removing outdated rules will clarify and streamline the Department's air quality program.

Proposed Amendments

The Commission proposes Items 3 through 11 to rescind all rule requirements and references for conditional permits (see also Items 22 and 23).

Item 3 amends subrule 22.1(1) to remove a reference to conditional permits.

Item 4 amends subrule 22.1(3) to remove references to conditional permits.

Item 5 rescinds and reserves subrule 22.1(4) to remove conditional permit requirements.

Item 6 amends subrule 22.2(2) to remove a reference to conditional permits.

Item 7 amends subrule 22.2(3) to remove a reference to conditional permits.

Item 8 amends the introductory paragraph of subrule 22.3(1) to remove references to conditional permits.

Item 9 rescinds and reserves paragraph 22.3(3) “d” to remove conditional permit requirements.

Item 10 amends paragraph 22.3(3)“g” to remove references to conditional permits.

Item 11 amends paragraph 22.3(4)“a” to remove references to conditional permits.

Voluntary Operating Permits

Background

The Department developed the Voluntary Operating Permit (VOP) program to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a Title V operating permit. In the mid-1990’s, EPA required the Department to have a federally enforceable operating permit program to address existing facilities that wanted to establish limits below the Title V operating permit program thresholds. The Department’s Air Construction Permit program can also provide a mechanism to establish limits for facilities to

remain below the Title V operating permit program thresholds. The Department utilized the Lean “Value Stream Mapping” process to identify the VOP program as a program that could be eliminated to reduce the regulatory burden on industry and eliminate unnecessary regulations.

An Executive Order 80 (EO80) stakeholder group was formed to make recommendations on the VOP program. The EO80 stakeholder group recommended to the Commission on April 16, 2013, to rescind the VOP rules. The Department worked individually with each of the VOP facilities to transition these facilities to alternate permitting options. The Department completed the necessary permitting activities in late May 2014. Table 1 list all of the facilities moved out of the VOP program, and includes descriptions of the alternative mechanisms used, if any, to ensure that potential emissions at each facility remain below Title V program thresholds.

Table 1: Summary of VOP Transitions

Facility	New Permit Format (If Required)
Cargill, Buffalo	Facility has a Group 1 Grain Elevator permit.
Estherville Municipal Utility, Estherville	Construction permits issued.
Ferguson Elevator Corporation, Ferguson	No permit required. The facility is closed.
Flexible Industries Company, Burlington	No permit required. The facility is closed.
JBS USA LLC, Marshalltown	The facility transitioned to a Title V operating permit to allow for projected emissions increases.
Kinze Manufacturing Inc., Williamsburg	Construction permits issued.
Klinger Paint Company, Cedar Rapids	Construction permits issued.
LG Everist Inc., Hawarden	Construction permit issued.
Maaco Auto Repair, Council Bluffs	Facility has a permit-by-rule permit.
McGregor Municipal Utilities, McGregor	Construction permits issued.
MicroSoy Corporation/West Central Coop, Jefferson	Construction permits issued.
Paxton & Vierling Steel Company, Carter Lake	Construction permits issued.
Peoples Natural Gas, Council Bluffs	No permit required. The facility is closed.
Phillips Pipe Line Company/Noble Petro Inc., Council Bluffs	Construction permit issued.
Rock Rapids Municipal Utilities, Rock Rapids	Construction permit issued.
Spencer Municipal Utilities, Spencer	Construction permits issued.
Tama Packing Company, Tama	No permit required. The facility is closed. New equipment was permitted when the facility reopened and under a new facility name and number.
The Dial Corporation/Pinnacle Foods Group Inc., Fort Madison	Construction permits issued.

Proposed Amendments

The Commission proposes the amendments in Items 12 through 17 to remove the requirements and references for the VOP program.

Item 12 amends the definition “Designated representative” in rule 567—22.100 (455B) to remove the reference to the voluntary operating permit rules.

Item 13 rescinds and reserves rules 567—22.200 - 22.209 (455B) to remove voluntary operating permit requirements.

Item 14 amends rule 567—22.300 (455B) to remove the reference to voluntary operating permit rules.

Item 15 amends paragraph 22.300(2) “c” to remove references to voluntary operating permits.

Item 16 amends paragraph 22.300(8) “a” to remove references to voluntary operating permits.

Item 17 amends paragraph 22.300(9) “a” to remove references to voluntary operating permits.

New Source Performance Standards and Air Toxics Standards

Background

The U.S. Clean Air Act (CAA) obligates the EPA to issue standards to control air pollution. Two categories of standards, the New Source Performance Standards (NSPS) and air toxics standards (formally called National Emission Standards for Hazardous Air Pollutants or “NESHAP”) set standards and deadlines for industrial, commercial or institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

The CAA allows a state or local agency to implement NSPS and NESHAP as a “delegated authority.” Upon state adoption, the Department becomes the delegated authority for the specific NSPS or NESHAP, and is the primary implementation agency in Iowa. Two local air agencies, Polk County and Linn County, implement these standards within their counties. Iowa’s rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a

specific date.

The Department identified previously adopted NSPS and NESHAP that do not affect any facilities in Iowa, and are unlikely to affect any Iowa facilities in the future. Most of the federal standards apply to mineral and material processing.

The Department is recommending that adoption by reference of these NSPS and NESHAP be rescinded. The rescissions will accomplish the Department's goal of eliminating obsolete rules and meet the requirements in Iowa Code section 17A.7(2). If an affected facility should plan to locate to Iowa in the future, the Department will evaluate whether to request adoption of the standards at that time. Removing unnecessary rules will also make rules more accessible and understandable for regulated entities and the public.

Proposed Amendments

Item 18 rescinds paragraphs 23.1(2) "g," "h," "m," "n," "o," and "p" to remove the adoption by reference of NSPS under 40 Code of Federal Regulations (CFR) Part 60 for petroleum production, secondary lead smelters, primary copper smelters, primary zinc smelters, primary lead smelters, and primary aluminum reduction plants, respectively.

Item 19 rescinds paragraphs 23.1(3) "b," "c," "h," and "j" to remove the adoption by reference of NESHAP under 40 CFR Part 61 for beryllium, beryllium rocket motor firing, inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities, and inorganic arsenic emissions from primary copper smelters, respectively.

Item 20 rescinds paragraphs 23.1(4) "j," "p," "x," "ac," "ai," "al," "bc," "bq," "bt," "dr," and "dt," to remove the adoption by reference of the NESHAP under 40 CFR 63 for polyvinyl chloride and copolymers production, primary aluminum production plants, secondary lead smelting, petroleum production, ship building and ship repair, steel pickling plants, primary

copper smelting, primary lead smelting, taconite iron ore processing, and primary magnesium refining, respectively.

Mercury Emissions Testing and Monitoring Rules

Background

The Commission adopted the mercury emissions testing and monitoring rules in 2009 as a temporary requirement until EPA finalized its mercury air toxics standards (also known as “MATS”) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Commission proposes a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Commission proposes that the facility continue to comply with the mercury monitoring rules until the date the facility is required to comply with MATS.

Proposed Amendment

Item 21 amends rule 567—25.3 (455B) to add a “sunset date” for the state’s mercury emissions testing and monitoring requirements.

Additional Amendments

Item 22 amends paragraph 31.20(1)“m” to remove the reference to conditional permits. The Commission is proposing to rescind all rule requirements and references to conditional permits, as described above for Items 3 through 11.

Item 23 amends the definition “enforceable permit condition” and “Volatile Organic Compounds” or “VOC” in subrule 33.3(1). The revision to the definition of “enforceable permit condition” removes the reference to conditional permits, and is the same as the amendment described above for Item 22. The change to the definition of “Volatile Organic Compounds” or “VOC” is the same as the revision explained above for Item 1.

Any person may make written suggestions or comments on the proposed rule changes on or before January 26, 2015. Please direct written comments to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa, 50324, fax (515) 725-9501, or by E-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Monday, January 26, 2015, at 1:00 p.m. in the conference rooms at the Department’s Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on January 26, 2015.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515) 725-9510, or by E-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review, the Department has determined that the proposed amendments will have a positive impact on private sector jobs.

Removing compounds from the list of VOCs

Revising the definition of “VOC” in rule 567—20.2(455B) and in subrule 33.3(1) will

have a positive impact on facilities because the now-excluded compounds no longer need to be considered when preparing permit applications or emissions inventories.

Eliminating obsolete and redundant rule references to air quality forms

Rescinding rule 567—20.3(455B) will benefit the regulated community and the public by providing current and non-duplicative references to air quality forms.

Rescinding the rules for conditional permits

Rescinding the rule requirements and references for conditional permits will have no impact on jobs because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding the obsolete rule requirements and references for conditional permits as described above should benefit the regulated community and the public by providing them with up-to-date air quality requirements.

Rescinding the VOP program rules

Businesses with a VOP permit are required to renew the application every five years. The VOP application includes all emissions at the facility and takes a considerable amount of time to complete. Rescinding the VOP program rule requirements and references as noted above will reduce the regulatory burden for businesses by eliminating the five-year renewal requirement, thus saving the time to draft and submit the comprehensive application.

Removing adoption by reference of NSPS and NESHAP

Iowa currently has no industries affected by the NSPS and NESHAP proposed for rescission in subrules 23.1(2), 23.1(3), and 23.1(4), and these requirements are unlikely to affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on regulated entities and the public.

Sunsetting the mercury testing and monitoring rules

Adding a sunset date to the mercury monitoring requirements in rule 567—25.3(455B) will have a positive impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend rule **567—20.2(455B)**, the definition of “volatile organic compounds” or “VOC,” as follows:

“*Volatile organic compounds*” or “*VOC*” means any compound included in the definition of “volatile organic compounds” found at 40 CFR Section 51.100(s) as amended through ~~January 21, 2009~~ March 27, 2014.

ITEM 2. **Rescind** and reserve rule **567—20.3(455B)**.

ITEM 3. Amend subrule 22.1(1), as follows:

22.1(1) Permit required. Unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, ~~or conditional permit~~, or permit pursuant to rule 567—22.8(455B), or permits required pursuant to rules 567—22.4(455B), 567—22.5(455B), 567—31.3(455B), and 567—33.3(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.

ITEM 4. Amend subrule 22.1(3), as follows:

22.1(3) *Construction permits.* The owner or operator of a new or modified stationary source shall apply for a construction permit ~~unless a conditional permit is required by Iowa Code chapter 455B or subrule 22.1(4) or requested by the applicant in lieu of a construction permit.~~ Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

ITEM 5. Rescind and reserve subrule **22.1(4)**.

ITEM 6. Amend subrule 22.2(2), as follows:

22.2(2) *Public notice and participation.* A notice of intent to issue a ~~conditional or~~ construction permit to a major stationary source shall be published by the department in a newspaper having general circulation in the area affected by the emissions of the proposed source. The notice and supporting documentation shall be made available for public inspection upon request from the department's central office. Publication of the notice shall be made at least

30 days prior to issuing a permit and shall include the department's evaluation of ambient air impacts. The public may submit written comments or request a public hearing. If the response indicates significant interest, a public hearing may be held after due notice.

ITEM 7. Amend subrule 22.2(3), as follows:

22.2(3) *Final notice.* The department shall notify the applicant in writing of the issuance or denial of a construction ~~or conditional~~ permit as soon as practicable and at least within 120 days of receipt of the completed application. This shall not apply to applicants for electric generating facilities subject to Iowa Code chapter 476A.

ITEM 8. Amend subrule 22.3(1), the introductory paragraph, as follows:

22.3(1) *Stationary sources other than anaerobic lagoons.* In no case shall a construction permit ~~or conditional permit~~ which results in an increase in emissions be issued to any facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa state implementation plan. If the facility is in compliance with a schedule for correcting the violation and that schedule is contained in an order or permit condition, the department may consider issuance of a construction permit ~~or conditional permit~~. A construction ~~or conditional~~ permit shall be issued when the director concludes that the preceding requirement has been met and:

ITEM 9. Rescind and reserve paragraph 22.3(3)“d.”

ITEM 10. Amend paragraph 22.3(3)“g,” as follows:

g. The issuance of a permit ~~or conditional permit~~ (approval to construct) shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the state implementation plan and any other requirement under local, state or federal law.

ITEM 11. Amend paragraph **22.3(4)“a,”** as follows:

a. When an application for a construction ~~or conditional~~ permit is denied, the applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the right of the applicant to file a further application after revisions are made to meet the objections specified as reasons for the denial.

ITEM 12. Amend the definition “designated representative” in rule **567—22.100 (455B)**, as follows:

“Designated representative” means a responsible natural person authorized by the owner(s) or operator(s) of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended to October 24, 1997, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term “responsible official” is used in ~~rules 567—22.100(455B) to 567—22.20822.148(455B)~~ 567—Chapter 22 (455B), it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

ITEM 13. Rescind and reserve rules **567—22.200(455B)** through **567—22.209 (455B)**.

ITEM 14. Amend rule **567—22.300 (455B)**, as follows:

567—22.300(455B) Operating permit by rule for small sources. Except as provided in ~~567—subrules 22.201(2) and subrule 22.300(11)~~, any source which otherwise would be required to obtain a Title V operating permit may instead register for an operation permit by rule for small sources. Sources which comply with the requirements contained in this rule will be deemed to have an operating permit by rule for small sources. Sources which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source thresholds for regulated air pollutants and hazardous air pollutants as defined in rule 567—22.100(455B).

ITEM 15. Amend paragraph **22.300(2)“c,”** as follows:

c. Nothing in this rule shall prevent any stationary source which has had a Title V operating permit ~~or a voluntary operating permit~~ from qualifying to comply with this rule in the future in lieu of maintaining an application for a Title V operating permit ~~or a voluntary operating permit~~ or upon rescission of a Title V operating permit ~~or a voluntary operating permit~~ if the owner or operator demonstrates that the stationary source is in compliance with the emissions limitations in subrule 22.300(6).

ITEM 16. Amend paragraph **22.300(8)“a,”** as follows:

a. Duty to apply. Any person who owns or operates a source otherwise required to obtain a Title V operating permit and which would be eligible for an operating permit by rule for small sources must either register for an operating permit by rule for small sources, ~~apply for a voluntary operating permit,~~ or apply for a Title V operating permit. Any source determined not

to be eligible for an operating permit by rule for small sources, and operating without a valid Title V ~~or a valid voluntary~~ operating permit, shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in the application shield provisions contained in rules 567—22.104(455B) ~~and 567—22.202(455B)~~. For each source registering for an operating permit by rule for small sources, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324, one original and one copy of a timely and complete registration form in accordance with this rule.

ITEM 17. Amend paragraph **22.300(9)“a,”** as follows:

a. If the issuance of a construction permit acts to make the source no longer eligible for an operating permit by rule for small sources, the source shall, within 12 months of issuance of the construction permit, submit an application for ~~either a Title V operating permit or a voluntary operating permit.~~

ITEM 18. Rescind and reserve paragraphs **23.1(2) “g,” “h,” “m,” “n,” “o,” and “p.”**

ITEM 19. Rescind and reserve paragraphs **23.1(3) “b,” “c,” “h,” and “j.”**

ITEM 20. Rescind and reserve paragraphs **23.1(4) “j,” “p,” “x,” “ac,” “ai,” “al,” “bc,” “bq,” “bt,” “dr,” and “dt.”**

ITEM 21. Amend rule **567—25.3 (455B)**, introductory paragraph, as follows:

567—25.3 (455B) Mercury emissions testing and monitoring. Any stationary, coal-fired boiler or stationary, coal-fired combustion turbine serving, at any time since the later of November 15, 1990, or the start-up of the unit’s combustion chamber, a generator with a nameplate capacity of more than 25 megawatt electrical (MWe) producing electricity for sale is an affected source under the provisions of this rule.

The provisions of this rule expire on April 16, 2015, except for any affected facility that receives an extension to comply with the emission standards for hazardous air pollutants: coal- and oil-fired electric utility steam generating units (EGUs) (40 CFR Part 63, Subpart UUUUU, commonly known as “MATS”). Any facility receiving an extension from the MATS compliance date shall continue to comply with the provisions of this rule until the date the facility is required to comply with MATS or alternatively is no longer subject to the MATS compliance requirements. However, facilities complying with the requirements of this rule as specified in subrule 25.3(3) (continuous emissions monitoring systems (CEMS)) may submit a written request to the department to discontinue concurrent, annual stack tests. The department will evaluate and grant requests on a case-by-case basis, based upon previous stack test results and how recent the last stack test occurred or other extenuating circumstances, such as those that may cause testing conditions to be unrepresentative of normal operations or unsafe to perform. If the department grants a request, the facility will be required to continue operating CEMS and conduct relative accuracy test audits (RATAs), as specified in subrule 25.3(3), until the facility is required to comply with MATs or alternatively is no longer subject to MATS compliance requirements.

ITEM 22. Amend paragraph **31.20(1)**“**m,**” as follows:

m. “*Enforceable permit condition*” for the purpose of this rule means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emission standards for hazardous air pollutants, requirements within the state implementation plan, and any permit requirements established pursuant to this rule, or under ~~conditional~~, construction or Title V operating permit rules.

ITEM 23. Amend subrule **33.3(1)**, the definitions of “enforceable permit condition” and “volatile organic compounds” or “VOC,” as follows:

“*Enforceable permit condition,*” for the purpose of this chapter, means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emissions standards for hazardous air pollutants, requirements within the SIP, and any permit requirements established pursuant to this chapter, permit requirements established pursuant to 40 CFR 52.21 or Part 51, Subpart I, as amended through October 20, 2010, or under ~~conditional~~, construction or Title V operating permit rules.

“*Volatile organic compounds*” or “*VOC*” means any compound included in the definition of “volatile organic compounds” found at 40 CFR 51.100(s) as amended through ~~January 21, 2009~~ March 27, 2014.

Date

Chuck Gipp, Director

NESHAP and NSPS
Proposed for Rescission

Source(s) Affected	Iowa Rules (567 IAC Chapters 23 and 25)	CFR (Federal rule)
Primary Copper Smelters	23.1(2)"b" and 23.1(4)"bq"	40 CFR 60 Subpart P 40 CFR 63 Subpart QQQ
Primary Zinc Smelters	23.1(2)"n"	40 CFR 60 Subpart Q
Primary Lead Smelters	23.1(2)"o" and 23.1(4)"bt"	40 CFR 60 Subpart R 40 CFR 63 Subpart TTT
Primary Aluminum Reduction Plants	23.1(2)"p" and 23.1(4) "p" and "al"	40 CFR 60 Subpart S 40 CFR 63 Subpart LL
Beryllium	23.1(3)"b"	40 CFR 61 Subpart C
Beryllium Motor Rocket Firing	23.1(3)"c"	40 CFR 61 Subpart D
Inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities	23.1(3)"h"	40 CFR 61 Subpart P
Inorganic arsenic emissions from primary copper smelters	23.1(3)"j"	40 CFR 61 Subpart O
Steel Pickling Plants	23.1(4)"bc"	40 CFR 63 Subpart CCC
Taconite Iron Ore Processing	23.1(4)"dr"	40 CFR 63 Subpart RRRRR
Primary Magnesium Refining	23.1(4)"dt"	40 CFR 63 Subpart TTTT
Secondary Lead Smelting	23.1(2)"h" 23.1(4)"x"	40 CFR 61 L 40 CFR 63 X
Petroleum Production (rescind current adoptions and not adopting new amendments)	23.1(2)"g" and 23.1(4) "ac"	40 CFR 60 J (rescind) and Ja (not adopting) and 40 CFR 63 CC (rescind)
Ship Building & Ship Repair	23.1(4)"ai"	40 CFR 63 II
Polyvinyl Chloride (PVC) and Copolymers (rescind current adoption and not adopting new amendments)	23.1(4)"j"	40 CFR 63 DDDDDD & HHHHHH

**Administrative Rules
JOBS IMPACT STATEMENT**

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission (Commission) / Department of Natural Resources (Department)
IAC Citation:	567 IAC Chapters 20, 22, 23, 25, 31 and 33
Agency Contact:	Christine Paulson (515) 725-9510
Statutory Authority:	Iowa Code section 455B.133 and United States Clean Air Act (CAA) Title I (Sections 111 (42 USC §7411) and 112 (42 USC §7412))
Objective:	The purpose of the proposed air quality rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit Program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules rescinding conditional permits implements the requirements of Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014). The rulemaking will also implement a portion of the Department's 5-year rules review plan.
Summary:	<p>The Department proposes to rescind the following air quality rules:</p> <ol style="list-style-type: none"> 1) Voluntary Operating Permit (VOP) program; 2) Conditional permits; 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and 4) References to air quality forms that no longer exist or are explained elsewhere in rule. <p>The Department is also proposing two rule updates to reduce regulatory requirements, as follows:</p> <ol style="list-style-type: none"> 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addressed by federal regulations; and 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments. <p><u>Rescission of VOP program</u></p> <p>The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order (EO) 80 stakeholder group recommended that the Department work individually with each of the VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. The stakeholder group recommended to the Commission to rescind the rules with a target date of December 31, 2014.</p>

Eighteen facilities that had previously used the VOP program to establish limits to stay out of the Title V program have been transitioned over to other permitting options. This change reduced the regulatory burden for these facilities by eliminating the five-year renewal VOP requirement, thus saving the time to draft and submit the comprehensive VOP application. Since the VOP program is no longer in use, the VOP rules can be rescinded.

Rescission of conditional permits program

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that are no longer supported by statutory authority.

Rescission of air toxics standards and new source performance standards

The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP") and federal new source performance standards (NSPS). The rescissions proposed affect industries such as mineral processing that do not currently operate in Iowa, and are unlikely to operate in Iowa in the future. If an affected facility should plan to locate to Iowa in the future, the Department will evaluate whether to request adoption of the standards at that time.

Sunsetting the mercury emissions testing and monitoring rules

The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Department recommends a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Department proposes that the facility continue to comply with the mercury emissions testing and monitoring rules until the date the facility is required to comply with MATS.

Removing compounds from the list of volatile organic compounds (VOC)

EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. The Department is proposing to adopt EPA's revisions so that facilities no longer need to count the excluded compounds towards

	<p>potential VOC emissions in air permit applications and emissions inventory calculations and reporting.</p> <p><u>Rescission of rules for air quality forms in Chapter 20</u> 567 IAC 20.3 includes names and descriptions of the Department’s air quality forms. The Department is proposing to eliminate this rule because some of the forms are no longer in use, and other forms are referenced elsewhere in the air quality rules.</p>
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2. JOB IMPACT ANALYSIS

<input type="checkbox"/> <i>Fill in this box if impact meets these criteria:</i>
<input type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State.
<input type="checkbox"/> Job Impact cannot be determined.

<input checked="" type="checkbox"/> <i>Fill in this box if impact meets either of these criteria:</i>
<p><input checked="" type="checkbox"/> Positive Job Impact on private sector jobs and employment opportunities in the State.</p> <p><input type="checkbox"/> Negative Job Impact on private sector jobs and employment opportunities in the State.</p> <p><i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i></p> <p>The Department has determined that the proposed rules will have a positive impact on private sector jobs.</p> <p><u>Rescission of VOP program rules</u> Businesses with a VOP permit are required to renew the application every five years. The VOP application includes all emissions in the facility and takes a considerable amount of time to complete. The proposed rulemaking will reduce the regulatory burden for businesses by eliminating the five-year renewal requirement, thus saving the time to draft and submit the comprehensive application.</p> <p><u>Rescission of conditional permits</u> Rescinding the rules for conditional permits will have no impact on jobs because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding these obsolete rules should benefit the regulated community and the public by providing them with up-to-date air quality requirements.</p> <p><u>Rescission of NESHAP and NSPS</u> Iowa currently has no industries affected by the 15 standards proposed for rescission and these requirements are unlikely to affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on regulated entities that use the Department’s air quality rules.</p>

Sunsetting the mercury emissions testing and monitoring rules

Adding a sunset date to the mercury emissions testing and monitoring rules will have a positive impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

Removing compounds from the list of VOCs

Adopting EPA's revisions to remove compounds from being considered VOCs will have a positive impact on facilities because the excluded compounds no longer need to be included in potential emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rule identifying air quality forms

Removing this rule will benefit the regulated community and the public by providing current and non-duplicative references to air quality forms.

Categories of jobs and employment opportunities that are affected by the proposed rule:

VOP permits were held by 18 different types of industry, ranging from auto body shops to municipal utilities. These facilities were able to utilize a variety of options, such as exemptions, construction permitting, and other applicable rules to transition out of the VOP program. No other jobs or employment opportunities would be affected by the proposed rule rescissions and updates.

Number of jobs or potential job opportunities:

Cannot be determined at this time.

Regions of the state affected:

All regions of the state.

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")

No additional costs to the employer.

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

No other less intrusive or expensive method exists for achieving the purpose of the proposed rules.

Rescinding rules for the VOP program, as recommended by the VOP EO 80 stakeholder group, is the most cost efficient approach. Facilities have been able to utilize less intensive permitting programs, were able to use permit exemptions to transition out of the VOP program, or were no longer operating.

The conditional permits rules no longer have statutory authority (SF 2197) and are proposed to be removed as part of the 5-year rules review required in Iowa Code section 17A.7(2).

Removing or updating the rules will make rules more accessible and understandable to the public.

Administrative Rule Fiscal Impact Statement

Date: October 3, 2014

Agency: Environmental Protection Commission (Commission) / Department of Natural Resources (Department)

IAC Citation: 567 IAC Chapters 20, 22, 23, 25, 31 and 33

Agency Contact: Christine Paulson

Summary of the Rule:

The Department proposes to **rescind** the following air quality rules:

- 1) Voluntary Operating Permit (VOP) program;
- 2) Conditional permits;
- 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and
- 4) References to air quality forms that no longer exist or are explained elsewhere in rule.

The Department is also proposing two rule **updates** to reduce regulatory requirements, as follows:

- 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addresses by federal regulations; and
- 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments.

Fill in this box if the impact meets these criteria:

- No Fiscal Impact to the State.
 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal Impact cannot be determined.

Brief Explanation:

The Department will use existing budget and resources to implement the rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

Revenue by Each Source:	<u>Year 1 (FY 2015)</u>	<u>Year 2 (FY 2016)</u>
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
Other (specify)	0\$	0\$

	_____	_____
	_____	_____
TOTAL REVENUE	0\$	0\$
Expenditures:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
Other (specify)	0\$	0\$
	_____	_____
TOTAL EXPENDITURES	0\$	0\$

NET IMPACT

This rule is required by State law or Federal mandate.
Please identify the state or federal law:

Revoking the VOP rules implements the recommendation of the Executive Order (EO) 80 workgroup. The statutory authority for conditional permits rules was revoked in Senate File 2197 (2014). All of the rule changes will fulfill Iowa Code section 17A.7(2) by removing obsolete rules and updating other rules to reduce regulatory requirements.

Funding has been provided for the rule change.
Please identify the amount provided and the funding source:

Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:

The Department will utilize existing resources at this time.

Fiscal impact to persons affected by the rule):

Rescission of VOP program

The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order 80 stakeholder group recommended that the Department work individually with each of the 18 VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. Facilities that had previously used the VOP program to establish limits to stay out of the Title V program have now been transitioned over to other permitting options.

The proposed rule will reduce the regulatory burden for businesses by eliminating the five-year VOP renewal requirement, thus saving the time to draft and submit the comprehensive application.

Rescission of conditional permits

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that no longer are supported by statutory authority.

Rescinding the rules for conditional permits will have no fiscal impact because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding these obsolete rules should benefit the regulated community and the public by providing them with up-to-date air quality requirements.

Rescission of air toxics standards and new source performance standards

The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP") and federal new source performance standards (NSPS).

Iowa currently has no industries affected by these NESHAP and NSPS standards, and it is unlikely that these requirements will affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on regulated entities that use the Department's air quality rules.

(continued on next page)

Fiscal impact to persons affected by the rule (continued):

Sunsetting the requirements for mercury emissions testing and monitoring

The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. Sunsetting these rules will have a positive fiscal impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

Removing compounds from the list of VOCs

EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. Adopting the federal rule changes will have a positive impact on facilities because the excluded compounds no longer need to be included in potential emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rule identifying air quality forms

Chapter 20 includes names and descriptions of the Department's air quality forms. The Department is proposing to eliminate 567 IAC 20.3 because some of the forms included in the rule are no longer in use, and other forms in the rule are referenced elsewhere. Removing this rule will benefit the regulated community and the public by providing current and non-duplicative references to air quality forms.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Several municipalities had VOP permits for their municipal utilities. The Department worked with Estherville, McGregor, Rock Rapids and Spencer municipal utilities to transition their VOPs to construction permits.

**Environmental Protection Commission
Iowa Department of Natural Resources**

ITEM

8

DECISION

2014 Diesel Emissions Reduction Grant Program - Recommendations

The Department requests that the Commission approve entering into a sub-grant award for the 2014 Diesel Emissions Reduction grant program. A total of **\$80,000.00** in funds will be awarded to the City of Dubuque to complete emissions control retrofits on qualified diesel vehicles that result in the greatest emissions reductions consistent with the funding available.

The sub-grant award is for full reimbursement to the City of Dubuque for diesel emissions reduction strategies purchased and installed on targeted 2006 or older diesel vehicles (primarily solid waste vehicles, construction and maintenance vehicles). The project will take place December 1, 2014 through September 30, 2015.

Funding Source

Funding in the amount of \$82,225 is provided by the U.S. Environmental Protection Agency (EPA)'s Diesel Emissions Reduction Act (DERA) - Award DS-97745501-0. The remaining DERA award funds not used for the sub-grant award have been allocated for Departmental administrative costs.

The statutory authority for the DNR to enter into this sub-grant award is 455B.103(5).

Background

This is the sixth DERA state allocation grant that the Department has received from EPA to reduce diesel emissions from mobile sources in Iowa. The City of Dubuque is an important location to encourage diesel emission reductions. Many diesel vehicles, including municipal service vehicles and regional transport authority busses, travel on the four U.S. and two state highways that serve the transportation needs of the area.

In February 2014, the City of Dubuque, Dubuque Metropolitan Area Transit Study (DMATS) and the Greater Dubuque Development Cooperation (GDDC), voluntarily began participation in EPA's PM (Particulate Matter) Advance program. PM Advance promotes local actions to reduce fine particle pollution (PM_{2.5}), and its precursors, in attainment areas to help these areas continue to maintain the PM_{2.5} National Ambient Air Quality Standards.

Voluntary reduction of diesel emissions is important to reducing levels of PM_{2.5} and other pollutants in Dubuque and surrounding areas. This sub-grant award will also assist the City of Dubuque in meeting the goals of the PM Advance program.

Christina liams
Program Planner 2
Air Quality Bureau – Environmental Services Division
October 27, 2014

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

9

Decision

TOPIC

Executive Order 80 (EO 80) Stakeholder Group Recommendation on Permits for Diversion, Storage, and Withdrawal of Water from the Cambrian-Ordovician (Jordan) Aquifer

Governor Branstad issued Executive Order 80 (EO 80) to increase stakeholder involvement and input on administrative processes and rules. The Director, in consultation with the Governor’s Office, selected a stakeholder group to make recommendations and consider the need for rulemaking to better manage the usage of the Cambrian-Ordovician Aquifer (commonly called the Jordan Aquifer) in Iowa on a more localized level. The group made its recommendations to the Commission on June 17, 2014. Some of the recommendations would require rule changes to implement. The Commission is asked to consider the recommendations of the stakeholder group and to direct the Department to initiate rulemaking, decline to do so, or ask for additional information.

Background: Currently, the Iowa Administrative Code (567—Chapter 50, “Scope of Division,” Chapter 52, “Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water,” and Chapter 53, “Protected Water Sources) prohibits municipal, commercial, and industrial entities from water use in the Jordan Aquifer that would lower the groundwater table by more than 200 feet from historic levels. It also limits the rate of water withdrawals for industrial use to 2,000 gallons per minute. These restrictions may not be appropriate for everyone because the characteristics of the Jordan Aquifer vary greatly across the state. For example, protecting the Jordan Aquifer from overuse may be needed in some parts of the state but may not be necessary in other locations. A rule addressing water usage of the Jordan Aquifer on a more localized basis would allow additional usage of the aquifer where sufficient supply exists. It would also prevent someone from significantly investing in developing a Jordan well only later to find that the amount of water that can be withdrawn is severely limited.

The stakeholder group met on February 24, March 20, April 3, May 5, and May 16, 2014. Members of this committee and the representation the members provided are as follows:

<i>Name</i>	<i>Organization</i>	<i>Representing</i>
John Crotty	Iowa Environmental Council	Environmental advocacy group
Shawn Kerrick	Koch Nitrogen	Industrial user from business located in affected area
Gale McIntosh	Northway Pump	Water well contractor
Jill Soenen	Iowa Association of Municipal Utilities	Municipal utility association
Todd Steigerwaldt	City of Marion (Water Works)	Municipal user in affected area
Becky Svatos	Stanley Consultants, Iowa ABI	Professional consulting engineering firm, Business association

The Commission is asked to consider the recommendations of the stakeholder group and to direct the Department to initiate rulemaking, decline to do so, or ask for additional information. The list of recommendations is attached to this brief, followed by estimates of work effort needed to accomplish the recommendations.

Recommendations from the EO80 Jordan Aquifer Stakeholder Group

From the June 17, 2014 EPC Minutes:

Powerpoint presentation to EPC and May 30, 2014 EO80 Recommendations

(Note: Recommendations are numbered sequentially in the order presented by the EO80 chair.)

Tier 1 Wells: Wells that are not yet to a level of concern based on current and proposed annual water use and drawdown reports. Applies only to existing Jordan wells.

Tier 2 Wells: New wells within a protected source area; minimum levels.

1. Define an action level by which a Tier 1 well becomes a Tier 2 well. Consider using pumping levels, past actual static levels, and/or models to determine the action level. Prefer pumping levels.
 - a. Example: Use 350-ft pumping water level as measurement of concern at the well head. IDNR should evaluate whether this is the appropriate level. Committee wanted to allow additional drawdown but not a large additional drawdown that may have unanticipated negative consequences.
2. Define protected water source areas based on all available data (well levels, models, etc.). Include variance options that could lead to exclusion of a well from the protected area.
3. Recommend additional public notifications or updates occurring in protected water source areas.
4. Require a site-specific water conservation plan that is reviewed and approved by IDNR under 52.9.
 - a. The permittee should set a defined annual usage percent reduction target that will prevent them from reaching the Tier 3 drawdown limit.
5. Recommend enforcement if the conservation plan is not implemented
6. Recommend reduced allocations if the conservation plan is not implemented
7. Recommend revocation of the permit if the conservation plan is not implemented
8. Recommend implementing a process to ensure that water use allocations are reserved for existing users prior to issuance of new well construction permits by IDNR and county sanitarians.
9. Require water use allocation forecasts that are determined for entire pumping region prior to issuance of new well construction permits by DNR and county sanitarians.

Tier 3 Wells: Drop dead level (level at which no further drawdown is allowed)

10. Define an action level by which a Tier 2 well/group of wells becomes a Tier 3 well/group of wells
11. Consider using water pumping levels, past actual static levels, and/or models to determine the action level. Committee wanted to allow additional drawdown, but not a large additional drawdown that may have unanticipated negative consequences.
12. Require reduced allocation and other aggressive water conservation plans be implemented
13. Once a well hits the drop dead level, the permittee cannot increase the drawdown. This limit needs to be enforced.
14. Use model to determine future allocations. As model improves, revise allocations.

All (Jordan) wells and all (Jordan) permits:

15. Define, for each individual well currently permitted to withdraw water from the Jordan, what the exact starting point/reference is (datum). Each Jordan permit should have a groundwater elevation and a reference measuring point defined in the permit for the Tier 2 threshold and Tier 3 limit. This comment relates to the regulatory and permit requirements “the 1977 baseline... 52.4(3)c”
 - a. Example – Use the 1977 potentiometric “model defined” original static water level and then determine the Tier 1, Tier 2, and Tier 3 allowable pumping drawdown level allowed in an individual well.
 1. Tier 1 – No issue: does not exceed (example = 350’) pumping water elevation drawdown
 2. Tier 2 – Warning level: 350-450 ft. i.e., proposed “source water protected areas”
 3. Tier 3 – Drop-dead level: 450 ft.
16. Recommend switching from static water level to pumping water level measurements. If implemented IDNR must clearly define in permits how pumping levels should be measured (i.e., drawings, written guidance, IDNR on-site technical support, etc. (Significantly revise and clarify 52.6)
17. If static water level measurement remains part of the regulatory requirements, issue specific regulatory language or guidance about how to perform static water level testing. Some facilities cannot shut down a well to allow it to recover to static conditions, which makes it unrealistic to use static water level measurement in 52.6.

Additional Recommendations/Suggestions:

18. Creation of protected water source areas where the Flow Model has identified specific locations/regions where the Jordan Aquifer static water level is rapidly depleting. We agree with IDNR’s proposed protected source areas.
19. The Jordan aquifer groundwater model must be maintained and improved continuously as a management tool for the aquifer
20. Require all Jordan aquifer water pump test results for existing and new wells be submitted to IDNR for use in improving the Jordan aquifer model
21. IDNR should require water pump test results for new wells or increased water use allocation from existing wells in protected source areas. IDNR may also require observation wells. IDNR should be sure that pump tests are long enough to evaluate impacts to other users in the protected source areas.
22. Re-evaluate protected source area warning and drop-dead water area levels every 5 years based on new model that uses annual report data and new well testing pumping data
23. Recommend that IDNR hold annual public meetings and issue annual reports on the health of the Jordan aquifer
24. Create a Jordan aquifer email listserv for all existing Jordan well permit holders to allow public notification to existing well permittees when new allocations or wells are being considered or reviewed in the protected source areas.
25. Geothermal use wording in draft regulations document received from DNR April 2014 is acceptable (i.e., no “pump and dump” geothermal withdrawals from the Jordan aquifer in 52.4(3)b)

26. Recommend that no new Jordan aquifer withdrawals for once-through (single-pass) cooling water use be allowed. If Jordan aquifer water is allocated for cooling, the facility must use cooling towers or other methods to reuse the water.
27. 200 gpm limits on agricultural, recreational, and aesthetic uses in existing rules are adequate. The group mostly agreed that the economics of constructing a Jordan well with a limit of 200 gpm would deter most applicants.
28. Requiring initial contact for all new Jordan wells go through IDNR (before county sanitarians)
29. Require at issuance or new or renewed permit time:
 - a. Continuous totalized flow measurement from the well (meters) (52.6)
 - b. Annual reports of measured monthly totals (52.6)
 - c. Justification of allocations greater than past annual water consumption (permit renewal process). In protected source areas, allocations beyond actual current need should be strictly limited.
30. Recommend switching from a 10-year permit renewal to a 5-year renewal period. (52.5(3))
31. Recommend annual on-site inspection program (public and private permits) for meters, on-site well systems, well level measurements, etc. (52.6)
32. Recommend maintaining the 2,000 gpm limit on industrial withdrawals in existing rules
33. Continual allocation of adequate funding and/or resources to maintain an accurate and current model. Example – fee per million gallons withdrawn from Jordan aquifer. Consider increasing water use fees or creating an additional fee or fund to help pay for these additional recommendations.

Categorized Recommendations from the EO80 Jordan Aquifer Stakeholder Group

From the June 17, 2014 EPC Minutes:

Powerpoint presentation to EPC and May 30, 2014 EO80 Recommendations

Current universe: Statewide, there are about 200 existing Jordan well water allocation permits, with about 345 existing Jordan wells. Staff estimates approximately 160 of the 200 permits are Tier 1, 30 of the permits are Tier 2, and 10 of the permits are Tier 3, although that is dependent on at what levels the tiering criteria are set.

Tier 1 Wells: Existing Jordan wells that are not yet to a level of concern based on current and proposed annual water use and drawdown reports.

Fifteen recommendations require rule change:

Tier 2 Wells: New wells within a protected source area; minimum water levels.

1. Define an action level by which a Tier 1 well becomes a Tier 2 well. Consider using pumping levels, past actual static levels, and/or models to determine the action level. Prefer pumping levels.

[Example: Use 350-ft pumping water level as measurement of concern at the well head. IDNR should evaluate whether this is the appropriate level. Committee wanted to allow additional drawdown but not a large additional drawdown that may have unanticipated negative consequences.]

2. Define protected water source areas based on all available data (well levels, models, etc.). Include variance options that could lead to exclusion of a well from the protected area.

4. Require a site-specific water conservation plan that is reviewed and approved by IDNR under 52.9. [The permittee should set a defined annual usage percent reduction target that will prevent them from reaching the Tier 3 drawdown limit.]

5. Recommend enforcement if the conservation plan is not implemented

6. Recommend reduced allocations of the conservation plan is not implemented

7. Recommend revocation of the permit if the conservation plan is not implemented

Tier 3 Wells: Drop dead level (level at which no further drawdown is allowed)

10. Define an action level by which a Tier 2 well/group of wells becomes a Tier 3 well/group of wells

11. Consider using water pumping levels, past actual static levels, and/or models to determine the action level. Committee wanted to allow additional drawdown, but not a large additional drawdown that may have unanticipated negative consequences.

12. Require reduced allocation and other aggressive water conservation plans be implemented

All Jordan wells and all Jordan permits

16. Recommend switching from static water level to pumping water level measurements. If implemented IDNR must clearly define in permits how pumping levels should be measured (i.e., drawings, written guidance, IDNR on-site technical support, etc. (Significantly revise and clarify 52.6)

Additional Recommendations/Suggestions:

18. Creation of protected water source areas where the Flow Model has identified specific locations/regions where the Jordan Aquifer static water level is rapidly depleting. We agree with IDNR's proposed protected source areas.

25. Geothermal use wording in draft regulations document received from DNR April 2014 is acceptable (i.e., no “pump and dump” geothermal withdrawals from the Jordan aquifer in 52.4(3)b)

26. Recommend that no new Jordan aquifer withdrawals for once-through (single-pass) cooling water use be allowed. If Jordan aquifer water is allocated for cooling, the facility must use cooling towers or other methods to reuse the water.

28. Requiring initial contact for all new Jordan wells go through IDNR (before county sanitarians)

33. Continual allocation of adequate funding and/or resources to maintain an accurate and current model. Example – fee per million gallons withdrawn from Jordan aquifer. Consider increasing water use fees or creating an additional fee or fund to help pay for these additional recommendations.

Estimate: The estimated staff time needed to implement these 15 recommendations on an annual basis is approximately 1,478 hours, or 0.82 FTE; see attached spreadsheet for detail.

Four recommendations already addressed in the permitting process:

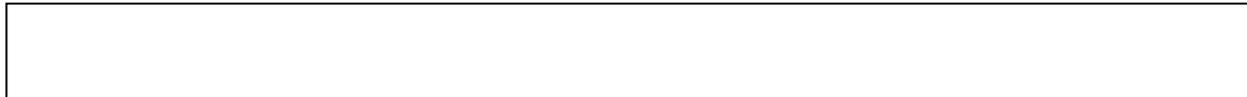
8. Recommend implementing a process to ensure that water use allocations are reserved for existing users prior to issuance of new well construction permits by IDNR and county sanitarians.

13. Once a well hits the drop dead level, the permittee cannot increase the drawdown. This limit needs to be enforced

27. 200 gpm limits on agricultural, recreational, and aesthetic uses in existing rules are adequate. The group mostly agreed that the economics of constructing a Jordan well with a limit of 200 gpm would deter most applicants.

32. Recommend maintaining the 2,000 gpm limit on industrial withdrawals in existing rules

Estimate: The estimated staff time needed to implement these 4 recommendations on an annual basis is approximately 160 hours, or 0.09 FTE; see attached spreadsheet for detail.



Tier 2 Wells: New wells within a protected source area; minimum water levels.

3. Recommend additional public notifications or updates occurring in protected water source areas.

9. Require water use allocation forecasts that are determined for entire pumping region prior to issuance of new well construction permits by DNR and county sanitarians.

Tier 3 Wells: Drop dead level (level at which no further drawdown is allowed)

14. Use model to determine future allocations. As model improves, revise allocations.

All Jordan wells and all Jordan permits

15. Define, for each individual well currently permitted to withdraw water from the Jordan, what the exact starting point/reference is (datum). Each Jordan permit should have a groundwater elevation and a reference measuring point defined in the permit for the Tier 2 threshold and Tier 3 limit. This comment relates to the regulatory and permit requirements “the 1977 baseline... 52.4(3)c”

[Example – Use the 1977 potentiometric “model defined” original static water level and then determine the Tier 1, Tier 2, and Tier 3 allowable pumping drawdown level allowed in an individual well.

1. Tier 1 – No issue: does not exceed (example = 350') pumping water elevation drawdown
 2. Tier 2 – Warning level: 350-450 ft. i.e., proposed “source water protected areas”
 3. Tier 3 – Drop-dead level: 450 ft.]
17. If static water level measurement remains part of the regulatory requirements, issue specific regulatory language or guidance about how to perform static water level testing. Some facilities cannot shut down a well to allow it to recover to static conditions, which makes it unrealistic to use static water level measurement in 52.6.

Additional Recommendations/Suggestions:

19. The Jordan aquifer groundwater model must be maintained and improved continuously as a management tool for the aquifer
20. Require all Jordan aquifer water pump test results for existing and new wells be submitted to IDNR for use in improving the Jordan aquifer model
21. IDNR should require water pump test results for new wells or increased water use allocation from existing wells in protected source areas. IDNR may also require observation wells. IDNR should be sure that pump tests are long enough to evaluate impacts to other users in the protected source areas.
22. Re-evaluate protected source area warning and drop-dead water area levels every 5 years based on new model that uses annual report data and new well testing pumping data
23. Recommend that IDNR hold annual public meetings and issue annual reports on the health of the Jordan aquifer
24. Create a Jordan aquifer email listserv for all existing Jordan well permit holders to allow public notification to existing well permittees when new allocations or wells are being considered or reviewed in the protected source areas.
29. Require at issuance or new or renewed permit time:
 - a. Continuous totalized flow measurement from the well (meters) (52.6)
 - b. Annual reports of measured monthly totals (52.6)
 - c. Justification of allocations greater than past annual water consumption (permit renewal process). In protected source areas, allocations beyond actual current need should be strictly limited.
30. Recommend switching from a 10-year permit renewal to a 5-year renewal period. (52.5(3))
31. Recommend annual on-site inspection program (public and private permits) for meters, on-site well systems, well level measurements, etc. (52.6)

Estimate: The estimated staff time needed to implement these 14 recommendations on an annual basis is approximately 3,922 hours, or 2.18 FTE; see attached spreadsheet for detail.

Jordan Aquifer Rule Expenditure Estimation

Item	Recommendation Text	Iowa DNR			Annual/ One-Time	Per Permit		
		Time (hrs)	Equip./ Fee	Total Cost (\$)		Time (hrs)	Equip./ Fee	Total Cost (\$)
Tier 1 Jordan Wells (Est. 160 Permits)	Wells that are not yet to a level of concern based on current and proposed annual water use and drawdown reports. Applies only to existing Jordan wells.	0	\$0	\$0	Annual	0	\$0	\$0
Tier 2 Jordan Wells (Est. 30 Permits)	New wells within a protected source area; minimum levels.							
1	Define an action level by which a Tier 1 well becomes a Tier 2 well. Consider using pumping levels, past actual static levels, and/or models to determine the action level.	80	\$0	\$4,400	One-Time	4	\$0	\$220
2	Define protected water source areas based on all available data (well levels, models, etc.). Include variance options that could lead to exclusion of a well from the protected area.	80	\$0	\$4,400	One-Time	0	\$0	\$0
3	Recommend additional public notifications or updates occurring in protected water source areas.	30	\$0	\$1,650	One-Time	0	\$0	\$0
4	Require a site-specific water conservation plan that is reviewed and approved by IDNR under 52.9.	600	\$0	\$33,000	One-Time	80	\$0	\$4,400
5	Recommend enforcement if the conservation plan is not implemented	30	\$0	\$1,650	Annual	0	\$0	\$0
6	Recommend reduced allocations of the conservation plan is not implemented	8	\$0	\$440	Annual	0	\$350	\$350
7	Recommend revocation of the permit if the conservation plan is not implemented	8	\$0	\$440	Annual	0	\$0	\$0
8	Recommend implementing a process to ensure that water use allocations are reserved for existing users prior to issuance of new well construction permits by IDNR and county sanitarians.	80	\$0	\$4,400	One-Time	0	\$0	\$0
9	Require water use allocation forecasts that are determined for entire pumping region prior to issuance of new well construction permits by DNR and county sanitarians.	40	\$0	\$2,200	Annual DNR/One-Time Permittee	4	\$0	\$220
	One-Time SubTotal Tier 2	870	\$0	\$47,850		88	\$0	\$4,620
	Annual SubTotal Tier 2	86	\$0	\$4,730		0	\$350	\$350
Tier 3 Jordan Wells (Est. 10 Permits)								
10	Define an action level by which a Tier 2 well/group of wells becomes a Tier 3 well/group of wells	80	\$0	\$4,400	One-Time	16	\$0	\$880
11	Consider using water pumping levels, past actual static levels, and/or models to determine the action level. Committee wanted to allow additional drawdown, but not a large additional drawdown that may have unanticipated negative consequences.	80	\$0	\$4,400	One-Time	16	\$0	\$880
12	Require reduced allocation and other aggressive water conservation plans be implemented	16	\$0	\$880	One-Time	20	\$0	\$1,100
13	Once a well hits the drop dead level, the permittee cannot increase the drawdown. This limit needs to be enforced.	80	\$0	\$4,400	Annual	0	\$0	\$0
14	Use model to determine future allocations. As model improves, revise allocations.	20	\$0	\$1,100	Annual	0	\$0	\$0
	One-Time SubTotal Tier 3	176	0	\$9,680		52	\$0	\$2,860
	Annual Subtotal Tier 3	100	0	\$5,500		0	\$0	\$0

All Jordan wells, all Jordan permits (Est. 200 Permits)								
15	Define, for each individual well currently permitted to withdraw water from the Jordan, what the exact starting point/reference is (datum).	16	\$0	\$880	One-Time	2	\$0	\$110
16	Recommend switching from static water level to pumping water level measurements. If implemented IDNR must clearly define in permits how pumping levels should be measured (i.e., drawings, written guidance, IDNR on-site technical support, etc. (Significantly revise and clarify 52.6)	16	\$0	\$880	One-Time	0	\$0	\$0
17	If static water level measurement remains part of the regulatory requirements, issue specific regulatory language or guidance about how to perform static water level testing.	0	\$0	\$0	One-Time	0	\$0	\$0
	One-Time SubTotal All Jordan Permits	32	\$0	\$1,760		2	\$0	\$110
	Annual Subtotal All Jordan Permits	0	\$0	\$0		0	\$0	\$0
Additional Recommendations (est 200 permits)								
18	Creation of protected water source areas where the Flow Model has identified specific locations/regions where the Jordan Aquifer static water level is rapidly depleting. We agree with IDNR's proposed protected source areas.	80	\$0	\$4,400	One-Time	8	\$0	\$440
19	The Jordan aquifer groundwater model must be maintained and improved continuously as a management tool for the aquifer	8	\$0	\$440	Annual	0	\$0	\$0
20	Require all Jordan aquifer water pump test results for existing and new wells be submitted to IDNR for use in improving the Jordan aquifer model	20	\$0	\$1,100	Annual	0	\$0	\$0
21** (Revised)	IDNR should require water pump test results for new wells or increased water use allocation from existing wells in protected source areas. IDNR may also require observation wells. IDNR should be sure that pump tests are long enough to evaluate impacts to other users in the protected source areas.	40	\$0	\$2,200	Annual DNR/One-Time Permittee	16	\$17,000	\$17,880
22	Re-evaluate protected source area warning and drop-dead water area levels every 5 years based on new model that uses annual report data and new well testing pumping data	40	\$0	\$2,200	Annual	8	\$0	\$440
23	Recommend that IDNR hold annual public meetings and issue annual reports on the health of the Jordan aquifer	40	\$0	\$2,200	Annual	8	\$0	\$440
24	Create a Jordan aquifer email listserv for all existing Jordan well permit holders to allow public notification to existing well permittees when new allocations or wells are being considered or reviewed in the protected source areas.	8	\$0	\$440	Annual	0	\$0	\$0
25	Geothermal use wording in draft regulations document received from DNR April 2014 is acceptable (i.e., no "pump and dump" geothermal withdrawals from the Jordan aquifer in 52.4(3)b)	0	\$0	\$0	Annual	0	\$0	\$0
26	Recommend that no new Jordan aquifer withdrawals for once-through (single-pass) cooling water use be allowed. If Jordan aquifer water is allocated for cooling, the facility must use cooling towers or other methods to reuse the water.	0	\$0	\$0	Annual	0	\$0	\$0
27	200 gpm limits on agricultural, recreational, and aesthetic uses in existing rules are adequate. The group mostly agreed that the economics of constructing a Jordan well with a limit of 200 gpm would deter most applicants.	0	\$0	\$0	Annual	0	\$0	\$0
28	Requiring initial contact for all new Jordan wells go through IDNR (before county sanitarians)	400	\$0	\$22,000	Annual DNR/One-Time Permittee	1	\$0	\$55

29	Require at issuance or new or renewed permit time: Continuous totalized flow measurement from the well (meters) (52.6); Annual reports of measured monthly totals (52.6); Justification of allocations greater than past annual water consumption (permit renewal process). In protected source areas, allocations beyond actual current need should be strictly limited.	60	\$0	\$3,300	Annual	1	\$1,800	\$1,855
30** (Revised)	Recommend switching from a 10-year permit renewal to a 5-year renewal period. (52.5(3))	400	\$0	\$22,000	Annual	1	\$0	\$55
31** (Revised)	Recommend annual on-site inspection program (public and private permits) for meters, on-site well systems, well level measurements, etc. (52.6)	2700	\$2,500	\$151,000	Annual	8	\$0	\$440
32	Recommend maintaining the 2,000 gpm limit on industrial withdrawals in existing rules	0	\$0	\$0	Annual	0	\$0	\$0
33	Continual allocation of adequate funding and/or resources to maintain an accurate and current model. Example - fee per million gallons withdrawn from Jordan aquifer. Consider increasing water use fees or creating an additional fee or fund to help pay for these additional recommendations.	0	\$0	\$0	Annual	0	\$0	\$0
One-Time SubTotal Additional Recommendations		80	\$0	\$4,400		25	\$17,000	\$18,375
Annual SubTotal Additional Recommendations		3,716	\$2,500	\$206,880		26	\$1,800	\$3,230

Total One-Time DNR hours:	1158	Total One-Time DNR\$:	\$63,690	Total One-Time permittee hours:	167	Total One-Time per Permit Holder\$:	\$25,965
Total Annual DNR hours:	3902	Annual DNR\$:	\$217,110	Total Annual permittee hours:	26	Annual Permit Holder\$:	\$3,580
DNR One-Time FTE:	0.64						
DNR Annual FTE:	2.17						

Assumptions:

Used \$100,000 for a salary plus benefits estimate, which, during a 1800 hour work year, is \$55/hour.

345 Jordan wells in 204 water use permits, with data from recent Jordan questionnaire. All responses haven't been received, but should be close.

Some wells may not be solely Jordan, but are still included here.

11/14/2014 update

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

10

DECISION

TOPIC

KOSSUTH COUNTY REQUEST FOR STAY OF CONSTRUCTION
PERMIT; CONTESTED CASE DECISION – P & J PORK LLC

On August 19, 2014, as amended on September 8, 2014, the Commission reversed the Department's preliminary denial of a construction permit to P & J Pork, LLC (P & J Pork), deciding that Intervenor/Kossuth County's Plum Creek Wildlife Area is not a public use area. Accordingly, the Department issued a construction permit to P & J Pork on September 11, 2014.

On September 18, 2014, Kossuth County filed a Petition For Judicial Review of the Commission's reversal decision. On September 22, 2014, Kossuth County filed with Director Gipp a Request For Stay of the construction permit issued to P & J Pork. In other words, Kossuth County requests that the construction permit issued to P & J Pork be placed on hold until the Court determines the propriety of the Commission's reversal decision.

Per the attached Order For Hearing issued by Chair Boote on October 3, 2014, briefs will be filed by Kossuth County and P & J Pork. Also, both parties will present oral argument on November 19, 2014.

Edmund J. Tormey, Chief
Legal Services Bureau

October 27, 2014

BEFORE THE ENVIRONMENTAL PROTECTION COMMISSION

IN THE MATTER OF:)	DIA NO. 14DNR002
)	
)	
P & J PORK, LLC)	
Facility ID No. 66873)	ORDER FOR HEARING
)	

COMES NOW Mary Boote, Chair of the Environmental Protection Commission (EPC), and makes the following Order for Hearing:

1. On August 19, 2014, and as amended on September 8, 2014, the EPC by votes of 6 to 2, reversed the Proposed Decision *In the Matter of P & J Pork, LLC*, DIA No. 14DNR002, concluding instead that the Plum Creek Wildlife Area is not a “facility” and therefore is not a “public use area” as defined in 567 IAC 65.1.

2. On September 11, 2014, the Iowa Department of Natural Resources (IDNR) issued to the applicant, P & J Pork, LLC, Construction Permit No. CP-A2014-107.

3. On September 18, 2014, Kossuth County filed its Petition for Judicial Review, *Kossuth County, Iowa v. IDNR and EPC*, Polk County Law No. CVCV026743, seeking reversal of the EPC’s final decision and denial of the construction permit.

4. On September 22, 2014, Kossuth County filed with IDNR Director Chuck Gipp the county’s Request for Stay of Execution and Enforcement of Agency Action, seeking a stay of Construction Permit No. CP-A2014-107, pending judicial review.

WHEREFORE, Kossuth County’s Request for Stay is scheduled for oral argument at the EPC’s meeting on November 19, 2014, commencing at 1:00 p.m. Each party shall have 10 minutes to argue, with a 5 minute Reply by Kossuth County. Supporting briefs shall be filed with the IDNR Director as follows:

- a. Brief by Kossuth County shall be filed no later than October 20, 2014;
- b. Brief by P & J Pork, LLC shall be filed no later than November 3, 2014; and
- c. Reply Brief by Kossuth County shall be filed no later than November 10, 2014.

DATED this 3rd day of October, 2014



MARY BOOTE, Chair
ENVIRONMENTAL PROTECTION COMMISSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing document was:

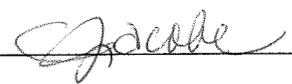
- sent regular U.S. Mail
- sent certified mail
- sent via electronic mail

to each party of record addressed as follows:

Eldon L. McAfee
Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048

Todd M. Holmes, County Attorney
Kossuth County Courthouse
114 W. State Street
Algona, IA 50511

on this 3rd day of October, 2014


_____.

BEFORE THE ENVIRONMENTAL PROTECTION COMMISSION
DES MOINES, IOWA

IN THE MATTER OF P & J PORK, LLC Facility ID No. 66873	P & J PORK'S OPPOSITION TO KOSSUTH COUNTY'S REQUEST FOR STAY OF ISSUANCE OF CONSTRUCTION PERMIT AND BRIEF IN SUPPORT OF THAT OPPOSITION DOCKET NO. 14DNR002
--	--

P&J Pork, LLC files this Opposition to Kossuth County's Request For Stay of Issuance of Construction Permit and Brief in Support of That Opposition before the Environmental Protection Commission.

Statement of the Case.

P&J Pork received its construction permit from the Department following the Environmental Protection Commission's decision on August 19 and September 8 that the Plum Creek Wildlife Area was not a public use area because it did not have a facility as required by DNR rules. Kossuth County has filed a petition in Kossuth County District Court challenging the EPC's decision and has also requested that this EPC issue a stay of construction under the construction permit which was issued by the Department.

P&J Pork opposes Kossuth County's Request for a Stay for the legal reasons stated in this opposition. Beyond that, from a practical perspective, P&J Pork has been delayed long enough by the legal process following the Department's initial denial which was invalidated by the EPC. P&J Pork strongly believes that it must be allowed to proceed with construction under the construction permit as it deems appropriate under the law. Any further delay while Kossuth County's Petition for Judicial Review is considered by the court will cause P&J Pork further and unnecessary financial losses. In short, P&J Pork simply wants to get on with its plans to conduct its hog operation as it originally planned to do when it constructed the first building on this site.

Argument in Reply to Kossuth County.

As Kossuth County notes in its Brief, the factors EPC may consider in reviewing the Request for Stay are not set out in the Iowa Code. However, the critical point to note is that the decision that will be reviewed by the Court in Kossuth County's Petition for Judicial Review as the final action of the Department and the EPC is the EPC's decision, not the Proposed Decision issued by the Administrative Law Judge in this case. The Iowa Supreme Court has ruled that "[u]pon judicial review, the district court reviews the final agency decision, not the hearing officer's proposal." *Iowa State Fairgrounds Sec. v. Iowa Civil Rights Commission*, 322 N.W.2d 293, 294 (1982). The court in that case did note, however, that when there is a disagreement on the facts between a hearing officer and the agency, a court must examine the entire agency record, including the hearing officer's decision. *Iowa State Fairgrounds Sec. v. Iowa Civil*

Rights Commission, 322 N.W.2d at 295 (underline added). However, in this case, there was essentially no disagreement as to the facts between the ALJ's proposed decision and the EPC's final agency decision. The disagreement was on the interpretation of the law. Although not binding legal precedent like an Iowa Supreme Court decision, an Iowa district court has ruled that a proposed decision of a hearing officer that is not final agency action has no bearing on a court's determination of whether an agency's interpretation of the law was correct. See *Walnut Brewery, Inc. v. Iowa Department of Commerce*, Polk County District Court No. CV7126, November 17, 2008 (underline added). This distinction between an agency's interpretation of the law vs. an interpretation of the facts is critical in this case. Kossuth County's argument that somehow the ALJ's interpretation of the DNR rule on lakes as facilities for purposes of the definition of public use area will outweigh the EPC's interpretation of that rule is simply wrong. Thus, Kossuth County's argument that a stay should be entered because it is likely to succeed on the merits is not correct under well-established principles of judicial review.

Kossuth County essentially admits that it will not be irreparably harmed if a stay is not granted if the court case proceeds as it should. P&J Pork agrees with this analysis and will take all actions it can as an Intervenor to support the Department and the EPC, as well as Kossuth County in moving the case along in a timely fashion.

Regarding substantial harm to other parties, as noted in the Statement of the Case in the Brief, P&J Pork has already been harmed by the delay in receiving its construction permit and is adamantly opposed to any further delay in being able to proceed with construction.

Finally, P&J Pork asserts that to obtain a stay in this matter, Kossuth County should be required to post a bond. In the case of *Teleconnect Co. v. Iowa State Commerce Comm'n*, 366 N.W.2d 511, 514 (Iowa 1985), the Iowa Supreme Court ruled that for a stay to be issued in a judicial review of an agency action a bond should have been required in the same manner as for an injunction under the Iowa Rules of Civil Procedure. Under these rules, Iowa R. Civ. P. 1.1508, a bond of 125 percent of the probable liability to be incurred against the party requesting the injunction, or in this case a stay. If a stay is to be issued by EPC, which P&J Pork strongly opposes, P&J Pork requests that Kossuth County be required to post a bond.

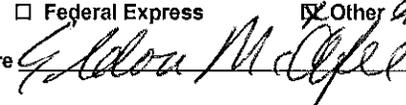
Request for Oral Argument.

P&J Pork requests oral argument at the November 19, 2014 Environmental Protection Commission meeting.

Dated: November 3rd, 2014.


Eldon L. McAfee AT0004987
Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, Iowa 50309-2026
(515) 237-1188
emcafee@bevinglaw.com
ATTORNEYS FOR P & J PORK, LLC

Original filed with:
Environmental Protection Commission
502 East 9th Street
Des Moines, Iowa 50319

<p>Copy To:</p> <p>Todd M. Holmes Kossuth County Attorney 114 West State St. Algona, IA 50511 ATTORNEY FOR PETITIONERS</p> <p>David Sheridan Assistant Attorney General Environmental Law Division Lucas State Office Building 321 E. 12th Street, Ground Floor Des Moines, Iowa 50319 ATTORNEY FOR RESPONDENTS</p>	<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at such attorney's address as disclosed by the pleadings of record herein on the <u>3rd</u> day of <u>November</u>, 2014.</p> <p>By: <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Federal Express <input checked="" type="checkbox"/> Other <i>mail</i></p> <p>Signature </p>
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BEFORE THE IOWA DEPARTMENT OF NATURAL RESOURCES
BEFORE THE IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Appeals and Fair Hearings

IN THE MATTER OF) DIA No. 14DNR002
P & J PORK, LLC)
Facility ID No. 66873) BRIEF IN SUPPORT OF PETITIONER'S
) REQUEST FOR STAY OF EXECUTION
) AND ENFORCEMENT OF AGENCY ACTION

COMES NOW, Kossuth County, Iowa, by and through its attorney, Todd M. Holmes, and in support of the request for stay filed herein hereby states as follows:

STATEMENT OF FACTS AND OF THE CASE

On December 4, 2013, the Department of Natural Resources (Department) preliminarily denied the Application by P & J Pork, LLC, to construct a new swine confinement building based on the conclusion that the location of the proposed confinement building does not meet the required 2,500 feet separation distance from a public use area, specifically the Plum Creek Wildlife Area located in Kossuth County, Iowa, as set forth in Iowa Code section 459.202(5) and 567 Iowa Administrative Code 65.11(1).

P & J Pork, LLC, appealed the Department's preliminary determination. After a contested case hearing on April 23, 2014, the Administrative Law Judge (ALJ) issued a Proposed Decision on June 10, 2014, concluding that the Iowa Department of Natural Resources properly denied P & J Pork's application.

P & J Pork, LLC, appealed this Proposed Decision to the Environmental Protection Commission (Commission) and on August 19, 2014, the Environmental Protection Commission took action reversing the Proposed Decision, concluding that the Plum Creek Wildlife Area is not a "facility" and therefore is not "a public use area" as defined in 567 IAC 65.1. The initial action taken by the Environmental Protection Commission was amended on September 8, 2014. Subsequent thereto the Iowa Department of Natural Resources issued a construction permit pursuant to Iowa Code Sections 459.303 and 459.304, and 567 IAC 65.10(9)"b". From this action Kossuth County seeks an order staying execution and enforcement of the construction permit.

ARGUMENT

Although an agency may grant a stay on appropriate terms or provide other temporary remedies during the pendency of judicial review, the Code of Iowa is silent as to factors the agency should consider and balance when determining if such a remedy is warranted. It does, however, provide four factors the Court should consider in adjudication of a motion for stay: (1)

the extent to which the applicant is likely to prevail when the Court finally disposes of the matter; (2) the extent to which the applicant will suffer irreparable injury if relief is not granted; (3) the extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings; and (4) the extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstance. *Iowa Code Section 17A.19(5)(c)*. Therefore, I will address these four factors to support the relief sought.

I. KOSSUTH COUNTY IS LIKELY TO SUCCEED ON THE MERITS OF ITS PETITION FOR REVIEW.

It is difficult to address this factor due to the lack of any written opinion setting forth the Commission's reasons and rationale behind its decision in this case. No explanation by the Commission has been presented as to how the relevant evidence in the record supports its determination. However, in listening to the comments made by the commissioners it would appear that the decision was based largely upon the lack of a built structure upon the area. I believe one commissioner mentioned his decision might change if a "restroom" would have been constructed by the body of water.

I would submit that the rule in question, 567 IAC Chapter 65.1, does not require such built structures for any area to be considered a "facility". As a matter of fact, two of the identified facilities included in the definition, swimming beaches and cemeteries, do not necessarily have any built structures, short of cemeteries having grave markers, yet the rule identifies them as facilities.

The most compelling reason to support the determination that Kossuth County is likely to succeed on the merits is the fact that an independent and detached Administrative Law Judge, experienced in statutory construction, determined based upon the evidence presented and arguments of counsel that the Plum Creek Wildlife Area meets the definition of a facility. The decision affirmed the Department's decision.

The ALJ identified that this dispute involves rule interpretation. "The rules of statutory construction also govern the interpretation of an administrative agency's rules." *In the Matter of P & J Pork, LLC*, Proposed Decision Page 5, citing *Mesina v. Iowa Dept of Job Serv.*, 341 N.W.2d 52, 56 (Iowa 1983). "Common sense and sound reason" must be used in interpreting administrative rules. *Cf. Kulish v. Ellsworth*, 566 N.W.2d 885, 891 (Iowa 1997). The ALJ, pursuant to the Court's guidance in *State v. Simmons*, 500 N.W.2d 58, 59 (Iowa 1993), applied the "plain or ordinary meaning" to the undefined words "congregate," "remain," and "significant." The ALJ found that upon applying the facts in evidence to the rule, when properly construed, the Plum Creek Wildlife Area meets the definition of a facility.

The determination by the ALJ is supported by substantial evidence in the record. Even the testimony from P & J Pork, LLC, supports the conclusion that this area is a facility. When the record is viewed as a whole the great weight of the evidence leads to only one conclusion. Plum Creek Wildlife Area is a facility as defined in 567 IAC Chapter 65.1.

II. KOSSUTH COUNTY WILL BE IRREPARABLY INJURED ABSENT A STAY.

Kossuth County concedes that irreparable injury is unlikely to occur unless the judicial review of the Commission's action takes longer than anticipated. That being said, if construction occurs prior to the Court's determination the harm associated therewith is exactly the harm that the Rule seeks to prevent. Of course, this would be dependent upon the Court's ruling on the matter and the time associated with the processing of the case.

III. THE ISSUANCE OF A STAY WILL NOT SUBSTANTIALLY HARM OTHER PARTIES NOR BE CONTRARY TO THE PUBLIC INTEREST.

If the Commission issues a stay it will not substantially harm P & J Pork, LLC. Quite the contrary. If P & J Pork, LLC, begins construction and thereby starts to invest resources into the facility, a ruling by the Court in favor of Kossuth County could substantially harm them. By issuing a stay the commission is only temporarily delaying construction of the facility. If P & J Pork, LLC, is successful in the judicial review proceedings the slight delay amounts to very little harm.

Furthermore, a stay would not be contrary to the public interest. Inasmuch as Kossuth County is representing the public interest in this matter it cannot be argued that a stay would be contrary thereto.

CONCLUSION

The purpose of granting interim injunctive relief, by stay pending appeal, is preventative, or protective; it seeks to maintain the status quo pending a final determination of the merits of the case. *McLeodUSA Telcoms. Servs. v. Qwest Corp.*, 361 F. Supp. 2d 912, 2005 U.S. Dist. LEXIS 4670 (D. Iowa, March 23, 2005, Decided). Based on the foregoing, Kossuth County respectfully requests that the Commission grant this request for a stay pending final determination of the merits of the petition for judicial review.

Dated: October 20, 2014.

Respectfully Submitted,



Todd M. Holmes
Kossuth County Attorney
114 West State Street
Algona, Iowa 50511
Phone: 515-295-9419
Fax: 515-295-3894
Email: attorney@co.kossuth.ia.us

CERTIFICATE OF SERVICE

I certify that on this 20th day of October, 2014, I caused a true and correct copy of the foregoing document to be forwarded, by the method indicated below, to the following persons:

Eldon L. McAfee
Beving, Swanson & Forrest, P.C.
321 E. Walnut
Suite 200
Des Moines, Iowa 50309

David R. Sheridan
David S. Steward
Environmental Law Division
Lucas State Office Building
321 E. 12th Street
Room 18
Des Moines, Iowa 50309

Hand Delivery _____

U.S. Mail _____

Certified Mail _____

Fax _____

Electronic Mail _____



**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

11

DECISION

TOPIC

DEMAND FOR HEARING – HUMBOLDT COUNTY; HAWKER FARMS II,
LLC

On October 1, 2014, the Department issued a draft construction permit to Hawker Farms II, LLC (Hawker Farms), indicating a preliminary decision to approve Hawker Farms' application to construct two new swine confinement finishing barns in Lake Township, Humboldt County. Notice of the preliminary decision was delivered to the Humboldt County Board of Supervisors (Humboldt County) via email on October 1, 2014. On October 13, 2014, Humboldt County notified the Department by facsimile of its intent to file a demand for hearing. Humboldt County's Demand For Hearing was received by the Department on October 29, 2014. Humboldt County has requested the opportunity to make oral statements. Pertinent documents relating to the Demand, and the Department's and Hawker Farms' responses to it, will be provided to the Commission.

The Commission is requested to review this matter and render a final decision on November 19, 2014, or no later than December 3, 2014, which is 35 days from the date the Department received Humboldt County's Demand For Hearing.

William Ehm
Administrator
Environmental Services Division

October 29, 2014

RECEIVED

OCT 29 2014

Director's Office

Director
Department of Natural Resources
Henry Wallace Building
502 East Ninth Street
Des Moines, Iowa 50319

Pursuant to Iowa Code section 459.304(3) and Iowa Administrative Code chapter 567, section 65.10(8), the Humboldt County Board of Supervisors contests the Iowa Department of Natural Resources' decision to approve the application allowing Hawkeye Farms II, LLC to construct two new swine finishing confinement buildings that would be located in the SW 1/4 of the SE 1/4 of Section 32, T92N, R27W, Lake Township, Humboldt County, Iowa. The Humboldt County Supervisors demands a formal hearing on this matter.

The decision to approve the application permit should be reversed. This area is low ground and considered a wet area by the surrounding landowners. The condition of this land is no different from wetlands as defined in Iowa Code section 456B.1(5). However, this area has not been designated a protected wetland. Any runoff from the new buildings poses a hazard to surface water and groundwater. Runoff would contaminate the water and affect drinking water. Based on this information, the application should be denied.

No one affiliated with Hawkeye Farms II, LLC will be living in the area. However, several residences are located in the area. The concern is the location of the new buildings will decrease property values for residents near this proposed construction site. Further, this area is located on gravel roads. These roads do not have much traffic. The increase in traffic, especially truck traffic, will degrade the roads and increase the cost of maintaining the roads. This will also contribute to the decrease in property values.

Hawkeye Farms' application to build the two swine finishing confinement buildings should not be approved. The cost to the residents nearby is too great. The danger of contaminated groundwater and surface water is increased by the low-lying, marshy land where the building site is located. Hawkeye Farms' request to build at this location (the SW 1/4 of the SE 1/4 of Section 32, T92N, R27W, Lake Township, Humboldt County, Iowa) should be rejected. Other, more suitable areas of Humboldt County would be available to them.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harlan Hansen".

Harlan Hansen
Chairman, Humboldt County Board of Supervisors

cc: Michael Blaser

BEFORE THE IOWA ENVIRONMENTAL PROTECTION COMMISSION

<p>IN THE MATTER OF:</p> <p>HUMBOLDT COUNTY HEARING DEMAND: Re: Hawker Farms II, LLC Hiway 3 Finisher Site Facility # 68281</p>	<p style="text-align: center;">DEPARTMENT RESPONSE TO HUMBOLDT COUNTY DEMAND FOR HEARING</p>
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The Iowa Department of Natural Resources (Department) responds to the Demand For Hearing submitted by Humboldt County as follows:

On October 29, 2014, the Department received a Demand For Hearing from the Humboldt County Board of Supervisors after a Notice of Intent (permit draft) was issued to Hawker Farms II, LLC (Hawker Farms) on October 1, 2014, for the Hiway 3 Finisher Site. The permit draft would authorize Hawker Farms to construct two new swine confinement finishing buildings (each 51'2" x 376' with an 8' below floor concrete pit) as a new confinement feeding operation. The site is located in the SW¼ of the SE¼ of Section 32, T92N, R27W, (Lake Township) Humboldt County, Iowa. The total animal capacity of the operation after construction is 5,000 head or 2,000 animal units.

Department's Review History

After receipt of the construction permit application on August 22, 2014, Department staff from Field Office 2 (FO2) conducted site surveys on September 8, 2014, and determined that the locations of the proposed confinement buildings satisfy all separation distances required by Iowa law, including distances to commercial enterprises, residences, water sources and road rights-of-way. FO2 staff also reviewed the manure management plan submitted by Hawker Farms and approved it on September 2, 2014. By letter dated September 17, 2014, Humboldt County reported that the Hawker Farms application received a passing Master Matrix score of 450 points (at least 440 required to pass); the County recommended that the Department deny the application because of surface water and groundwater contamination.

Department Environmental Engineer, Cindy Garza, reviewed the application for completeness, including fees; compliance with separation distance requirements; design requirements for concrete manure storage structures; proximity to karst terrain and the 100 year flood plain; and pending enforcement actions. After her review, Ms. Garza determined that the Hawker Farms application met all statutory and rule requirements. For this reason, Ms. Garza issued the draft permit on October 1, 2014.

Humboldt County Contentions

1) Surface Water and Groundwater Issues: This area is low ground and considered a wet area by surrounding landowners. The condition of this land is no different from wetlands as defined in Iowa Code section 456B.1(5). However, this area has not been designated a protected wetland. Any runoff from the new buildings poses a hazard to surface water and groundwater. Runoff would contaminate the water and affect drinking water.

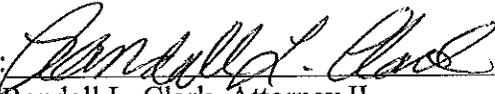
2) Property Values and Impact to Roads: Several residences are located in the area; the new buildings will decrease property values for residences near the proposed site. This area is located on gravel roads that do not have much traffic; this operation will increase traffic, especially truck traffic, resulting in road degradation and increased road maintenance costs. This impact to roads will contribute to the decrease in property values.

Department Response

1) Surface and Groundwater Issues. Humboldt County does not explain why it is concerned the area is low ground. Assuming the concern is the potential impact of a high water table on the manure storage pit, draft permit condition 4(d) requires installation of a drainage tile system around the base of the manure storage structure. Regarding manure runoff concerns, Iowa law requires confinement feeding operations to retain all manure between periods of land application and manure must be land-applied pursuant to the Department-approved manure management plan.

2) Property Values and Impact to Roads. The Department does not have authority to deny the application based on impacts to property values and roads.

IOWA DEPARTMENT OF NATURAL RESOURCES

By: 
Randall L. Clark, Attorney II
Iowa Department of Natural Resources
900 E. Grand Avenue
Des Moines, IA. 50319-0034
Ph: 515/281-8891

Copy to: Harlan Hansen, Chairman, Humboldt County Board of Supervisors
Michael Blaser, Attorney for Hawker Farms II, LLC

November 4, 2014

direct phone: 515-242-2480

direct fax: 515-323-8580

email: blaser@brownwinick.com

VIA EMAIL AND U.S. MAIL

Mr. Randall L. Clark, Attorney II
Iowa Department of Natural Resources
Henry A. Wallace Building
502 E. 9th Street
Des Moines, IA 50319
Email: Randy.Clark@dnr.iowa.gov

Re: Hawker Farms II, LLC - Hiway 3 Finisher, Humboldt County
Humboldt County Demand for Hearing

Dear Mr. Clark:

This letter is in response to the letter sent to you by Harlan Hansen, on behalf of the Humboldt County Board of Supervisors, requesting a hearing and contesting the Iowa Department of Natural Resources' decision to approve Hawker Farms II, LLC's ("Hawker Farms") application to construct swine confinement buildings.

I would ask that this letter and the enclosed materials be furnished to the members of the Iowa Environmental Protection Commission ("EPC") for their review and consideration prior to the hearing on these matters scheduled for the EPC's meeting to be held on Wednesday, November 19, 2014.

It is important to note that Mr. Hansen, in his letter, does not dispute the fact that Hawker Farms fully complies with all applicable laws, rules, and regulations set forth by the Iowa General Assembly and the Iowa DNR for the approval of the construction permits in question. Nor does Mr. Hansen dispute the fact that Hawker Farms' application received more than satisfactory scores on the Department's Master Matrix that accompanies the permit application. In fact, Cindy Garza, an environmental engineer with the DNR, went through Hawker Farms' application, plans and other documentation related to the facilities in painstaking detail prior to approving them.

Having no statutory or regulatory basis for the appeal, Mr. Hansen instead attempts to raise issues related to matters that are: (a) either already addressed by the application's requirements and Iowa law, or (b) are matters that are not within the scope of the DNR's authority or the EPC's authority. I will address each of the issues Mr. Hansen has raised briefly as follows:

1. Surface Water and Groundwater Issues.

Mr. Hansen's first issue is that the proposed location of the confinement buildings is an area of low ground and is considered a wet area by surrounding landowners making the ground "no different from wetlands as defined in Iowa Code section 456B.1(5)". Even though Mr. Hansen likens the area to a wetland, the land is not a protected wetland and Mr. Hansen does not explain why Humboldt County is concerned that the area is an area of low ground. The Department and the EPC are forced to assume that the concern is related to the potential impact of a high water table on the manure storage pit and manure runoff. These potential concerns are addressed by the permit requirements and Iowa law. The permit requirements address the manure storage concern in requiring installation of a drainage tile system around the base of a manure storage structure. Iowa law addresses manure runoff concerns in requiring confinement feeding operations to retain all manure between periods of land application and by requiring the land application of manure to be done pursuant to a Department approved manure management plan.

Furthermore, Mr. Hansen's concerns regarding Hawker Farms' proposed use of the land are clearly not borne out when the current and historical use of land in the area is considered. Attached as Exhibit 1 is a copy of a map of the area in question from the Andreas Atlas of 1875. The location of the proposed facility is shown in what was called an "impassable marsh" back in 1875. Exhibit 1 also shows that there was a lake – called "Owl Lake" – just to the northeast of the "impassable marsh".

Attached as Exhibit 2 is an aerial photo of the area in question from the 1930's, again with the proposed facility location shown. All of the former "impassable marsh" was being cropped at least from that time. Finally, attached as Exhibit 3 is an overlay of the current uses of the area on top of the marshes shown on 1875 Andreas Atlas map. It should be noted that in the areas once thought to be marsh, there has been a number of livestock related operations, including an existing confinement operation that utilizes an earthen lagoon or basin, rather than an under-building concrete storage structure for manure storage. In addition, the nearby town of Thor was built on the "marsh" and Thor's wastewater treatment facility was also built on the same "marsh". The fact is that the construction and operation of livestock farms and other farming related uses of the land have been occurring in the area for over 80 years.

2. Property Values and Impact to Roads.

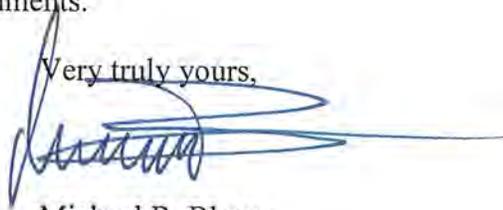
Mr. Hansen's second issue concerns the impact of Hawker Farms on the surrounding area's property values and increased traffic. However Mr. Hansen fails to provide any concrete numbers or evidence of the actual impact on the surrounding land and instead asserts these claims without any substance to back them up. Regardless, the Department and the EPC do not have the authority to deny an application based upon the impact to property values.

Mr. Randall L. Clark, Attorney II
Iowa Department of Natural Resources
November 4, 2014
Page 3

In sum, there is no basis to deny the issuance of the permits. The site in question meets and exceeds all applicable requirements. Hawker Farms has carefully chosen this site and has expended considerable funds to ensure that Iowa laws and regulations are followed. On behalf of Hawker Farms, I would respectfully request that the EPC deny this appeal and direct that the permit in question be issued to Hawker Farms immediately.

Thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Michael R. Blaser", with a long horizontal flourish extending to the right.

Michael R. Blaser

Enclosures

- Exhibit 1: 1875 Andreas Atlas Map
- Exhibit 2: 1930's Iowa USDA Ortho Map
- Exhibit 3: Overlay Map

cc: Harlan Hansen, Chairman, Humboldt County Board of Supervisors (U.S. Mail Only)
Jonathan Beaty, Humboldt County Attorney

Hiway 3 Andreas Atlas Map

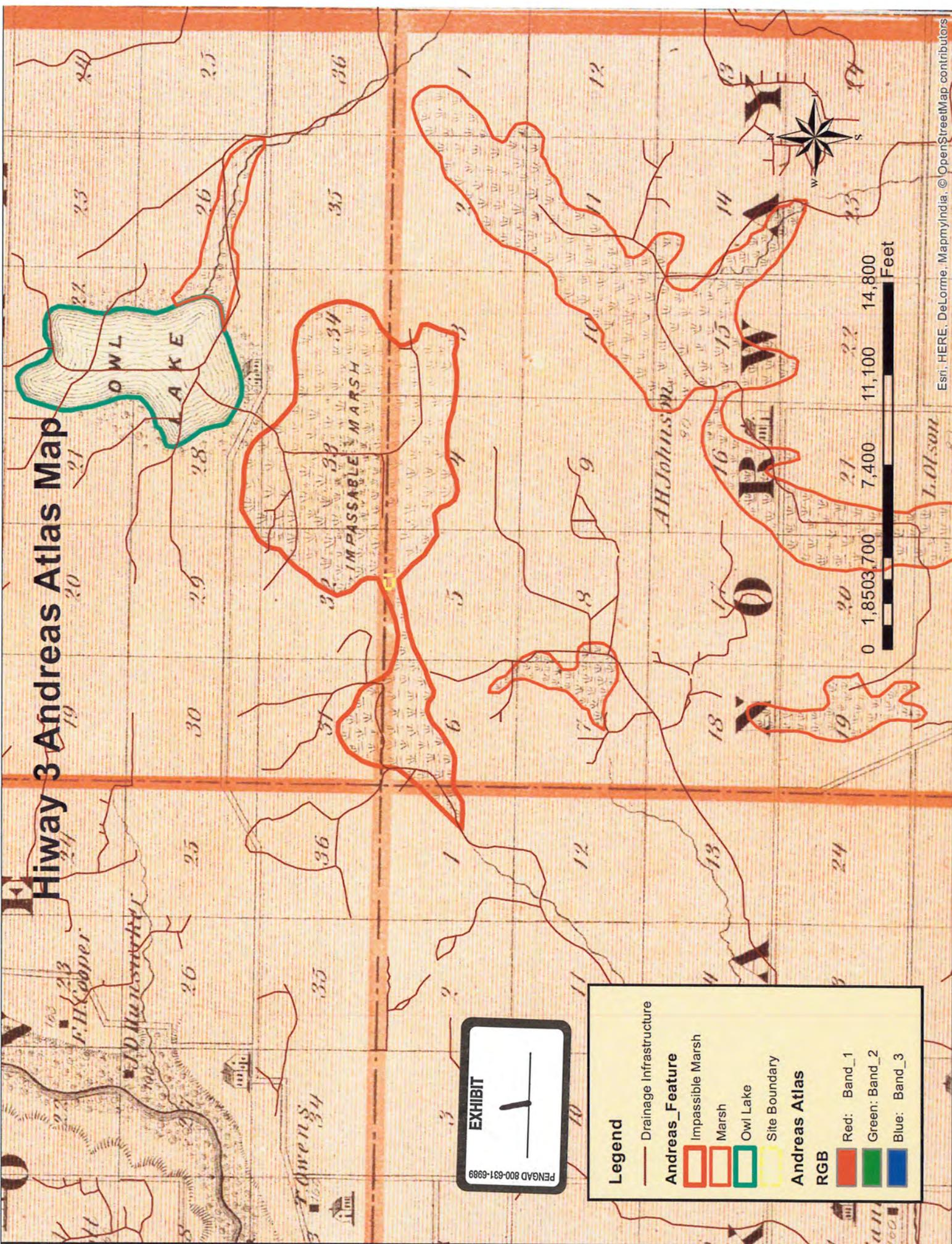


EXHIBIT
1
 PENGAD 800-631-6989

Legend

- Drainage Infrastructure
- Andreas_Feature**
 - Impassable Marsh
 - Marsh
 - Owl Lake
 - Site Boundary
- Andreas Atlas**

RGB

- Red: Band_1
- Green: Band_2
- Blue: Band_3

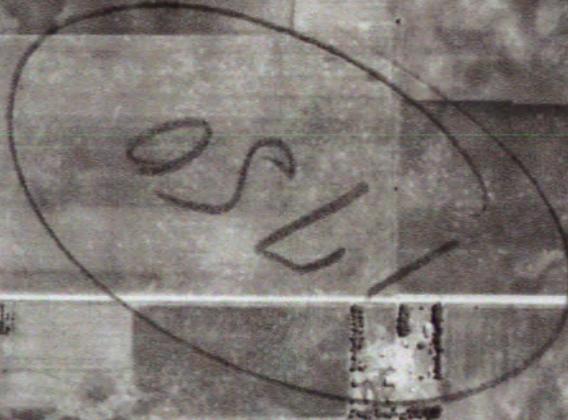


Hiway 3 1930s Iowa USDA Ortho Map

4940

County Highway P66

State Highway 3



3-2

Proposed Hiway 3 F arm

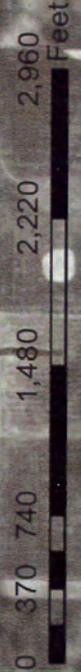


EXHIBIT
2
PENGAD 800-631-6989

Legend

-  Site Boundary
-  World Transportation

Hiway 3 Andreas Atlas Map

Livestock Lagoon

County Highway P66

Proposed Hiway 3 Farm

State Highway 3

Thor Treatment Lagoons

Thor

PENGAD 800-631-6989

EXHIBIT

3

Legend

- Drainage Infrastructure
- Andreas_Feature**
- Impassible Marsh
- Marsh
- Owl Lake
- Site Boundary
- World Imagery



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, Source: Esri, DigitalGlobe, GeoEye, Earthstar (USA), USGS, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

October 31, 2014

Jonathan Beaty
Humboldt County Attorney
P.O. Box 23
Dakota City, IA. 50529
Sent via email to delaynal@goldfieldaccess.net

RE: Hawker Farms II, LLC application to construct swine confinement buildings
Hiway 3 Finisher site in Lake Township, Humboldt County
Humboldt County Demand For Hearing

Dear Mr. Beaty:

Pursuant to your request, please be advised that Humboldt County has an appointment to address the Environmental Protection Commission (EPC) regarding the above-referenced matter at 2:00 p.m. on November 19, 2014. The meeting will be held in the in the Ingram Building-Suite 1, 7900 Hickman Road, Windsor Heights, Iowa.

Humboldt County's presentation must be limited to **15 minutes** but you can allocate that time among as many representatives as you desire. Hawker Farms II, LLC representatives and Department staff will each be subject to the same time limitation. Commissioners will endeavor not to ask questions of the presenters until the conclusion of the presentation, so that you will have the entire 15 minute period to present your viewpoint. Please be advised that presentations by Hawker Farms representatives, Department staff and Humboldt County must be limited to issues raised and documents included in the Demand For Hearing and in the written responses by Hawker Farms and the Department.

Please contact me at 515/281-8891 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Randall L. Clark".

Randall L. Clark
Attorney II
Legal Services

c: Field Office 2 (via email)
Michael Blaser, Attorney for Hawker Farms II, LLC (via email)



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

October 31, 2014

Michael Blaser
Attorney at Law
666 Grand Avenue, Suite 2000 Ruan Center
Des Moines, IA. 50309
Sent via email to blaser@brownwinick.com

RE: Hawker Farms II, LLC application to construct swine confinement buildings
Hiway 3 Finisher site in Lake Township, Humboldt County
Humboldt County Demand For Hearing

Dear Mr. Blaser:

Pursuant to your request, please be advised that Hawker Farms II, LLC has an appointment to address the Environmental Protection Commission (EPC) regarding the above-referenced matter at 2:00 p.m. on November 19, 2014. The meeting will be held in the Ingram Building-Suite 1, 7900 Hickman Road, Windsor Heights, Iowa.

Hawker Farms II, LLC's presentation must be limited to **15 minutes** but you can allocate that time among as many representatives as you desire. Humboldt County representatives and Department staff will each be subject to the same time limitation. Commissioners will endeavor not to ask questions of the presenters until the conclusion of the presentation, so that you will have the entire 15 minute period to present your viewpoint. Please be advised that presentations by Hawker Farms II, LLC representatives, Department staff and Humboldt County must be limited to issues raised and documents included in the Demand For Hearing and in the written responses by Hawker Farms II, LLC and the Department.

Please contact me at 515/281-8891 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Randall L. Clark".

Randall L. Clark
Attorney II
Legal Services

c: Field Office 2 (via email)
Jonathan Beaty, Humboldt County Attorney (via email)



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

October 1, 2014

Matt Nelsen
New Modern Concepts
824 Brooks Road
Iowa Falls, IA 50126

RE: Notice of Intent to Issue a Permit for Hiway 3 Finisher Site
Humboldt County, Facility ID #68281

Dear Mr. Nelsen:

The Iowa Department of Natural Resources (IDNR) has made a preliminary determination that your application for a construction permit to build two new swine finishing confinement buildings with beneath the floor deep concrete pits satisfies the legal requirements for issuance of a permit. A draft construction permit for the facility is enclosed.

Iowa Code Section 459.304 allows the Humboldt County Board of Supervisors to contest this decision, as explained in the attached letter. Therefore, the IDNR's intent to issue this permit is not a final decision and you are not authorized to begin construction under the terms of the permit at this time. A final permit will be issued on the 15th day following receipt of this notice by Humboldt County unless the County timely submits a facsimile (FAX) notice of intent to file a demand for hearing. If the County submits a notice of intent to file a demand for hearing, you will be notified, and the permit will not be issued until it is affirmed by the Environmental Protection Commission (EPC).

You may contest the conditions of the proposed permit as provided in 567 Iowa Administrative Code 65.10(8). A copy of this subrule is enclosed.

If you have any questions regarding this draft permit, please contact Cindy Garza at (641) 424-4073, or our field office directly.

Sincerely,
FIELD SERVICES AND COMPLIANCE BUREAU

A handwritten signature in blue ink, appearing to read "Cindy M. Garza".

CINDY M. GARZA
ENVIRONMENTAL ENGINEER

c: Humboldt County Board of Supervisors
Attn: Peggy Rice, Auditor, 203 Main Street, Dakota City, IA 50529
Iowa DNR - Field Office #2 Attn: Daniel Watterson

567 Iowa Administrative Code 65.10(8)

65.10(8) Applicant's demand for hearing. The applicant may contest the department's preliminary decision to approve or disapprove an application for permit by filing a written demand for a hearing. The applicant may elect, as part of the written demand for hearing, to have the hearing conducted before the commission pursuant to paragraph 65.10(8) "a" or before an administrative law judge pursuant to paragraph 65.10(8) "b." If no such election is made, the demand for hearing shall be considered to be a request for hearing before the commission. If both the applicant and the county board of supervisors are contesting the department's preliminary decision, the applicant may request that the commission conduct the hearing on a consolidated basis.

a. Applicant demand for hearing before the commission. Due to the need for expedited scheduling, the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to file a demand for hearing. The demand for hearing shall be sent to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, postmarked no later than 30 days following the applicant's receipt of the department's notice of preliminary decision. If the county board of supervisors has filed a demand for hearing, the times for facsimile notification and filing a demand for hearing are extended an additional 3 business days. It is the responsibility of the applicant to communicate with the department to determine if a county demand for hearing has been filed. The demand for hearing shall include a statement setting forth all of the applicant's reasons why the application for permit should be approved or disapproved, including legal briefs and all supporting documentation, and a further statement indicating whether an oral presentation before the commission is requested.

b. Applicant contested case appeal before an administrative law judge. The applicant may contest the department's preliminary decision to approve or disapprove an application according to the contested case procedures set forth in 561—Chapter 7; however, if the county board of supervisors has demanded a hearing pursuant to subrule 65.10(7), the applicant shall provide facsimile notification to the department within the time frame set forth in 65.10(8) "a" that the applicant intends to contest the department's preliminary decision according to contested case procedures. In that event, the applicant may request that the hearings be consolidated and conducted as a contested case.

STATE OF IOWA
DEPARTMENT OF NATURAL RESOURCES
HENRY A. WALLACE BUILDING
DES MOINES, IOWA 50319

CONSTRUCTION PERMIT

Issued Date: **DRAFT**

Permit No: **DRAFT**

Issued To:

Hawker Farms II, LLC
824 Brooks Road
Iowa Falls, Iowa 50126

File: Agriculture

RE: Hiway 3 Finisher Site

Facility ID No.: 68281

In accordance with the provisions of Sections 459.303 and 459.304 and 567 Iowa Administrative Code (IAC) 65.7(455B), the Director of the Department of Natural Resources does hereby issue a construction permit for:

Two new swine confinement finishing barns (51'2" x 376' x 8' deep) to house 2500 swine finishers each as a new animal feeding operation: The manure control system consists of below the floor deep concrete pits. (8 ft. deep). The site is in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 32, T92N, R27W, Lake Township, Humboldt County, Iowa. The maximum animal unit capacity (AUC), after completion, of the entire operation, confined at one time, shall not exceed 2000 animal units (AU). The total animal capacity of the operation (maximum number of finishing swine to be confined at any one time), after construction, is 5000 head.

This permit is issued subject to the following conditions and requirements:

1. No material change in the construction of this project shall be undertaken unless first authorized by this Department.
2. This construction permit shall expire if the authorized construction is not begun within one year. The construction of this project shall be initiated within one (1) year and completed within four (4) years of the date of issuance of this permit. A new construction permit will be required if construction is not completed within the permitted four years.
3. The design capacity of the manure storage system for the entire swine finishing operation is for a total animal unit capacity of 2000 animal units and a maximum animal capacity, to be confined at any one time, of 5000 head of finishing swine. A new construction permit shall be obtained prior to making any additions or alterations to the manure control system, making any process changes that would materially affect the manure control system, expanding the animal capacity, or increasing the volume of manure.
4. Animals shall not be placed in the new confinement buildings and manure shall not be stored in the new concrete pits until all of the following are satisfied:
 - a) **Construction is completed;**

- b) **You submit a certification (copy enclosed for your use) that the below the floor concrete manure storage pits were:**
- **Constructed in accordance with the current concrete design standards of 567 IAC-65.15(14).**
 - **Constructed in accordance with the drainage tile removal standards of 567 IAC - 65.15(1) including a report of the findings and actions taken to comply with this subrule.**
 - **Constructed in accordance with the minimum required separation distances as outlined in 567 IAC Table 6;**
- c) **You must notify this Department's Field Office in Mason City, Iowa, at (641) 424-4073 prior to the initial concrete pour for your manure storage pit floors;**
- d) **A drainage tile system has been installed around the base of the manure storage structure (deep pit) or a licensed professional engineer has submitted his/her determination of the average annual high water table at the site which shows that the groundwater table is not above the bottom of the manure storage structures (deep pits) as required in the 567 IAC 65.15(7)"b".**
- e) **A device to allow monitoring of the water in the drainage tile lines installed around the structure to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the formed manure storage structures are located;**
- f) **You furnish the completed DNR Well Record Form and a site map showing the as built dimension from the well to the nearest proposed confinement structure; and**
- g) **You receive written approval from this Department.**
5. **If karst terrain (limestone, dolomite, or other soluble rock) is found during excavation of the permitted formed manure storage structure(s), the upgraded concrete standards set forth in 567 IAC 65.15(14)"c", must be followed. Construction of an unformed manure storage structure in karst terrain, as defined in 567 IAC 65.1(455B), is prohibited. The Department must first authorize any design changes to the project, as required in condition 1 of this permit.**
6. **The Master Matrix evaluation of your application by Humboldt County received on September 23, 2014, includes scores for criteria 12, 17, 19 and 25. The Master Matrix requires that a (design, operation and maintenance) plan for these criteria be included in the application and that compliance with said plan be a condition of the Permit. Briefly stated:**
- a) **You shall build, maintain, and operate the concrete manure storage pit according to your County-approved design, operation, and maintenance plan. (criteria # 12, and # 17)**
 - b) **You shall build, maintain, and operate the truck turnaround according to your County-approved design, operation, and maintenance plan. (criterion # 19)**
 - c) **You shall build, maintain, and operate the manure volume reduction (feeding and watering) systems according to your County approved design, operation, and maintenance plan. (criterion # 25)**

7. The Master Matrix evaluation of your application by Humboldt County received on September 23, 2014, includes scores for criteria 26"e", 31 and 35. The Master Matrix requires that the limitations or actions you accepted in choosing to receive scores for these criteria must be included as conditions of the Permit. Briefly stated:
 - a) **The manure produced at this confinement operation shall be injected or incorporated on the same date it is land applied. (criterion # 26 "e")**
 - b) **An additional separation distance of 200 feet above the minimum requirement shall be maintained during the injection or same date incorporation of manure to the closest public use area. (criterion # 31)**
 - c) **An additional separation distance of 400 feet above the minimum requirement shall be maintained during the injection or same date incorporation of manure to the closest high quality (HQ) water, high quality resource (HQR) water, or protected water area (PWA). (criterion # 35)**
8. Prior to entering the winter season, a sufficient volume of manure shall be removed from the manure storage structures to provide adequate volume for storage of manure produced in the livestock production facilities during the winter season.
9. All the manure removed from the manure storage facilities shall be disposed of by land application in accordance with your approved manure management plan. You must also keep your manure management plan current and maintain records sufficient to demonstrate compliance with the plan. A copy of the approved Plan shall be kept within 30 miles of the site in accordance with 567 IAC 65.17(12).
10. Water usage in the confinement facilities that result in dilution of manure entering the manure storage structures shall be minimized.
11. Dilution water shall not be added to the manure storage structures except during manure emptying operations.
12. Human sanitary wastes (including showers and laundry facilities) shall not be discharged to the manure storage structures.
13. A water use permit is required for the withdrawal or diversion of more than 25,000 gallons of water per day. Water purchased from municipal or rural water systems is excluded. Any future wells shall be located respective of regulated separation distances and installed according to county permit requirements. For more information or to verify permit requirements, contact Jim Neleigh at (515) 725-0276.
14. No construction activities shall be initiated unless a NPDES General Permit No 2, for "Storm water discharge associated with construction activities" is obtained from this Department if the site disturbance from all construction activities **equals or exceeds one (1) acre**. For more information or to verify permit requirements contact Joe Griffin at (515) 281-7017.
15. The issuance of this permit in no way relieves you the applicant of the responsibility for complying with all local, state and federal laws, ordinances, regulations and other requirements applying to the construction or operation of this facility.



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

October 1, 2014

Humboldt County Board of Supervisors
Attn: Peggy Rice, Auditor
203 Main Street
Dakota City, IA 50529

RE: Notice of Intent to Issue a Permit
Hiway 3 Finisher Site, Facility ID #68281
Humboldt County,

Dear Ms. Rice:

This department has made a preliminary determination that Hawker Farms II, LLC has met the legal criteria to be issued a construction permit for two new swine finishing confinement buildings located in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 32, T92N, R27W, Lake Township, Humboldt County, Iowa. A copy of the draft permit is enclosed for your information. The permit would authorize Hawker Farms II, LLC to construct the confinement feeding operation structure(s) as described in the draft permit.

Pursuant to Iowa Code Section 459.304 and subrule 567 Iowa Administrative Code (IAC) 65.10(7) the Humboldt County Board of Supervisors may contest the draft permit by filing a timely demand for hearing before the Environmental Protection Commission. The board shall, as soon as possible but not later than fourteen (14) days following receipt of this letter, notify the Chief of the Water Quality Bureau by facsimile transmission at (515) 281-8895 that it intends to file a demand for hearing. The demand for a hearing must also be mailed to the Director, Department of Natural Resources, Henry A. Wallace Building, 502 E. Ninth Street, Des Moines, Iowa, 50319. The mailed demand for hearing shall be postmarked within thirty (30) days following receipt of this letter and accompanied by a statement that provides all the reasons why the permit should not be issued according to the legal requirements of Iowa Code Section 459 "Animal Agriculture Compliance Act" and 567 IAC chapter 65; legal briefs and any other documents to be considered by the commission or a statement indicating that no other documents will be submitted for the commission's consideration; and a statement indicating whether oral argument before the commission is desired. The matter would be heard by the commission at a time and location to be determined by the commission. The commission must render a decision within thirty-five (35) days from the date that the county board of supervisors files a demand for a hearing.

If you have any questions regarding this permit, please contact Cindy Garza at (641) 424-4073.

Sincerely,

FIELD SERVICES AND COMPLIANCE BUREAU

A handwritten signature in blue ink, appearing to read "Cindy M. Garza".

CINDY M. GARZA
ENVIRONMENTAL ENGINEER

c: Matt Nelsen, New Modern Concepts, 824 Brooks Road, Iowa Falls, IA 50126
Iowa DNR - Field Office #2 Attn: Daniel Watterson

Please staple check here

DNR #2



RECEIVED

Iowa Department of Natural Resources

Construction Permit Application Form Confinement Feeding Operations

INSTRUCTIONS:

Prior to constructing, installing, modifying or expanding a confinement feeding operation structure¹, and all applicable sections 1-8 on Item 3, Section A (page 2), to determine if a construction permit is required. To calculate the animal unit capacity (AUC) of the operation, complete Table 1 (page 4.) If a construction permit is required, complete the rest of the form, have the applicant(s) sign it on pages 5 and 6. Mail to the DNR (see address on page 5) this application form, documents and fees requested in Checklist No. 1 or 2 (pages 10-16). See item 5 (page 5), to determine which checklist to use. If a construction permit is not needed, some pre-construction requirements may still apply prior to the construction of a formed manure storage structure². See page 5 for additional DNR contact information.

THIS APPLICATION IS FOR:

- A new confinement feeding operation
- An existing confinement feeding operation (answer all of the following questions):
 - Facility ID No. (5 digit number): 68281
 - Date when the operation was first constructed: _____
 - Date when the last construction, expansion or modification was completed: _____

(Not needed if the confinement operation has previously received a construction permit from DNR.)

 - Is this also an ownership change? Yes No



ITEM 1 - LOCATION AND CONTACT INFORMATION (See page 17 for instructions and an example):

A) Name of operation: Hilway 3 Finisher

Location:

SW $\frac{1}{4}$	SE $\frac{1}{4}$	32	T92N-R27W	Lake	Humboldt
(1/4 1/4)	(1/4)	(Section)	(Tier & Range)	(Name of Township)	(County)

B) Applicant information:

Name: Hawker Farms II, LLC Title: Owner

Address: 824 Brooks Road, Iowa Falls, IA 50126

Telephone: 641-648-5067 Fax: _____ Email: _____

C) Person to contact with questions about this application (if different than applicant):

Name: Matt Nelson Title: General Manager

Address: 824 Brooks Road, Iowa Falls, IA 50126

Telephone: 641-648-5067 Fax: 641-648-3472 Email: mnelson@newmodernconcepts.com

- Enclose aerial photo or engineering drawing showing the proposed location of the confinement feeding operation structure¹ and all applicable separation distances, as requested in Attachment 1 (pages 11 or 14). See example of aerial photo on pages 18 to 19, at the end of this form.
- I manage or am the majority owner of another confinement feeding operation located within 2,500 feet of the proposed site. Please contact the DNR-AFO Program staff at (712) 262-4177 to verify site adjacency requirements.

¹ Confinement feeding operation structure = animal feeding operation structure (confinement building, manure storage structure or egg washwater storage structure) that is part of a confinement feeding operation. Manure storage structures include formed and unformed manure storage structures.

² Formed manure storage structure = covered or uncovered concrete or steel tanks, and concrete pits below the building.

02/2012 cmc 1 DNR Form 542-1428

ITEM 2 - SITING INFORMATION:

- A) Karst Determination: Go to www.iowadnr.gov select the link to 'Environment, click on Mapping & GIS,' then click on "AFO Siting Atlas" link. Click on the red push pin icon to enter a legal description of the proposed location. Make sure the karst box is checked in the left legend. If you cannot access the map, or if you have questions about this issue, contact the AFO Engineer at (712) 262-4177. Check one of the following:
- The site is not in karst or potential karst. Print and enclose the map with the name and location of the site clearly marked.
 - The site is in karst. The upgraded concrete standards of 567 (AC 65.15(14))"c" must be used. Refer to "Applicant's submittal checklist" on page 10 for karst documentation.
- B) Alluvial Soils Determination: Go to www.iowadnr.gov select the link to 'Environment, click on Mapping & GIS,' then click on "AFO Siting Atlas" link. Click on the red push pin icon to enter a legal description of the proposed location. Make sure the alluvial box is checked in the left legend. If you cannot access the map, or if you have questions about this issue, contact DNR Flood Plain at (866) 849-0321. Check one of the following:
- The site is not in alluvial soils. Print and enclose the map with the name and location of the site clearly marked.
 - The site is in alluvial soils. You will need to submit a request for a flood plain determination from DNR Flood Plain (866) 849-0321. After receiving determination submit one of the following:
 - Not in 100-year floodplain or does not require a flood plain permit. Include correspondence from the DNR Flood Plain Section.
 - Requires flood plain permit. Include flood plain permit.
 - Documentation has been submitted to determine site is not in alluvial soils. Refer to "Applicant's Submittal Checklist" on page 10 for alluvial soils documentation.

ITEM 3 - OPERATION INFORMATION:

- A) A construction permit is required prior to any of the following:
- Constructing or modifying any unformed manure storage structure¹, or constructing or modifying a confinement building that uses an unformed manure storage structure¹.
 - Constructing, installing or modifying a confinement building or a formed manure storage structure² at a confinement feeding operation if, after construction, installation or expansion, the AUC of the operation is 1,000 animal units (AU) or more. This also applies to confinement feeding operations that store manure exclusively in a dry form.
 - Initiating a change that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in any unformed manure storage structure¹, even if no construction or physical alteration is necessary. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or AUC up to the limits specified in a previously issued construction permit do not require a new construction permit.
 - Initiating a change, even if no construction or physical alteration is necessary, that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in a formed manure storage structure² if, after the change, the AUC of the operation is 1,000 AU or more. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or AUC up to the limits specified in a previously issued construction permit do not require a new construction permit.
 - Constructing or modifying any egg washwater storage structure or a confinement building at a confinement feeding operation that includes an egg washwater storage structure.
 - Initiating a change that would result in an increase in the volume of egg washwater or a modification in the manner in which egg washwater is stored, even if no construction or physical alteration is necessary. Increases in the volume of egg washwater due to an increase in animal capacity, animal weight capacity or AUC up to the limits specified in a previously issued construction permit do not require a new construction permit.
 - Repopulating a confinement feeding operation if it was closed for 24 months or more and if any of the following apply:
 - The confinement feeding operation uses an unformed manure storage structure² or egg washwater storage structure;
 - The confinement feeding operation includes only confinement buildings and formed manure storage structures² and has an AUC of 1,000 AU or more.
 - Installing a permanent manure transfer piping system, unless the department determines that a construction permit is not required.

³ Unformed manure storage structure = covered or uncovered anaerobic lagoon, earthen manure storage basin, aerobic earthen structure.

02/2012 cmc 2 DNR Form 542-1428

B) In your own words, describe in detail, the proposed construction, expansion, installation, modification or repair being proposed in this project. (Must be completed) Attach additional pages if necessary:

Constructed two confinement building with under ground formed storage structures that measure
 51' Wide X 376' Long X 8' Deep

C) Master Matrix (must check one). If any of boxes 1 to 3 are checked, the operation is required to be evaluated with the master matrix if the county, where the confinement feeding operation structure¹ is or would be located, has adopted a 'Construction Evaluation Resolution' (CER). Select the one that best describes your confinement feeding operation:

1. A new confinement feeding operation proposed in a county that has adopted a CER.
2. An existing operation constructed on or after April 1, 2002, in a county that has adopted a CER.
3. An existing operation constructed prior to April 1, 2002, with a current or proposed AUC of 1,667 AU or more, in a county that has adopted a CER.
4. None of the above. Therefore, the master matrix evaluation is not required.

D) Qualified Operation (must check one). If any of boxes 1 to 4 are checked, the operation is also a 'qualified operation'. A qualified operation is required to use a manure storage structure that employs bacterial action which is maintained by the utilization of air or oxygen, and which shall include aeration equipment. However, this requirement does not apply if box 5 is checked. Select the one that best describes your confinement feeding operation:

1. A swine farrowing and gestating operation with an AUC of 2,500 AU or more.
2. A swine farrow-to-finish operation with an AUC of 5,400 AU or more.
3. A cattle confinement feeding operation (including dairies) with an AUC of 8,500 AU or more.
4. Other confinement feeding operations with an AUC of 5,333 AU or more.
5. This is not a qualified operation because:
 - a. It is below the limits shown on boxes 1 to 4.
 - b. It includes a confinement feeding operation structure¹ constructed prior to May 31, 1995.
 - c. It handles manure exclusively in a dry form (poultry).

ITEM 4 - ANIMAL UNIT CAPACITY (AUC) and, if applicable, ANIMAL WEIGHT CAPACITY (AWC):

A) Calculating AUC - Required for all operations

For each animal species, multiply the maximum number of animals that you would ever confine at one time by the appropriate factor, then add all AU together on Table 1 (page 4). Use the maximum market weight for the appropriate animal species to select the AU factor.

You must complete all applicable columns in Table 1. Use column a) to calculate the existing AUC, before permit for existing operations only. Use column b) to calculate the 'Total proposed AUC' (after a permit is issued) including new operations. The number obtained in column b) is the AUC of the operation and must be used to determine permit requirements. Use column c) to calculate the 'New AU' to be added to an existing operation. To calculate the indemnity fee (see page 7), also use column c), however, if the "Existing AUC" (column a) is 500 AU or less, enter the "Total proposed AUC" (column b) in the "New AU" (column c).

In calculating the AUC of a confinement feeding operation, you must include the AUC of all confinement buildings which are part of the confinement feeding operation, unless a confinement building has been abandoned. A confinement feeding operation structure¹ is abandoned if the confinement feeding operation structure¹ has been razed, removed from the site of a confinement feeding operation, filled in with earth, or converted to uses other than a confinement feeding operation structure¹ so that it cannot be used as a confinement feeding operation structure¹ without significant reconstruction. Therefore, in Table 1, enter the animal unit capacity of all the confinement buildings, including those that are from an "adjacent" operation located within 2,500 feet. For more information, contact the AFO Program at (712) 262-4177.

Table 1. Animal Unit Capacity (AUC): (No. HEAD) x (FACTOR) = AUC

Animal Species	a) Existing AUC (Before permit)		b) Total Proposed AUC (After permit)	
	(No. Head) x (Factor)	= AUC	(No. Head) x (Factor)	= AUC
Slaughter or feeder cattle		1.0		1.0
Immature dairy cattle		1.0		1.0
Mature dairy cattle		1.4		1.4
Gestating sows		0.4		0.4
Farrowing sows & litter		0.4		0.4
Boars		0.4		0.4
Gilts		0.4		0.4
Finished (Market) hogs		0.4	5000	2000
Nursery pigs 15 lbs to 55 lbs		0.1		0.1
Sheep and lambs		0.1		0.1
Horses		2.0		2.0
Turkeys 7lbs or more		0.018		0.018
Turkeys less than 7 lbs		0.0085		0.0085
Broiler/Layer chickens 3 lbs or more		0.01		0.01
Broiler/Layer chickens less than 3 lbs		0.0025		0.0025
TOTALS:	a) Existing AUC:	0	b) Total proposed AUC:	2000

(This is the AUC of the operation)

Note: If the "Existing AUC" (column a) is 500 AU or less, enter the "Total proposed AUC" (column b) in the "New AU" (column c)

c) New AU = b) - a):

2000

B) Calculating AWC - Only for operations first constructed prior to March 1, 2003

The AWC is needed for an operation that was first constructed prior to March 1, 2003, to determine some of the minimum separation distance requirements for construction or expansion.

The AWC is the product of multiplying the maximum number of animals that you would ever confine at any one time by their average weight (lbs) during the production cycle. Then add the AWC if more than one animal species is present (examples on how to determine the AWC are provided in 567 IAC 65.1(455B).)

If the operation was first constructed prior to March 1, 2003, you must complete all applicable columns in Table 2:

Table 2. Animal Weight Capacity (AWC): (No. head) * (Avg. weight, lbs) = AWC, lbs

Animal Species	a) Existing AWC (Before Permit)		b) Proposed AWC (After permit)	
	(No. head) x avg weight	= AWC	(No. head) x avg weight	= AWC
Slaughter or feeder cattle				
Immature dairy cattle				
Mature dairy cattle				
Gestating sows				
Farrowing sows & litter				
Boars				
Gilts				
Finished (Market) hogs				
Nursery pigs 15 lbs to 55 lbs				
Sheep and lambs				
Horses				
Turkeys 7lbs or more				
Turkeys less than 7 lbs				
Broiler/Layer chickens 3 lbs or more				
Broiler/Layer chickens less than 3 lbs				
TOTALS:	a) Existing AWC:		b) Total proposed AWC:	

(This is the AWC of the operation)

c) New AWC = b) - a):

ITEM 5 – SUBMITTAL REQUIREMENTS Checklists No. 1 or 2 (pages 10-16) describe the submittal requirements, which are based on the type of confinement feeding operation structure¹ and AUC proposed. To determine which checklist to use, choose the option that best describes your confinement feeding operation:

- A) **Formed manure storage structures²:** The proposed confinement feeding operation structure¹ will be or will use a formed manure storage structure². Check one of the following boxes:
- A swine farrowing and gestating operation with an AUC of 1,250 AU or more. Use submittal checklist No. 2 (page 13.)
 - A swine farrow-to-finish operation with an AUC of 2,750 AU or more. Use submittal checklist No. 2 (page 13.)
 - A cattle confinement feeding operation (including dairies) with an AUC of 4,000 AU or more. Use submittal checklist No. 2 (page 13.)
 - Other confinement feeding operations with an AUC of 3,000 AU or more. Use submittal checklist No. 2 (page 13.)
 - None of the above. Use Submittal Checklist No. 1 (page 10.)

If any of boxes 1 to 4 are checked, the operation meets the threshold requirements for an engineer⁴ and a Professional Engineer (PE), licensed in Iowa, is required. For these cases, use Submittal Checklist No. 2 (pages 13-15.)

If you checked box 5, your operation is below threshold requirements for an engineer⁴ and a Professional Engineer (PE) is not required. Use Submittal Checklist No. 1 (pages 10-12).

- B) **Unformed manure storage structure²:** The proposed confinement feeding operation structure¹ will be or will use an unformed manure storage structure² or an egg washwater storage structure. A Professional Engineer (PE) licensed in Iowa must design and sign the engineering documents for any size of operation. Use Submittal Checklist No. 2 (pages 13-15) and Addendum "A" (page 16).

ITEM 6 – SIGNATURE:

I hereby certify that the information contained in this application is complete and accurate.

Signature of Applicant(s): Willie Coody Date: 8-19-14

MAILING INSTRUCTIONS:

To expedite the application process, follow the submittal requirements explained in Checklist No. 1 or 2 (pages 10 to 16), whichever applies. Page 1 of this form should be the first page of the package. Mail all documents and fees to:

**Iowa DNR
AFO Program
1900 N Grand Ave
Gateway North, Ste E17
Spencer, IA 51301**

(Note: Incomplete applications will be returned to the sender.)

Questions

Questions about construction permit requirements or regarding this form should be directed to an engineer of the animal feeding operations (AFO) Program at (712) 262-4177. To contact the appropriate DNR Field Office, go to <http://www.iowadnr.gov/InsideDNR/DNRStaffOffices/EnvironmentalFieldOffices.aspx>.

¹ Threshold requirements for an engineer apply to the construction of a formed manure storage structure². Operations that meet or exceed the threshold requirements for an engineer are required to submit engineering documents signed by a professional engineer licensed in the state of Iowa. Please refer to Checklist No. 2 (pages 13 to 15.)
02/2012 cmz 5 DNR Form 542-1428

ITEM 7

**Interested Parties Form
Confinement Feeding Operation**

Interest means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly or indirectly through a spouse or dependent child, or both.

INSTRUCTIONS:

Please list all persons (including corporations, partnerships, etc.) who have an interest in any part of the confinement feeding operation covered by this permit application.

Full Name	Address	City/State	Zip
N Holdings, LLC	P.O. Box 400	Iowa Falls, IA	50126
Hawker Farms I, LLC	824 Brooks Road	Iowa Falls, IA	50126
Hawker Farms II, LLC	824 Brooks Road	Iowa Falls, IA	50126

For each name above, please list below all other confinement feeding operations in Iowa in which that person has an interest. Check box "None", below, if there are no other confinement feeding operations in Iowa in which the above listed person(s) has or have an interest.

Operation Name	Location (1/4 1/4, 1/4, Section, Tier, Range, Township, County)	City
<input type="checkbox"/> None [There are no other confinements in Iowa in which the above listed person(s) has or have an interest].		
Norway Finisher	NE¼, SE¼, sec. 28, T93N-R25W, Norway, Wright	Kanawha
Wheatland Finisher	SW¼, SW¼, sec. 15, T85N-R36W, Wheatland, Carroll	Breda
Cook Finisher	NE¼, NE¼, sec. 9, T88N-R38W, Cook, Sac	Schaller
Plover East Finisher	NE¼, NW¼, sec. 14, T93N-R32W, Powhatan, Pocahontas	Rolfe
Powhatan Finisher	SW¼, SE¼, sec. 20, T93N-R32W, Powhatan, Pocahontas	Rolfe

I hereby certify that the information provided on this form is complete and accurate.

Signature of Applicant(s): Willie Coody Date: 8-19-14

ITEM 8

Manure Storage Indemnity Fee Form
for Construction Permits

CASHIER'S USE ONLY
0474-542-474A-0431
Facility ID #
County

Credit fees to: Hawker Farms II, LLC

Name of operation: Hwy 3 Finisher

INSTRUCTIONS:

- Use the "Total Proposed AUC" from column b), Table 1 (page 4), to select the appropriate fee line in the table below. The "Total Proposed AUC" is the AUC of the operation.
- Select the animal specie and row number (see examples). Enter the "New AU" from column c), Table 1 (page 4). The "New AU" is the number of AU to be added to an existing operation or being proposed with a new operation. **Note:** If the "Existing AUC" (column a) is 500 AU or less, enter the "Total proposed AUC" (column b) in "New AU" (column c).
- Multiply the "New AU" by the appropriate "Fee per AU". The resulting number is the indemnity fee due.
 - Example 1:** An existing swine operation is expanding from an "Existing AUC" of 1,000 AU to a "Total Proposed AUC" of 1,800 AU, and has previously paid an indemnity fee for the existing 1,000 AU. Calculate the indemnity fee as follows: The "Total Proposed AUC" is between 1,000 AU and 3,000 AU; the animal specie is other than poultry; enter 800 AU in the "New AU" column, row 4, and multiply it by \$ 0.15:
 $(800 \text{ AU}) \times (\$ 0.15 \text{ per AU}) = \$ 120.00$
 - Example 2:** An existing poultry operation is expanding from an "Existing AUC" of 250 AU to a "Total Proposed AUC" of 2,000 AU and has not paid the indemnity fee for animals housed in the existing buildings. Calculate the indemnity fee as follows: The "Total Proposed AUC" is between 1,000 AU and 3,000 AU; the animal specie is poultry and the indemnity fee has not previously been paid, enter 2,000 AU in the "New AU" column on row 3, and multiply it by \$0.06:
 $(2,000 \text{ AU}) \times (\$ 0.06 \text{ per AU}) = \$ 120.00$
 - Example 3:** If you are proposing a new swine confinement feeding operation with a "Total Proposed AUC" of 3,500 AU, enter 3,500 AU in the "New AU" column, row 6 and multiply it by \$ 0.20:
 $(3,500 \text{ AU}) \times (\$ 0.20 \text{ per AU}) = \$ 700.00$
 - Example 4:** If you are applying for a construction permit but you are not increasing the AUC of the operation, and has previously paid the applicable indemnity for the animals housed in the existing buildings, there is no indemnity fee due (\$ 0.00). If no indemnity fee is due, do not submit this page.

Indemnity Fee Table:

Total Proposed AUC - (After permit) from column b), Table 1	Row	Animal species	New AU - from column c), Table 1	x	Fee per AU	Indemnity Fee
Less than 1,000 AU	1	Poultry		x	\$ 0.04 =	
	2	Other		x	\$ 0.10 =	
1,000 AU or more to less than 3,000 AU	3	Poultry		x	\$ 0.06 =	
	4	Other	2000	x	\$ 0.15 =	300.00
3,000 AU or more	5	Poultry		x	\$ 0.08 =	
	6	Other		x	\$ 0.20 =	

ITEM 8 (Cont.)

Filing Fees Form
for Construction Permits

CASHIER'S USE ONLY
0473-542-473A-0431
0474-542-474A-0431
Facility ID #
County

Credit fees to: Hawker Farms II, LLC

Name of operation: Hwy 3 Finisher

INSTRUCTIONS:

- If the operation is applying for a construction permit enclose a payment for the following:
 - Construction application fee \$ 250.00.
(Note: This fee is non-refundable)
- A manure management plan must be submitted and you must also pay the following:
 - Manure management plan filing fee \$ 250.00
(Note: This fee is non-refundable)
- Total filing fees: Add the fees paid in items 1 and 2 (above): \$ 500.00

SUMMARY:

- Manure Storage Indemnity Fee (see previous page) to be deposited in the Manure Storage Indemnity Fee Fund (474)	\$ <u>300.00</u>
- Total filing fees (see item 3 on this page) to be deposited in the Animal Agriculture Compliance Fund (473)	\$ <u>500.00</u>
TOTAL DUE:	\$ <u>800.00</u>

- Make check payable to: Iowa Department of Natural Resources or Iowa DNR; and send it along with the construction application documents (See submittal checklist No. 1 or 2, pages 10-15.) Note: Do not send this fee to the county.

DNR

ITEM 9

COUNTY VERIFICATION RECEIPT OF DNR CONSTRUCTION PERMIT APPLICATION

This form provides proof that the County Board of Supervisors has been provided with a complete copy of the construction permit application documents (everything except the fees) for the confinement feeding operation:

Applicant: Hawker Farms II, LLC Telephone: 641-648-5000

Name of operation: Hilway 3 Finisher

Location: SW/4 SEM 32 T92N-R27W Late Humboldt
(1/4 1/4) (1/4) (Section) (Tier & Range) (Name of Township) (County)

Documents being submitted to the county:

- Construction permit application form; submit items 1 to 9 (see Submittal Checklist No. 1 or 2)
- Attachment 1 - Aerial photos; Must clearly show the location of the proposed confinement feeding operation structure and that all the separation distances are met, including those claimed for points in the master matrix (if applicable).
- Attachment 2 - Statement of design certification, submit any of the following (see Checklist No. 1 or 2):
 - Construction Design Statement form
 - Professional Engineer (PE) Design Certification form
 - Engineering report, construction plans and technical specifications
 - In addition, if proposing an unformed manure storage structure³ or an egg washwater storage structure submit documentation required in Addendum "A" of this construction application form.
- Attachment 3 - Manure management plan.
- Attachment 4 - Master Matrix (if required). You must include supporting documents (see Checklist No. 1 or 2)

THIS SECTION IS RESERVED FOR THE COUNTY

As soon as DNR receives a construction permit application, the DNR will fax your County Auditor a "Courtesy reminder letter" explaining what actions your County Board of Supervisors must complete and the deadlines.

Public Notice is required for all construction permit applications, including those applications not required to be evaluated with the master matrix and applications in counties not participating in the Master matrix.

Counties participating in the master matrix: the county's master matrix evaluation and county's recommendation is required for the following cases:

- A new confinement feeding operation that is applying for a construction permit
- An existing confinement feeding operation that was first constructed on or after April 1, 2002 that is applying for a construction permit.
- An existing confinement feeding operation that was first constructed prior to April 1, 2002 that is applying for a construction permit with an animal unit capacity (AUC) is 1,667 animal units (AU) or more.

I have read and acknowledge the county's duty with this construction permit application, as specified in 567 IAC 65.10 and Iowa Code 459.304. On behalf of the Board of Supervisors for:

COUNTY: Humboldt
NAME: Peggy J. Rice
TITLE: Humboldt County Auditor
(Member of the County Board of Supervisors or its designated official/employee)

Date: August 20, 2014

If you do not receive the courtesy reminder letter within a reasonable time, or if you have any questions, please contact the animal feeding operations (AFO) Program at (712) 262-4177 or visit www.iowaDNR.gov

RECEIVED
HUMBOLDT COUNTY
PERMITS OFFICE

DNR IOWA
DEPARTMENT OF NATURE RESOURCES

Legend: Map Layers
AFO Siting Data
Stitchlines
Agriculture Drainage Well
wells
Agriculture Drainage Districts
AFO Model/Support Data
Alluvial Soils
Alluvial Aquifer
Alluvial Soils
Sinkhole or Potential Karst
1000 ft radius
Karst and Potential Karst

AFO Siting

Siting Information

Location	-84.059224 42.732729
Ag Drainage Well Distance	1 mile or more
Well Distance	2404 ft
Alluvial Soils present	No
Distance to surface water	4033 ft
Distance to Major Source River	1 mile or more
Distance to Major Source Lake	1 mile or more
Distance to PRACTICAL KARST feature	1 mile or more
Designated Wetland	Potential Karst
Wellhead Distance	> 2500 ft
Percent slope	0 %
Distance to public land	1 mile or more

Distances are estimates based on best available data. Distance calculations are ±37 ft.

Project AFO Siting Data, Quality Assurance, Information, Manual, and Karst Determination

Basemaps Measure Bookmarks Map Info

UTM Zone 18 NAD83
411433.45, 4723254.46
NAD83
43.081424, 42.741430

Kratchmer, Keith

From: Petitti, Paul [DNR] <Paul.Petitti@dnr.iowa.gov>
Sent: Monday, August 18, 2014 9:33 AM
To: Kratchmer, Keith
Subject: FW: Karst Determination

Keith, based on our State Geologist opinion I will remove this site from potential karst

thanks

PAUL PETITTI P.E., ENVIRONMENTAL ENGINEER SENIOR



Iowa Department of Natural Resources
P 712-262-4177 | F 712-262-2901 | paul.petitti@dnr.iowa.gov
1900 N Grand Ave, Gateway North, Suite E17, Spencer, IA 51301

WWW.IOWADNR.GOV   

Leading Iowans in Caring for Our Natural Resources.

From: Libra, Robert [DNR]
Sent: Monday, August 11, 2014 9:39 AM
To: Petitti, Paul [DNR]
Subject: RE: Karst Determination

IT looks to me like there is a log or two that indicate rock is less then 50 from the surface in the general ara. However, those wells show shale as the uppermost rock. This suggests the highest areas on the rock surface have some younger deposits (Cretaceous or Pennsylvanian sitting on top of the Mississippian limestone. I wouldn't look at this as a potential karst area. It's more of an artifact of the computerized mapping, which when done on a state-wide level can't account for small-scale features.

From: Petitti, Paul [DNR]
Sent: Thursday, August 07, 2014 11:44 AM
To: Libra, Robert [DNR]
Subject: FW: Karst Determination

Hi Bob, I don't mean to use you for every little question I get but I was curious about this site. Very small slice of potential karst
thanks

PAUL PETITTI P.E., ENVIRONMENTAL ENGINEER SENIOR



Iowa Department of Natural Resources
P 712-262-4177 | F 712-262-2901 | paul.petitti@dnr.iowa.gov
1900 N Grand Ave, Gateway North, Suite E17, Spencer, IA 51301

WWW.IOWADNR.GOV   

Leading Iowans in Caring for Our Natural Resources.

From: Kratchmer, Keith [<mailto:kkratchmer@iowaSelect.com>]
Sent: Thursday, August 07, 2014 9:34 AM

To: Petitti, Paul [DNR]
Subject: Karst Determination

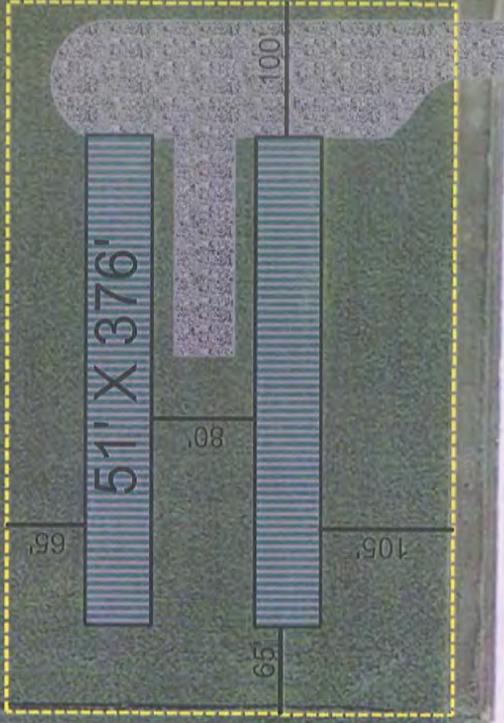
Hi Paul,

I have a proposed site show potential Karst in a small area where we are looking at placing the site. I have looked at five well logs that are located in the same section or adjoining sections. Only on log even notes lime rock and that was at fifty feet below the surface. I have attached the Siting Atlas Map, Geosam Map that show the well numbers and the well logs. I am trying to save time and money of doing borings as it appears to me they will not find an issue. Could you take a look and let me know what you think, please?

Thanks

Keith Kratchmer, CCA
Environmental Compliance Officer
Iowa Select Farms
824 Brooks Road, Suite B
Iowa Falls, IA 50126
Direct Ph 641-316-3245

Hiway 3 Site Layout Map



- Legend**
- Building Footprint
 - Manure Structure
 - Storage Type**
 - Inside Formed Pit
 - Site Boundary
 - Vehicle Turn-Around
 - World Transportation
 - World Imagery



Hiway 3 Site Separation Distance Map

- No Public Use Area within 4001'
- No School, Church or Business within 3376'
- No Critical Public Use Area within 4000'
- No Major Water Source within 3501'
- No MMP Site within 3960'
- No High Quality Water within 2000'

- Legend**
- Separated Structure
 - Separated Object
 - House
 - WaterSource
 - Separation Distance Lines
 - Site Boundary
 - Building Footprint
 - Manure Structure
 - EPA R7 ChannelizedStreams
 - World Transportation
 - World Imagery



OFFER TO BUY REAL ESTATE AND ACCEPTANCE

TO: James D Rasmussen and Timothy D Rasmussen, Sellers

1. REAL ESTATE DESCRIPTION. The Buyers offer to buy real estate in Humboldt County, Iowa, described as follows:

Approximately 35 acres, more or less, located in the SW 4 Sec 4 and Section 32, Township 27 North, Range 27 West of the 5th P.M., 1 Lake Township, exact location and size to be determined by survey and engineering design, as determined by and at the cost of Buyer.

with any easements and appurtenant servient estates, but subject to the following: (a) any zoning and other ordinances; (b) any covenants of record; (c) any easements of record for public utilities, roads and highways (designated the "Real Estate"); provided Buyers, on possession, are permitted to make the following use of the Real Estate: CONSTRUCTION AND OPERATION OF A HOG CONFINEMENT FACILITY.

2. PRICE. The purchase price shall be \$13,000 per gross acre purchased, based on final survey, payable as follows: \$1000 (the "Deposit") to be advanced to Sellers upon acceptance of this offer and the balance to be paid in cash at closing upon the transfer to Buyers of the warranty deed (and, if applicable, mature easements to be granted by Sellers).

3. REAL ESTATE TAXES. Taxes shall be prorated to January 1, 2013. Sellers shall pay any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

4. SPECIAL ASSESSMENTS. Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of acceptance of this offer. All other special assessments shall be paid by Buyers.

5. RISK OF LOSS AND INSURANCE. All risk of loss as to the Real Estate prior to Seller's closing shall remain with Sellers until possession of the Real Estate shall be delivered to Buyer. Sellers shall maintain existing coverage fire, windstorm and extended coverage insurance on the Real Estate until possession is given to Buyer. Buyer, if they desire, may obtain additional insurance to cover such risk. If Buyer takes possession of the Real Estate prior to closing to initiate construction of a hog confinement building or buildings, Buyer shall provide its own insurance on such construction in process.

6. CARE AND MAINTENANCE. The Real Estate shall be preserved in its present condition and delivered intact at the time possession is delivered to Buyer.

7. POSSESSION. If Buyers timely perform all obligations, possession of the real estate shall be delivered to Buyers upon confirmation of approval to begin construction from IDNR, with any adjustments of rent, insurance, and interest to be made as of the date of transfer of possession.

8. FIXTURES. All property that integrally belongs to or is part of the Real Estate, whether attached or detached, shall be considered a part of Real Estate and included in the sale.

9. USE OF PURCHASE PRICE. At time of settlement, some or all of the purchase price may be used to pay taxes and other liens and to acquire outstanding interests, if any, of others.

10. ABSTRACT AND TITLE. Sellers, at Buyer's expense, shall promptly obtain an Abstract of Title to the Real Estate continued through the date of acceptance of this offer, and deliver it to Buyer (or Buyer's attorney, as directed by Buyer) for examination. The Abstract of Title shall show merchantable title in Sellers in conformity with this agreement, Iowa law and Title Standards of the Iowa State Bar Association. The Abstract of Title shall become the property of the Buyer when the purchase price is paid in full. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers or their assignees.

11. DEED. Upon Buyer's payment of the purchase price as provided herein, Sellers shall convey the Real Estate to Buyer (or its assigns) by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in subparagraphs 1a. through 1c. above.

12. JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE. If Sellers, immediately preceding acceptance of this offer, hold title to the Real Estate in joint tenancy with full right of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of the Sellers, then the proceeds of this sale, and any continuing or recaptured rights of Sellers in the Real Estate, shall belong to Sellers as joint tenants with full rights of survivorship and not as tenants in common; and Buyer, in the event of the death of either Seller, agree to pay any balance of the price due Sellers under this agreement to the surviving Seller and to accept the general warranty deed from the surviving Seller consistent with paragraph 11.

13. JOINDER BY SELLER'S SPOUSE. Seller's spouse, if not a titleholder immediately preceding acceptance of this offer, executes this agreement only for the purpose of relinquishing all rights of dower, homestead and distributive shares or in compliance with Section 561.13 of the Iowa Code and agrees to executing the general warranty deed or Real Estate agreement for this purpose.

14. TIME IS OF THE ESSENCE. Time is of the essence as to this agreement.

15. REMEDIES OF THE PARTIES. If Buyer fails to timely perform this agreement, Sellers may (a) forbear this agreement as provided in the Iowa Code, and Sellers' sole remedy will be forfeiture of the Deposit by Buyer. If Sellers fail to timely perform this agreement, Buyer shall have the right to have all payments made, including the Deposit, returned to them. Notwithstanding the foregoing, Buyer is also entitled to utilize any and all other remedies or actions at law or in equity available to Buyer and shall be entitled to obtain judgment for costs and attorney fees as permitted by law, including the right to obtain specific performance and transfer of the general warranty deed from Sellers.

16. STATEMENT AS TO LIENS. If Buyer intends to assume or take subject to a lien on the Real Estate, Sellers shall furnish Buyer with a written statement from the holder of such lien, showing the correct balance due.

17. SUBSEQUENT CONTRACT. Any Real Estate contract for deed executed in performance of this agreement shall be on a form of the Iowa State Bar Association.

18. APPROVAL OF COURT. If the sale of the Real Estate is subject to Court approval, the fiduciary shall promptly submit this agreement for such approval. If this agreement is not so approved, it shall be void.

19. BINDING EFFECT. This agreement shall apply to and bind the successors in interest of the parties.

20. CONSTRUCTION. Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

21. TIME FOR ACCEPTANCE. If this offer is not accepted by Sellers on or before 10 - 1 - 2013, it shall become void and the Deposit and any other payments made by Buyer shall be repaid to the Buyer.

22. FACSIMILE SIGNATURES. This agreement is binding on any parties signing this agreement by facsimile signature as if said signatures were an original, and said signature is admissible in any court or other tribunal as if it were an original.

23. OTHER PROVISIONS:

- * Buyer shall pay all surveying costs, new abstract, preparation of deed, closing documents and revenue stamps
* Buyer and Seller agree to participate in a 1031 exchange if needed.

This offer is subject to Buyer obtaining a mature management plan and all required governmental approvals and permits and if applicable, site approval from a construction engineer; and Seller shall grant Buyer immediate access for surveying, site layout and construction of facility once all applicable permits are obtained.

If applicable, Seller shall grant to Buyer a permanent easement, for the life of the hog facility, to place the well for the facility on adjacent property owned by Seller so that the well is at least 200 feet away from the facility. The placement of the well site location will be mutually agreed upon by the parties.

Dated: _____

BUYER: Hawker Farms II, LLC

By: [Signature]

THIS OFFER IS ACCEPTED Sep 6, 2013 Subject to Right of First Refusal Agreement

[Signature] Seller

[Signature] Seller

Construction Design Statement (CDS)

Instructions:

- This form is for new or expanding confinement feeding operations with an AUC¹ of more than 500 AU, not required to have a professional engineer (PE)², that are proposing to construct a formed manure storage structure³.
- Complete and submit Sections 1, 2 and 3 (pages 1 to 5).
- Complete and submit Section 4 (page 6) only if you are applying for a construction permit and are constructing three or more confinement feeding operation structures⁴.
- Mail only pages 1 to 5, and page 6 (if applicable) as instructed on page 6. Do not mail the remainder of the form.
- If the site-specific design is sealed by a PE², do not use this CDS. Instead use DNR Form 542-8122.

Section 1 - Information about the proposed formed manure storage structure³(s):

A) Information about the operation:

Name of operation: Hlway 3 Finisher Farm Facility ID No. : _____
 Location: SW SE 32 T92N R27W Lake Humbolt
(1/4 1/4) (1/4) (Section) (Twp & Range) (Name of Township) (County)

- B) Description of the proposed formed manure storage structure³. Include dimensions (length, width, or diameter, depth). Indicate if it is aboveground or belowground; covered or uncovered, made of concrete or steel. If necessary attach more pages:

Two confinement buildings with full slatted flooring with concrete containment under the building below the ground. Containment measurement is 2) 51' 2" (width) x 376' (length) x 8' (depth)

- C) Karst Determination: Go to www.iowaDNR.com, select the link to 'Mapping (GIS Interactive)', then check the [AFO Siting Atlas](#). If the site is in karst or potential karst, if you cannot access the map, or if you have questions about this issue, contact a DNR geologist at (515) 242-6848. Check one of the following:

- The site is not in karst or potential karst. If the site is not located in karst or potential karst, print and enclose the map with the name and location of the site clearly marked.
 The DNR geologist has verified that the site is in karst. The upgraded concrete standards of 567 IAC 65.15(14)"c" must be used. Complete and sign Section 3,H (page 5).

- D) Alluvial Soils Determination: Go to www.iowaDNR.com, select the link to 'Mapping (GIS Interactive)', then check the [AFO Siting Atlas](#). If the site is in potential alluvial soils, if you cannot access the map, or if you have questions about this issue, contact a DNR geologist at (515) 242-6848. Check one of the following:

- The site is not in alluvial soils. If the site is not in potential alluvial soils, print and enclose the map with the name and location of the site clearly marked.
 The DNR geologist has verified that the site is in alluvial soils. Check one of the following:
 Not in 100-year floodplain or does not require a floodplain permit. Include correspondence from the DNR.
 Requires floodplain permit. Include Floodplain Permit.

Section 2 - Manure management plan:

- An original manure management plan (MMP) is enclosed with this form, even if a MMP was previously filed.

Hawker Farms II, LLC

Owner's Name (print)

Willie G. Galy

Owner's Signature

8-19-14

Date

¹ To determine the AUC see the 'Manure Storage Intensity Fee' (Form 542-1621) or the 'Construction Permit Application' (Form 542-1426), or visit www.iowaDNR.com.

² PE is a professional engineer licensed in the state of Iowa or a NRCS-Engineer working for the USDA-Natural Resources Conservation Service (NRCS).

³ Formed manure storage structure means a covered or uncovered concrete or steel tank, including concrete pits below the floor.

⁴ Confinement feeding operation structure = A confinement building, a formed or unformed manure storage structure, or an egg washwater storage structure.

Construction design standards: The person responsible for constructing the formed manure storage structure(s)³ must complete pages 2 to 5.

- A) **Liquid and semi-liquid manure:** The proposed formed manure storage structure³ will be (check one):

- A.1 A non-circular concrete tank, belowground, with walls laterally braced or below the building concrete pit designed according to 567 IAC chapter 65, Appendix D.
 A.2 A non-circular concrete tank, belowground, walls designed according to Midwest Plan Service (MWPS), publication MWPS-36. Include design calculations.
 A.3 A circular concrete tank, walls designed according to Midwest Plan Service (MWPS), publication MWPS TR-9. Include design calculations.
 A.4 Will be made of steel, constructed aboveground according to the manufacturer's recommendations.

- B) **Dry manure:** The proposed formed manure storage structure³ will be (check one):

- B.1 An aboveground concrete tank, with walls designed according to MWPS-36. Include design calculations.
 B.2 Will be made of steel, constructed aboveground according to the manufacturer's recommendations.
 B.3 Will be a belowground or partially belowground concrete tank, with walls laterally braced designed according to 567 IAC chapter 65, Appendix D or MWPS-36. Include design calculations.

- C) **Details of the proposed design:** Submit an additional completed copy of this page 2 for each formed manure storage structure³ that have different dimensions. Complete all of the following information:

Number of buildings: 2 Building name: Wean-Finish

Dimensions of proposed formed manure storage structure ³					
	Length	Width	Height or depth	Wall thickness	Diameter (circular tanks only)
Feet	376	51	8		
Inches		2		8	

To determine the appropriate vertical steel in walls, first check one of the following boxes (must check one):

- a. To use Tables D-1 and D-2 (on pages 7-8), backfilling of walls shall be performed with gravel, sand, silt, and clay mixtures (less than 50 percent fines), with coarse sand with silt or clay (less than 50 percent fines), or cleaner granular material (see page 9 for the unified soils classification). You will need to submit a copy of a USDA soil survey map with the proposed location of the formed manure storage structures³ clearly marked showing the unified soil classification; or a statement signed by a qualified organization or NRCS staff.
 b. Use Tables D-3 and D-4 (on pages 8-9) if backfilling of walls will be performed with soils that are unknown or with low plasticity silts and clays with some sand or gravel (50 percent or more fines); or fine sands with silt or clay (less than 50 percent fines); or low to medium plasticity silts and clays with little sand or gravel (50 percent or more fines); or high plasticity silts and clays (see page 9 for unified soils classification). You must use Tables D-3 and D-4 if you do not submit the soils information requested in box "a", above.

Maximum spacing of steel, in inches

Description of reinforcing steel in walls	Proposed vertical steel in walls <small>(see boxes "a" and "b", above)</small>				Proposed horizontal steel in wall's (use Table D-5)
	Walls where vehicles are not allowed within 5 feet (use Table D-1) ^a	All walls with pumpout ports and walls where vehicles are allowed within 8 feet (use Table D-2) ^a	Walls where vehicles are not allowed within 5 feet (use Table D-3) ^b	All walls with pumpout ports and walls where vehicles are allowed within 5 feet (use Table D-4) ^b	
Grade 40, No. 4			N/A		
Grade 40, No. 5			N/A		
Grade 60, No. 4			N/A	9	13.5
Grade 60, No. 5			N/A		

- D) **Aboveground tanks or partially aboveground tanks:** Liquid and semi-liquid manure (check the following box):

- If the proposed tank is to be constructed **aboveground or partially aboveground** and will have an external outlet or inlet below the liquid level, the tank will also be constructed according to the 567 IAC 65.15(20).

- E) **Steel Tanks:** Certification that the tank will be constructed according to the tank manufacturer's specifications:

Name of tank manufacturer company: _____
 Address: _____
 Telephone: _____ Fax: _____

F) Additional construction design standards:

To determine the additional requirements set forth in 567 IAC 65.15(14) that would apply to the proposed formed manure storage structure³, check any of the following 3 boxes based on the information entered on Sections 3.A or 3.B (page 2):

- If you checked boxes A.1, A.2, A.3 or B.3 (on page 2) **all** of the following 15 additional requirements apply. Complete the numbered items 1 to 15 (below).
- If you checked box B.1 (on page 2), only the requirements of numbered items 1, 3, 4, 5, 6, 8 and 12 apply and need to check those boxes (below).
- If you checked boxes A.4 or B.2 (on page 2) and the steel tank will have a concrete floor, only the requirements of numbered items 1, 2, 3, 4, 5, 8, 9, 12, apply and need to check those boxes (below).

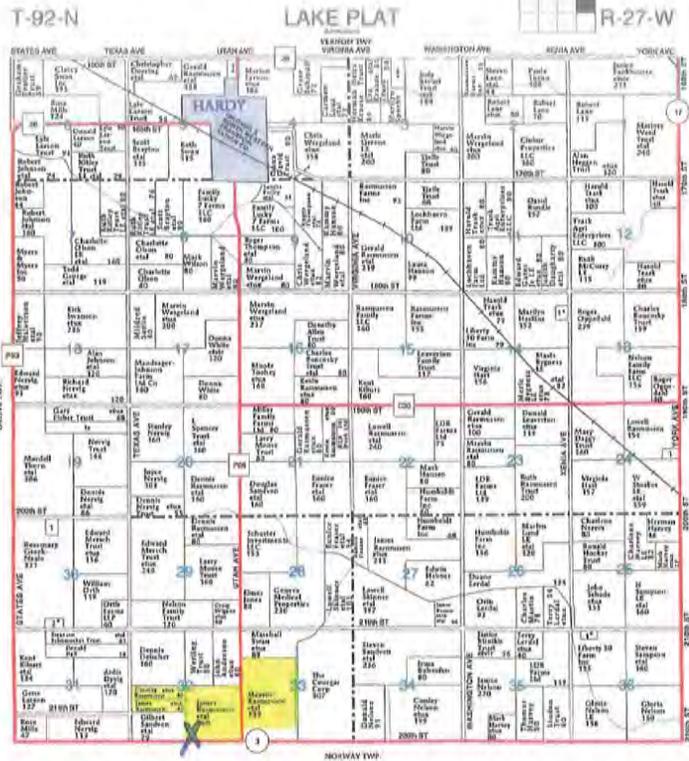
Additional Requirements that will be followed during construction of the formed manure storage structure(s)³:

1. Site preparation (check the following box):
 - The finished subgrade of a formed manure storage structure shall be graded and compacted to provide a uniform and level base and shall be free of vegetation, manure and debris. For the purpose of this subrule, "uniform" means a finished subgrade with similar soils.
2. Groundwater separation requirements (check one of the following boxes):
 - When the groundwater table, as determined in 65.15(7)"c," is above the bottom of the formed structure, a drain tile shall be installed along the footings to artificially lower the groundwater table pursuant to 65.15(7)"b." The drain tile shall be placed within 3 feet of the footings as indicated in Appendix D, Figure D-1, at the end of this chapter and shall be covered with a minimum of 2 inches of gravel, granular material, fabric or a combination of these materials to prevent plugging the drain tile. If applying for a construction permit, a device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the formed manure storage structure is located.
 - In lieu of the drain tile, a certification signed by a PE², a groundwater professional certified pursuant to 567 Chapter 134, or a qualified staff from NRCS, is being submitted indicating that the groundwater elevation, according to 65.15(7)"c", is above the bottom of the formed structure.
3. Minimum as-placed concrete compressive strength (check the following box):
 - All concrete shall have the following minimum as-placed compressive strengths and shall meet American Society for Testing and Materials (ASTM) standard ASTM C 94: 4,000 pounds per square inch (psi) for walls, floors, beams, columns and pumpouts and 3,000 psi for the footings. The average concrete strength by testing shall not be below design strength. No single test result shall be more than 500 psi less than the minimum compressive strength.
4. Cement and aggregates specifications (check the following box):
 - Cementitious materials shall consist of portland cement conforming to ASTM C 150. Aggregates shall conform to ASTM C 33. Blended cements in conformance with ASTM C 595 are allowed only for concrete placed between March 15 and October 15. Portland-pozzolan cement or portland blast furnace slag blended cements shall contain at least 75 percent, by mass, of portland cement.
5. Concrete consolidation and vibration requirements (check the following box):
 - All concrete placed for walls shall be consolidated or vibrated, by manual or mechanical means, or a combination, in a manner which meets ACI 309.
6. Minimum rebar specifications: (check the following box):
 - All rebar used shall be a minimum of grade 40 steel. All rebar, with the exception of rebar dowels connecting the walls to the floor or footings, shall be secured and tied in place prior to the placing of concrete.
7. Wall reinforcement placement specifications (check the following box):
 - All wall reinforcement shall be placed so as to have a rebar cover of 2 inches from the inside face of the wall for a belowground manure storage structure. Vertical wall reinforcement should be placed closest to the inside face. Rebar placement shall not exceed tolerances specified in ACI 318.

8. Minimum floor specifications. Complete part a) and b):
 - a) Floor thickness requirements (check the following box):
 - The floor slab shall be a minimum of 5 inches thick. Nondestructive methods to verify the floor slab thickness may be required by the department. The results shall indicate that at least 95 percent of the floor slab area meets the minimum required thickness. In no case shall the floor slab thickness be less than 4½ inches.
 - b) The floor slab reinforcement shall be located in the middle of the thickness of the floor slab (check one of the following boxes):
 - Formed manure storage structures with a depth of 4 feet or more shall have primary reinforcement consisting of a minimum of #4 rebar placed a maximum of 18 inches on center in each direction placed in a single mat.
 - Formed manure storage structure with a depth less than 4 feet shall have shrinkage reinforcement consisting of a minimum of 6 x 6-W1.4 x W1.4 welded wire fabric.
9. Minimum footing specifications (check the following box):
 - The footing or the area where the floor comes in contact with the walls and columns shall have a thickness equal to the wall thickness, but in no case be less than 8 inches, and the width shall be at least twice the thickness of the footing. All exterior walls shall have footings below the frostline. Tolerances shall not exceed -¼ inch of the minimum footing dimensions.
10. Requirement to connect walls to footings (check one of the following boxes):
 - The vertical steel of all walls shall be extended into the footing, and be bent at 90°, **OR**
 - A separate dowel shall be installed as a #4 rebar that is bent at 90° with at least 20 inches of rebar in the wall and extended into the footing within 3 inches of the bottom of the footing and extended at least 3 inches horizontally, as indicated in Appendix D, Figure D-1 (page 10). Dowel spacing (bend or extended) shall be the same as the spacing for the vertical rebar.
 - As an alternative to the 90° bend, the dowel may be extended at least 12 inches into the footing, with a minimum concrete cover of 3 inches at the bottom, as indicated in Appendix D, Figure D-1 (page 10). Dowel spacing (bend or extended) shall be the same as the spacing for the vertical rebar.
 - In lieu of dowels, mechanical means or alternate methods may be used as anchorage of interior walls to footings. Please submit structural calculations and details of this proposal.
11. Concrete forms specifications (check the following box):
 - All walls shall be formed with rigid forming systems and shall not be earth-formed.
12. Curing of concrete requirements (check the following box):
 - All concrete shall be cured for at least seven days after placing, in a manner which meets ACI 308, by maintaining adequate moisture or preventing evaporation. Proper curing shall be done by ponding, spraying or fogging water; or by using a curing compound that meets ASTM C 309; or by using wet burlap, plastic sheets or similar materials.
13. Construction joints and waterstops specifications (check the following box):
 - All construction joints in exterior walls shall be constructed to prevent discontinuity of steel and have properly spliced rebar placed through the joint. Waterstops shall be installed in all areas where fresh concrete will meet hardened concrete as indicated in Appendix D, Figures D-1 and D-2, at the end of this chapter. The waterstops shall be made of plastic, rolled bentonite or similar materials approved by the department.
14. Backfilling of walls specifications (check the following box):
 - Backfilling of the walls shall not start until the floor slats or permanent bracing have been installed. Backfilling shall be performed with material free of vegetation, large rocks or debris.
15. Additional design requirements (check the following box, if applicable):
 - A formed manure storage structure with a depth greater than 12 feet shall be designed by a PE or an NRCS engineer.

Welcome to Red Power Country

Humboldt Red Power, Inc.
 2050 13th St. N, Humboldt, IA 50548
 Office - 515-332-1702 Fax - 515-332-1742
 Here To Serve You, Yesterday, Today and Tomorrow
 www.redpowerteam.com



LAKE TOWNSHIP

SECTION 2
 1. Gilpin, Clifford 16

SECTION 3
 1. Pappas, Sandra 18

SECTION 14
 1. Haskins, Robert 6

SECTION 24
 1. Jones Cigo Free LLP 6

SECTION 35
 1. Hansen, Luke 10

SECTION 36
 1. Hansen, Clayton 9

SECTION 36
 1. Short, Danielle 6

F644-01; (148.80 ac.)



400 0 400 800 1200 1600 Feet



(148.80 ac.) F644-01a

Date: Dec 13, 2013
 Field Name: F644-01
 Location: Humboldt Co., Iowa, U.S.
 Section 32, T92N, R27W
 Farm Name: F644 Hiway 3
 Client Name: Proposed Sites
 Total Acres: 148.80
 Field Boundary Start Location:
 Latitude: 42.73880328
 Longitude: -94.05980105

F644-01; (148.80 ac.)

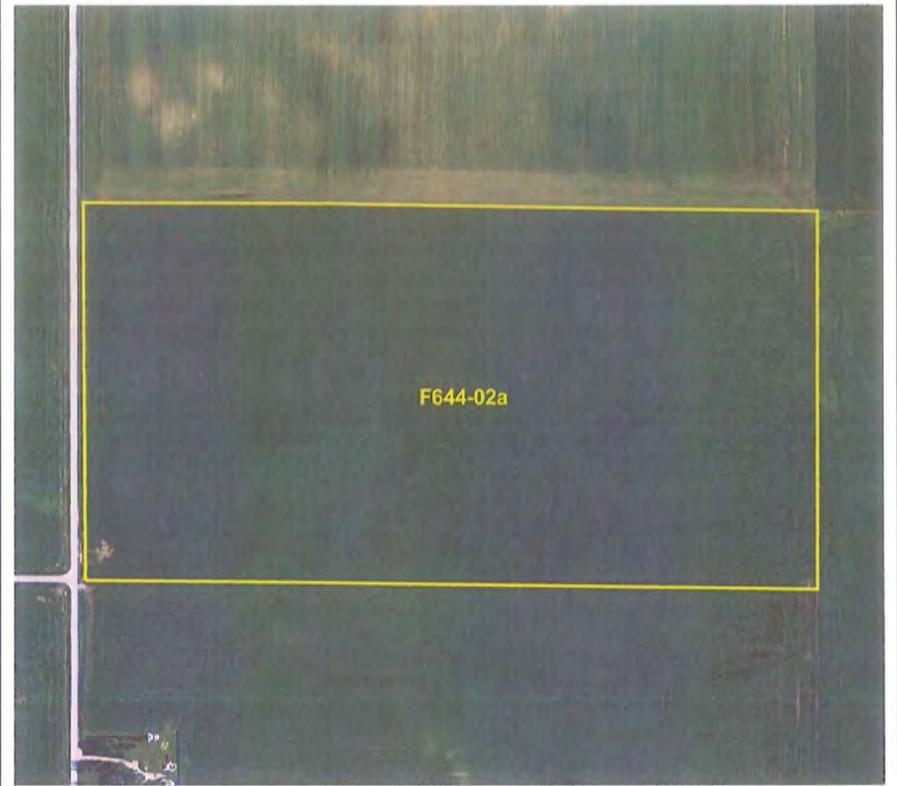


Date: Dec 13, 2013
 Field Name: F644-01
 Location: Humboldt Co., Iowa, U.S.
 Section 32, T92N, R27W
 Farm Name: F644 Hiway 3
 Client Name: Proposed Sites
 Total Acres: 148.80
 Field Boundary Start Location:
 Latitude: 42.73880328
 Longitude: -94.05980105

F644-01a-Soil Types	
507	(30.0 ac.)
508	(75.6 ac.)
526	(0.1 ac.)
55	(6.1 ac.)
6	(1.1 ac.)
95	(35.9 ac.)
	(148.8ac.)F644-01a



F644-02; (79.45 ac.)



Date: Dec 13, 2013
 Field Name: F644-02
 Location: Humboldt Co., Iowa, U.S.
 Section 32, T92N, R27W
 Farm Name: F644 Hiway 3
 Client Name: Proposed Sites
 Total Acres: 79.45
 Field Boundary Start Location:
 Latitude: 42.73525087
 Longitude: -94.06946263

(79.5ac.)F644-02a



F644-02; (79.45 ac.)



Date: Dec 13, 2013
 Field Name: F644-02
 Location: Humboldt Co., Iowa, U.S.
 Section 32, T92N, R27W
 Farm Name: F644 Hiway 3
 Client Name: Proposed Sites
 Total Acres: 79.45
 Field Boundary Start Location:
 Latitude: 42.73525087
 Longitude: -94.06946263

F644-02a-Soil Types	
138B	(10.8 ac.)
507	(43.6 ac.)
508	(6.1 ac.)
55	(5.0 ac.)
6	(4.6 ac.)
95	(9.3 ac.)
	(79.5ac.)F644-02a



F644-03; (200.03 ac.)



Date: Dec 18, 2013
 Field Name: F644-03
 Location: Humboldt Co., Iowa, U.S.
 Section 33, T92N, R27W
 Farm Name: F644 Hiway 3
 Client Name: Proposed Sites
 Total Acres: 200.03
 Field Boundary Start Location:
 Latitude: 42.74245606
 Longitude: -94.04985236

(181.8ac.)F644-03a





RUSLE2 Profile Erosion Calculation Record

Info:

File: profiles\Finishers\F644\F644-01a
 Access Group: R2_NRCS_Fld_Office

Inputs:

Location	Soil	Slope length (horiz)	Avg. slope steepness, %
Iowa\Humboldt County	508 Calcousta silty clay loam, depressional, 0 to 1 percent slopes\Calcousta silty clay loam 83%	98	0.50

Management	Vegetation	Yield units	Yield (# of units)
CMZ 041c.Other Local Mgt Records\SPCC - fall manure, FC st pt, Sicult	Corn, grain	bushels	181.00

Contouring	Strips/barriers	Diversion/terrace, sediment basin	Subsurface drainage	Adjust res. burial level	General yield level	Rock cover, %
a. rows up-and-down hill	(none)	(none)	(none)	Normal res. burial	Set by user	0

Outputs:

T value	Soil loss erod. portion	Detachment on slope	Soil loss for cons. plan	Sediment delivery	Net C factor	Net K factor	Crit. slope length	Surf. cover after planting, %
5.0	0.25	0.25	0.25	0.25	0.065	0.32		76

Date	Operation	Vegetation	Surf. res. cov. after op, %
10/25/0	Manure injector, liquid high disturb 30 inch		88
5/1/1	Cultivator, field 6-12 in sweeps		76
5/5/1	Planter, double disk opnr w/fluted coulters	Corn, grain	76
6/1/1	Sprayer, pre-emergence		71
6/8/1	Fert applic. side-dress, liquid		69
10/20/1	Harvest, killing crop 50pct standing stubble		89

FUEL USE EVALUATION:

Fuel type for entire run	Equiv. diesel use for entire simulation	Energy use for entire simulation	Fuel cost for entire simulation, US\$/ac
(none)	5.8	800000	17.36

SCI and STIR Output

Soil conditioning index (SCI)	Avg. annual slope STIR	Wind & Irrigation-Induced erosion for SCI, t/ac/yr
1.3	36.7	0

The SCI is the Soil Conditioning Index rating. If the calculated index is a negative value, soil organic matter levels are predicted to decline under that production system. If the index is a positive value, soil organic matter levels are predicted to increase under that system.

The STIR value is the Soil Tillage Intensity Rating. It utilizes the speed, depth, surface disturbance percent and tillage type parameters to calculate a tillage intensity rating for the system used in growing a crop or a rotation. STIR ratings tend to show the differences in the degree of soil disturbance between systems. The kind, severity and number of ground disturbing passes are evaluated for the entire cropping rotation as shown in the management description.



RUSLE2 Profile Erosion Calculation Record

Info:

File: profiles\Finishers\F644\F644-02a
 Access Group: R2_NRCS_Fld_Office

Inputs:

Location	Soil	Slope length (horiz)	Avg. slope steepness, %
Iowa\Humboldt County	138B Clarion loam, 2 to 5 percent slopes\Clarion loam 85%	98	4.0

Management	Vegetation	Yield units	Yield (# of units)
CMZ 04\c.Other Local Mgt Records\SFCC - fall manure, FC st pt, Sfcult	Corn, grain	bushels	223.00

Contouring	Strips/barriers	Diversion/terrace, sediment basin	Subsurface drainage	Adjust res. burial level	General yield level	Rock cover, %
a. rows up-and-down hill	(none)	(none)	(none)	Normal res. burial	Set by user	0

Outputs:

T value	Soil loss erod. portion	Detachment on slope	Soil loss for cons. plan	Sediment delivery	Net C factor	Net K factor	Crit. slope length	Surf. cover after planting, %
5.0	0.74	0.74	0.74	0.74	0.044	0.24		83

Date	Operation	Vegetation	Surf. res. cov. after op, %
10/25/0	Manure injector, liquid high disturb.30 inch		92
5/1/1	Cultivator, field 6-12 in sweeps		83
5/5/1	Planter, double disk opnr w/fluted coulter	Corn, grain	83
6/1/1	Sprayer, pre-emergence		78
6/8/1	Fert applic. side-dress, liquid		76
10/20/1	Harvest, killing crop 50pct standing stubble		93

FUEL USE EVALUATION:

Fuel type for entire run	Equiv. diesel use for entire simulation	Energy use for entire simulation	Fuel cost for entire simulation, US\$/ac
(none)	4.6	640000	13.89

SCI and STIR Output

Soil conditioning index (SCI)	Avg. annual slope STIR	Wind & Irrigation-induced erosion for SCI, t/ac/yr
1.2	36.7	0

The SCI is the Soil Conditioning Index rating. If the calculated index is a negative value, soil organic matter levels are predicted to decline under that production system. If the index is a positive value, soil organic matter levels are predicted to increase under that system.

The STIR value is the Soil Tillage Intensity Rating. It utilizes the speed, depth, surface disturbance percent and tillage type parameters to calculate a tillage intensity rating for the system used in growing a crop or a rotation. STIR ratings tend to show the differences in the degree of soil disturbance between systems. The kind, severity and number of ground disturbing passes are evaluated for the entire cropping rotation as shown in the management description.



RUSLE2 Profile Erosion Calculation Record

Info:

File: profiles\Finishers\F844\F844-03a
 Access Group: R2_NRCS_Fld_Office

Inputs:

Location	Soil	Slope length (horiz)	Avg. slope steepness, %
Iowa\Humboldt County	508 Calcousta silty clay loam, depressiona, 0 to 1 percent slopes\Calcousta silty clay loam 83%	98	0.50

Management	Vegetation	Yield units	Yield (# of units)
CMZ 04c.Other Local Mgt Records\SFVCC - fall manure, FC st pt, Sfcult	Corn, grain	bushels	181.00

Contouring	Strips/barriers	Diversion/terrace, sediment basin	Subsurface drainage	Adjust res. burial level	General yield level	Rock cover, %
a. rows up-and-down hill	(none)	(none)	(none)	Normal res. burial	Set by user	0

Outputs:

T value	Soil loss erod. portion	Detachment on slope	Soil loss for cons. plan	Sediment delivery	Net C factor	Net K factor	Crit. slope length	Surf. cover after planting, %
5.0	0.25	0.25	0.25	0.25	0.065	0.32		76

Date	Operation	Vegetation	Surf. res. cov. after op, %
10/25/0	Manure injector, liquid high disturb.30 inch		88
5/1/1	Cultivator, field 6-12 in sweeps		76
5/5/1	Planter, double disk opnr w/fluted coultter	Corn, grain	76
6/1/1	Sprayer, pre-emergence		71
6/8/1	Fert applic. side-dress, liquid		69
10/20/1	Harvest, killing crop 50pct standing stubble		89

FUEL USE EVALUATION:

Fuel type for entire run	Equiv. diesel use for entire simulation	Energy use for entire simulation	Fuel cost for entire simulation, US\$/ac
(none)	5.8	800000	17.36

SCI and STIR Output

Soil conditioning index (SCI)	Avg. annual slope STIR	Wind & Irrigation-induced erosion for SCI, t/ac/yr
1.3	36.7	0

The SCI is the **Soil Conditioning Index** rating. If the calculated index is a negative value, soil organic matter levels are predicted to decline under that production system. If the index is a positive value, soil organic matter levels are predicted to increase under that system.

The STIR value is the **Soil Tillage Intensity Rating**. It utilizes the speed, depth, surface disturbance percent and tillage type parameters to calculate a tillage intensity rating for the system used in growing a crop or a rotation. STIR ratings tend to show the differences in the degree of soil disturbance between systems. The kind, severity and number of ground disturbing passes are evaluated for the entire cropping rotation as shown in the management description.

Prepared by and return to: Jaime Keeniger, P.O. Box 400, Iowa Falls, IA 50126 Telephone: 641-648-4479

MANURE EASEMENT AGREEMENT

THIS MANURE EASEMENT AGREEMENT ("Agreement"), entered into the 4th day of September, 2013, between James D Rasmussen and Dawn M Rasmussen, husband and wife, and Timothy D Rasmussen and Jolena M Rasmussen, husband and wife from Goldfield, Iowa ("Grantor") and Hawker Farms II, LLC, an Iowa Limited Liability Company with its principal place of business in Iowa Falls, Iowa ("Grantee").

WHEREAS, Grantee or its assigns desire to apply hog manure (whether from Grantee's hog confinement facility (the "Hog Farm") or from other facilities as assigned by Grantee) on certain property of Grantor, the legal description of which has been attached hereto as Exhibit "A" ("Grantor's Land") and Grantor desires to grant an easement to Grantee for the purpose of applying manure to Grantor's Land, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Easement.** Grantor hereby grants, bargains and conveys to Grantee an easement over, across and on Grantor's Land for the purpose of applying such manure in such amounts and at such times as provided in this Agreement, including the right to ingress and egress onto Grantor's Land. The easement provided herein for the right to apply manure to the Grantor's Land shall run with the land and bind all future titleholders to Grantor's Land. Grantor's Land consists of 235 acres on which manure can be applied by Grantee.

2. **Term and Termination.** This Agreement shall continue in full force and effect for an initial term of 20 years from the date hereof and shall continue thereafter for so long as the Hog Farm remains in operation. This Agreement may not be otherwise terminated except by written agreement, signed by the parties hereto, their successors, assigns or personal representatives.

3. **Testing.** Grantee agrees to test the manure to be applied to Grantor's Land for nitrogen, phosphorus and potassium consistent with customary practice and, upon request, to provide to Grantor a summary of the approximate amounts of such nutrients applied to Grantor's Land as a result of any manure application under this Agreement. Grantor grants Grantee access to Grantor's Land at all reasonable times during the term of this Agreement for the purpose of soil testing as may be required by federal or state law or rule.

4. **Timing of Manure Application.** Grantor specifically agrees that Grantee may apply manure on Grantor's Land at such time and frequency as Grantee may reasonably determine. Grantee agrees that if crops are raised on Grantor's Land, Grantee will not apply manure on Grantor's Land during the period

commencing with planting of the crop and ending at harvest of the crop. Grantor further agrees that if during the period of this Agreement, it is determined by an independent source (e.g., ISU Extension) that a buildup of nutrients or trace elements has occurred which has become significantly detrimental to crop production, Grantee will suspend the spreading of manure until the buildup has been reduced to levels not significantly detrimental to crop production; however, such suspension will not result in a termination of this Agreement.

5. **Application of Manure.** Grantee shall provide for all applications of manure to Grantor's Land, whether by Grantee or by third parties hired by Grantee. Grantors acknowledge that this Agreement does not grant Grantors an exclusive right to any or all manure produced by Grantee. All environmental and conservation credits, including carbon sequestration or similar credits or benefits, which are associated with the application of manure as provided in this Agreement shall be the sole property of Grantee.

6. **Warranties of Grantor.** Grantor warrants that Grantor has title to and the unrestricted right to convey an easement in the Grantor's Land for the purpose of applying manure. Grantor waives all rights of dower, homestead and distributive share in and to Grantor's Land. Grantor agrees to not apply additional fertilizer to Grantor's Land if such application, when combined with the manure applied to Grantor's Land under this Agreement, would exceed the optimal fertilization for the crops grown on Grantor's Land or would cause Grantee to not be in compliance with Grantee's required nutrient or manure management plan(s).

7. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors, assigns and personal representatives. Without limiting any assignment rights, Grantee may assign its rights under this Agreement, in whole or in part, for such periods as Grantee may determine, to third parties desiring to apply manure to Grantor's Land.

8. **Limitation of Liability.** The parties hereto agree that no agent or employee of one party is an agent or employee of the other, and that any liability arising from the actions or negligence of an agent or employee of a party hereto shall be such party's sole responsibility.

9. **Waiver.** The failure of any party hereto to insist in any one or more instances upon performance of any term or condition of this Agreement shall not be construed as a waiver of future performance of any such term, covenant or condition, but the obligation of such party with respect thereto shall continue in full force and effect.

10. **Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State of Iowa.

11. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties and supersedes all earlier agreements or understandings, written or oral. No amendment to this Agreement shall be effective unless it is in writing and signed by both parties and/or their respective heirs, successors, and assigns. If any provision of this Agreement is held invalid, the remaining provisions of this Agreement shall remain in full force and effect as if that invalid provision had not been included in this Agreement. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neutered gender according to the context.

12. **Grantor's Spouse.** In the event that Grantor's spouse is not a title holder of Grantor's Land, said spouse executes this Agreement for the sole purpose of waiving and relinquishing any rights of dower, homestead and distributive share.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written

GRANTOR

GRANTEE

[Signature]
Print Name: James D. Rasmussen

[Signature]
Print Name: Debra M. Rasmussen

[Signature]
Print Name: Timothy D. Rasmussen

[Signature]
Print Name: Jolene M. Rasmussen

Hawker Farms II, LLC

By: [Signature]
Name & Title: William C. Foley, Mgr

STATE OF IOWA)
) SS:
COUNTY OF WRIGHT)

On this 5th day of September, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared James D. Rasmussen and Debra M. Rasmussen, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



[Signature]

Notary Public
in and for said state

STATE OF IOWA)
) SS:
COUNTY OF WRIGHT)

On this 5th day of September, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Timothy D. Rasmussen and Jolene M. Rasmussen, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



[Signature]

Notary Public
in and for said state

STATE OF IOWA)
) SS:
COUNTY OF HARDEN)

On this 4 day of September, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared William C. Foley, who is manager of Hawker Farms II, LLC, in his/her capacity as manager, and acknowledged that he/she executed the same as the voluntary act and deed of Hawker Farms II, LLC, the same as his/her voluntary act and deed.

[Signature]

Notary Public
in and for said state



Exhibit "A"
Grantor's Land - Legal Description

The Southeast Quarter of Section 32, in Township 92 North, Range 27, West of the 5th P.M., otherwise described as the East Half of the Southeast Quarter and that part of Government Lots 4, 5, and 6 lying in and forming the West Half of the Southeast Quarter of Section 32, in Township 92 North, Range 27, West of the 5th P.M., Humboldt County, Iowa. F644-01
160 AC

And

~~An undivided one-half interest in and to:~~ The South Half of the following described real estate: The North One-half of the Southwest Quarter of Section 32, Township 92 North, Range 27 West of the 5th P.M., Humboldt County, Iowa, more particularly described as follows: Beginning at the Northwest corner of the said Southwest Quarter; thence South 88°58'33" East 2,647.01 feet along the North line of the said Southwest Quarter to the Northeast corner of the said Southwest Quarter; thence South 00°05'46" West 1,316.70 feet along the East line of the said Southwest Quarter to the Southeast corner of the North one-half said Southwest Quarter; thence North 89°07'53" West 2,644.68 feet along the South line of the North one-half of the Southwest Quarter to the Southwest corner of the North one-half of the Southwest Quarter; thence North 00°00'00" East 1,323.92 feet along the West line of the said Southwest Quarter to the point of beginning containing 80.19 acres. Note: For the purpose of this survey the West line of the said Southwest Quarter was assumed to bear North 00°00'00" East.

Jim
40A

And

An undivided one-half interest in and to: The North Half of the following described real estate: The North One-half of the Southwest Quarter of Section 32, Township 92 North, Range 27 West of the 5th P.M., Humboldt County, Iowa, more particularly described as follows: Beginning at the Northwest corner of the said Southwest Quarter; thence South 88°58'33" East 2,647.01 feet along the North line of the said Southwest Quarter to the Northeast corner of the said Southwest Quarter; thence South 00°05'46" West 1,316.70 feet along the East line of the said Southwest Quarter to the Southeast corner of the North one-half said Southwest Quarter; thence North 89°07'53" West 2,644.68 feet along the South line of the North one-half of the Southwest Quarter to the Southwest corner of the North one-half of the Southwest Quarter; thence North 00°00'00" East 1,323.92 feet along the West line of the said Southwest Quarter to the point of beginning containing 80.19 acres. Note: For the purpose of this survey the West line of the said Southwest Quarter was assumed to bear North 00°00'00" East.

Tim
40AC

F644-02

Prepared by and return to: Jaime Koeniger, P.O. Box 400, Iowa Falls, IA 50126. Telephone: 641-646-4479

MANURE EASEMENT AGREEMENT

THIS MANURE EASEMENT AGREEMENT ("Agreement"), entered into the 21st day of September, 2013, between Marvin N Rasmussen, a single person, and Larry E Rasmussen and Jifa R Rasmussen, husband and wife from Goldfield, Iowa ("Grantor") and Hawker Farms II, LLC, an Iowa Limited Liability Company with its principal place of business in Iowa Falls, Iowa ("Grantee").

WHEREAS, Grantee or its assigns desire to apply hog manure (whether from Grantee's hog confinement facility (the "Hog Farm") or from other facilities as assigned by Grantee) on certain property of Grantor, the legal description of which has been attached hereto as Exhibit "A" ("Grantor's Land") and Grantor desires to grant an easement to Grantee for the purpose of applying manure to Grantor's Land, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Easement.** Grantor hereby grants, bargains and conveys to Grantee an easement over, across and on Grantor's Land for the purpose of applying such manure in such amounts and at such times as provided in this Agreement, including the right to ingress and egress onto Grantor's Land. The easement provided herein for the right to apply manure to the Grantor's Land shall run with the land and bind all future titleholders to Grantor's Land. Grantor's Land consists of 190 acres on which manure can be applied by Grantee.
- 2. Term and Termination.** This Agreement shall continue in full force and effect for an initial term of 20 years from the date hereof and shall continue thereafter for so long as the Hog Farm remains in operation. This Agreement may not be otherwise terminated except by written agreement, signed by the parties hereto, their successors, assigns or personal representatives.
- 3. Testing.** Grantee agrees to test the manure to be applied to Grantor's Land for nitrogen, phosphorus and potassium consistent with customary practice and, upon request, to provide to Grantor a summary of the approximate amounts of such nutrients applied to Grantor's Land as a result of any manure application under this Agreement. Grantor grants Grantee access to Grantor's Land at all reasonable times during the term of this Agreement for the purpose of soil testing as may be required by federal or state law or rule.
- 4. Timing of Manure Application.** Grantor specifically agrees that Grantee may apply manure on Grantor's Land at such time and frequency as Grantee may reasonably determine. Grantee agrees that if crops are raised on Grantor's Land, Grantee will not apply manure on Grantor's Land during the period

commencing with planting of the crop and ending at harvest of the crop. Grantor further agrees that if during the period of this Agreement, it is determined by an independent source (e.g., ISU Extension) that a buildup of nutrients or trace elements has occurred which has become significantly detrimental to crop production, Grantee will suspend the spreading of manure until the buildup has been reduced to levels not significantly detrimental to crop production; however, such suspension will not result in a termination of this Agreement.

5. **Application of Manure.** Grantee shall provide for all applications of manure to Grantor's Land, whether by Grantee or by third parties hired by Grantee. Grantors acknowledge that this Agreement does not grant Grantors an exclusive right to any or all manure produced by Grantee. All environmental and conservation credits, including carbon sequestration or similar credits or benefits, which are associated with the application of manure as provided in this Agreement shall be the sole property of Grantee.

6. **Warranties of Grantor.** Grantor warrants that Grantor has title to and the unrestricted right to convey an easement in the Grantor's Land for the purpose of applying manure. Grantor waives all rights of dower, homestead and distributive share in and to Grantor's Land. Grantor agrees to not apply additional fertilizer to Grantor's Land if such application, when combined with the manure applied to Grantor's Land under this Agreement, would exceed the optimal fertilization for the crops grown on Grantor's Land or would cause Grantee to not be in compliance with Grantee's required nutrient or manure management plan(s).

7. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors, assigns and personal representatives. Without limiting any assignment rights, Grantee may assign its rights under this Agreement, in whole or in part, for such periods as Grantee may determine, to third parties desiring to apply manure to Grantor's Land.

8. **Limitation of Liability.** The parties hereto agree that no agent or employee of one party is an agent or employee of the other, and that any liability arising from the actions or negligence of an agent or employee of a party hereto shall be such party's sole responsibility.

9. **Waiver.** The failure of any party hereto to insist in any one or more instances upon performance of any term or condition of this Agreement shall not be construed as a waiver of future performance of any such term, covenant or condition, but the obligation of such party with respect thereto shall continue in full force and effect.

10. **Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State of Iowa.

11. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties and supersedes all earlier agreements or understandings, written or oral. No amendment to this Agreement shall be effective unless it is in writing and signed by both parties and/or their respective heirs, successors, and assigns. If any provision of this Agreement is held invalid, the remaining provisions of this Agreement shall remain in full force and effect as if that invalid provision had not been included in this Agreement. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neutered gender according to the context.

12. **Grantor's Spouse.** In the event that Grantor's spouse is not a title holder of Grantor's Land, said spouse executes this Agreement for the sole purpose of waiving and relinquishing any rights of dower, homestead and distributive share.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

GRANTOR

GRANTEE

Marvin N. Rasmussen
Print Name: Marvin N. Rasmussen

Hawker Farms II, LLC

Larry E. Rasmussen
Print Name: Larry E. Rasmussen

By: William C. Foley, III
Name & Title: William C. Foley, III

Sara Rasmussen
Print Name: Sara Rasmussen

Print Name: _____

STATE OF IOWA)
COUNTY OF WRIGHT) SS:

On this 16th day of September 2013 before me, the undersigned, a Notary Public in and for said State, personally appeared Marvin N. Rasmussen and _____, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



Deborah K. Nickell

Notary Public
in and for said state

STATE OF IOWA)
COUNTY OF WRIGHT) SS:

On this 16th day of September 2013 before me, the undersigned, a Notary Public in and for said State, personally appeared Larry E. Rasmussen and Gina Rasmussen, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



Deborah K. Nickell

Notary Public
in and for said state

STATE OF IOWA)
COUNTY OF Hardin)

On this 4th day of September 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared William Cole, who is manager of Hawke Farms LLC, in his/her capacity as Manager, and acknowledged that he/she executed the same as the voluntary act and deed of Hawke Farms LLC the same as their voluntary act and deed.

J. Matthew Nelsen

Notary Public
in and for said state

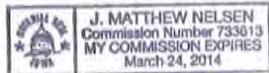


Exhibit "A"
Grantor's Land - Legal Description

*North 190 acres of:

Southwest quarter (SW 1/4) and the South half (S 1/2) of the Northwest quarter (NW 1/4), all in Section 33, Township 92 North, Range 27 West of the 5th P.M., all in Humboldt County, Iowa

**APPENDIX C
MASTER MATRIX**

Proposed Site Characteristics

The following scoring criteria apply to the site of the proposed confinement feeding operation. Mark one score under each criterion selected by the applicant. The proposed site must obtain a minimum overall score of 440 and a score of 53.38 in the "air" subcategory, a score of 67.75 in the "water" subcategory and a score of 101.13 in the "community impacts" subcategory.

1. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
- * Residence not owned by the owner of the confinement feeding operation,
 - * Hospital,
 - * Nursing home, or
 - * Licensed or registered child care facility.

	Score	Air	Water	Community
250 feet to 500 feet	25	16.25		8.75
501 feet to 750 feet	45	29.25		17.50
751 feet to 1,000 feet	65	42.25		22.75
1,001 feet to 1,250 feet	85	55.25		29.75
1,251 feet or more	100	65.00		35.00

- (A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567--Chapter 65 to determine minimum required separation distances.
- (B) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.
- (C) "Licensed child care center" - a facility licensed by the department of human services providing child care or preschool services for seven or more children, except when the facility is registered as a child care home.
- (D) "Registered child development homes" - child care providers certify that they comply with rules adopted by the department of human services. This process is voluntary for providers caring for five or fewer children and mandatory for providers caring for six or more children.
- (E) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

2. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest public use area.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00

1,501 feet or more	30	12.00		18.00
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(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567--Chapter 65 to determine minimum required separation distances.

(B) "Public use area" - a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cafeterias, lodges, shelter houses, playground equipment, lakes as listed in Table 2 of 567--Chapter 65, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

3. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
- * Educational institution,
 - * Religious institution, or
 - * Commercial enterprise.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567--Chapter 65 to determine minimum required separation distances.

(B) The department will award points only for the single building, of the three listed above, closest to the proposed confinement feeding operation.

(C) "Educational institution" - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area educational agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

(D) "Religious institution" - a building in which an active congregation is devoted to worship.

(E) "Commercial enterprise" - a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

4. Additional separation distance, above minimum requirement of 500 feet, from proposed confinement structure to the closest water source.

	Score	Air	Water	Community
250 feet to 500 feet	5		5.00	
501 feet to 750 feet	10		10.00	
751 feet to 1,000 feet	15		15.00	
1,001 feet to 1,250 feet	20		20.00	
1,251 feet to 1,500 feet	25		25.00	
1,501 feet or more	30		30.00	

"Water source" - a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without an outlet to which only one landowner is riparian.

- 5 Separation distance of 300 feet or more from the proposed confinement structure to the nearest thoroughfare.

	Score	Air	Water	Community
300 feet or more	30	9.00		21.00

(A) "Thoroughfare" - a road, street, bridge, or highway open to the public and constructed or maintained by the state or a political subdivision.
 (B) The 300-foot distance includes the 100-foot minimum setback plus additional 200 feet.

- 6 Additional separation distance, above minimum requirements, from proposed confinement structure to the closest critical public area.

	Score	Air	Water	Community
500 feet or more	10	4.00		6.00

(A) All critical public areas as defined in 567--65.1(455B), are public use areas, and therefore subject to public use area minimum separation distances.
 (B) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567--Chapter 65 to determine minimum required separation distances.

- 7 Proposed confinement structure is at least two times the minimum required separation distance from all private and public water wells.

	Score	Air	Water	Community
Two times the minimum separation distance	30		24.00	6.00

Refer to Table 6 of 567--Chapter 65 for minimum required separation distances to wells.

- 8 Additional separation distance, above the minimum requirement of 1,000 feet, from proposed confinement structure to the closest:

- * Agricultural drainage well,
- * Known sinkhole, or
- * Major water source.

	Score	Air	Water	Community
250 feet to 500 feet	5	0.50	2.50	2.00
501 feet to 750 feet	10	1.00	5.00	4.00
751 feet to 1,000 feet	15	1.50	7.50	6.00
1,001 feet to 1,250 feet	20	2.00	10.00	8.00
1,251 feet to 1,500 feet	25	2.50	12.50	10.00
1,501 feet to 1,750 feet	30	3.00	15.00	12.00
1,751 feet to 2,000 feet	35	3.50	17.50	14.00
2,001 feet to 2,250 feet	40	4.00	20.00	16.00
2,251 feet to 2,500 feet	45	4.50	22.50	18.00
2,501 feet or more	50	5.00	25.00	20.00

(A) The department will award points only for the single item, of the three listed above, that is closest to the proposed confinement feeding operation.

(B) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.
 (C) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Tables 1 and 2 in 567--Chapter 65.

- 9 Distance between the proposed confinement structure and the nearest confinement facility that has a submitted department manure management plan.

	Score	Air	Water	Community
Three-quarter of a mile or more (3,960 feet)	25	7.50	7.50	10.00

Confinement facilities include swine, poultry, and dairy and beef cattle.

- 10 Separation distance from proposed confinement structure to closest:

- * High quality (HQ) waters,
- * High quality resource (HQR) waters, or
- * Protected water areas (PWA)

is at least two times the minimum required separation distance

	Score	Air	Water	Community
Two times the minimum separation distance	30		22.50	7.50

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.

(B) HQ waters are identified in 567--Chapter 61.

(C) HQR waters are identified in 567--Chapter 61.

(D) A listing of PWAs is available at

<http://www.state.ia.us/government/dnr/organize/ppd/prowater.html#Location%20of%20PWA's%20in>.

- 11 Air quality modeling results demonstrating an annoyance level less than 2 percent of the time for residences within two times the minimum separation distance.

	Score	Air	Water	Community
University of Minnesota OFFSET model results demonstrating an annoyance level less than 2 percent of the time	10	6.00		4.00

(A) OFFSET can be found at <http://www.extension.umn.edu/distribution/livestocksystems/D17680.html>. For more information, contact Dr. Larry Jacobson, University of Minnesota, (612) 625-8268, jacob007@tc.umn.edu.

(B) A residence that has a signed waiver for the minimum separation distance cannot be included in the model.

(C) Only the OFFSET model is acceptable until the department recognizes other air quality models.

- 12 Liquid manure storage structure is covered.

	Score	Air	Water	Community
Covered liquid manure storage	30	27.00		3.00

(A) "Covered" - organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gases between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, other crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials include, but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least 90 percent of the surface area of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least 75 percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.

(B) The design, operation and maintenance plan for the manure cover must be in the construction permit application and made a condition in the approved construction permit.

13 Construction permit application contains design, construction, operation and maintenance plan for emergency containment area at manure storage structure pump-out area.

	Score	Air	Water	Community
Emergency containment	20		18.00	2.00

- (A) The emergency containment area must be able to contain at least 5 percent of the total volume capacity of the manure storage structure.
 (B) The emergency containment area must be constructed on soils that are fine-grained and have low permeability.
 (C) If manure is spilled into the emergency containment area, the spill must be reported to the department within six hours of onset or discovery.
 (D) The design, construction, operation and maintenance plan for the emergency containment area must be in the construction permit application and made a condition in the approved construction permit.

14 Installation of a filter(s) designed to reduce odors from confinement building(s) exhaust fan(s).

	Score	Air	Water	Community
Installation of filter(s)	10	8.00		2.00

The design, operation and maintenance plan for the filter(s) must be in the construction permit application and made a condition in the approved construction permit.

15 Utilization of landscaping around confinement structure.

	Score	Air	Water	Community
Utilization of landscaping	20	10.00		10.00

The design, operation and maintenance plan for the landscaping must be in the construction permit application and made a condition in the approved construction permit. The design should contain at least three rows of trees and shrubs, of both fast and slow-growing species that are well suited for the site.

16 Enhancement, above minimum requirements, of structures used in stockpiling and composting activities, such as an impermeable pad and a roof or cover.

	Score	Air	Water	Community
Stockpile and compost facility enhancements	30	9.00	18.00	3.00

- (A) The design, operation and maintenance plan for the stockpile or compost structure enhancements must be in the construction permit application and made a condition in the approved construction permit.
 (B) The stockpile or compost structures must be located on land adjacent or contiguous to the confinement building.

17 Proposed manure storage structure is formed

	Score	Air	Water	Community

	Score	Air	Water	Community
Formed manure storage structure	30		27.00	3.00

(A) "Formed manure storage structure" - a covered or uncovered impoundment used to store manure from an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed manure storage structure shall have the structural integrity to withstand expected internal and external load pressures.

(B) The design, operation and maintenance plan for the formed manure storage structure must be in the construction permit application and made a condition in the approved construction permit.

18 Manure storage structure is aerated to meet departmental standards as an aerobic structure, if aeration is not already required by the department.

	Score	Air	Water	Community
Aerated manure storage structure(s)	10	8.00		2.00

(A) Aerobic structure - an animal feeding operation structure other than an egg washwater storage structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of 2 milligrams per liter dissolved oxygen concentration in the upper 30 percent of the depth of manure in the structure at all times.

(B) The design, operation and maintenance plan for the aeration equipment must be in the construction permit application and made a condition in the approved construction permit.

19 Proposed confinement site has a suitable truck turnaround area so that semitrailers do not have to back into the facility from the road

	Score	Air	Water	Community
Truck turnaround	20			20.00

(A) The design, operation and maintenance plan for the truck turn around area must be in the construction permit application and made a condition in the approved construction permit.

(B) The turnaround area should be at least 120 feet in diameter and be adequately surfaced for traffic in inclement weather.

20 Construction permit applicant's animal feeding operation environmental and worker protection violation history for the last five years at all facilities in which the applicant has an interest.

	Score	Air	Water	Community
No history of Administrative Orders in last five years	30			30.00

(A) "Interest" - means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

(B) An environmental violation is a final Administrative Order (AO) from the department of natural resources or final court ruling against the construction permit applicant for environmental violations related to an animal feeding operation. A Notice of Violation (NOV) does not constitute a violation.

21 Construction permit applicant waives the right to claim a Pollution Control Tax Exemption for the life of the proposed confinement feeding operation structure.

	Score	Air	Water	Community

Permanent waiver of Pollution Control Tax Exemption	5			5.00
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(A) Waiver of Pollution Control Tax Exemption is limited to the proposed structure(s) in the construction permit application.

(B) The department and county assessor will maintain a record of this waiver, and it must be in the construction permit application and made a condition in the approved construction permit.

22 Construction permit applicant can lawfully claim a Homestead Tax Exemption on the site where the proposed confinement structure is to be constructed

- OR -

the construction permit applicant is the closest resident to the proposed confinement structure.

	Score	Air	Water	Community
Site qualifies for Homestead Tax Exemption or permit applicant is closest resident to proposed structure	25			25.00

Proof of Homestead Tax Exemption is required as part of the construction permit application.

(A) Applicant include persons who have ownership interests. "Interest" - means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

23 Construction permit applicant can lawfully claim a Family Farm Tax Credit for agricultural land where the proposed confinement feeding operation is to be located pursuant to Iowa Code chapter 425A.

	Score	Air	Water	Community
Family Farm Tax Credit qualification	25			25.00

(A) Applicant include persons who have ownership interests. "Interest" - means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

24 Facility size.

	Score	Air	Water	Community
1 to 2,000 animal unit capacity	20			20.00
2,001 to 3,000 animal unit capacity	10			10.00
3,001 animal unit capacity or more	0			0.00

(A) Refer to the construction permit application package to determine the animal unit capacity of the proposed confinement structure at the completion of construction.

(B) If the proposed structure is part of an expansion, animal unit capacity (or animal weight capacity) must include all animals confined in adjacent confinement structures.

(C) Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

(a) At least one confinement feeding operation structure must be constructed on and after May 21, 1998.

(b) A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) 1,250 feet for confinement feeding operations having a combined animal unit capacity of less than 1,000 animal units.

(2) 2,500 feet for confinement feeding operations having a combined animal unit capacity of 1,000 animal units or more.

25 Construction permit application includes livestock feeding and watering systems that significantly reduce manure volume.

	Score	Air	Water	Community
Wet/dry feeders or other feeding and watering systems that significantly reduce manure volume	25		12.50	12.50

The design, operation and maintenance plan for the feeding system must be in the construction permit application and made a condition in the approved construction permit.

Proposed Site Operation and Manure Management Practices

The following scoring criteria apply to the operation and manure management characteristics of the proposed confinement feeding operation. Mark one score under each criterion that best reflects the characteristics of the submitted manure management plan.

26 Liquid or dry manure (choose only one subsection from subsections "a" - "e" and mark one

	Score	Air	Water	Community
a. Bulk dry manure is sold under Iowa Code chapter 200A and surface-applied	15		15.00	
Bulk dry manure is sold under Iowa Code chapter 200A and incorporated on the same date it is land-applied	30	12.00	12.00	6.00
b. Dry manure is composted and land-applied under the requirements of a department manure management plan	10	4.00	4.00	2.00
Dry manure is composted and sold so that no manure is applied under the requirements of a department manure management plan	30	12.00	12.00	6.00

c.	Methane digester is used to generate energy from manure and remaining manure is surface-applied under the requirements of an approved department manure management plan	10	3.00	3.00	4.00
	After methane digestion is complete, manure is injected or incorporated on the same date it is land-applied under the requirements of an approved department manure management plan	30	12.00	12.00	6.00
d.	Dry manure is completely burned to generate energy and no remaining manure is applied under the requirements of a manure management plan	30	9.00	9.00	12.00
	Some dry manure is burned to generate energy, but remaining manure is land-applied and incorporated on the same date it is land-applied	30	12.00	12.00	6.00
e.	Injection or incorporation of manure on the same date it is land-applied	30	12.00	12.00	6.00

(A) Choose only ONE line from subsection "a", "b", "c", "d," or "e" above and mark only one score in that subsection.

(B) The injection or incorporation of manure must be in the construction permit application and made a condition in the approved construction permit.

(C) If an emergency arises and injection or incorporation is not feasible, prior to land application of manure the applicant must receive a written approval for an emergency waiver from a department field office to surface-apply manure.

(D) Requirements pertaining to the sale of bulk dry manure under pursuant to Iowa Code chapter 200A must be incorporated into the construction permit application and made a condition of the approved construction permit.

(E) The design, operation and maintenance plan for utilization of manure as an energy source must be in the construction permit application and made a condition in the approved construction permit.

(F) The design, operation and maintenance plan for composting facilities must be in the construction permit application and made a condition in the approved construction permit.

27 Land application of manure is based on a two-year crop rotation phosphorus uptake level.

	Score	Air	Water	Community
Two-year phosphorus crop uptake application rate	10		10.00	

(A) Land application of manure cannot exceed phosphorus crop usage levels for a two-year crop rotation cycle.

(B) The phosphorus uptake application rates must be in the construction permit application and made a condition in the approved construction permit.

28 Land application of manure to farmland that has USDA Natural Resources Conservation Service (NRCS) approved buffer strips contiguous to all water sources traversing or adjacent to the fields listed in the manure management plan.

	Score	Air	Water	Community
Manure application on farmland with buffer strips	10		8.00	2.00

(A) The department may request NRCS maintenance agreements to ensure proper design, installation and maintenance of filter strips. If a filter strip is present but not designed by NRCS, it must meet NRCS standard specifications.

(B) The application field does not need to be owned by the confinement facility owner to receive points.

(C) On current and future manure management plans, the requirement for buffer strips on all land application areas must be in the construction permit application and made a condition in the approved construction permit.

29 Land application of manure does not occur on highly erodible land (HEL), as classified by the USDA NRCS.

	Score	Air	Water	Community
No manure application on HEL farmland	10		10.00	

Manure application on non-HEL farmland must be in the construction permit application and made a condition in the approved construction permit.

30 Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:

- *Residence not owned by the owner of the confinement feeding operation,
- * Hospital,
- * Nursing home, or
- *Licensed or registered child care facility.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	3.25		1.75
Additional separation distance of 500 feet	10	6.50		3.50

(A) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.

(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.

(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.

(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

(E) "Licensed child care center" – a facility licensed by the department of human services providing child care or preschool services for seven or more children, except when the facility is registered as a child care home.

(F) "Registered child development homes" – child care providers certify that they comply with rules adopted by the department of human services. This process is voluntary for providers caring for five or fewer children and mandatory for providers caring for six or more children.

(G) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

31 Additional separation distance, above minimum requirements (0 or 750 feet, see below), for land application of manure to closest public use area.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) "Public use area" - a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes as listed in Table 2 in 567--Chapter 65, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.

(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.

(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

32 Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:

- * Educational institution,
- * Religious institution, or
- * Commercial enterprise.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.

(B) Minimum separation distance for land application of manure injected or incorporated on same date as application: 0 feet.

(C) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

(D) "Educational institution" - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area educational agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

(E) "Religious institution" - a building in which an active congregation is devoted to worship.

(F) "Commercial enterprise" - a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

33 Additional separation distance of 50 feet, above minimum requirements (0 or 200 feet, see below), for the land application of manure to the closest private drinking water well or public drinking water well

- OR -

well is properly closed under supervision of county health officials.

	Score	Air	Water	Community
Additional separation distance of 50 feet or well is properly closed	10		8.00	2.00

(A) Minimum separation distance for land application of manure injected or incorporated on the same date as application or 50-foot vegetation buffer exists around well and manure is not applied to the buffer: 0 feet.

(B) Minimum separation distance for land application of manure broadcast on soil surface: 200 feet.

(C) If applicant chooses to close the well, the well closure must be incorporated into the construction permit application and made a condition in the approved construction permit.

34 Additional separation distance, above minimum requirements, for the land application of manure to the closest:

- * Agricultural drainage well,
- * Known sinkhole,
- * Major water source, or
- * Water source.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	0.50	2.50	2.00
Additional separation distance of 400 feet	10	1.00	5.00	4.00

(A) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.

(B) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Tables 1 and 2 in 567--Chapter 65.

(C) "Water source" - a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without an outlet to which only one landowner is riparian.

(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

35 Additional separation distance above minimum requirements, for the land application of manure, to the closest:

- * High quality (HQ) water,
- * High quality resource (HQR) water, or
- * Protected water area (PWA).

	Score	Air	Water	Community
Additional separation distance of 200 feet	5		3.75	1.25
Additional separation distance of 400 feet	10		7.50	2.50

(A) HQ waters are identified in 567--Chapter 61.

(B) HQR waters are identified in 567--Chapter 61.

(C) A listing of PWAs is available at

<http://www.state.ia.us/government/dnr/organiza/ppd/prowater.html#Location%20of%20PWA's%20in>

36 Demonstrated community support.

	Score	Air	Water	Community
Written approval of 100% of the property owners within a one mile radius.	20			20.00

37 Worker safety and protection plan is submitted with the construction permit application.

	Score	Air	Water	Community
Submission of worker safety and protection plan	10			10.00

(A) The worker safety and protection plan must be in the construction permit application and made a condition in the approved construction permit.

(B) The worker safety and protection plan and subsequent records must be kept on site with the manure management plan records.

38 Applicant signs a waiver of confidentiality allowing public to view confidential manure management plan land application records

	Score	Air	Water	Community
Manure management plan confidentiality waiver	5			5.00

The waiver of confidentiality must be in the construction permit application and made a condition in the approved construction permit. The applicant may limit public inspection to reasonable times and places.

- 39 Added economic value based on quality job development (number of full time equivalent (FTE) positions), and salary equal to or above Iowa department of workforce development median (45-2093)

- OR -

the proposed structure increases commercial property tax base in the county.

	Score	Air	Water	Community
Economic value to local community	10			10.00

The Iowa department of workforce development regional profiles are available at <http://www.iowaworkforce.org/centers/regional/sites.htm>. Select the appropriate region and then select "Regional Profile."

- 40 Construction permit application contains an emergency action plan.

	Score	Air	Water	Community
Emergency action plan	5		2.50	2.50

(A) Iowa State University Extension publication PM 1859 lists the components of an emergency action plan. The emergency action plan submitted should parallel the components listed in the publication.

(B) The posting and implementation of an emergency action plan must be in the construction permit application and made a condition in the approved construction permit.

(C) The emergency action plan and subsequent records must be kept on site with the manure management plan records.

- 41 Construction permit application contains a closure plan.

	Score	Air	Water	Community
Closure plan	5		2.50	2.50

(A) The closure plan must be in the construction permit application and made a condition in the approved construction permit.

(B) The closure plan must be kept on site with the manure management plan records.

- 42 Adoption and implementation of an environmental management system (EMS) recognized by the department.

	Score	Air	Water	Community
EMS	15	4.50	4.50	6.00

(A) The EMS must be in the construction permit application and made a condition in the approved construction permit.

(B) The EMS must be recognized by the department as an acceptable EMS for use with confinement operations.

- 43 Adoption and implementation of NRCS approved Comprehensive Nutrient Management Plan (CNMP).

	Score	Air	Water	Community
CNMP	10	3.00	3.00	4.00

The implementation and continuation of a CNMP must be in the construction permit application and made a condition in the approved construction permit.

- 44 Groundwater monitoring wells installed near manure storage structure), and applicant agrees to provide data to the department.

	Score	Air	Water	Community
Groundwater monitoring	15		10.50	4.50

(A) Monitoring well location, sampling and data submission must meet department requirements.

(B) The design, operation and maintenance plan for the groundwater monitoring wells, and data transfer to the department, must be in the construction permit application and made a condition in the approved construction permit.

Total Score	Air	Water	Community
880	213.50	271.00	404.50

Score to pass

440	53.38	67.75	101.13
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Total

450	110.75	144.00	197.00
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Master Matrix Supporting Document

Site Name: Hiway 3 Finisher Contact: Matt Nelson

Master Matrix #1

The closest residence lies 2561 feet west of the proposed structures. Subtracting the required separation distance of 1875 feet leaves 686 feet additional separation.

Master Matrix #2

There is no public use area within 4001 feet of the proposed site expansion.

Master Matrix #3

There is no educational, religious institution, or commercial enterprise within 3376 feet of the proposed site expansion.

Master Matrix #4

The closest water source is a Drainage Ditch 9 that lies 2277 feet to the east of the proposed storage structures. Subtracting the required separation distance of 500 feet leaves 1777 feet.

Master Matrix #6

There is no critical public use area within 4000 feet of the proposed site as shown on the following map.

Master Matrix #8

There is no major water source within 3501 feet of the proposed site.

Master Matrix #9

There is no confinement structure that requires an MMP within 3960 feet of the proposed structures.

Master Matrix #10

There is no designated high quality or protected waters within two times the separation distance of 1000 feet.

Master Matrix #20

The applicants have no record of any DNR violations within the past five years.

Master Matrix #24

Facility size is 2000 Animal Units.

Master Matrix #26e

Manure from this operation will be injected or incorporated on the same day of land application. If it is not feasible to inject or incorporate manure on the same day due to prolonged undesirable weather or field conditions the site owner will have written approval for an emergency waiver from the Mason City DNR Field Office to surface apply manure prior to land application of the manure.

Master Matrix #31

There are no public use areas near application fields. If a field is added within such an area an additional 200 foot separation distance will be implemented.

Master Matrix #35

There is no designated high quality or protected waters near application fields. If a field is added within such an area an additional 400 foot separation distance will be implemented.

Design Operation and Maintenance Plan

Site Name: Hiway 3 Finisher Contact: Matt Nelson

Master Matrix #12

- Design: This site will utilize a formed concrete manure storage structure that is below the confinement-building floor and covered by slats. According to DNR rules this will qualify this structure as covered.
- Operation: Routine inspections will be conducted to assure the soundness of the structure.
- Maintenance: Maintenance of the cover will be minimal since it will be concrete and inside the confinement building.

Master Matrix #17

- Design: This site will utilize a formed concrete manure storage structure. Refer to Construction Design Statement for specifications of concrete and reinforcement materials to be used in this structure.
- Operation: Facility will be operated as an under floor formed concrete structure with periodic inspections to assure the soundness of the structure. Heavy equipment will maintain a safe distance to avoid any stress on the structures.
- Maintenance: Due to the concrete design and specifications for the structure, maintenance is expected to be minimal for this structure.

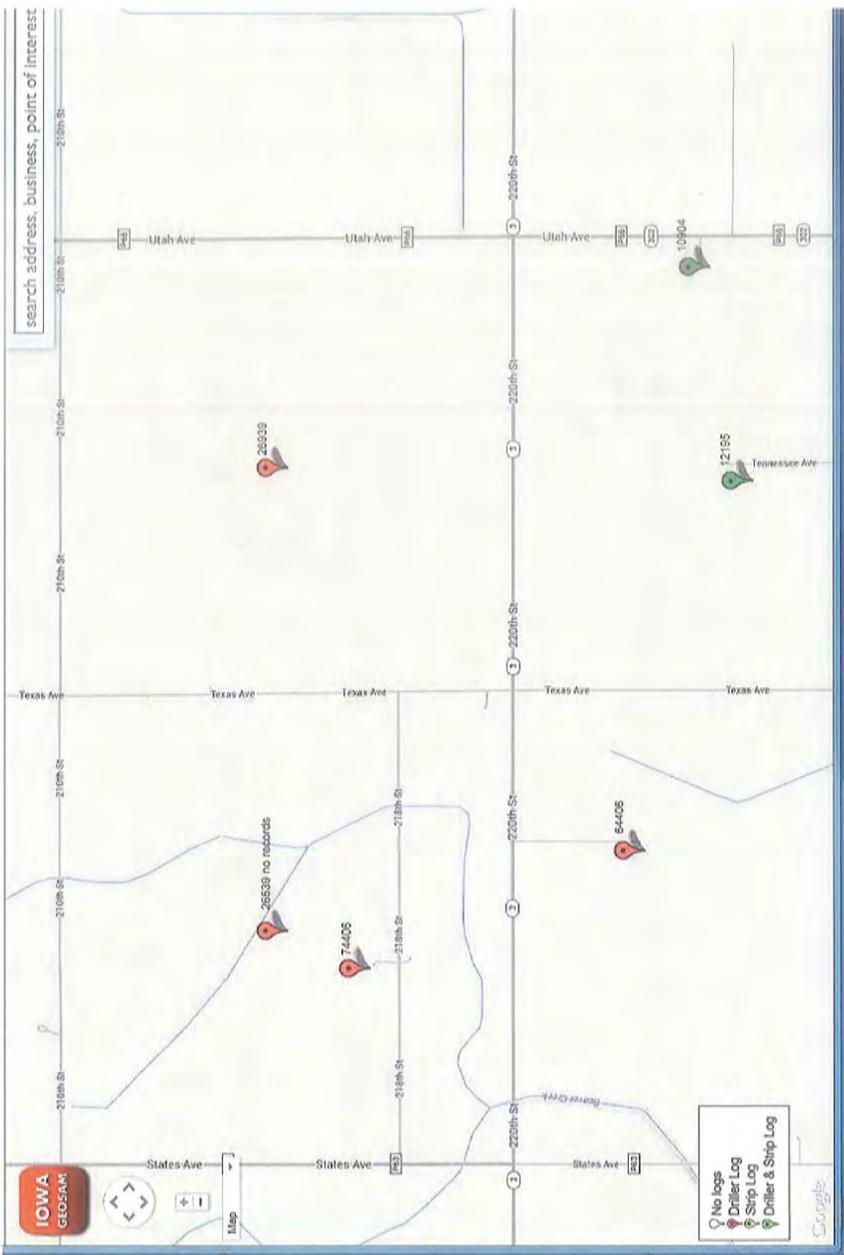
Master Matrix #19

- Design: The site will be built to allow ample room for trucks to enter the site and turn around for delivery or load out of animals or feed. The layout will consist of an area for trucks to enter west of the buildings and then back into the loading area. (See attached site map) The driveway area will be surfaced with layered crushed rock to a thickness adequate to support loaded trucks.
- Operation: The driveway will be operated to provide for safe entrance and exit to the property for delivery vehicles and not obstruct the public thoroughfare.
- Maintenance: The driveway will be maintained to a level that will support regular truck traffic.

Master Matrix #25

- Design: The buildings on this site will utilize wet/dry feeders with pressure regulators to reduce waste and manure volume in the storage structure.
- Operation: Feeders and water flow will be adjusted to reduce waste and optimize feed efficiency for the facility.
- Maintenance: The feeders will be inspected on a regular basis and adjusted as needed. Water flow will be monitored and adjusted to control waste and excess manure volume.





W10904

IOWA GEOLOGICAL SURVEY
In Cooperation with U. S. Geological Survey
RECORD OF WELL

Location: 2 mi N

Town: Thor (NE) (SW) County Humboldt

SE 30 NE sec. 5 T. 7 N., R. 27 (W) Norway Twp.

Well name and number _____

Owner Ben Erland Address Thor

Tenant _____ Address _____

Contractor Martin Well Co. Address Humboldt

Drillers Bob Martin

Drilling dates Jan 2-12, '59

Well data:
Altitudes: Drilling curb _____ feet; Land surface _____ feet 1139

Determined by 180

Topographic position on small knoll

Total depth: Reported 242 feet; Measured _____ feet

Drilling method Cable Tools

Hole and casing data 113' of 5" casing set at 113';
35" of 4" casing set at 148'

Original depth to water _____ above _____ ft. below _____ Date _____

Source of data _____

Sources of water: Principal 212-235
 Others _____

PRODUCTION DATA

Date _____
 Static water level 25
 Pumping water level 70
 Yield (g.p.m.) 10
 Measuring point _____
 Duration of pumping _____
 Specific capacity _____

LABORATORY DATA

Well No. W10904 Sample range 110-215 No. of samples 12
 No. of dupls. and cond. 110-215 Washed range 110-215
 Samples prepared by Robert Sunko Date July 7, 1960
 Logged by Koch, Oct. 12, 1960 Date _____
 Correlations by Checked by Zink Date Oct. 13, 1960

DCB-21

W-10904

Finished 10/12/60

001-274-05922

U. S. DEPARTMENT OF THE INTERIOR
 Geological Survey
 Water Resources Division Well Schedule Form

Source: D. BARKEN State: INDIA Well No.: 116 Date: 11/26/65 Loc.: FT. MORGAN, INDIANA

Well Name: INDIA Well Type: W Well Depth: 116 Well Diameter: 10.5 Well Construction: STEEL

Well Completion: OPEN Well Status: ACTIVE Well Use: WATER

Well Owner: BEN EISENBERG Well Address: THOS. ST.

Well Description: 10.5" DIA. STEEL WELL WITH 1" DIA. PVC CASING. 1" DIA. PVC CASING WITH 1" DIA. PVC CASING. 1" DIA. PVC CASING WITH 1" DIA. PVC CASING.

Well Construction: STEEL Well Completion: OPEN Well Status: ACTIVE Well Use: WATER

Well Owner: BEN EISENBERG Well Address: THOS. ST.

Well-Description Card

Well No.: 116 Well Name: INDIA Well Type: W Well Depth: 116 Well Diameter: 10.5

Well Completion: OPEN Well Status: ACTIVE Well Use: WATER

Well Owner: BEN EISENBERG Well Address: THOS. ST.

Well Description: 10.5" DIA. STEEL WELL WITH 1" DIA. PVC CASING. 1" DIA. PVC CASING WITH 1" DIA. PVC CASING. 1" DIA. PVC CASING WITH 1" DIA. PVC CASING.

Well Construction: STEEL Well Completion: OPEN Well Status: ACTIVE Well Use: WATER

Well Owner: BEN EISENBERG Well Address: THOS. ST.

Well-Description Card

Well No.: 116 Well Name: INDIA Well Type: W Well Depth: 116 Well Diameter: 10.5

Well Completion: OPEN Well Status: ACTIVE Well Use: WATER

Well Owner: BEN EISENBERG Well Address: THOS. ST.

Well Description: 10.5" DIA. STEEL WELL WITH 1" DIA. PVC CASING. 1" DIA. PVC CASING WITH 1" DIA. PVC CASING. 1" DIA. PVC CASING WITH 1" DIA. PVC CASING.

Well Construction: STEEL Well Completion: OPEN Well Status: ACTIVE Well Use: WATER

Well Owner: BEN EISENBERG Well Address: THOS. ST.

113 FT. OF 5" CASING SET AT 113 FT.
35 FT. OF 4 1/2" CASING SET AT 145 FT.

W-10904

001-274-05922

IOWA GEOLOGICAL SURVEY
In Cooperation with U. S. Geological Survey
RECORD OF WELL

W 12195

Location:

Town: THOR (NE) (SW) County HUMBOLDT
NW sec. 5 T. 9 N., R. 27 (W) NORWAY Twp.

Well name and number _____

Owner R.B. Diggins Address _____

Tenant _____ Address _____

Contractor BILL BREMER Address _____

Drillers _____

Drilling dates 1960

Well data:

Altitudes: Drilling curb _____ feet; Land surface _____ feet

Determined by _____

Topographic position _____

Total depth: Reported 202' feet; Measured _____ feet

Drilling method CABLE TOOLS

Hole and casing data _____

Original depth to water _____ above
ft. below _____ Date _____

Source of data _____

Sources of water:

Principal _____

Others _____

PRODUCTION DATA _____

Date _____

Static water level _____

Pumping water level _____

Yield (g. p. m.) _____

Measuring point _____

Duration of pumping _____

Specific capacity _____

LABORATORY DATA

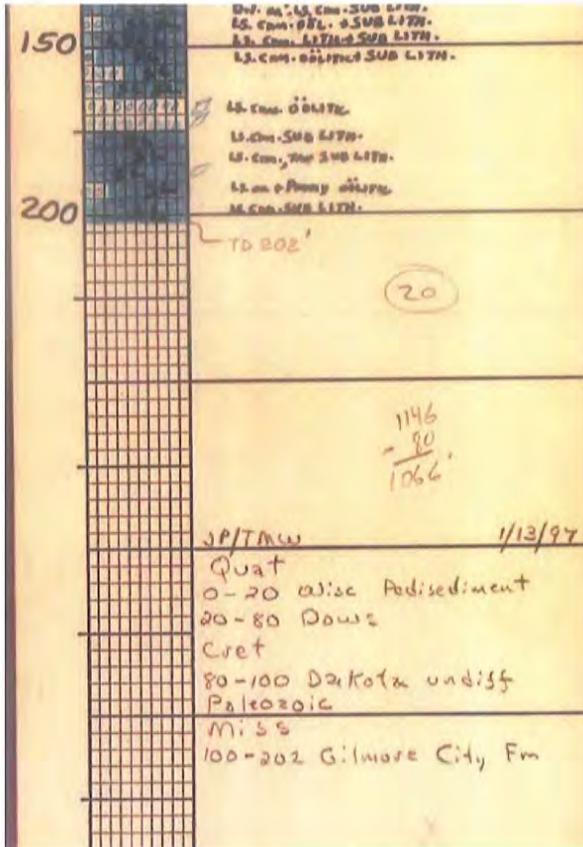
Well No. W 12195 Sample range 0-202 No. of samples 40

No. of dupls. and cond. 28 good Washed range 100-202

Samples prepared by Langford Date 7/22/60

Logged by NORWAY Date 8/10/60

Correlations by _____ Date _____



WELL RECORD 64406 PWTS Permit No. _____
 County Permit No. _____

Iowa Department of Natural Resources - Geological Survey
 109 Knowledge Hall, Iowa City, IA 52242-1319 PH (319) 335-1575

PWTS Well No. _____

Site identification

Property Owner Steven Sundeen Office ID _____
 Address 2870 220th St Humboldt IA 50548
 Tenant _____
 Well Depth 316 ft Date completed 11/25/07

Location County Humboldt

_____ mi N and 174 mi E of intersection of R and P Rds.
 Sub: 1/4 of the NE 1/4 of the NE 1/4 of Sec. 6 TWP 91 N. R18 E 27

GPS Coordinates (NAD83 datum only) decimal degrees:
42.22733 N latitude 91.02612 W Longitude.

Show exact location of well in section grid with a dot (•). Sketch map of well location on property.

upland hills valley level surface Elevation (#feet) 1185'

Formation log

From	To	Color	Hardness	Formation description
0	3	black		top soil
3	14	yellow		clay
14	30	grey		shale
30	43	tan		sand
43	85	blue		shale
85	160	tan	Hard	limestone
160	210	white	Hard	limestone
210	310	tan brown	med	sandstone

see additional sheets as needed

Remarks (including depth of lost drilling fluids, materials, or tools)
15 gpm at 100'

Well use

Domestic Heat pump Commercial
 Livestock Municipal Monitoring
 Test well Public supply Other
 Irrigation

Drill method rotary auger cable other

Hole size hole size constant

9 7/8 inch from 0 ft to 100 ft _____ inch from _____ ft to _____ ft
8 1/2 inch from 100 ft to 316 ft _____ inch from _____ ft to _____ ft

Record all depth measurements from ground level (GL). Use (+) for above GL measurements.

Casing drive pipe (yes) finish alloy (yes)

Size (OD)	Type / Wt	Depth top	Depth bottom	Amount (length)
6"	PVC 200th	2.2	100	102

Perforated or slotted casing? (yes)

Perforated / slotted from _____ ft to _____ ft
 Perforated / slotted from _____ ft to _____ ft

Casing grouted? (yes) Placement method Dry Poured

Type	Depth top	Depth bottom	Amount (vol/wt)
3/8" ben	0	100	1500th

Well screen? (yes)

Diameter	Slot size	Depth top	Depth bottom	Length	Material
0					
0					

Bottom capped (yes) with _____
 Seals / Packers (yes) Mid _____ depth _____ ft
 Gravel packed (yes) from _____ ft to _____ ft
 type _____ amount _____

Well developed? (yes)

Depth Air lifted
 (pumped bailed) for 2 1/2 hrs at 35 GPM

Pump installed? (yes) Date 11/25/07

Installer's name _____ Depth to intake _____ ft
 Type of pump _____ Pump diameter _____ Rated capacity _____ GPM

Water information Aquifer: sand / gravel limestone sandstone

Main water supply zone from 260 ft to 316 ft seepage well
 Static water level 40 ft (below / above) GL; tapline testline testline
 Pumping water level 130 ft below GL; tapline testline testline
 At yield of 35 GPM, oilfree volumetric estimate for 2 1/2 hours
 Measurements taken at 11:00 AM Date 11/25/07

Water quality test? (yes) Date tested 1/1/
 Tested by _____

Contractor Bill Bremer Well Co. Inc
 Address 2365 Vasse Ave Duncombe IA
 Driller Matt Estlund Certification No. 2319

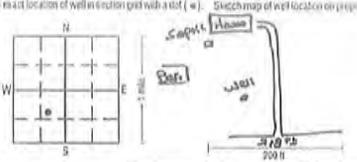
WELL RECORD 74401; PWTS Permit No. 36075
PWTS Well No. 2169513 County Permit No.

Site Identification
 Property Owner Gene Larson Other ID _____
 Address 2843 218th St.
 Tenant Hardy Ia. 50545
 Well Depth 240 ft Date completed 3/30/12

Location County Humboldt
 _____ mi. N and _____ mi. W of intersection of _____ and _____
SW 1/4 of the NE 1/4 of Sec. 31 TWP. 92N R. 27E

USPS Coordinates (NAD83 datum only) decimal degrees
 UTM 42 7367172 N latitude -94 081993 W longitude

Show exact location of well location grid with a dot (•) Sketch map of well location on property.



Upland Hillside Valley (Sketch surface elevation if known)

Formation log

From	To	Color	Hardness	Formation description
0	3	black		Top soil
3	18	yellow		Clay
18	26	yellow		Sand
26	35	grey		Shale
35	60	Tan	Hard	limestone
60	65	white	Hard	limestone
65	70	green	soft	shale
70	200	Tan	med	limestone
200	240	brown	med	sandstone

use additional sheets as needed

Remarks (including depth of test casing, fluids, materials, or tools)

Well use

<input checked="" type="checkbox"/> Domestic	<input type="checkbox"/> Heat pump	<input type="checkbox"/> Commercial
<input type="checkbox"/> Livestock	<input type="checkbox"/> Municipal	<input type="checkbox"/> Monitoring
<input type="checkbox"/> Test well	<input type="checkbox"/> Public supply	<input type="checkbox"/> Other
	<input type="checkbox"/> Irrigation	

Drill method rotary auger cable other

Hole size hole size contrast
9/16 inch from 0 ft to 60 ft 5/8 inch from 155 ft to 240 ft
5/8 inch from 60 ft to 155 ft _____ inch from _____ ft to _____ ft

Record all depth measurements from ground level (GL). Use (+) for above GL measurements

Casing Drive Hole (yes) Pitless adapter (yes)
 Size (OD) Type / WT Depth top Depth bottom Amount (length)

6"	Pvc 200lb	23	60	60'
4 1/2"	Pvc 200 lb	59	155	100'

Perforated or slotted casing? (yes)
 Perforated / slotted from _____ ft to _____ ft
 Perforated / slotted from _____ ft to _____ ft

Casing grouted? (yes) Placement method Dry packed
 Type Depth top Depth bottom Amount (vol/wt)
3/8 ben -6 60 850 lb.

Well screen? (yes)
 Diameter Slot size Depth top Depth bottom Length Material

0					
0					

Bottom capped (yes) with _____
 Soils / Packers (yes) kind _____ depth _____ ft
 Gravel packed (yes) from _____ ft to _____ ft
 type _____ amount _____

Well developed? (yes)
 Explain Air lifted
 (pumped bailed) for _____ hrs at _____ GPM

Pump installed? (yes) Date _____ / _____ / _____
 Installer's name _____
 type of pump _____ depth to intake _____ ft
 Pump diameter _____ Rated capacity _____ GPM

Water information Aquifer: sand / gravel limestone sandstone
 Main water supply zone from 200 ft to 240 ft seepage well
 Static water level 15 ft (_____ above) GL; tape line estimate
 Pumping water level 80 ft below GL; tape line estimate
 At yield of 12 GPM; test flow volumetric estimate for _____ hours
 Measurements taken at 11:30 (AM/PM) Date 3/30/12

Water quality test? (yes) Date tested _____ / _____ / _____
 Tested by _____

Contractor Bill Beemer Well Co. Inc
 Address 2365 Vase Ave Duncombe IA
 Driller Matt Estlund Certification no 2379

26939

WELL RECORD

Well is located 7 miles N and 1/4 miles E from
 _____ W _____ W
Humboldt in Humboldt
 (Nearest Town) (County)

in the 1/4 Sec. _____ T. _____ R. _____
 Owner Richard Amosson Well No. 2
 Postoffice address Hardy Iowa
 Contractor Martin Well Co.
 Address Parkota City Iowa
 Driller Bob Martin

Well begun July 14, 1981;
 completed July 24, 1981

Rig used Cable, Rotary, Jet, or _____
 Depth of well 210'
 (Feet)

Size of hole (note total amount of each size) 5"

Main water supply at 180' to 205'
 (Feet below surface)

Final water head 15'
 (Feet above or below surface)

Is well pumped? Yes

Yield 12
 (Gallons per minute)

Water level when pumping 29'

Position of well Level Ground
 (Upland, valley, side hill, etc.)



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, I.T. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

September 2, 2014

Dwain Bankson
824 Brooks Rd. STE 8
Iowa Falls, IA 50126

SUBJECT: Confinement Feeding Operation Manure Management Plan Requirements
Hiway 3 Finisher Farm – (ID #68281)
SE¼, Section 32, Lake Township, Humboldt County

Dear Mr. Bankson:

It has come to the attention of the Iowa Department of Natural Resources (DNR) that Hawker Farms II, LLC will be constructing a new facility. This letter is in regard to the DNR requirements applicable to this facility.

Manure Management Plan (MMP)

The original MMP was received by the department on August 22, 2014. It has been reviewed and was approved on September 2, 2014; however, the original MMP used soil sampling data that does not meet the requirements of Subrule 567 IAC 65.17(16). Paragraph 567 IAC 65.17(17) "e" states, "For an original manure management plan, previous soil sampling data that does not meet the requirements of 65.17(16) may be used in the phosphorus index if the data is four years old or less. In the case of fields for which soil sampling data is used that does not meet the requirements of 65.17(16), the fields must be soil-sampled according to the requirements of 65.17(16) no more than one year after the manure management plan is approved." Subparagraph 567 IAC 65.17(17) "h" (1) provides, "When any inputs to the phosphorus index change, an operation shall recalculate the phosphorus index and adjust the application rates if necessary." A corrected MMP including the recalculated Rusle2 calculations, phosphorus index, and soil analyses, must be submitted to the local DNR Field Office and the applicable county(ies) by **September 2, 2015**. If these materials are not received by the deadline, an administrative order will be issued and a \$3000 penalty will be assessed.

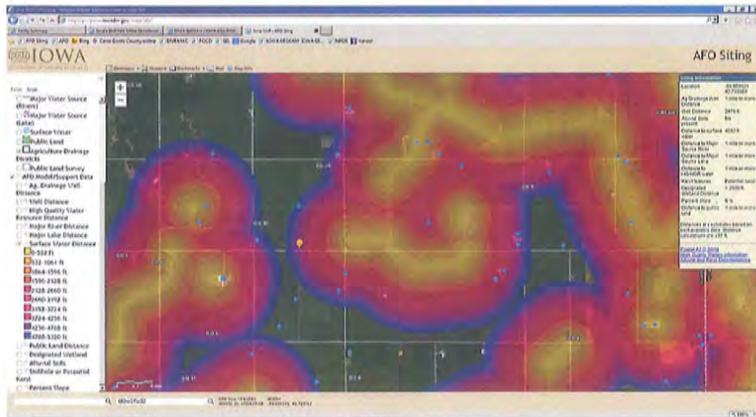
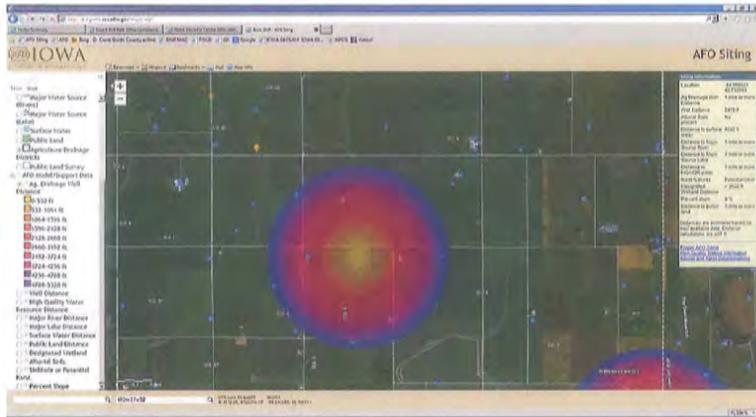
If you have any questions regarding this letter, please contact me at 641-424-4073.

Sincerely,

FIELD SERVICES AND COMPLIANCE BUREAU

Daniel Watterson
Environmental Specialist

FILE COPY



RECEIVED

IOWA DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL SERVICES DIVISION Field Office 2, Mason City AFO Site Survey Report

IOWA DNR FIELD OFFICE 2 TO: Clady Garza

Facility Name: Hwy 3 Finisher ID #: 68281 Facility Owner: Hawker Pumps I, LLC Location: SW 1/4, SE 1/4, Section 32, Lake Township, Humboldt County, Iowa Animal Species: Swine Expansion? No - Previous construction date(s): NA AUC: 2000 and/or AWC: NA lbs MMP - Approval Date: 9/2/14 or Disapproval Date: NA

Investigation Date: 9/8/14 Date Emailed: 9/8/14 Persons Contacted: Matt Nelson - New Modern Concepts; Pat Colwell, Dave Lee, Louie Fallesen - Humboldt County

TABLE 6 - STRUCTURE SEPARATION DISTANCE REQUIREMENTS AND OBSERVATIONS (FT) Table with 7 columns: Type of Structure, Residences/Businesses/Churches/Schools, Public use areas, Major water sources, Water sources, Designated wetlands, Right-of-way of a thoroughfare. Rows include REQUIREMENTS and OBSERVATIONS.

1 Residences not owned by the owner of the animal feeding operation. 2 Excluding farm ponds, privately owned lakes, or when a secondary containment barrier (SCB) is provided.

ALL AFOs - WELL SEPARATION DISTANCES REQUIREMENTS (REQ) AND OBSERVATIONS (OBS) (FT) Table with 5 columns: Type of Structure, Public well REQ (Shallow/Deep), Public well OBS (Shallow/Deep), Private well REQ (Shallow/Deep), Private well OBS (Shallow/Deep). Rows include N/A and Formed manure storage structure.

This proposed facility as submitted by the responsible party appears to comply with the siting requirements of Chapter 459 of the Code of Iowa and Chapter 567 IAC 65. On-site observations and/or measurements document compliance with the siting requirements for this proposed facility.

The well for this facility has yet to be drilled. Producer was reminded of the separation distances between new confinement buildings and wells during the site survey meeting.

INSPECTOR: Daniel Watterson DATE: 9/9/14 REVIEWER: Trent Lambert DATE: 08/28/14

1: Dropped at 178 565' DT. go look at manure pile. No runoff noted, pile is on a flat area. No tile inlets observed in ditches. Talked w/ Chris, told him everything looks good. He has placed some corn bails around the pile on the north. Spoke about stockpile regs & I left him the sheet & pointed out the resources on the web he can look at. Spoke about well at other place & showed him the well log we had from driller. Driller stated they measured the well 165' from the building.

Chris also has a small pile of manure on the north side of the property also with corn bales around it. This is a smaller pile than using on that field.

7/2/14: Arrived at Monto Gas station in Garner. Building is closed & pumps are covered with bags, nobody present. Placed red tags on both tanks, took pictures. left station @ 1345.

9/8/14: Met at site of Hwy 3 Finisher @ 1015 - Check egg drain well. Dave Lee, Louie Fallesen - site appears to be cleared - probably build next year - drain tile w/camp, septic system & drain field.

9/17/14 @ 1400 Met at Old Gas station site w/ Karl Heis. Went over sep distances for new site. Well measured at 103' from South building. Removal of old gas station been NA's already begun. Karl stated all remaining manure would be cleaned out from the pit & any solids also cleaned out before reusing it to make way for the new building & deep pit.

Field Office Use Only
New Construction and/or Expansion of
Permitted Facilities Tracking Sheet

Facility Name: Hinway 3 Finster County: Humboldt
 Facility ID # 68281

- Date Work Request Received: 8/27/14
 - Reviewer entered in AFO Database (CP)
 - Review Engineer: _____
- MMP:
 - Received by Des Moines on: 8/22/14
 - Received by Field Office on: 3/22/14
 - Reviewed by: _____
 - 30 days for review - Approved/Disapproved on: 7/2/14
 - Incorrect Soil Sampling - track for submittal within one year of approval 7/2/14
 - 30 day extension requested on (if applicable): _____
 - Summary of approval emailed to Des Moines on: 7/2/14
- Iowa Geological Service (IGS) Report Received on: 8/22/14
- Has County adopted the Master Matrix?
 - Master Matrix Score: 95.2 Air: 110.25 H₂O: 144 Community: 142
- Is the legal description of the proposed site consistent with the permit application form and the MMP?
- Is the site located within 2500 feet of a designated wetland? NO
- County Notification of site survey on: 7/2/14
 - Name of county person contacted: Pat Colwell
 - Fax confirmation sent on: 9/2/14
 - Site survey conducted on: 7/8/14
 - Site survey report written and sent on: 7/8/14
- Public Comments received from Des Moines on: _____
 - Public Comments with replies sent to Des Moines on: _____
- Draft Permit received from Des Moines on: 10/1/14
- All info sent back to Des Moines within 30 days of initial receipt
 - Date sent back: _____
- Final Construction Permit Issued on: _____
- Concrete Inspections conducted on: _____
 - Groundwater Lowering Tiles Installed?
 - Stormwater Permit Obtained and adequate controls present?
 - Note any problems: _____
- Dates/information entered in AFO Database
 - View/Edit Operation\Permits\New Permit

Notes:

Please place a copy of this form in the file when completed.

Construction Permit MMP Summary for P-based Plans

Date Received by FO: 8/27/14 Facility ID#: 68281
 Name of Facility / Owner: Hinway 3 Finster/Hawker Farms II LLC County: Humboldt
 Project Review Engineer: _____ FO MMP Reviewer: _____

Leave box unchecked if not applicable or if more information is needed.

Page 1: Total Animal Production

- New Expansion
- Animal Unit Capacity: 2400
- Does AUC of MMP = AUC of CP application?

Estimated Manure Production and Nutrient Concentration

- Animal Type/Production Phase: Swine, weaned/Finish
- Manure Storage Structure: water building pits
- Nitrogen value: 47
- Phosphorous value: 57
- Manure Production Value: 0.25 gal manure/animal space/day
- Manure Production Period: 105 days/year facility occupied
- Annual Manure Produced: gal 1,272,500

Page 2: Manure Application Rates

- Mgt. ID: Corn/Corn
- Yields (methods of yield info): County Ave + 10%
- Method and Timing of Application: Inject w/ rainfall
- Table 2: N Available the 1st year: 96.1 lbs/1000 gal or lbs/ton
- Table 3: Crop usage rates

Table 4: Projected N Application

- Optimum Crop Yields
- Phosphorous removed with crop by harvest
- Legume Credit
- Carryover Credit
- Manure rate to supply remaining N: 232.3
- Phosphorous applied with N-based rate: 166.4

Table 5: Calculations for rate based on phosphorous

- Not applicable
- Manure rate for P-based plan
- Manure N applied with P-based plan

Page 3: MMP Summary

- Crop Year(s): 2014-2015
- Field designation
- Field location
- Mgt. ID
- Planned crop
- Acres receiving manure: 110.1
- Own/Rent/Agreement
- P Index Value
- HEL (Y/N)
- Planned Application Rate: 5.0395
- Do total acres available match or exceed total acres required? yes



TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, I.T. GOVERNOR

STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

September 2, 2014

Dwain Bankson
824 Brooks Rd. STE 8
Iowa Falls, IA 50126

SUBJECT: Confinement Feeding Operation Manure Management Plan Requirements
Hiway 3 Finisher Farm - (ID #68281)
SE 1/4, Section 32, Lake Township, Humboldt County

Dear Mr. Bankson:

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If you have any questions regarding this letter, please contact me at 641-424-4073.

Sincerely,

FIELD SERVICES AND COMPLIANCE BUREAU

Daniel Watterson
Environmental Specialist

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RECEIVED

IOWA DEPARTMENT OF NATURAL
RESOURCES
ENVIRONMENTAL SERVICES DIVISION
Field Office 2, Mason City
AFD Site Survey Report

IOWA DNR
FIELD OFFICE 2
TO: Clady Garza Facility Name: Hiway 3 Finisher ID #: 68281 Facility Owner: Hawker Farms II, LLC
Location: SW 1/4, SE 1/4, Section 32, Lake Township, Humboldt County, Iowa
Animal Species: Swine Expansion? No - Previous construction date(s): NA
AUC: 2000 and/or AWC: NA lbs
MMP - Approval Date: 9/2/14 or Disapproval Date: NA

Investigation Date: 9/8/14 Date Emailed: 9/8/14
Persons Contacted: Matt Nelson - New Modern Concepts; Pat Colwell, Dave Lee, Louie Pillesen - Humboldt County

TABLE 6 - STRUCTURE SEPARATION DISTANCE REQUIREMENTS AND OBSERVATIONS (FT)						
Type of Structure	Residences, Businesses, Churches, Schools (Unincorporated & Incorporated Areas)	Public use areas	Major water sources ¹ , wellhead, cistern of ag drainage well, known sinkhole	Water sources ²	Designated wetlands	Right-of-way of a thoroughfare maintained by a political subdivision
REQUIREMENTS	1875 - 2500	2500	1000	500	2500	100
OBSERVATIONS	>1875 - >2500	>2500	>1000	>500	>2500	>100

¹ Residences not owned by the owner of the animal feeding operation.

² Excluding farm ponds, privately owned lakes, or when a secondary containment barrier (SCB) is provided.

ALL AFOs - WELL SEPARATION DISTANCES REQUIREMENTS (REQ) AND OBSERVATIONS (OBS) (FT)								
Type of Structure	Public well REQ		Public well OBS		Private well REQ		Private well OBS	
	Shallow	Deep	Shallow	Deep	Shallow	Deep	Shallow	Deep
N/A	1000	400	NA	NA	400	400	NA	NA
Formed manure storage structure	200	100	NA	NA	200	100	NA	NA

This proposed facility as submitted by the responsible party appears to comply with the siting requirements of Chapter 459 of the Code of Iowa and Chapter 567 IAC 65. On-site observations and/or measurements document compliance with the siting requirements for this proposed facility.

The well for this facility has yet to be drilled. Producer was reminded of the separation distances between new confinement buildings and wells during the site survey meeting.

INSPECTOR: DATE: 9/9/14 REVIEWER: DATE: 08/28/14
Daniel Watterson Trent Lambert

1: Dropped at 178 565' DT. 70' look at manure pile. No run off noted, pile is on a flat area. No tile inlets observed in ditches.

Talked w/ Chris, told him everything looks good. He has placed some corn bails around the pile on the north. Spoke about stockpile regs & I left him the sheet & pointed out the resources on the web he can look at.

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Placed red tags on both tanks, took pictures.

left station @ 1345.

9/8/14: Met at site of Hwy 3 Finishes @ 1015

- Check sq drain well.
- Dave Lee, Leahy, Fallesen
- site appears to be cleared
- Probly build next year
- drain tile w/camp, septic system & drain field

9/17/14 @ 1400

Met at Old Gestation Site w/ Karl Heis. Went over sq distances for new site. Well measured at 103' from South building. Removal of old gestation barn has already begun. Karl stated all remaining manure would be cleaned out from the pit & any solids also cleaned out before removing it to make way for the new building & deep pit.

Field Office Use Only
New Construction and/or Expansion of
Permitted Facilities Tracking Sheet

Facility Name: Hwy 3 Finishes County: Humboldt
Facility ID #: 68381

- Date Work Request Received: 8/29/14
 - Reviewer entered in AFO Database (CP)
 - Review Engineer: _____
- MMP:
 - Received by Des Moines on: 8/22/14
 - Received by Field Office on: 8/22/14
 - Reviewed by: _____
 - 30 days for review - Approved/Disapproved on: 9/2/14
 - Incorrect Soil Sampling - track for submittal within one year of approval 11/1/14
 - 30 day extension requested on (if applicable): _____
 - Summary of approval emailed to Des Moines on: 9/2/14
- Iowa Geological Service (IGS) Report Received on: 8/22/14
- Has County adopted the Master Matrix?
 - Master Matrix Score: 45.2 Air: 110.25 H₂O: 144 Community: 147
- Is the legal description of the proposed site consistent with the permit application form and the MMP?
- Is the site located within 2500 feet of a designated wetland? NO
- County Notification of site survey on: 9/2/14
 - Name of county person contacted: Bar Colwell
 - Fax confirmation sent on: 9/2/14
 - Site survey conducted on: 9/8/14
 - Site survey report written and sent on: 9/8/14
- Public Comments received from Des Moines on:
 - Public Comments with replies sent to Des Moines on: _____
- Draft Permit received from Des Moines on: 10/1/14
- All info sent back to Des Moines within 30 days of initial receipt
 - Date sent back: _____
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- Concrete Inspections conducted on: _____
 - Groundwater Lowering Tiles Installed?
 - Stormwater Permit Obtained and adequate controls present?
 - Note any problems: _____
- Dates/information entered in AFO Database
 - View/Edit Operation\Permits\New Permit

Notes:

Please place a copy of this form in the file when completed.

Construction Permit MMP Summary for P-based Plans

Date Received by FO: 8/28/14 Facility ID#: 68281
 Name of Facility / Owner: Hway 3 Finster/Manker Farms II LLC County: Humboldt
 Project Review Engineer: C. Burza FO MMP Reviewer: D. Watters

Leave box unchecked if not applicable or if more information is needed.

Page 1: Total Animal Production

- New Expansion
- Animal Unit Capacity: 2000
- Does AUC of MMP = AUC of CP application?

Estimated Manure Production and Nutrient Concentration

- Animal Type/Production Phase: Corn, Soybean, Wood/Finish
- Manure Storage Structure: water building pits
- Nitrogen value: 47
- Phosphorous value: 57
- Manure Production Value: 0.88 gal manure/animal space/day
- Manure Production Period: 105 days/year facility occupied
- Annual Manure Produced: gal 1,222,500

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- Mgt. ID: Corn/Corn
- Yields (methods of yield info): County Ave + 10%
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- Field location
- Mgt. ID
- Planned crop
- Acres receiving manure: 110.1
- Own/Rent/Agreement
- P Index Value
- HEL (Y/N)
- Planned Application Rate: 5.0395
- Do total acres available match or exceed total acres required? yes

SW 1/4 Sec 14 Section 30 - T42N R27W Lake Township Humboldt Co Iowa

AG PROJECT REVIEW

BELOW THRESHOLD ENGINEERING REQUIREMENTS

Facility ID #: 68281 Matrix: Yes No Matrix County: Yes No
 Site Name: Hway 3 Finster MMP Due Month: Oct
 Contact Name: Matt Finster Application Received by County: 5-20-14
 County: Humboldt FO #: 2 County Auditor Name: Rene
 Fees Correct: Yes No Address: 203 Main St Humboldt IA 52042
 WR#: 2773 Phone: 515-372-1571 Fax: 1735
 Date DNR received the application: 8-26-14 Public Notice Due: 9-20-14 Actual: 9-24-14
 60-day expiration date: 10-20-14 Recommendation Due: 9-22-14 Actual: 9-23-14
 Written request for 30-day extension(s) submitted: _____ CDS: Waiver

- A. Application Form
 - Pages 1-4 of application form are properly completed (Items 1, 3, 4 & 5)
 - Form was signed by the "owner" (Item 6)

2000 gal 57 = 376 xF

NOW	NEW	FINAL
0	+2(2500) = 5000	5000
		2000 AU

- B. Siting information – the following documentation was enclosed (Item 2):
 1. Karst documentation:
 - Site is not in karst. Map or IGS document was enclosed.
 - Site is in a potential karst. Upgraded concrete standards must be used (see CDS or PE Design Cert.)
 - A copy of soils exploration signed by a PE or other qualified organization (NRCS) was enclosed showing that the vertical distance between the bottom of the formed structure and the soluble rock is 5 feet or more. Otherwise require a PE. IN KARST SHOWING BUT STATE GEOLOGIST SAID NOT IN KARST
 2. Alluvial soils documentation:
 - Site is not in alluvial soils. Map or IGS document was enclosed, or acceptable documents submitted.
 - Site is in alluvial soils. The following was enclosed:
 - a. FP determined site is not in floodplain or that a floodplain permit is not needed
 - b. Floodplain permit included

- C. Geological Survey Bureau Report also needed?
 - Does the site contain soils classified as alluvial?
 - Is the site located on karst terrains or does the site drain into a known sinkhole? Removed from karst
- D. If the application is for an expansion of an operation that did not previously need a permit, was all previous construction completed at least 120 days ago? (Item 3, A)

- E. Interested Parties Form (Item 7). Any pending enforcement actions? Yes No 2

- F. Fees (Item 8). This information has been entered in database:
 - Manure Storage Indemnity Fee: 300
 - Construction Application Fee: \$250.00
 - Manure management plan filing fee: \$250.00

TOTAL PAID: 800

- G. County documents:
 - Proof that all construction application documents were delivered to the county (Item 9).
 - Proof of adequate public notice (all applications, no exceptions).
 - County Comments: Yes No; Public Comments: Yes No
 - If manure will be applied in a county other than the county in which the site is located, an additional verification of receipt of the MMP from that county was also submitted.

- H. Attachment 1 – Aerial photos:
 - Maps, drawings of aerial photos that show the location of the proposed confinement feeding operation structures, and objects with a required separation distance was submitted by applicant.

RECEIVED

AUG 28 2014

IOWA DNR
FIELD OFFICE 2

- J. Attachment 2: Statement of Design Certification:
- Option 1: Construction Design Statement (CDS)
- 1. Accurate description of the proposed confinement feeding operation structure(s)
 - 2. A manure management plan was enclosed.
 - 3. Certification signed that the structure will meet 567 IAC 65.15(14).
 - 4. Drainage tile certification signed if constructing 3 or more structures.
 - 5. Upgraded concrete standards required?
 - 6. Pit Fan Location on top of pump out
water lines not in manure pit
- Option 2: Professional Engineer (PE) Design Certification
- 1. Completed with original signature, with a site-specific design
 - 2. Upgraded concrete standards required?
 - 3. Require drainage tile certification if constructing 3 or more structures.
- K. Is the legal description of the proposed site used consistently in the construction application form, manure management plan and CDS?
- K. Attachment 4: Master Matrix
- Required, and the following scores were granted by county:
 Score: Total = 450 Air = 110.75 Water = 144 Community = 197
 Required: Total = 440 Air = 53.38 Water = 67.75 Community = 101.13
County de approved on location
 - County's adopted recommendation and matrix scoring submitted within 30 days of DNR's receipt
 Yes No
 - Submitted a design, operation and maintenance plan or supporting documents if claiming points in Master Matrix item Nos. 12, 13, 14, 15, 16, 17, 18, 19, 25, 26a, 26b, 26c, 26d, 26e, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44
 - Matrix is not required because:
 County does not have a construction evaluation resolution OR
 Operation was constructed prior to April 1, 2002 and the AUC is less than 1, 667 AU
- L. Field Office Report - Separation distance verification and MMP:
- AG Specialist Daniel Watters
- Table 6
- All minimum required separation distances met or exceeded; OR
 - Separation distance waiver(s) was/were submitted - must be recorded in county
 - Abandoned wells will be plugged
 - Wells currently being used must be plugged before issuing a permit
 - Secondary containment barrier is being proposed
 - Manure Management Plan (Attachment 3) - Approved? Yes No
 - MMP Approval Date 9-2-14
- M. Water Use Permit may be required for water use greater than 25,000 gpd. (Use current MWPS-7 to estimate water use.)
 Yes - Include condition in permit No

Garza, Cindy [DNR]

From: Matt Nelsen <mnelson@newmodernconcepts.com>
Sent: Monday, September 29, 2014 4:18 PM
To: Garza, Cindy [DNR]
Subject: Re: Hiway 3 Finisher - #68281 Humboldt Co

water lines will go over the wall fans will be placed on top of pit pump out.

Sent from my U.S. Cellular® smartphone

"Garza, Cindy [DNR]" <Cindy.Garza@dnr.iowa.gov> wrote:

Matt,
 I will start working on this project in the next couple of days.

Do you have information on the pit fans and the water lines?

Thank you
 Cindy

CINDY M. GARZA Environmental Engineer
 Iowa Department of Natural Resources
 P 641.424.4073 | F 641.424.9342 | cindy.garza@dnr.iowa.gov
 2300 15th St SW | Mason City, IA 50401
WWW.IOWADNR.GOV   
 Leading Iowans in Caring for Our Natural Resources.

Garza, Cindy [DNR]

From: Clark, Randy [DNR]
Sent: Wednesday, October 08, 2014 9:17 AM
To: Petitti, Paul [DNR]
Cc: Garza, Cindy [DNR]
Subject: RE: Hiway 3 site, #68281

There are no pending enforcement actions regarding these persons.

RANDY CLARK
Attorney II
Legal Services Bureau



Iowa Department of Natural Resources
P 515.281.8891 | F 515.281.7147 | Randy.Clark@dnr.iowa.gov
502 E. 9th Street | Des Moines, IA 50319-0014

WWW.IOWADNR.GOV



Leading Iowans in Caring for Our Natural Resources.

From: Petitti, Paul [DNR]
Sent: Wednesday, August 27, 2014 9:42 AM
To: Clark, Randy [DNR]
Cc: Garza, Cindy [DNR]
Subject: Hiway 3 site, #68281

Hi Randy, any pending enforcement actions against N Holdings or Hawker Farms I or II all from Iowa Falls?

thanks

PAUL PETITTI P.E., ENVIRONMENTAL ENGINEER SENIOR



Iowa Department of Natural Resources
P 712-262-4177 | F 712-262-2901 | paul.petitti@dnr.iowa.gov
1900 N Grand Ave, Gateway North, Suite E17, Spencer, IA 51301

WWW.IOWADNR.GOV



Leading Iowans in Caring for Our Natural Resources.



Iowa Department of Natural Resources
1900 North Grand Ave.
Gateway N Mall, Suite E17
Spencer, Iowa 51301

FAX SHEET

DELIVER TO: Humboldt County Auditor **PHONE:** 1-515-332-1571

FAX NUMBER: 1-515-332-1738

FROM: Iowa DNR, Paul Petitti

NUMBER OF PAGES (including this cover sheet): 4

MESSAGE: This is a Courtesy Reminder: Iowa law requires that your board of supervisors publish a notice in the newspaper and submit the board's master matrix scoring and recommendation for the construction permit application of the confinement feeding operation, as explained in the attached letter. Please take note of the deadlines. If you have any questions, please call.

Our Fax Number is: 712/262-2901

Any problems with transmission call: 712/262-4177



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

August 26, 2014

Humboldt County Board of Supervisors
c/o County Auditor
Via facsimile and email

**REF: Public Notice, Matrix Evaluation and County's Recommendation Required
DNR's Facility ID No. 68281**

Dear Board of Supervisors:

The DNR has received a construction permit application for a confinement feeding operation:
Facility name: **Hiway 3 Finisher Site**
Date received by the DNR: 08/26/2014

Under Iowa law, for this application the County is required to complete the following actions:

1. Publish a public notice (see example on page following this letter) in a newspaper having a general circulation in the county no later than 09/10/2014 (within 14 days of DNR's receipt of the application) and furnish proof of publication to the DNR:

Note: A public hearing is not required, but it is optional. However, if the board chooses to have a public hearing, it is recommended to include in the notice the date, time and place for the hearing.

2. Score the applicant's Master Matrix and submit the board's scoring and recommendation regarding this application. The county must submit to the DNR all of the following:
 - A) A recommendation to approve or to disapprove the application.
 - B) The Board's scoring of the Matrix, including all supporting calculations.
 - C) Proof of publication of Public Notice.

Your recommendation and Matrix score must be received by the DNR no later than 09/26/2014 (30 days after DNR received the application).

NOTE: If the County does not submit the Matrix score and recommendation by the deadline, the DNR will not consider any subsequent County's scoring of the Matrix or recommendation until the next time the County is eligible to adopt a construction evaluation resolution.

3. The board may submit comments or may forward comments from the public, which must be received by DNR no later than 09/26/2014. Comments received after that date due will not be considered. Comments may include but are not limited to the following:
 - a. The existence of an object or location not included in the application that benefits from a separation distance requirement as provided in section 459.202 or 459.204 or 459.310 of the Code of Iowa.
 - b. The suitability of soils and the hydrology of the site where construction of a confinement feeding operation structure is proposed.
 - c. The availability of land for the application of manure originating from the confinement feeding operation.
 - d. Whether the construction of a proposed confinement feeding operation structure will impede drainage through established tile lines, laterals, or other improvements which are constructed to facilitate the drainage of land not owned by the person applying for the construction permit.
4. The proof of publication, County's recommendation, a copy of the Matrix as scored by the board and any public comments must be received by IDNR no later than 09/26/2014. To ensure timely submittal, we recommend that you also fax or scan and email proof of publication, County's recommendation and a copy of the Matrix as scored by the board to:

Send to:

*Iowa DNR
Field Office #3
1900 N Grand Ave
Gateway North, Suite E17
Spencer, IA 51301
Attn: Paul Petitti*

*Iowa DNR
Field Office #2
2300 15th St SW
Mason City, IA 50401
Attn: Cindy Garza*

Paul.Petitti@dnr.iowa.gov

Cindy.Garza@dnr.iowa.gov

If you have any questions about this process, please contact Paul at (712)262-4177 or Cindy at (641) 424-4073.

Sincerely,

ENVIRONMENTAL SERVICES DIVISION

Paul Petitti

Field Services and Compliance Bureau

PUBLIC NOTICE

(This section is to be completed by the applicant)

The Humboldt County Board of Supervisors, has received a construction permit application for a confinement feeding operation, more specifically described as follows:

Name of Applicant: Hawker Farms II, LLC

Location of the operation: Section 32 Lake Township.

Type of confinement feeding operation structure[‡] proposed: Two new 2500 head deep pit swine finisher confinement buildings for a new swine confinement facility.

Animal Unit Capacity Of The Operation after Construction: 2000 animal units.(5000 swine finishers)

(This section is to be completed by the county)

Examination: The application is on file at the County _____ Office and is available for public inspection during the following days:

_____ and hours: _____ am to _____ pm.

Comments: Written comments may be filed at the County _____ Office, until the following deadline: _____.

[‡] A confinement feeding operation structure = a confinement building with a below the floor concrete pit, confinement building with an earthen basin or anaerobic lagoon; aboveground steel tank, etc. (see definition in footnote 1, page 1 of this application form).