

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

ITEM

14

Decision

TOPIC

Adopted and Filed – Water Use & Allocation Permit Fees, Chapter 50: Scope of Division—Definitions—Forms—Rules of Practice; and Chapter 55: Aquifer Storage and Recovery: Criteria and Conditions for Authorizing Storage, Recovery, and Use of Water

The Commission is asked to approve the Adopted and Filed rulemaking to amend the Iowa Administrative Code: Chapter 50: Scope of Division – Definitions – Forms – Rules of Practice and Chapter 55: Aquifer Storage and Recovery: Criteria and Conditions for Authorizing Storage, Recovery, and Use of Water. The amendments would revise the fee schedule for water use permits and aquifer storage and recovery well permits.

Water use permits are required of any person or entity using 25,000 gallons of water in a single day during the year, and are issued for a period of up to 10 years. Appropriations from the General Fund have been used to fund the issuance of the water use permits and related costs at approximately \$292,600 for SFY 2009.

The General Fund appropriations do not cover the cost of the program as envisioned in the late 1960's, nor do they cover the funding for the additional requirements placed on the department for this program during the ensuing years, which include the priority water allocation implementation during droughts, implementation of water conservation practices, and well interference compensation resolution. Many permit decisions must be made with inadequate available hydrogeological data. Well-interference cases often require that the department meet with appropriate individuals to assess hydrogeologic, engineering, and environmental impacts of contested water allocation cases. Historically, there has been insufficient funding to meet these needs.

During the last legislative session, the legislature authorized the department to collect up to an additional \$500,000 in fees each fiscal year. Iowa Code § 455B.265(6) requires the fees to be based on the Department's "reasonable cost of reviewing applications, issuing permits, ensuring compliance with the terms of the permits, and resolving water interference complaints."

Each year, the Environmental Protection Commission will be asked to set the fee based on the budgeted expenses for that year minus the amount of any unused funds from the previous year and any general fund appropriations. A more detailed explanation of the current and future program efforts can be obtained from the department's website at <http://www.iowadnr.com/water/quantity.html>.

The Commission approved the Notice of Intended Action for this rulemaking on October 14, 2008. A notice of the proposed rulemaking, public comment period, and public hearings was mailed to each of the 2,537 current water withdrawal permit holders on November 14, 2008. Three public hearings were held in December 2008, in Onawa (12/3/08), Iowa City (12/5/08), and Des Moines (12/11/08), and were attended by 65 people. Comments were received from 56 people, with varying levels of support or opposition. There are no changes to the Notice of Intended Action as a result of public comments.

Charles C. Corell
Chief, Water Quality Bureau
Environmental Services Division
March 9, 2009

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.265 the Environmental Protection Commission hereby amends Chapter 50, "Scope of Division—Definitions—Forms—Rules of Practice," and Chapter 55, "Aquifer Storage and Recovery: Criteria and Conditions for Authorizing Storage, Recovery, and Use of Water," Iowa Administrative Code.

The adopted amendments to Chapter 50 include fees for the water use permit program and move the permit fee for the aquifer storage and recovery well permitting program from Chapter 55 to Chapter 50. Adopted in 2008, Iowa Code subsection 455B.265(6) authorizes the Environmental Protection Commission to adopt by rule fee amounts for permit applications and annual fees, up to \$500,000 each fiscal year. In determining the fees, the Commission is required to consider the cost of reviewing applications, issuing permits, ensuring compliance with the terms of the permits, and resolving water interference complaints. Each year, the Commission will calculate the fee based on the budgeted expenses for that year minus the general fund appropriation and the amount of any unused funds from the previous year.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as ARC 7307B. A notice of the proposed rulemaking, public comment period, and public hearings was mailed to each of the 2,537 current water withdrawal permit holders on November 14, 2008. Three public hearings were held in December 2008, in Onawa (12/3/08), Iowa City (12/5/08), and Des Moines (12/11/08), and were attended by 65 people. Comments were received from 56 people, with varying levels of support or opposition. A public participation responsiveness summary is available from the Department upon request.

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 455B.265.

These amendments will become effective May 13, 2009.

The following amendments are adopted:

Item 1. Adopt the following new subrule 50.4(2):

50.4(2) *Fees.*

a. Application Fee. An application to the department for a new permit, modification of an existing permit, or registration of a minor non-recurring use of water must be accompanied with the fee listed in the table below. These fees are nonrefundable and are not transferable. For any single application, if more than one fee in the table below applies, only the higher fee is required. The fees become effective on July 1, 2009.

Application Description	Form	Fees, in dollars
(1) To apply for a new permit to withdraw or divert water	16 (542-3106)	\$350
(2) To renew an existing permit	542-1470	\$0
(3) To modify an existing permit to either add a new source or increase the amount or rate of water withdrawn or diverted from a source or sources	16 (542-3106)	\$350
(4) To modify the conditions of an existing permit which are not described in Item 3 of this table (see above)	16 (542-3106)	\$0
(5) To apply for an aquifer storage and recovery permit or a protected source designation	N/A	\$700
(6) To apply for a permit to store water	18 (542-3109)	\$75
(7) To register a minor nonrecurring use of water	20 (542-3112)	\$75

b. Annual permit fee. In addition to the application fee, there is an annual permit fee for a water use permit or an aquifer storage and recovery permit. The annual fee shall be based on the number of active permits. Each permit holder shall pay the same annual fee. The fee will not be prorated and is nonrefundable. The annual permit fee is due December 1 of each year, beginning with December 1, 2009. The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date. An additional fee of \$100 will be imposed if the fee is not received by December 1. Failure to remit the fee by January 1 may result in the cancellation of the permit.

(1) There is no annual fee for a water storage permit (see (6) of table at paragraph 50.4(2)“a”) or for a minor nonrecurring water use registration (see (7) of table at paragraph 50.4(2)“a”).

(2) The annual fee shall be based on the costs for administering the water use permitting program for the previous calendar year and on the budget for the next fiscal year. The department will review the annual permit fee each year and adjust the fee as necessary to cover all reasonable costs required to develop and administer the water use permitting program. Permit holders that have paid an application fee after December 1, but prior to November 30, will not be required to pay an annual fee until December 1 of the following year. If an applicant remits an annual fee for the 12-month period beginning December 1 and then later submits an application fee for a permit modification, the applicant will be refunded the lesser of the fees. The department shall request commission approval of the amount of the annual fee no later than September of each year.

Item 2. Rescind and reserve subrule 55.5(2).

**PUBLIC PARTICIPATION
RESPONSIVENESS SUMMARY**

for

Water Use Permit Fees

Chapters 50 and 54 (published as ARC 7307B)

**IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL SERVICES DIVISION**

January 12, 2009

RESPONSIVENESS SUMMARY

Public Hearings & Written Comments

The following document constitutes a summary of comments received in response to public hearings and public dissemination of the water use permit fee and aquifer storage and recovery permit fee rules, Iowa Administrative Code 567 Chapters 50 (455B) and 54 (455B). The existing Chapter 50 was amended to include a fee structure to implement the enrolled bill HF 2672, passed in the 2008 legislative session. The existing Chapter 54 was amended to rescind the aquifer storage and permit fee and include it in the water use permit fee schedule in Chapter 50.

The water use permit fee schedule was developed in consultation with an advisory committee consisting of approximately 17 representatives of agribusiness, utilities, aggregate producers, and industry groups, which met in July 2008. This same advisory committee was instrumental in achieving passage of HF 2672 during the 2008 legislative session. The rule package was presented to the Environmental Protection Commission (EPC) as an informational item at their September 9, 2008, meeting, and in draft form at the commission meeting held October 14, 2008. The rules were published as a Notice of Intended Action in the Iowa Administrative Bulletin XXXI, #10, on November 5, 2008, as ARC 7307B.

The EPC authorized three public hearings. These public hearings were conducted to receive final public response to the draft rules. The hearing schedule was as follows:

Date	Time	Location	City	Attendees*
December 3	9:00	Kelly Hall Onawa Community Center 320 Tenth Street	Onawa	51 (3)
December 5	10:00	Conference Room A Iowa City Public Library 123 S. Linn Street	Iowa City	9 (4)
December 11	10:00	Auditorium Wallace State Office Building 502 E. Ninth Street	Des Moines	9 (3)
Total (non-DNR attendees)				65**

*Top number is the number of non-DNR persons attending each hearing. Bottom number in parentheses is the number of DNR staff attending the hearings, including the hearing officers. Only non-DNR persons are included in the Total.

**Four people attended two hearings and are only counted once in the total.

A notice of the proposed rules, public hearings, and public comment period was mailed to 2,537 people that currently hold water use withdrawal permits, on November 14, 2008. There is no proposed fee change to those persons with a current water storage permit, so those permit holders were not mailed a notice. Articles on the proposed rulemaking were included in the Department's Water Supply listservs (electronic newsletters) sent on September 26, October 31, and November 25, 2008, to the subscription list of 746 people. The notices of the hearings were placed on the state's public meeting calendar on October 24, 2008. An article was included in

the Iowa Association of Municipal Utilities' December 2nd *Informer*, an electronic weekly newsletter, and in the Iowa Section – American Water Works Association's November 2008 monthly newsletter. The Department's EcoNewsWire, a weekly electronic newsletter sent to the news media statewide, included the proposed rules as part of the EPC meeting article in its September 4th and October 9th editions. Written comments were accepted through Friday, December 12, 2008, including comments that were postmarked that day.

Sixty-five people participated in the public hearings, not including IDNR staff. There was a question and answer period prior to and after the formal hearing. There were 56 people who made oral and/or written comments. This responsiveness summary lists all comments received during the public comment period. The comments are listed under five headings: supportive of the proposed rule; recommendation to increase new or modified permit fee; opposed to proposed flat fee structure but willing to pay annual fee in a lesser amount; opposed to any new fees; and miscellaneous comment. The comments are followed by the department's response. Each person who commented is listed once. The hearing location is listed for those who made oral comments.

**PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY
WATER USE PERMIT FEES RULEMAKING (IAC 567—CHAPTERS 50
AND 54)**

**PUBLIC COMMENT PERIOD: NOVEMBER 5 – DECEMBER 12, 2008
January 12, 2009**

Supportive of proposed rules:

1. Comment: The Iowa Association of Water Agencies (IAWA) and Des Moines Water Works (DMWW) appreciates the diligence the Iowa Department of Natural Resources put into coming to an agreement by all parties to the change in the Water Withdrawal (Use) Permit Fee passed in legislation last session. The new fee affords the department, stakeholders, and Iowans a more realistic cost to cover the process of issuing water withdrawal permit fees. Numerous meetings have occurred over the last three years, with the Department and the Legislature to come to this agreement. We encourage your support and recommend you approve this rule making.

Commentor: Linda Kinman, Research/Regulatory Coordinator, Des Moines Water Works
Linda Kinman, Executive Director, Iowa Association of Water Agencies

2. Comment: As the largest trade association representing Iowa's ethanol and biodiesel producers, the Iowa Renewable Fuels Association (IRFA) would like to extend it's support for the proposed amendments to 567 IAC 50 for water use permit fees and the institution of a flat fee for water use permits.

This proposed rule is a prime example of how legislation and regulation can and should work together. First, legislatively, stakeholders came together to support legislation that would allow money collected from permit fees to go directly into the DNR budget instead of into the state's general fund. This was a very large divergence of money from the general fund which required concerted stakeholder efforts. The IRFA supported this legislative effort based on the agreement that the new permit fees would be based on the cost of administering the permitting program and not on other factors such as the amount of water being withdrawn.

Iowa Code Chapter 455B Section 105 outlines the powers and duties of the commission and states that the commission may adopt a schedule of fees for permit applications which may be periodically assessed for the administration of permits. In determining a fee schedule, the legislation directs the DNR to consider three things:

The state's reasonable cost of reviewing applications, issuing permits and checking permit compliance;

The relative benefit to the applicant and the public;

The typical costs of the particular types of activities for which the permits are required.

The DNR has explicitly followed the authorizing legislation in setting the proposed water use allocation permit fees and deviating from this would destroy the collaborative efforts that led to this proposed rule, and also the collaborative

support for allowing DNR to retain permit fee money which will allow DNR to more efficiently manage the permitting program.

In closing, the IRFA supports not only the proposed rules but also the stakeholder process that was utilized to develop these rules.

Commentor: Monte Shaw, Executive Director, Iowa Renewable Fuels Association

3. Comment: These comments are submitted on behalf of the 19 regional water systems and the over 600 communities who comprise the Iowa Rural Water Association. The Iowa Rural Water Association supports the adoption of the rule as proposed by the Iowa Department of Natural Resources. This rule is the result of lengthy negotiations between those withdrawing water for use, the DNR and the Legislature and represents a compromise position that addresses the Department's need for additional funding to cover the cost of providing water withdrawal permits and the industry who sought to minimize the expense of these permits.

IRWA worked with the DNR and the Legislature to ensure that permit fees were equitably distributed amongst water users and is pleased with the end result. A key issue in the discussions and negotiations was the actual cost of issuing a permit. We believe that the proposed rule adequately addresses concerns raised by many stakeholders that this rule should not be used to generate revenue for the Department beyond that which was needed to cover the cost of the permit program.

Another key issue was whether permit holders should be charged based on withdrawal amounts authorized in their permit. This inevitably led to the debate over consumptive and nonconsumptive uses. The ultimate outcome, which we strongly support, is that all users, regardless of the size of withdrawal, are treated equally. This is especially important to rural water systems who often request permits for higher withdrawal amounts in order to provide backup water supply for communities or other municipal systems facing a shortfall or problem with their existing water supply. This emergency interconnect service provided by rural water systems is intended to ensure that residents of those areas not currently served directly by a rural water system can have access to a quality water supply at all times. The rule, which treats all users equally, preserves our ability to do this without increasing our costs.

Our members generally are opposed to any fee increase but recognized that it was time to update the water withdrawal permit fee. We believe the rule proposed by the DNR after extensive negotiations with stakeholders and the Legislature represents a fair and equitable proposal.

Commentor: Emily Piper, IRWA Legislative & Regulatory Consultant, Iowa Rural Water Association

4. Comment: Des Moines hearing: I mainly wanted to go on record to submit my written comments. In the past, we have supported that these funds come from the

General Fund, since they support all Iowans. However, the dollar value listed in your presentation is reasonable for a company such as ours. There have been some interesting comments here today and if there are any future meetings, we'd be happy to participate.

Written: MidAmerican Energy Company (MidAmerican) is an Iowa utility committed to providing reliable energy services while being a responsible steward of the natural environment. MidAmerican appreciates the opportunity to provide comments on the Iowa Department of Natural Resources' (IDNR) proposed amendments to Iowa Administrative Code (IAC) 567-Chapter 50. The proposed rules would establish a permit fee schedule for water use permits consistent with administrative costs and the \$500,000 fee cap established in the Iowa Code.

MidAmerican supported the change in the water use permit fee passed during the 2008 legislative session. Furthermore, MidAmerican appreciates the numerous stakeholder meetings that IDNR hosted during the last three years. From those meetings, MidAmerican's understanding is that the annual water use fee is presently estimated to be around \$142 per year, which is a reasonable administrative cost. MidAmerican believes it is important that fee-based programs ensure that the costs of program delivery are prudent and reasonable and that the programs are delivered in a manner that ensures efficient administration and minimizes costs to Iowa water users. Thus, MidAmerican supports this rule making.

MidAmerican looks forward to continuing to work cooperatively with IDNR.

Commentor: Jeff Myrom, Senior Policy Analyst, MidAmerican Energy Company

5. Comment: My wife, Jill, and I live at Onawa, Iowa, and have several irrigation permits. We received the notice of the rule revision and were unable to attend the meeting at Onawa. I understand we should fund the water supply section of the DNR for the permit and usage reports and other work they do in conjunction with this department. We should pay our way rather than use general fund money. One thing I would like to see is a web site so I could make my water usage reports on line. I report 14 different permit to the DNR yearly and it would be nice to send them direct to you via web so they do not have to recopy the info. Thank you for allowing me to comment.

Commentor: Marvin and Jill Hausman

Comment regarding the Application Fee for New or Modified Permits:

6. Comment: I would like you to increase the new or modified fee to \$500 and the non-recurring use to at least \$100.

Commentor: Leon Lamer, CEO & General Manager, Marshalltown Water Works

Opposed to proposed flat fee structure for annual fee, but willing to pay a fee of a lesser amount:

7. Comment: This is my public comment on the new fees for water use and storage permits. I believe the proposed annual estimated flat fee of \$140.00 to \$170.00 for a water permit is too steep. I will use myself as an example of one case where the fee is too high. Because of favorable weather the past several years, I did not need to irrigate my crops and used no water. I think a better and fairer way of getting income is to charge a fee for the amount of water used at the end of each year rather than charge everyone a high fee just because they have a water permit. If the proposed fee was small like \$20.00 a year, I would not object. Thank you for considering my comment.

Commentor: James Burmeister

8. Comment: I am writing about our water permit. I think it should stay as is. That is a large increase that you want to charge us. I don't think it is justified. At the most I would say \$25.00 a year.

Commentor: Bill Ellis, Ruth Ellis permit holder

9. Comment: I oppose the high fee to be charged to each irrigation well. I have three irrigation wells and this fee is way out of line. If the fee would be \$140.00 per well, I would have to pay on one well that irrigates 134 acres at \$1.04 per acre, the second well that irrigates 78 acres would be \$1.79 per acre and the third well that irrigates 33 acres would be \$4.24 per acre. As you can see the smaller the pump on that well the more it would cost me to irrigate and that's not fair. Also I oppose these people that have several wells under one permit, that's not fair either. I think a fairer way to charge for irrigation wells would be to charge what each pump, pumps per gallon as it is stated on our permits. The more water you pump, the higher the fee, the lower you pump, the less the fee. In my case I would think \$25.00 to \$50.00 per well per year would be a fairer amount. I would hope you would do more study on these annual well permit fees. Thank you.

Commentor: Chester Creswell

10. Comment: I'm writing in response of the fee's for water use permits. I feel that the annual fee you have proposed is a little on the high side. I do realize that things have changed over the years with increased cost. The permit fee for renewal has been the same for many years and I understand that fee needs to be raised. I don't understand why the annual fee needs to be that high for reporting one's use for the year. It can't take that much time to enter the information into the computer.

Commentor: Thomas Reaman

11. Comment: I am opposed to the increase in fees as proposed. It is not equitable to charge a small user like the Berwick Water Association the same as a larger customer like Ankeny, for example. The idea of a flat fee is easier to manage, but not fair to the smaller association. The increase is needed, but should be done on a

	graduated scale.
Commentor:	Tom O'Donnell, Berwick Water Association
12. Comment:	I think there needs to be some rate adjustment to help offset expenses. But 6000% (\$2.50 per year up to \$150 year) increase is too high for small systems to absorb in one year. I would like to see it change from \$25 in ten years to \$40 or \$50 a year.
Commentor:	Kelly Haskins, Utility Superintendent, City of Eldora
13. Comment:	As we have not used any water for crops in the last 18 years – We would like to see a fee charged only in the years that water was to be used. We have paid our annual permit fee every year for 23 years thinking that some year we would need to use it. That has not happened for 18 years. With tight margins and considerable farm debt – We probably will not renew the permit unless it is based on a use only permit charge. Please consider our comments during your upcoming hearings.
Commentor:	Gerald & Glenda Laures
14. Comment:	We operate a chicken growing farm in Winneshiek county. We have held a permit from 1976 until present. Cost: \$25 for 10 years. An increase to \$140/170 per year seems a bit high. This was evidently nicely slipped by the legislature. (increase of about 560%) There is no possible way that the review of my permit could cost that much. I realize this is an attempt by the DNR to increase revenue. I do support the DNR but I don't think making such drastic jumps is correct. Who is grandfathered in for old permit? Anyone? Precisely what will the DNR do with the money? If it is for water permits it should be spent for water quality and not general budget. Thank you for letting me make my comments.
Commentor:	Marc A. Nichols
15. Comment:	<p>While the Aggregate Industry supports the need to have adequate fees for the IDNR to evaluate Water Use, the dramatic increase in that fee represents a projected 4000 – 6000% increase in cost to our Industry. We believe the fee increases should be achieved in a graduated or stairstep process eliminating the dramatic increase in the cost of the discharge fees to the Industry particularly in view of these troubled economic times. We encourage the IDNR and the EPC to revise the implementation of the fee schedule to reflect a gradual increase over the next 3 – 5 years which will greatly reduce the economic impact to the Aggregate Industry and others who must pay these fees.</p> <p>The second concern is the fee structure as proposed for presentation to the EPC is actually a moving target. In effect, the fee structure is merely a funding mechanism for the IDNR Water Use Allocation budget with the number of permittees divided into the non legislative funded portion as a floating yearly fee assessment. In effect the Aggregate Industry, for example, cannot project what the yearly fee assessment will be from year to year. This creates a</p>

hardship with projecting yearly expenses in a budgetary process. This also generates potential problems with possible dramatic increases in the yearly fees to our Industry due to the possible reduction in the number of fee applicants who could become exempt from the Water Use fee requirement. The other specter in this scenario is the possible reduction in the legislative financial support for this program which again could result in excessive increases in the Water Use Permits fees further burdening the Industry with higher operating costs. In either case those increases in Permit fees will have to be passed along to the consumer thereby driving up the price of aggregates used in all sectors of the State. What we suggest as an alternative is to set a consistent fee, hopefully a graduated fee system, which would be in place at the end of a 3-5 year process and that fee would remain consistent for the next 5-10 years. Any budgetary shortfalls in this IDNR program would be the responsibility of the Legislature, a possible scale down of the efforts, and or shifting of internal funds within the IDNR to cover the costs.

In general, the Aggregate Industry recognizes the importance of developing good hydrogeological data to better understand the water allocation needs in the State and the corresponding need to fund this effort. However, this effort should reflect a Statewide funding effort rather than a limited focus on the permitting process which dramatically impacts Industry, particularly, the Aggregate Industry.

We therefore strongly encourage the IDNR and the EPC to consider 1) A gradual fee increase structure to reduce the financial impact on our Industry, and 2) develop a set fee for Water Use Permits instead of a moving target [which is in effect a changing fee structure each year]. There are too many uncertainties in this latter statement which could result in shifting a very heavy financial burden onto a very limited public industry.

Commentor: Sherman Lundy, Geologist, BMC Aggregates

16. Comment: We have had a water use permit since 1995 to pump water from the Maquoketa River in Jackson Co. We weren't sure we even needed a permit but applied for one just to be sure. We own and farm the land it is being pumped onto. The water is used mainly for recreation (hunting) purposes. We have never had to charge a fee for hunting and have held hunts for first time hunters (youth hunts) in conjunction with Ducks Unlimited. We only average pumping less than 500,000 gallons per year and usually during Oct. and Nov. We are trying to establish more wetlands on our farm that at times might need water to enhance the area. But we don't need the added expense of paying for pumping water that this year kept us from farming 2/3rds of our land due to the heavy rainfall up the Maquoketa River Basin.

I do not believe it to be fair to charge a private citizen the same rate for pumping a relatively small amount of recreational water as the city pumping a billion gallons and collecting a fee, or the rock quarry or mine (that may need to be monitored closer) that is able to make money off the rock or ore. Even the golf course that charges fees for play.

I could understand a one time application fee, or even a yearly fee on commercial permits, but NOT on recreational uses or for wetland development which your agency promotes. I do understand times are tough and money is hard to come by but do not believe it should be up to the private permit holder to help pay for monitoring commercial and large scale operations.

So you know I have put some thought into this and am just not against fees of any kind, my suggestions would be to charge a one time permit application fee \$500 for commercial and \$100 for private permits. Then an annual fee for commercial permits to be divided by usage. \$300 for over 1 billion gal, \$200 for 10 million to 1 billion, \$100 for under 10 million. \$50 for agricultural irrigation because it is private and doesn't have a fee charged to an end user, \$25 annual cost to the private wetland development and recreational user over 25 million gallons and free under 25 million gallons.

Without a breakdown of your permit holders and usage amounts I don't know how this works or if it covers cost but I feel it could be easier from a public relations standpoint to get this passed.

I hope this letter falls on open ears and moderation can be figured into the new fees for the private and small usage permit holder that cannot raise a fee or have a rate hike to offset cost.

Any questions or replies to my comments are welcomed and I would like to be included in the process if I can be of any assistance.

Commentor: Tim Tarr, Tarr Farms Inc.

17. Comment:

Issue: Changes are being proposed to the Environmental Protection Commission that will have a financial impact on the water systems of Iowa by amending the Iowa Administrative Code 567-Chapter 50; replacing the existing fee schedule for the water use permit program.

Discussion: In the late 1960's a fee was established to cover the administrative cost of the water allocation and use program. The fee was set at \$25 for a 10 year period. That fee has not been adjusted since its inception. While Sioux City agrees the cost to administer the program needs to be adjusted, we believe the Department needs to look at other alternatives to address the added demands on the operation of the program.

Community water systems, which have long been in existence, shouldn't be responsible for bearing the burden of funding the efforts the department makes when dealing with well interference compensation resolution. A more realistic avenue would be the assignment of responsibility and cost to the entity attempting to add a new well. With the advent of computer modeling, the burden should be built into the application process in both effort and cost, to prove that the new well being added will not interfere with any existing well's. The cost should not be passed on to existing systems unless they are proposing changes to their well capacity or the addition of new wells.

While Sioux City agrees that fees should be adjusted to cover the increased cost to record and monitor the water withdrawal program, we believe that the proposed fees should be structured to more correctly address those operations that are requiring the added departmental efforts by having those systems pay for the extra efforts.

These increases fall directly onto the backs of every Iowan. While it may be a real need for the Department it is also an added burden to our drinking water consumers.

The Departments budget is not transparent to the water industry nor easily understood by us. While protecting Iowa's water and the health of our consumers is our primary goal, it does take all parties involved. Four fees/taxes on the water industry allow too much opportunity for the budget to remain non transparent and cumbersome.

We have no way of knowing where the fees are being used. No assurance that they are needed and no assurance the fees as currently collected are going to the programs they are supposed to support.

Requested Action: Sioux City requests the Environmental Protection Commission members direct the department to look more closely at a pay for performance rate structure.

We request the legislature to consider not supporting the bill as present, but rather directing the Department to work with all stake holders to develop a comprehensive statewide water plan. We further request that the budget for the Department become more transparent to those impacted by the fees and that those fees are in line with the outcomes expected by the needs of the Department and the interested stakeholders.

Commentor: Ricky J. Mach, Water Plant Superintendent, City of Sioux City

18. Comment: We received notice of the proposed water permit holders annual fees. We are irrigators and usually only use water in July & August. We have had our permit, I believe, since 1977. Usually use from almost nothing to 10 – 12 million gallons from a wonderful well.

We would not mind paying a modest fee but \$140 - \$170 seems somewhat exorbitant, or too much. Wanted to let you know our feelings. Thank you for our consideration.

Commentor: Edward Kinnick

19. Comment: I wish to protest the use of a flat fee for all users with the exception of storage permit holders. In the case of Raymon Farms, we hold a permit but have not used water for many years. We maintain the permit in consideration of the potential of future use.

It is unfair to charge users with dormant permits at the same rate as active

users. Perhaps a “dormant” category should be considered whereby those who hold permits but do not pump water are charged a modest maintenance fee or no charge at all. When such permit holders start to use water again, they are charged the same flat fee that everyone else pays.

To terminate a permit only to start it again when use is required would, under the proposed fees, cost \$350. That cost is prohibitive for a very small user. That is another reason to allow those who already have permits but are not pumping water currently, to maintain their status without the penalty of active user fees. Thank you for the opportunity to comment.

Commentor: Larry Raymon, Raymon Farms

20. Comment:

Onawa hearing: I have 13 irrigation permits. This will affect me in a big way. In the past, the irrigation permit was \$25 for 10 years. Now, you’re proposing \$140 to \$170 per year. That is an absolute horrendous increase. I can see an annual fee versus a 10-year fee, but growing from \$2.50 a year to \$140 - \$170 a year is just unreasonable. In my opinion, I think it’s going to create more jobs at DNR to implement this. They’re going to have to send out annual notices. Right now, we get a notice every 10 years; all permits are staggered. The amount of paperwork that the DNR has to do for that is minimal. I’m like Vincent Willey, I don’t know what they have to do for \$140 - \$170 a year. They don’t have to do anything out here. I can see where there’s limited water use, other areas where they’re short of water, but here we don’t have that problem. My main comment is that it’s an unjustified increase in fees.

Written: This E-mail is in response to the proposed new fees for water use and storage permits. Currently my farming operation in Monona County along the Missouri River in western Iowa is irrigated under 13 irrigation permits. If the proposed fees are approved, our costs will go from \$32.50 per year to a range of \$1820 to \$2310 per year. Some years we do not use any water and most years use only 2-4 inches of irrigation water per acre. This proposed increase in annual fees is unreasonable and excessive.

This fee structure will require more administration on the DNR’s part just to implement an annual fee versus a 10 year fee. The additional cost will include sending annual renewals and also sending 2nd and 3rd notices if not paid. My suggestion is to change to a 5 year permit instead of 1 year renewals. Any banker who loans money for a \$70,000 irrigation system would want more than a one year permit to withdraw water. Also, the fee should be considerably less than a 5600% to 6700% increase over the current fee.

If this current proposal goes through, I will consolidate these 13 permits into 4 permits as is allowed by being contiguous properties. Please consider my proposal.

Commentor: Randy Lamprecht

21. Comment:

We strongly object to the proposed increased fees for water use permits. An

increase from \$25 for 10 years to \$140 - \$170 per year, we feel is ridiculous and unjustifiable. We would like to know why the DNR thinks they need that much of an increase to do the same job they have been doing in the past. I can understand the fee going up within reason. This increase you have proposed is approximately a 6000% increase (\$2.50 per year to \$150 per year). This sounds like someone has made a mistake calculating the fee and nobody wants to admit it.

Commentor: Adam L. Davis and Peggy S. Davis

22. Comment: The proposed fees being added to our water use permit brings out a question for us. Our use is not a commercial endeavor but is recreational and temporary in nature. We fill our hunting areas with water either by use of creeks flowing through our farm or by pumping. During the last two year no pumping was necessary. It is our understanding that the rule change is intended for industrial and commercial situations rather than what our permit currently allows. We release any water back into the river and creeks and do not loose any water other than evaporation.

We recognize that costs are a factor in the administration of this rule and request that the DNR keep circumstances such as ours in a separate category and the proper fees be at the minimum for any modification or renewal of this ten year permit. We also request that the Club be exempted from the proposed annual fees.

We thank you for your attention to our concerns.

Commentor: Mike Rooney & Shannon Sinnott

23. Comment: The Southwest Iowa Game Club is a non-profit organization that has, for 33 years, held a pumping permit to maintain a designated wetland and sheet water area for recreational and habitat purposes.

Our permit, #3898-MR4 is utilized only when additional sheet water is needed to augment the marsh areas. Our use is not a commercial endeavor but is recreational and temporary in nature. During the last two years, no pumping was necessary and reports were filed accordingly. It is our understanding that the rule change is intended for industrial and commercial situations rather than what our permit currently allows.

We recognize that costs are a factor in the administration of this rule and request that the DNR keep circumstances such as ours in a separate category and the proposed fees be at the minimum for any modification or renewal of this ten year permit. Since our Club should require very little administrative monitoring, we also request that the Club be exempted from the proposed annual fees.

We thank you for your attention to our concerns and look forward to an amicable response.

Commentor: W. A. Biermann, Southwest Iowa Game Club

24. Comment: Onawa hearing: Although I object to increased involvement of government, if indeed the majority of Iowans believe this to be important, the best way to collect this money is to tax all Iowans.

Des Moines hearing: The proposed fee needs to be revisited. I suggest that the fee be based on water usage, with a much smaller ten-year fee to renew the permit. The purpose of the multiple year permit is to please my banker. If my operation depends on irrigation in some way or another to be profitable, I don't want to go in there and tell him I only have a one year permit. I could lose it due to any number of different reasons and I could jeopardize my operation.

Commentor: Ken Carlson

25. Comment: Onawa hearing: My comment is that I object to the formula used to determine the fee. I believe it should be based on usage of the amount of water. There's no reason that, as a farmer, I should be paying as much as industry.

Commentor: Wayne MacClure

26. Comment: Iowa City hearing: I have a particular interest in this whole thing. I guess I realize the fee has been too cheap to get a permit in the past. But, I happen to be an area as a farmer where for the past 40 years we've seen a transition from water use. Monsanto Co., largest producer of Roundup in the US, is in my backyard. They've affected all of the other wells in the area. Warren Buffett, with MidAmerican Energy, came in 1979. They're major users of water. Grain Processing Corporation in Muscatine plus the City of Muscatine and the City of Muscatine's Power Plant are all major users in the same aquifer that I draw from. I find it somewhat ironic that these people are paying the same amount of money for their permit that I'll have to pay. And, they use exponentially more water than me or my neighboring farmers. I'm interested in having the people in control to take a look at a fee structure based on the amount used rather than just a flat fee. My perception of the stakeholders in this is that they all have a vested interest. Let's face it - \$170 when using trillions upon trillions of gallons is chump change for these corporations. I can afford it - I have neighbors with more permits than I do; I don't have that many acres. It's an equity issue, and that's my main basis of complaint about this whole situation.

Commentor: Lee Roudybush

27. Comment: Iowa City hearing: I think there ought to be a fairness doctrine written into this bill, where the amount of water usage by an individual over the amount of water a corporation or a large city government uses, should be allocated in the price. I can't see where one individual that uses very little water has to pay the same price as a person who uses trillions and trillions of gallons of water.

Commentor: Steve Koelz

28. Comment: Des Moines hearing: My remark is that I represent waterfowlers and duck hunters; guys that pump from the alluvial aquifer and the alluvial plain along the Missouri, and others in Iowa who pump for a very short period of time. We do not pump great amounts of water (such as the hundreds of millions of gallons for commercial industry or for municipal use). We pump the water up on the surface, it sits there for two or three months, and then subsides back into the aquifer or alluvial plain.

The fees that the DNR is proposing, I think are probably way too high for that sort of use. I don't want to be favored, but I want to share properly, based on some use criteria for what we use and how we use it. And then I'd like to have a little more explanation as to exactly how the dollars it costs the DNR to administer this program on an annual basis, not only in the future but for the last four or five years, so that we can examine how the program was costed out and budgeted, and how this money will go in future years.

Commentor: Stu Maas

29. Comment: At the City of Baldwin, Iowa, city council meeting on Dec 2, 2008, the city council discussed the new proposed annual fees. We are a small town of approximately 127 citizens and think these new rates are too high. We have very limited revenue and have a hard time keeping up with rising costs. We wanted to let you know our comments.

Commentor: Karen Watters, City Clerk, City of Baldwin

30. Comment: This will acknowledge receipt of the flyer describing the purpose of the rule revisions regarding water use and storage permits. Our permits provide us the opportunity to temporarily manage wetlands enrolled in the U.S. Department [of Agriculture's] Wetland Reserve Program. Will this use be exempt from paying the annual fee? As it relates to the annual fee, my experience suggests there is a significant variation in usage; e.g., those that irrigate daily for months to an occasional user. Doesn't it make sense to vary the use permit, given this variety? I look forward to your response and trust that those in charge will be fair and equitable.

Commentor: Howard James

31. Comment: I think that \$140 – 170 is too high for a water use permit if it is only for one irrigation system. It only takes a minute to review the 1 page report we submit every year.

Commentor: Dave Rossman

Opposed to any new fees:

32. Comment: I am a farmer in Muscatine county, in an area known as the Muscatine Island. I have 4 water use permits on land that I own and 9 permits on rented land. The proposals that are being looked at now that would charge us an annual fee

for these permits would be hard burden on myself and other local farmers in a time when high pumping costs (fuel) along with all other inputs (seed, fertilizer, chemicals, equipment, land) make it difficult to show a profit in these times. As you are aware the ethanol industry is suffering hard times and this is reflected in the price of grain. With this in mind I believe this is a very bad time to put a burden on an industry that is looking at difficult times ahead.

Commentor: Terry Martin

33. Comment: I feel the businesses and individuals of the state have gone through enough this year with the floods and tornado's. I don't feel we need more fees placed on us by the state. You are adding insult to injury.

Commentor: Mike Reuman

34. Comment: As an Iowa water permit holder I am **strongly** opposed to the **outrageous** increase (estimated \$140 - \$170 annual fee) in the proposed water permit fee.

Commentor: Clara Jean Hanline

35. Comment: As a water permit holder in the state of Ia., we, Ronald W. Davis and Doris L. Davis strongly oppose the estimated annual fee of \$140 - \$170 proposed flat rate fee for each permit we have. This is outrageous!

Commentor: Ronald and Doris Davis

36. Comment: It appears a new tax by the state. I remember the pumpkin tax of last year. As an irrigation permit holder my annual one page report may take as much as 1 minute to read, a few minutes to file. A tax – er – fee of \$165 on average to process this seems extremely high. So why the increase from no charge to more than an attorney could charge? Will you government types never have enough? This seems to me a pure act of ruthless greed by the state.

Commentor: Dave Myers, Heartland Farms

37. Comment: It's disturbing that another fee/tax is being considered for the family farm. We paid the initial fee for our permit. We complied with all requirements involved in the permit process. We have never had a conversation with or a visit from the DNR about our permit since it was issued. We send our usage report to the state every year. (they have lost our reports twice and we resubmitted) Where is the ongoing expense to the DNR for our permit? Why does the Environmental Protection Commission set the amount of the fee? Why even ask for comments when it seems this is a done deal? This is disturbing AND discouraging.

Commentor: Roxanne Adkins

38. Comment: I cannot imagine it takes \$140 to \$170 to process my yearly report regarding water usage. Especially when my report is generally for no usage because the creek (supply) is dry. I typically have only been able to irrigate one out of four

or five years and then very limited usage. How much time does it require to again process my reports? Since I have a very limited water supply available, I will be discontinuing my permit, if fees are to be charged.

Commentor: Roger Russ

39. Comment: I'm afraid the last thing Iowans need is another fee!! Government should operate like successful businesses by not operating above their means and if some part of the business is short of funds, then "live with-in your means". There are different aspects of our business we would like to do, however we can NOT touch all bases. Please do NOT consider another fee on hard working Iowans. Our government is getting more and more involved with every little aspect of our life.

Commentor: Wayne Gerst, President, G Agra Corp

40. Comment: I am unable to attend a public comment meeting. **I cannot imagine that it takes \$140.00 or more to read a one page document and file it. It only has a few items that are filled out on that single page.** This could be better controlled through online reporting (*internet*) and automatic filing with an alarm attached to each so that if there are discrepancies or foreseen potential for problems they are brought to attention. This type of activity cannot possibly be real. I oppose it vehemently.

Commentor: Stephen Gearhart

41. Comment: I am writing in response to the DNR's proposed permit price increase. We irrigate on this farm so we do hold a permit. I just pulled it out and checked the fee on it and the length of time it is good for. It cost \$25 and is good for 10 years. You are proposing to charge roughly \$150 *per year*. **This is a 6000% increase!!! What insanity!!!** To go to an annual renewal will vastly increase the administration cost and labor required to administer annual renewals. There is no justifiable reason to increase the fee 6000%. I could understand a small percentage increase on 10 year renewal cycles but this proposal is crazy. It seems to be another case of government creating more work and complicating things then taxing the end user (us) to cover it which in this case is not necessary. What is wrong with the way it has been done?

(next comment) I have since did some more investigating and discovered that the Iowa legislature authorized your DNR division to raise up to \$500000 annually for present/future programs and administrative needs. There are approximately 3400 permit holders in the state. If you divide 500000 by 3400 you get \$147. It is ironic that that is roughly the estimated new fee that is proposed that we have to pay for our permits. It looks like you division intends to utilize the legislative authorization to its fullest. Another case of government tax and spend behavior. Again, as I wrote earlier this morning, I am appalled by this 6000% increase.

Commentor: Jason Dahl

42. Comment: I have had an irrigation permit since 1975. I have not used it very much but maintained in case I wanted to use it. I was issued this permit under certain rules and now they want to change them. If I have to pay an annual fee I will let my permit lapse. With input costs going up and grain prices falling I don't need the expense.

Commentor: Wilbert Sick

43. Comment: I received a bulletin to notify of some fees to taxed to my water use permits. I use these for irrigators for crop production that feeds the nation. I am puzzled and opposed to what these fees are necessary for and why so extremely high. Never has anyone came to the site to look at what I have. So I am wondering just what these fees are supposed to be spent for. Do you have an itemized report? And are the expenditures truly worth while? Or are they for busy work for someone? You have to understand that it takes an irrigator to get a crop at all and then to have extra expense of fees just cuts out any profit we might incur. And do you realize that for the most part the water pumped through they system is spread out over the field and goes right back into the ground. The itemized expense statement would be for permits #5274 and #8244.

Commentor: Marvin Fehr

44. Comment: I object to the fees you propose for wells. I use my 3 wells primarily to fill shallow water habitat areas. I already pay the fuel and maintain the wells and pipe. I like wildlife and wetlands, but there is a point where I will have to stop spending all this money. Perhaps there should be exceptions for wells for wildlife!

Commentor: J. R. Goodman, Eagle Point Kennel

45. Comment: Sorry I missed the meeting in Onawa. I did help get the word out and point some people toward the relevant documents. I have quite a few questions regarding ARC 7307B and the legislation it implements.

First, Parks and Recreation or golf course management may be considered irrigation under the dictionary or legislative definition. For my purposes, lets stipulate that irrigation is for commercial crop production: corn, popcorn, soy, alfalfa, wheat, seed corn and seed beans and commercial vegetable/melon production and commercial vines or fruit. Admittedly Iowa isn't currently in the lead of the last, but acres are increasing.

Who are your ag/irrigation consultants? Where did they gain their expertise. What does it consist of? Was any consideration given to treating agricultural permittees differently than commercial/municipal permittees? Are you aware that, pre permit times, some ag irrigators did apply water in the winter?

There appears to be no enforcement mechanism, other than the administrative procedures under 567 10.3(455B). Do they apply? How many irrigation wells have been drilled in Monona County, Woodbury, Harrison? How many active

withdrawal permits in the same counties? I know of 2 w/d permits that have been moved from "flood" wells to wells for pivots on the same property. Can you document the number of similar transfers?

Does anyone have an estimate of the number of irrigation wells in use without current permits. Have you considered an "amnesty" program to bring such wells into compliance? How about charging permitted, noncompliant well owners/users the fees after they have been set based on the number of compliant permittees. Will such funds be accounted for? Publicly? Since the permittees will be financing this subsection of the DNR, may any permittee request a detailed, complete list of expenditures? The legislation allows for UP TO \$500,000 per year, why the maximum amount THE FIRST YEAR? How has this subsection BEEN financed in the past? \$292,600 to 792,600 is quite a jump.

well interference conflict

When did the DNR take these cases on? How many have there been? How many cases has the DNR handled in the last year? Five years? Cost of determination for cases in the last year? Five? How many have involved irrigators? In what drainages/counties. What has been the average settlement, maximum. How many "nuisance" filings for interference (claims for which no basis could be found under 567 54.6) How many irrigation wells have been upgraded more than 10% in the last 10 years? Most changes have probably been repair and simply bring the well back to original output. Bowl degradation, riser leaks. How many irrigation wells are exempt under the last sentence of 567-54.1? How many irrigation wells are not?

hydrogeological data

Why focus the cost of gathering such generally important and broadly useful data on such a small segment of the population? DNR representatives have been known to show resistance to accepting data from outside sources such as the USGS in the past. Have such sources of hydrogeological data been explored?

Commentor: Myrick Whiting

46. Comment:

Why should farmers pay the brunt of this "water usage" when it's to benefit ALL residents of Iowa? Isn't this discrimination? I wish EVERY person who likes to eat would spend one year with a farmer to comprehend all that we endure. Mother Nature can be our enemy #1. We have to deal with volatile commodity prices; high costs of machinery, rent, fuel, seed, fertilizer, chemicals, insurance, taxes. Now we're being asked to pay another fee to enable a government agency to have control over how we manage/irrigate our crops. The crops we raise help feed not only Iowans but possibly people world wide. **Farmers do not need to pay any more fees or taxes or have one more regulation that they have no control over.** Irrigation wells are used during a limited time period of extreme moisture shortage in the summer. We do not enjoy irrigating. It's an additional expense for us. But irrigation is often necessary in order to produce a crop that "feeds the people" and is necessary to help us produce a crop in order to pay all our high input costs. If

a business, industry, or city is assessed a higher rate, they are able to pass this increase on to the consumer. Farmers are not able to do this.

Questions: Is it being taken into consideration that each area of the state of Iowa has it's own set of unique circumstances pertaining to water? Our particular area of the state needs crop irrigation badly during drought conditions AND it has a nearly unlimited supply of underground water. Is this new fee going to create new policies that do not pertain to this area? Who decides what's more important...the fish, the golf courses, or the farmer who needs to grow a crop as his source of income? Why should the farmer pay the same fee as a city or a business whose usage is much higher and is a year-round usage? How exactly will this new money be used by IDNR? It's a hefty amount for data-entry personnel! We're lead to believe that if there is any money left over in the budget, it will be carried over to the next year. Everyone knows that if there is any money left over in any government budget, a way will be found to spend it down.

If this proposal is necessary to benefit ALL Iowans, then let ALL Iowans help with the fee. Take the anticipated \$500,000; divide it by the number of Iowans; add it to the taxes and put the funds in the General Budget.

I oppose this proposal to assess more fees (TAXES) on the farmers.

Commentor: Sheryn Green

47. Comment: I would like to first point out that the following website was not functional:

legis.state.is.us/asp/BulletinSupplement/bulletinListing.aspx

This presents a barrier to those trying to find information on your proposed action to levy a New Annual Fee for Water Use and Storage Permits (TAXES) to those who have built and maintained irrigation systems over the past 50 years. It is clear that the notice of intended action is an open-ended policy that allows the Environmental Protection Commission to reset fees every year based on the needs of this agency. **This in itself is sufficient cause for alarm. Further, it is not clear if the permit holder is to be charged one fee or if there is a fee for each permit held by an individual.** It seems as though the proposed annual fee in a range of "\$140.00 - \$170.00" would indicate that the IDNR has little knowledge of the number of permits that exist; that data-entry staff will be paid an extraordinarily high wage; that you may intend to send a large number of current employees to Las Vegas to study the effect of Water on Scotch in an arid climate; or there may be other plans associated with empire building. The point is.....there is no indication how this money will be spent and there is no indication that this money would benefit the permit holder.

There seems to be a general governmental notion that more staff and dollars for the IDNR will, in some way, result in more efficient use or purity of water. I have yet to see proof of any government agency doing anything more efficiently or having more concern about water use and its possible

environmental impact than does the American farmer, especially those in Iowa.

The notice of Intended Action, which was finally located at the Iowa Legislative website, indicated that the IDNR would be given more power to “determine benefit to the applicant and the public, issuance, and monitoring compliance”. It is **not clear** what that means for those using irrigation in agriculture. Included in these powers were “priority allocation” and “water conservation practices”. Does this mean turning off irrigation equipment so that golf courses and lawns can be watered? It is also not clear what is meant by “interference compensation resolution”. I suspect that the operational definition/outcome of this form of resolution is directly related to the numbers of attorneys the prevailing party can afford to hire.

The Environmental Protection Commission appears to have floated out an idea to generate income with no intent to notify those most directly affected until after the fact. They have absolutely no meaningful justification available in their Intended Action for the proposed tax on well permits. Another concern I have is who makes the decision for a water crisis? Who determines what is the criteria for a water crisis?

I am opposed to this action to charge an annual fee.

Commentor: Tom Green

Note: The Notice of Intended Action website address listed in Mr. Green’s comment was incomplete. The complete address was listed in the flyer sent to permit holders.

48. Comment: Onawa hearing: I think this is a call to every body in the room. You need to get organized and present a united front to the Legislature so that we can stifle this thing before it gets any further. Obviously, Gov. Culver has jammed up the EPC and they don’t pay any attention to the Governor or the DNR or the Legislature. They have surpassed the authority the Legislature gave them. Obviously we have a bureaucracy in Des Moines that has to be changed and we need to get down there. I’m asking everybody to sign the list or try and get in touch with me, so I can get a copy of everything and get a group together. There’s another hearing in Des Moines, maybe we need to have a presence there. We have a year to get this through the Legislature, and that’s what we need to do.

Des Moines hearing: The Iowa Irrigation Association objects the fee schedule as proposed. Also object to the fact that the fees will be determined finally by the EPC, as we understand it, a non-elected body.

Written: Iowa Irrigation Association is strongly opposed to fee being proposed by IDNR – excessive and discriminatory. Irrigation is not consumptive use of water. Water is pumped from underground sources and immediately applied to growing crops which returns to source.

Association does not understand why IDNR involves EPC in fee

establishment. EPC only has advisory authority. Legislature is only body that has taxing authority.

Average application to growing crops is less than four (4) inches, which for an average quarter section, amounts to approximately 18,000,000 gallons of water for the growing season. This would be less than one half (1/2) of what the City of Des Moines uses daily.

Commentor: Jack Virtue, Iowa Irrigation Association

49. Comment: I do not think the new water storage permits fee (tax) is in the best interest of the public or wildlife.

In my own case, the original use of our pond was for livestock water and spray water in case our windmill water system could not provide sufficient water. I do not have livestock at this time and spray water could be provided by rural water. My windmill still is serviceable and could be used again as well (cheaper than rural water).

I had planned to provide pond access to the fire department as fire fighting in rural areas is hampered by lack of water! I did stock the pond with fish and can say that I have gone fishing a few times, but I am quite sure I can buy more fish at the market than I ever caught for the fee (tax) of one year.

Now, to why I am writing this. I plan to drain the pond. You know it is a litigation liability (it is called an attractive nuisance, and I get no help from the DNR to keep out unauthorized persons). So in one action on my part I will have no fees (tax). Also the wildlife will have less water habitat. Also the public will have less flood control and no extra rural fire protection.

You also have just shot yourself in the PR foot as I intend to send this letter in the paper for their editorial page!

Commentor: Wayne O. Byal

50. Comment: I'm very concerned about the direction the Water Supply Engineering Section of the Iowa Department of Natural Resources is taking with this large and variable fee. I'll try to stay as brief as possible to save you time. I have visited pages 1137-1139 of the 11-5-08 Bulletin online. Under application description #2 to renew using form 542-1470 it has a cost of \$0, but in the description it talks about an annual fee of \$140-\$170. My concerns:

1. What workload requirements have changed for renewing to require a change of \$140-\$170 per year from \$25 every ten years?
2. What do Rural Water Projects and large livestock confinements pay in comparison? (They use much more and it isn't returned to the aquifer)

Conclusion: If we are going to have to pay this new TAX on our real estate, please only raise it ten fold - \$250 (\$25 per year for 10 years) to file our water usage report. If you have to go higher to balance your books, please give us an annual fee. I can see the DNR in ten years charging \$1000 for the same work.

I'm 60 years old and this smells a little like much of the stuff going on at the national level. Thank you for allowing me to comment. With my daily chores, I'm not able to attend one of your three hearings. (nearest is 3 hours away)

Commentor: Dale Hoffman

51. Comment: Iowa City hearing: I missed out on the early part of the presentation. My basic question, if this water is already on our land, why is the state of Iowa concerned about how we use it or how much we use? We have several irrigators in my neighborhood. It's been building over the years, and we've always had water. If it's already there, why does the state now want us to pay for using it? It doesn't go away, they're not going to control flooding. We are besieged by dry weather and wet weather both. We've been flooded several times so we have pasture land that's unusable for months at a time until it dries out. In the summer when we irrigate, we've never had a problem with the water running low. That's been my concern over the year, with so many irrigation rigs in our neighborhood, will we run out of water? But, apparently we don't. It's replenished naturally. I guess I really wonder why all of a sudden the state of Iowa wants to charge us for water. The irrigation part of it is a relatively minor part of our water use, with all the big cities using water; we don't use a drop in the bucket compared to what they use, but I don't have numbers to verify that. That's my comment – why all of a sudden the state of Iowa wants to charge us for every drop we use.

Written: In response to the DNR meeting about “water use” recently held in Iowa City (Dec. 5), I find it hard to accept that water on my farmland belongs to the state. “What if” I had coal or gold or oil or any other “valuable resource”, would that also belong to the state of Iowa? Other states have these kinds of problems. How do they handle these problems. If the state chooses to own all the water what about the “damage” done when our rivers “run wild”. Will you consider levees to protect our property from this “inconvenience”? I'm not sure any levee could have protected Cedar Rapids from this problem this summer. I live 2.5 to 3 miles from the Cedar River and had 60 acres of pasture under water this summer. It could not be pastured until late summer.

If (as brought up during open discussion) the Irrigation Permit owners are such a small segment of the overall scope of this project, why not exempt us from this obligation? I thought you were targeting Irrigation Permit owners, but now realize that you are trying to include everyone in the state who uses water. The meeting was informational.

Commentor: Janice S. Walker

52. Comment: I really cannot understand what you are trying to prove now by wanting to charge ANOTHER FEE for water use permit holders. How much control do you want?

Do you realize who's feeding the deer that you collect fees for? Do you realize when you limit the deer that are killed – insurance companies are paying out all kinds of money for accidents due to deer? At least in our area we see several dead along the road or on the road. Who pays for the damage done to our crops?

What about our hog barns? Oh yes! You have to collect a fee per pig. Yeah, we have to tell you where, how much, what kind of manure we are putting on.

Do we live in a free country? Are we getting totally controlled by the DNR?

Are you short of money? I don't think so. You have lots and lots of money to by land for hunting and then you can collect more fees from them.

We had our water permits for many years. We only use the water for irrigation - 2 months of the year. Most of what is irrigated is absolutely necessary because of sandy soil. We are sick and tired of added fees. A few years ago you sent us a letter saying we didn't send in a water report of several years ago. Well, you were wrong because I did send it in and had a copy of it. Last year, guess what? You did it again. You said I didn't send a report for 2004. My memory is great. I can remember ALL those details. But I was smart enough to make a copy. Sound fishy?

Who is doing the screwing up? Computer error? By the way, what do you care? We have enough brains to water only when needed because it does not come cheap as it is. We already have to pay mandatory demand charges for our electric whether we use it or not. One year it crashed and we never got to use one system. Sorry, pay anyway to over \$1000.

You can charge our rural water systems the fee. They probably won't even object. They know we are hooked up and will pass the charges on to us. No big deal.

I'm not sure who is proposing this but I hope it's not the DNR. I just read in the newspaper and heard in the news about the EPA charging fees for every hog and cow we farmers are raising. Wouldn't that be GREAT? It just goes on and on.

We must stop this nonsense before all our animals will be raised in Mexico.

Please stop.

Commentor:

Betty Hoogendoorn

53. Comment:

Onawa hearing: I've lived in this area most of my life. I've irrigated since 1968. I think this whole program needs to be re-evaluated. We have a whole different situation up and down Monona County, Crawford, Woodbury and this area. I think we are being discriminated against. It states at the bottom of the paper [flyer] "working to ensure safe and reliable drinking water and managing water resources for all Iowans". Why should just a few of us, as a

percentage of the whole population, bear the fees for something that will be beneficial for all Iowans? What can they possibly do with renewals for us? There isn't any science behind what is being proposed.

I strongly object to many programs in this country; there's no science to prove or evaluate or support the necessity of this particular proposition. I have a copy from our legislators to show HF 2672 – has the Senate approved it? There's no voting record for the Senate, but there is a voting record for HF 2672 and I want you to know that our representative, Matt Windschitl is one of six who voted against it. Other comments that have been mentioned.

I don't know of any objection to any public notice in the paper for an irrigation well that's been requested in this county. It's just like clockwork, as far as I know, that all the wells in Monona County have been in the newspaper – I've never heard of any objections. At the present time, we send in the gallons usage each year. The cost should be borne by the Legislature from different means than us. This cost, for 140 acres on a center pivot, is about \$1 per acre per year. Our county has less than 10,000 population, we've had economic problems; my dollar an acre should be used for roads and infrastructure in Monona County, not to go down to DNR. This is for all Iowans.

Years ago, our irrigation association went to the Legislature when they'd proposed a limitation on the number of wells on a section. We were able to point out to them that whether there was 1 well or 20 wells per section, we were only able to use it for supplemental irrigation during dry times. Some years we haven't put on any irrigation or just an inch or two, never over 5 or 6 acre inches. It's the same amount of water used for irrigation whether it's from one well or 10 wells in a section. There were 30 some people who testified on the floor of the Legislature and got that stopped.

Another comment regarding the EPC. Sometimes the EPC has shown a disregard from the expert advice provided by DNR in a project or two. I have the resource material, provided by Jim Seymour, a senator from this area. Some of us, from the comments I've heard, think this is a done deal. I don't think it's a done deal and I'm going to resist it, working with the legislature and the rest of it. It's an unfair tax to ask us along here, where we have had no problems in the past, to raise fees for all Iowa for water usage.

Des Moines hearing: I want to make some formal comments. The first comment that I want to start out is that the hearings are done by the Water Engineering Section and it says [on the flyer] helping ensure safe and reliable drinking water and managing water resources for the benefit of all Iowans. We in western Iowa are absolutely being discriminated against in this. In this discussion today, how much cities use versus what we use on the farm. All of our land in Iowa is on a property tax roll somehow. We don't just take all those acres and divide by the population and that's what we owe in taxes. I only pay taxes on the farmland I own, not what my neighbor owns that might have two or three times as many acres as I own. I've asked the question before, in western Iowa, DNR understands that we've got an almost unlimited supply of water. We don't draw down from an aquifer; we have so much

water. I've asked the question: what can the DNR possibly do for me with my renewals to charge me \$140 - \$170? We've already heard Mr. Carlson tell about the reports that are sent in and all the information that's sent in. I just don't see anything else that DNR can do for me. In western Iowa, along the Missouri River, where we have about half the permittees expected to pay this fee.

I have an article ARC 7370 B EPC, one thing it states is that the terms of the permit should tell about the relative benefits to the applicant and to any other permit review, issuance, and monitoring compliance. I just don't see what other benefits can be given to us. I've been involved in irrigation since the early '60's. I see all of the notices of the permits in Monona County in our local paper, and I have yet one challenged by a neighbor. We just don't have these kind of problems. Why should be discriminated against in that manner – it's absolutely unfair.

As far as the forms not being filled out, it was mentioned that many of the forms aren't filled out. Well, should we that fill out the forms have to pay \$140 per well to get that accomplished? That's a compliance thing that I have no control over, nor does Mr. Carlson, nor anyone else who fills out the report. Why should I be expected to pay a lot of money? What would my money go for? To send out a federal marshal or somebody to get those reports done. But, that shouldn't be my problem.

Another point that I'd like to make, most of our center pivots are a quarter of a section, or on a 160 acres. Unless you have an extremely high-priced machine that adds the corner on it, most of them do about 100 – 145 acres. That's about a \$1 an acre of what we're putting the water on. If you'll check the records and see the financial situation of Monona County, you'll see the needs we have. My \$1 an acre would be much better spent taking care of roads and other things in the county than being sent down here to Des Moines.

I can't say enough how discriminatory it is against such a small percentage of people to be expected to improve the water quality for the whole state of Iowa. It's always been from the General Fund up to this point, and I just can't say how firmly it should still be up to the General Fund. It's just absolutely unfair. Mr. Carlson mentioned that he divided the 25 dollars 10 year fee and made it sound like a 6000 % basis. But, there was no annual fee before on my permit, so I don't know what percent basis that is. The original fee should be more for the publication and the rest of that.

My final comment is that it's absolutely unthinkable with the present economic situation going on, I heard the same Governor's comments that Mr. Carlson talked about, this certainly isn't the time to add these extreme costs on anyone in the state. Our Governor, my Governor, your Governor, is cutting back on programs, cutting back on people. We just must economize on these things. It's absolutely discriminatory against us and western Iowa irrigators.

My representative, Matt Windschitl from western Iowa, gave me a complete printout of agricultural wells. There are 1,589 agricultural well permits: 1,378

are for general farm crops; 211 are for specialty crops; and 97 are commercial feed lots.

Commentor: Vincent R. Willey

54. Comment: Onawa hearing: To me, this whole committee thing is going at it backwards. You coming out with the proposal now; you should have had these meetings before, and then go over it with people. To me it's a big money grab and what will happen it'll just be spent somewhere down the line.

Commentor: Ed Schoenfelder

55. Comment: Sorry to hear about new fees for water use. I irrigate from my 6 acres, 40 feet deep pond (an old sandpit). My latest permit expires Sept. 23, 2011. There is no surface water drains to the lake and most of the time the water is clear (very clear). I'm wondering if you would call my pond a "water storage" pond, and if so, could I get by with the \$75.00 fee. Irrigation is becoming very costly with input expenses increasing dramatically I really don't need an expensive water use permit besides. I would welcome a comment from you about this.

Commentor: Dale Caspers

Miscellaneous:

56. Comment: Iowa City hearing: I purchased a little over 100 acres to build a manufactured housing park on the south side of Iowa City. This land had a 24 acre lake which was dredged out for sand and gravel. They were in business for 20 years; they ran out of gravel and closed it down, and I purchased it. There are over 400 homes in the park. I was curious how the lake affects us [regarding the water use permit fee]. We have separate wells that we drill to supply [drinking water], but we don't take anything out of the lake.

Commentor: Bob Wolf

Discussion: Mr. Wolf's specific situation was discussed after the formal hearing had ended. He already holds a storage permit for the lake and has no withdrawal from the lake; no additional fee is being proposed in this rulemaking.

Department's Response:

The purpose of the permit fee is to provide funding to support the water use permit program that is in addition to the annual General Fund appropriation. The notice of the rulemaking and public comment period was mailed directly to over 2,500 permit holders; 56 people made comments on behalf of themselves or organizations which they represent. The rationale for using an annual flat fee to provide supplemental funding for the water use program was based on annualizing the costs of the permitting program and spreading them equally amongst all water withdrawal permit holders. The renewal fee was rescinded on August 20, 2008. The water withdrawal permit term remains at a 10-year duration. After considering all comments received, the department will proceed with the rulemaking as initially proposed.

Stakeholder Group:

Name	Affiliation
Mona Bond	Agribusiness Association of Iowa
Terry Harrmann & Jim Klosterbuer	Alliant Energy
Scott Newhard	Associated General Contractors of Iowa
Nicole Molt	Association of Business and Industry
Julie Smith & Jill Soenen	Iowa Association of Municipal Utilities
Linda Kinman	Iowa Association of Water Agencies and Des Moines Water Works
Christina Gruenhagen	Iowa Farm Bureau
Jessica Harder	Iowa League of Cities
Rich White	Iowa Limestone Producers Association
Mark Joyce & Monte Shaw	Iowa Renewable Fuels Association
Tim Coonan	Iowa Rural Electric Cooperatives
Emily Piper	Iowa Rural Water Association and Rathbun Regional Water Association
Jack Clark	Iowa Utility Association
Andrew Davis	MidAmerican Energy