

**MINUTES**  
**OF THE**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**MEETING**  
**AUGUST 18, 2009**

**HONEY CREEK RESORT STATE PARK**

**MORAVIA, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Charlotte Hubbell at 9:10 a.m. on Tuesday, August 18, 2009 at Honey Creek Resort State Park, Moravia, Iowa.

### COMMISSIONERS PRESENT

Carrie LaSuer, Secretary – telephone  
Gene Ver Steeg  
Charlotte Hubbell, Chair  
David Petty  
Susan Heathcote  
Paul Johnson  
Martin Stimson  
Dale Cochran

### ADOPTION OF AGENDA

*Motion was made by Marty Stimson to approve the agenda as presented. Seconded by Paul Johnson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

### APPROVAL OF MINUTES

Charlotte Hubbell asked that we postpone approval of the July minutes until the September meeting.

### DIRECTORS REMARKS

Director Leopold encouraged Commissioners and public to visit the DNR building at the Iowa State Fair.

The Director has been holding regional meetings across the state with DNR staff and the public to gather local input and concerns.

The DNR's FY10 budget will be brought before the Commission next month for review and approval.

There have been many water trail designations this year. We have noticed a problem with littering along the banks. We will be working with Senator Black on legislation to address the littering issues by education, signage and lastly fines.

**INFORMATIONAL ONLY**

**PUBLIC PARTICIPATION**

**GARRY KLICHER**, ICCI member and sustainable farmer in Davis County. I would ask that the public comment rule and the ability to comment at meetings stay alive. It's important that the citizens are heard. Water protection rule – we need to make sure that this rule stays solid and works. We cannot allow polluters to continue dumping waste and manure into our waterways. This is our opportunity to turn the tide and make a small step in the right direction.

**LINDA KINMAN**, from Des Moines Water Works commented on the water use allocation permit fee. We thank the DNR for their hard work and we believe that this rule is agreeable. Please approve the recommended water use fee as proposed.

**JEFF HOVE**, representing the Petroleum Marketers of Iowa commented on Chapters 134 and 135 – Technical standards and corrective action requirements for owners and operators of underground storage tanks. In our industry, over the past 12 months, we have seen an increase in regards to air quality and NESHAP rules. A lot of federal regulations are coming down to us at the same time. The cost of compliance is a lot. We're not asking for a way out of compliance but a better way of management. The biggest question on this rulemaking is the cost of compliance to install electronic monitors/detectors. DNR is saying it's approximately \$1,300 for the system to install. We were able to do some research with contractors and we've received quotes as high as \$9,000. A lot of rural operations will have to shut down. This will affect farmers, emergency response vehicles, etc. This particular item in the rulemaking is not required by EPA at this time, but maybe in the future. We would like to have that portion of the rulemaking removed at this time.

Charlotte Hubbell said that we will discuss these concerns further.

**ELDON MEYERS**, from Wesley, Iowa agreed with Jeff Hove's comments. I do believe that small towns will suffer from this requirement. The cost of compliance will hurt the small rural folks. I disagree with the DNR's cost estimate. I would like to ask that you strike the requirement for electronic monitors/detectors. The insurance industry inspects annually and assists with compliance.

**DAN TOALE**, with Consolidated Energy commented on Chapters 134 and 135. The electronic line detection monitor will cost business anywhere between \$5,000 - \$10,000 per site. Small businesses won't be able to swallow this large amount. I think we need to take smaller steps.

**STEPHEN TEWS**, ICCI member from Bloomfield said that he is concerned with the public water quality in Iowa. We need to accept public comment at all public hearings and meetings so you can make an informed decision.

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

**PROPOSED RULE – CHAPTER 15 – CROSS MEDIA ELECTRONIC REPORTING**

Wayne Gieselman, Division Administrator for Environmental Services presented the following item.

The Notice of Intended Action is to add a Chapter 15 “Cross Media Electronic Reporting” of the 567 Iowa Administrative Code is being presented to the Commission for information.

The purpose of the proposed rule changes is to adopt the U.S. Environmental Protection Agency’s (EPA) electronic reporting requirements for programs under Title 40 of the Code of Federal Regulations (CFR). EPA’s Cross Media Electronic Reporting Rule (CROMERR), which is found in 40 CFR Part 3, establishes electronic reporting as an acceptable regulatory alternative across a broad spectrum of EPA programs and institutes standards for e-reporting systems to ensure that electronic documents are as legally dependable as their paper counterparts. CROMERR impacts electronic data currently received or planned to be received in federally mandated programs in the Environmental Services Division.

CROMERR does not require regulated entities to submit electronic data or require programs to accept electronic data. CROMERR establishes the performance standards for accepting electronic documents if the option is or will be available. Programs already receiving electronic information must modify the system(s) or create new systems to be compliant with CROMERR.

Adoption of this rule is required for the CROMERR application to EPA. States are required to submit CROMERR applications to EPA for existing electronic document receiving systems by January 13, 2010.

Wayne Gieselman stated that the DNR’s concern with the proposed rulemaking would be the anticipated costs to upgrade every database within the department. We are continuing to look at costs and possible funding sources. This is an EPA requirement.

<b>INFORMATION</b>
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**CONTRACT - ME & V - HHM EDUCATION CAMPAIGN**

Brian Tormey, Chief of the Land Quality Bureau presented the following item.

**Recommendations:**

Commission approval is requested to enter into a contract with ME & V of Des Moines, Iowa. The contract is anticipated to begin on August 19<sup>th</sup>, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$120,000.

**Funding Source:**

This contract will be funded through the Groundwater Protection Fund, Solid Waste Account under Iowa Code 455 E.11.2.C

**Background:**

The Household Hazardous Materials Education Program is required by Iowa Code 455F.9 and is administered in the Land Quality Bureau. The need for public education regarding household hazardous materials is evidenced by:

- over 9,741 accidental exposures to household hazardous materials was reported to the Iowa Poison Control Center in 2008;
- household hazardous materials are the leading cause of poisonings in children, of which 60% impacted children under the age of six;
- more than 3,472,467 lbs of hazardous material was collected in 88 Counties in FY 2008.

The Retailers Consumer Education Program (RCEP) is closely tied to the HHM Education Program and this request for contract approval. Retailers are required to provide consumer HHM education (455F.4) at the point of purchase including posting a department provided sign and having consumer education materials, also provided by the department, on hand in the store. Based on a recent retailer survey, compliance with this component of the program is very low.

The department met with several HHM retailers as well as retailer association representatives to discuss the current education program, HHM materials in use, and general barriers to retailer compliance. The Request for Proposals and this contract request is, in part, a direct result of this meeting.

**Purpose:**

The Department proposes to partner with ME&V to design an HHM Education Campaign focusing on four messages:

- Read the Label
- Proper Purchasing
- Safe Use and Storage, and
- Proper Disposal

The proposed project will develop messages based on the above and designed for delivery via hard copy signs, brochures, newspaper ads and flyers as well as television, radio and short videos. The department will provide signs and brochures to retailers (as required by Code), Regional Collection Centers, and partner with doctor's offices, schools, IDPH, etc. Newspaper ads and radio spots will be available to RCCs to tailor to their particular service areas to assist them with their local education and awareness needs. Television and radio spots and videos will be available for downloading and used in the department's Mobile Education Trailer. Others interested in these materials for local use include businesses, industries, and city and county governments. We will provide the materials to them to fulfill individual local needs.

The department plans to “push” one of the above messages with a link to the department website for additional information. In following years a different message will be “pushed” as a way to maintain household hazardous materials in the public’s eye without growing stale.

**Contractor Selection Process:**

The contractor selection process was completed through a competitive Request for Proposal (RFP) process. Seven (7) proposals were received for consideration. RFP reviewers included Kathleen Hennings and Tom Anderson of the Land Quality Bureau, Jerah Gallinger of the Environmental Services Division and Kati Bainter of the Communications Bureau.

In person interviews were held with three of the seven applicants to discuss their individual proposals and to answer additional questions of the review committee. ME &V was selected for this project as they best demonstrated understanding of the project, understanding household hazardous materials issues, related experience, and provided the most pertinent resources to complete the project as requested.

Paul Johnson suggested that retail stores have a locked cage or building to hold HHM until they are hauled away and disposed of properly. This will need a lot of marketing.

*Motion was made by Susan Heathcote to approve the contract as presented. Seconded by Gene VerSteege. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**CONTRACT - SOLID WASTE ALTERNATIVES PROGRAM – RECOMMENDATIONS**

Brian Tormey, Chief of the Land Quality Bureau presented the following item.

The Department received 20 proposals, requesting \$2,344,790 in financial assistance, for consideration during the July 2009 round of funding. Ten (10) projects were selected for funding or additional consideration. If approved they will receive \$358,825 in a combination of forgivable, zero-interest, and three-percent loans.

The table below summarizes the final recommendations, ten projects with a total recommendation of \$358,825.

<b>Recommended By Applicant Type</b>	<b># Awards</b>	<b>Award Amount</b>	<b>Forgivable Loan Portion</b>
Local Government	4	\$123,550	\$51,050
Private For Profit	4	\$198,612	\$73,612
Private Not For Profit	2	\$36,663	\$36,663
<b>Recommended By Project Type</b>	<b># Awards</b>	<b>Award Amount</b>	<b>Forgivable Loan Portion</b>

Best Practices	8	\$327,775	\$130,275
Market Development	0	\$0	\$0
Education	2	\$31,050	\$31,050
<b>Type of Award</b>	<b># Awards</b>	<b>Award Amount</b>	<b>Forgivable Loan Portion</b>
Forgivable loan only	7	\$96,325	\$96,325
Forgivable, 0%, and 3%	3	\$262,500	\$65,000

**Please Note:**

Two proposals, **Sustainable Green Technologies, LLC** and **Roof2Road Recycling, LLC** remain under consideration for the July round of funding. Project descriptions can be found on the last page of the attachment. The Department is meeting with both applicants but meetings could not be arranged prior to July 27<sup>th</sup>, the time EPC packets are prepared. The Department anticipates forwarding a recommendation to the Commission in the very near future.

**SOLID WASTE ALTERNATIVES PROGRAM**

**PROPOSAL RECOMMENDATIONS – JULY 2009**

The Department received 20 proposals, requesting \$2,344,790 in financial assistance, for consideration during the July 2009 round of funding. Ten (10) projects were selected for funding or additional consideration. If approved they will receive \$358,825 in a combination of forgivable, zero-interest, and three-percent loans.

The following provides a description of each project, the project type, and the amount and type of funding assistance. The descriptions are organized as projects above \$25,000, those \$25,000 and below, and proposals received but not selected.

PROPOSAL RECOMMENDATIONS: ABOVE \$25,000

BEST PRACTICES PROJECTS:

<b>Boone County Landfill / Boone County Recycling Center</b> 1268 224 <sup>th</sup> Lane Boone, IA 50036	<b>Forgivable Loan:</b> <b>Zero Interest Loan:</b> <b>3% Interest Loan:</b> <b>Total Award Amount:</b>	<b>\$20,000</b> <b>\$17,500</b> <b>0</b> <b>\$37,500</b>	
	<b>Cash Match:</b> <b>In-Kind Match:</b> <b>Local Match:</b>	<b>\$12,500</b> <b>\$149,944</b> <b>\$162,444</b>	
	<b>Total Project Cost:</b>	<b>\$199,944</b>	
<b>Project Title:</b>	<b>Workplace Recyclables Collection Truck</b>		
<b>Contact:</b>	Scott A. Smith	Phone:	515-433-0591
<b>Project Type:</b>	Best Practices		
<b>Applicant:</b>	Local Government		
<b>Description:</b>	The applicant applied for funds to purchase a new diesel-fueled cube van for the workplace recyclables collection program that is operated in conjunction with the BCRC. The new van will replace a smaller, gas-fueled truck that is rented on a daily basis. The new van will be able to handle a greater workload, diverting more recyclables at a lower operating cost. The project is predicted to quadruple the current 100 tons of recyclable materials marketed per month.		
<b>Target Areas:</b>	Boone County and three communities in Dallas County.		

<b>Adair County Sanitary Landfill and Recycling Center</b> 1645 State Highway 25 Menlo, Iowa 50164		<b>Forgivable Loan:</b>	<b>\$ 0</b>
		<b>Zero Interest Loan:</b>	<b>\$ 55,000</b>
		<b>3% Interest Loan</b>	<b>\$ 0</b>
		<b>Total Award Amount:</b>	<b>\$ 55,000</b>
		<b>Cash Match:</b>	<b>\$ 35,000</b>
		<b>In-Kind Match:</b>	<b>\$ 20,000</b>
		<b>Local Match:</b>	<b>\$ 55,000</b>
		<b>Total Project Cost:</b>	<b>\$110,000</b>
<b>Project Title:</b>	Adair County Recycling Center Equipment		
<b>Contact:</b>	Doug Hughes	Phone:	641-743-8343
<b>Project Type:</b>	Best Practices		
<b>Applicant:</b>	Local Government		
<b>Description:</b>	The applicant applied for funds to purchase equipment to purchase a used baler and conveyor system that will enable the recycling center to operate more efficiently and allow the center to recover additional recyclables from neighboring service areas.		
<b>Target Areas:</b>	Adair County Sanitary Landfill and Recycling Center		

**BEST PRACTICES / EDUCATION PROJECT:**

<b>Indigo Dawn, LLC</b> PO Box 41007 Des Moines, Iowa 50311		<b>Forgivable Loan:</b>	<b>\$ 45,000</b>
		<b>Zero Interest Loan:</b>	<b>\$ 125,000</b>
		<b>3% Interest Loan</b>	<b>\$ 0</b>
		<b>Total Award Amount:</b>	<b>\$ 170,000</b>
		<b>Cash Match:</b>	<b>\$2,047,700</b>
		<b>In-Kind Match:</b>	<b>\$ 309,500</b>
		<b>Local Match:</b>	<b>\$2,357,200</b>
		<b>Total Project Cost:</b>	<b>\$2,527,200</b>
<b>Project Title:</b>	Green & Main: A Sustainable Building Rehabilitation System		
<b>Contact:</b>	Chaden Halfhill	Phone:	515-202-6276
<b>Project Type:</b>	Best Practices / Education		
<b>Applicant:</b>	Private for Profit		
<b>Description:</b>	The applicant applied for funds to assist in the renovation of a 90-year old abandoned brick commercial building as a pilot rehabilitation project designed to serve as a prime model of an energy-efficient, high-performance building that has been rehabilitated using salvaged building materials. The pilot rehabilitation project, along with an Applied Best Practices Manual that will be developed through the project, will serve to demonstrate a completely scalable renovation system that has been designed to be broken down and applied one method at a time as applicable for saving abandoned buildings across Iowa.		
<b>Target Areas:</b>	Iowa		

PROPOSAL RECOMMENDATIONS: \$25,000 AND BELOW

**BEST PRACTICES PROJECTS:**

<p><b>Drake University</b> 2507 University Avenue Des Moines, IA 50311</p>	<p><b>Forgivable Loan:</b> \$20,000 <b>Zero Interest Loan:</b> \$0 <b>3% Interest Loan:</b> \$0 <b>Total Award Amount:</b> \$20,000</p>
	<p><b>Cash Match:</b> \$25,920 <b>In-Kind Match:</b> \$28,600 <b>Local Match:</b> \$54,520</p>
	<p><b>Total Project Cost:</b> \$74,520</p>
<p><b>Project Title:</b> <b>Contact:</b> <b>Project Type:</b> <b>Applicant:</b> <b>Description:</b></p>	<p><b>Drake University Recycling Program</b> Mark Chambers Phone: 515-271-3755 Best Practices / Education Private Not for Profit The applicant applied for funds to purchase recycling equipment as part of an effort to expand their current recycling program to a campus-wide, single-stream recycling program. Project objectives include the recycling of plastic, paper, cardboard, and glass on campus and to serve as example to students, staff, and the community of the importance of recycling and sustainability.</p>
<p><b>Target Area:</b></p>	<p>Des Moines</p>
<p><b>Tyson Foods, Inc.</b> 2490 Lincoln Way Denison, IA 51422</p>	<p><b>Forgivable Loan:</b> \$ 9,832 <b>Zero Interest Loan:</b> \$ 0 <b>3% Interest Loan:</b> \$ 0 <b>Total Award Amount:</b> \$ 9,832</p>
	<p><b>Cash Match:</b> \$ 3,278 <b>In-Kind Match:</b> \$ 6,554 <b>Local Match:</b> \$ 9,832</p>
	<p><b>Total Project Cost:</b> \$19,664</p>
<p><b>Project Title:</b> <b>Contact:</b> <b>Project Type:</b> <b>Applicant:</b> <b>Description:</b></p>	<p>Cardboard and Plastic Recycling Paul Fulwider Email: paul.fulwider@tyson.com Best Practices Private For Profit The applicant applied for funds to purchase and put into service a vertical baler to divert from the landfill for recycling corrugated cardboard and plastic wrap. The project proposes to sell 10 tons of recyclables to City Carton per month.</p>
<p><b>Target Area:</b></p>	<p>Denison</p>
<p><b>Case New Holland</b> 1930 Des Moines Avenue Burlington, IA 52601</p>	<p><b>Forgivable Loan:</b> \$ 7,073 <b>Zero Interest Loan:</b> \$ 0 <b>3% Interest Loan:</b> \$ 0 <b>Total Award Amount:</b> \$ 7,073</p>
	<p><b>Cash Match:</b> \$ 2,358 <b>In-Kind Match:</b> \$11,447 <b>Local Match:</b> \$13,805</p>
	<p><b>Total Project Cost:</b> \$20,878</p>

**Project Title:** Case New Holland Recycling Program  
**Contact:** Matthew Rexroat Phone: 319-754-3581  
**Project Type:** Best Practices  
**Applicant:** Private for Profit  
**Description:** The applicant applied for funds to purchase recycling equipment as part of its project to lessen its impact on the environment by implementing a comprehensive recycling program throughout its Burlington location. The project will include an extensive recycling awareness campaign for all company employees. CNH's goal is to divert 75 percent (720 tons) of its recyclable material from the landfill.  
  
 Des Moines County, specifically Burlington  
**Target Area:**

<b>Clipper Turbine Works</b> 4601 Bowling Street SW Cedar Rapids, IA 52404	<b>Forgivable Loan:</b> \$11,707 <b>Zero Interest Loan:</b> \$0 <b>3% Interest Loan:</b> \$0 <b>Total Award Amount:</b> \$11,707
	<b>Cash Match:</b> \$ 3,907 <b>In-Kind Match:</b> \$ 7,800 <b>Local Match:</b> \$11,707  <b>Total Project Cost:</b> \$23,414

**Project Title:** Plastic Baler  
**Contact:** Steve Rennekamp Phone: 319-213-0327  
**Project Type:** Best Practices  
**Applicant:** Private for Profit  
**Description:** The applicant applied for funds to purchase and put into service a plastic baler for the diversion of plastics from the landfill for the purpose of recycling. The project is estimated to divert 2-4 tons of LDPE plastic from the landfill per month.  
  
 Cedar Rapids  
**Target Area:**

<b>Estherville Lincoln Central Schools</b> 315 North 6 <sup>th</sup> Street Estherville, IA 51334	<b>Forgivable Loan:</b> \$16,663 <b>Zero Interest Loan:</b> \$0 <b>3% Interest Loan:</b> \$0 <b>Total Award Amount:</b> \$16,663
	<b>Cash Match:</b> \$16,664 <b>In-Kind Match:</b> \$ 0 <b>Local Match:</b> \$16,664  <b>Total Project Cost:</b> \$33,327

**Project Title:** Paper Recycling Program  
**Contact:** Kevin Richardson Phone: 712-362-8406  
**Project Type:** Best Practices  
**Applicant:** Private Not for Profit  
**Description:** The applicant applied for funds to purchase and put into service a baler and skid loader with forklifts as part of their plan to develop a sustainable recycling program for all of the paper and cardboard the LCCSD is currently sending to the landfill.  
  
 Estherville Lincoln Central Schools  
**Target Area:**

EDUCATION PROJECTS:

<b>East Central Iowa Council of Governments on behalf of Benton County Solid Waste Disposal Commission</b> 700 16 <sup>th</sup> Street NE Cedar Rapids, IA 52402	<b>Forgivable Loan:</b>	<b>\$11,050</b>
	<b>Zero Interest Loan:</b>	<b>\$ 0</b>
	<b>3% Interest Loan</b>	<b>\$ 0</b>
	<b>Total Award Amount:</b>	<b>\$11,050</b>
	<b>Cash Match:</b>	<b>\$11,050</b>
<b>In-Kind Match:</b>	<b>\$ 0</b>	
<b>Local Match:</b>	<b>\$11,050</b>	
<b>Total Project Cost:</b>	<b>\$22,100</b>	
<b>Project Title:</b>	<b>Benton County School Recycling Program</b>	
<b>Contact:</b>	Jennifer Ryan	Phone: 319-365-9941 ext. 131
<b>Project Type:</b>	Education	
<b>Applicant:</b>	Local Government	
<b>Description:</b>	The applicant applied for funds to purchase equipment and supplies and to present educational activities as part of a project to develop a comprehensive recycling education program for the Benton County schools of Belle Plaine, Benton, Center Point, and Vinton.	
<b>Target Area:</b>	Benton County Public Schools (four districts)	

<b>Waste Commission of Scott County</b> 11555 110 <sup>th</sup> Avenue Davenport, IA 52804	<b>Forgivable Loan:</b>	<b>\$20,000</b>
	<b>Zero Interest Loan:</b>	<b>\$0</b>
	<b>3% Interest Loan</b>	<b>\$0</b>
	<b>Total Award Amount:</b>	<b>\$20,000</b>
	<b>Cash Match:</b>	<b>\$ 8,800</b>
<b>In-Kind Match:</b>	<b>\$19,600</b>	
<b>Local Match:</b>	<b>\$28,400</b>	
<b>Total Project Cost:</b>	<b>\$48,400</b>	
<b>Project Title:</b>	<b>Educational Solid Waste Management Web Videos</b>	
<b>Contact:</b>	Erin Robinson	Phone: 563-388-1403
<b>Project Type:</b>	Education	
<b>Applicant:</b>	Local Government	
<b>Description:</b>	The applicant applied for funds to create nine 2-3 minute educational videos on topics related to best practices in solid waste management.	
<b>Target Area:</b>	Scott County in participation with Cedar, Jackson, Muscatine, Clinton, and Dubuque Counties and Metro Waste Authority	

PROPOSALS RECEIVED, NOT RECOMMENDED

<b>Krajicek, Pallet Inc.</b> 611 North 10 <sup>th</sup> Street Denison, IA 51442	<b>Total Amount Requested:</b>	<b>\$349,000</b>
<b>Project Title:</b>	<b>Reconstruction of Wood Recycling System</b>	
<b>Contact:</b>	Ed Krajicek	Phone: Krajicek_inc@hotmail.com
<b>Project Type:</b>	Best Practices	
<b>Applicant:</b>	Private For Profit	
<b>Description:</b>	The applicant applied for funds to purchase and put into service equipment as part of a complete rebuild of its pallet and mulching operations that were destroyed by fire.	

<b>Hawkeye Recycling</b>		<b>Total Amount Requested:</b>		<b>\$248,373</b>
<b>811 Airport Road</b>				
<b>Cresco, IA 52136</b>				
<b>Project Title:</b>	Acquisition of Howard County & Spectrum Recycling Center			
<b>Contact:</b>	Ross Merritt	<b>Phone:</b>	319-240-6429	
<b>Project Type:</b>	Best Practices			
<b>Applicant:</b>	Private For Profit			
<b>Description:</b>	The applicant applied for funds to purchase the Cresco recycling center that is currently owned and operated by Spectrum Recycling and Howard County. The center is closing, and Hawkeye is proposing to purchase the facility to maintain recycling operations for Howard and Clayton Counties and the surrounding area.			

<b>Kolbeck, Inc.</b>		<b>Total Amount Requested:</b>		<b>\$318,750</b>
<b>34967 200<sup>th</sup> Street</b>				
<b>Le Mars, IA 51031</b>				
<b>Project Title:</b>	Expanding Waste Wood Markets in Iowa			
<b>Contact:</b>	Brian Kolbeck	<b>Phone:</b>	712-546-6861	
<b>Project Type:</b>	Market Development			
<b>Applicant:</b>	Private for Profit			
<b>Description:</b>	The applicant applied for funds to purchase and put into service equipment to accommodate the rapidly increasing demand the company is seeing for their processed waste wood products.			

<b>Dennis Rogers, North Cedar Recycling, LLC</b>		<b>Total Amount Requested:</b>		<b>\$136,500</b>
<b>1147 East Highway 30</b>				
<b>Stanwood, IA 52337</b>				
<b>Project Title:</b>	Recycling			
<b>Contact:</b>	Dennis Rogers	<b>Phone:</b>	563-942-2072	
<b>Project Type:</b>	Best Practices			
<b>Applicant:</b>	Private for Profit			
<b>Description:</b>	The applicant applied for funding to purchase equipment and supplies necessary for maintaining NCR's level of capability for collecting and diverting from the landfill for recycling library books, old school textbooks, and educational materials.			

<b>Northwest Sanitation</b>		<b>Total Amount Requested:</b>		<b>\$85,030</b>
<b>2490 204<sup>th</sup> Avenue F</b>				
<b>Hawarden, IA 51023</b>				
<b>Project Title:</b>	Cardboard and Plastic Recycling			
<b>Contact:</b>	Carlos Da Costa	<b>Email:</b>	nwsan@hickorytech.net	
<b>Project Type:</b>	Best Practices			
<b>Applicant:</b>	Private for Profit			
<b>Description:</b>	The applicant applied for funding to construct a facility for storing finished recycled materials and for purchasing recycling containers. The new enclosed facility and recycling containers will allow the applicant to protect baled containers of corrugated cardboard and paper from precipitation that decreases the value of the bales or results in rejected loads that eventually require landfilling.			

<b>Jeff Stiles</b> 1079 Elm Street Dubuque, IA 52001		<b>Total Amount Requested:</b>	<b>\$21,000</b>
<b>Project Title:</b>	Restoration Trust	<b>Phone:</b>	563-556-7800
<b>Contact:</b>	Jeff Stiles		
<b>Project Type:</b>	Market Development		
<b>Applicant:</b>	Private Not for Profit		
<b>Description:</b>	The applicant applied for funds to start up a Dubuque ReStore that will accept donations of building materials, tools, etc. and provide these materials to the public at discounted prices as sustainable alternatives for building or remodeling projects.		
<b>Town &amp; Country Organic</b> 510 Glenview Drive Des Moines, IA 50312		<b>Total Amount Requested:</b>	<b>\$163,813</b>
<b>Project Title:</b>	Town & Country Organic	<b>Phone:</b>	515-779-5858
<b>Contact:</b>	Nathan J. Brower		
<b>Project Type:</b>	Market Development		
<b>Applicant:</b>	Private for Profit		
<b>Description:</b>	The applicant applied for funds to purchase and put into service equipment that will allow them to develop, demonstrate, and replicate a system for custom blending a variety of biomass wastes streams that are currently being landfilled into a composted fertilizer.		
<b>Lakes Community Land Trust, Inc.</b> 1801 Hill Avenue Spirit Lake, IA 51360		<b>Total Amount Requested:</b>	<b>\$83,500</b>
<b>Project Title:</b>	Building Material Re-use Store	<b>Phone:</b>	712-336-1068
<b>Contact:</b>	James Golden		
<b>Project Type:</b>	Market Development		
<b>Applicant:</b>	Private Not For Profit		
<b>Description:</b>	The applicant applied for funds to open a used building materials store in Dickinson County that will accept donations of building materials, tools, etc. and offer them to the public at affordable prices.		
<b>Sustainable Green Technologies, LLC</b> 231 Cottonwood Road Ames, IA 50014		<b>Total Amount Requested:</b>	<b>\$300,000</b>
<b>Project Title:</b>	Sustainable Green Recycling: Establishing an Asphalt Shingle Recycling Facility Using Best Practices		
<b>Contact:</b>	Christopher Williams	<b>Phone:</b>	515-520-7600
<b>Project Type:</b>	Best Practices		
<b>Applicant:</b>	Private For Profit		
<b>Description:</b>	The applicant applied for funds to establish a facility for recycling post consumer asphalt shingles by grinding them and selling them to asphalt paving contractors for use in hot mix asphalt for pavements.		
<b>Roof2Road Recycling, LLC</b> 2202 Wolf Way Des Moines, IA 50265		<b>Total Amount Requested:</b>	<b>\$280,000</b>
<b>Project Title:</b>	Iowa Asphalt Shingle Recycling Project		
<b>Contact:</b>	Tim Wolfswinkel	<b>Phone:</b>	515-865-3334
<b>Project Type:</b>	Market Development		
<b>Applicant:</b>	Private for Profit		
<b>Description:</b>	The applicant applied for funding for property improvements, site permitting, processing equipment, laboratory equipment, and employee training as part of a project to divert waste asphalt roof shingles from Iowa landfills and process them into marketable products for use in asphalt paving and other applications.		

Charlotte Hubbell asked to be kept up to date regarding the Tyson Foods project since it is a private for profit using state money to purchase a baler. I hesitate to use taxpayer money when it's not an advancing technology.

Brian Tormey said that he understands her concern and we will continue to watch the benefits of each proposal.

Paul Johnson asked if this program has been audited. How many entities have actually finished the work?

Brian Tormey said that less than 5% are unable to complete. We've tried to go back and survey after completion but folks do not need to tell us once the contract expires.

Marty Stimson abstained from voting due to his employee relationship with Clipper Wind.

*Motion was made by Susan Heathcote to approve the contracts as presented. Seconded by Dale Cochran. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**FINAL RULE - CHAPTERS 135 AND 134, TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (OPERATOR TRAINING AND CONFLICT OF INTEREST)**

Elaine Douskey, Program Supervisor – Underground Storage Tank Section presented the following item.

The Department is requesting adoption of the proposed additions to Chapters 135 and 134 to implement the EPA's Operating Training and UST Inspections guidelines, part of the Federal Energy Policy Act of 2005, and as authorized per legislation passed in 2007 (SF 499/HF792) (Iowa Act). Also included are amendments on piping in-line catastrophic leak detection at unstaffed facilities and using certified groundwater professionals for soil and groundwater sampling when permanently closing underground storage tanks and piping.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 2009 as ARC 7854B. Three public hearings were held and six comments were received.

The rules outline three classes of operators that must be trained and designated at all underground storage tank (UST) facilities: Class A, Class B, and Class C. Class A operators have primary responsibility to operate and maintain the UST system; Class B operators actually implement applicable UST regulatory requirements and standards in the field; and the Class C operator is an employee at the UST site (e.g., cashier) and is the first line of response to events

indicating emergency conditions. These rules contain specific job duties, training requirements, and training deadlines applicable to each operator class. The rule was also amended requiring Class A operators to notify the department of any change in ownership or operator status, and to notify new owners of their compliance responsibilities.

The rule change for piping leak detection at unstaffed facilities requires in-line leak detection to shut off the submersible pump and stop product flow to the dispenser. In-line leak detection is for catastrophic leaks in pressurized product lines. They are designed to alert the on-site operator of a release by slowing down product flow or activating an alarm so the submersible pump can be immediately shut down. When facilities are not staffed, there is no one for an alarm to notify so the system can be shut down.

The main comments concerned the requirement for in-line leak detectors on pressurized lines at unstaffed facilities to shutdown the submersible pump when a release is detected. Jeff Hove with the petroleum marketers association felt there would be an impact on small agricultural communities with 24 hour unstaffed facilities with low product throughput. The cost for upgrading to positive shutdown would be prohibitive. Mr. Hove estimated at least 160 unstaffed facilities and noted the hardship to the small agricultural communities if the unstaffed facilities decided to stop operating but was unsure how many used pressurized fuel delivery. The estimated cost for upgrade per facility (with three tanks) was \$8,000 to \$10,000. The request was to drop the requirement.

It's hard to estimate the number of 24 hour unstaffed facilities in operation and how many are in towns where they are the only source of fuel. The DNR UST database was queried for facilities that use mechanical line leak detectors and eliminating UST sites in towns with convenience stores. The number of towns that may rely solely on a 24 hour unstaffed facilities with mechanical line leak detectors was estimated as less than 20. We also obtained an estimate for installing a wireless system of \$1,300 - \$1,500 per tank. (A three tank system would be about \$3,900 to \$4,500). This is quite a bit lower than the estimates provided in the comments. We are unsure of the actual hardship this rule would cause to the public since fuel would be generally available in most situations.

A site that operates unstaffed only over night is offering convenience for a few customers. The capability to offer 24 hour access only came after dispensers became available that could accept credit card payment at the dispenser. Though a customer may be getting gas in the middle of the night, it is not a necessity.

The reason for immediately shutting down a catastrophic release is for public safety and to prevent further environmental contamination. As such, the Department still believes unstaffed facilities should not be operating without positive shut down from the leak detection system. This is consistent with the federal regulations. Based on the estimated cost of installing in-line leak detector we received, the cost does not seem to be prohibitive and is much less than the additional cost for investigation and cleanup in the event of a large release.

The final rule provides until December 31, 2010 to change the in-line leak detector and does allow for the request for an extension if there is no alternative fueling source or fueling is needed

for emergency or public safety considerations. The request for temporary exemption must include documentation and a plan for upgrading at the earliest practical date. The exemption is not meant to be open ended.

Elaine Douskey said that three public meetings were held and as we heard today the main concern was the cost for changing the in-line leak detectors.

Gene VerSteege asked how many catastrophic leaks have occurred since there hasn't been leak detection devices in place?

Elaine Douskey said that's really hard to determine. There are many types of leak detection devices. We currently have 6,000 LUST sites in Iowa.

Paul Johnson asked why we are even doing this if we don't know if we have leaks. What's driving this?

Elaine Douskey said that the federal guidelines require systems have alarms and leak detection devices so that staff at facilities can address releases in a timely manner. These guidelines are in place to prevent releases. Equipment would also have shut off valves that would automatically shut down pressurized pipes so further leaking would be prevented.

Paul Johnson asked if other states require this?

Elaine Douskey said that of the states surveyed, twelve responded, four states require or have rules in place for the implementation of shut off valves.

Charlotte Hubbell asked why the discrepancy in cost between the DNR and industry for compliance.

Elaine Douskey said that she contacted two companies. These detection devices are wireless requiring no dirt/concrete work. The larger estimates stated come from digging concrete, which would not be necessary with the wireless devices.

Gene VerSteege said that he would like to postpone this rulemaking since it is not an EPA requirement at this time because of the economic strain to business owners.

Marty Stimson asked if we could extend the deadline?

Elaine Douskey said December 2010 is the deadline with extensions allowed beyond that date for communities with no other fuel source.

Paul Johnson asked what industry thinks about these rulemakings.

Jeff Hove said that they sense EPA will require this at some point. It's a large cost whether it's now, 6 months or a year from now. We just feel there maybe larger economic implications to rural Iowa towns. There's also discrepancy on how many impacted sites there will be.

Wayne Gieselmann said that since we are not currently on a time constraint we could meet with the UST fund board. There is money in the fund and this issue could be discussed with them. I would suggest that you table this item until the next meeting and we will present a solution for possible funding options.

Elaine Douskey suggested that they move forward with the entire rulemaking except for the portion related to installing electronic detection equipment. (Item 4)

*Motion to amend was made by Susan Heathcote to table 135.4(11)Item 4 – Requiring the installation of electronic detection systems of this rulemaking until the next meeting. Seconded by Paul Johnson. Motion carried unanimously.*

*Motion was made by Gene VerSteege to adopt the rulemaking as amended. Seconded by Marty Stimson. Motion carried unanimously.*

**APPROVED AS AMENDED**

## **FINAL RULE – AMENDMENTS TO WASTEWATER RULES, INCLUDING CHAPTERS 62 AND 63**

Jon Tack, Attorney for the Department presented the following item.

The changes to Chapter 62 “Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions” and Chapter 63 “Monitoring, Analytical, and Reporting Requirements” are being presented to the Environmental Protection Commission for Notice of Intended Action. Chapters 62 and 63 were recently amended by the rulemaking designated ARC 7625B, approved by the Commission on February 17, 2009. On April 8, 2009 the Administrative Rules Review Committee unanimously placed a seventy-day delay on the effective date of portions of ARC 7625B. This rulemaking will address some of the issues that contributed to the seventy-day delay. Based upon public comment and internal review, the Department has determined that additional revisions are appropriate at this time.

The following is a summary of the proposed amendments to the rules:

### Chapter 62

- Subrule 62.8(2) is being changed to indicate that the daily sample maximum criteria for E.coli shall not be used as an end-of-pipe permit limitation. The proposed amendment to subrule 62.8(2) is designed to address new technical data received by the Department from U.S. Environmental Protection Agency indicating that the methodology set forth in the Department’s “Supporting Document for Iowa Water Quality Management Plans”, Chapter IV, July 1976, as revised on June 16, 2004 for establishing E.coli effluent limits is not supported by the technical data upon which the methodology is intended to be based.

## Chapter 63

- The monitoring table for continuously discharging WWTPs, including municipal and semi-public WWTPs, is being changed to remove Total Nitrogen, Total Phosphorous, and Total Kjeldahl Nitrogen monitoring for facilities with a Population Equivalent (PE) of 1,000 – 3,000. The proposed amendment to Table II of Chapter 63 is intended to reduce the burden on smaller communities in regard to nutrient monitoring requirements.

Susan Heathcote stated her concerns for facilities that only sample once or twice a year. How do we set limit standards for these?

Jon Tack said that the water quality standard is for recreational use.

Susan Heathcote stated her concern about removing a standard without replacing it with something else. I understand why we need to change this, but I'm concerned that we are leaving an area without permit levels. The water quality bureau needs to come back with recommendations on ways to set permit levels for facilities unable to sample.

Rich Leopold said that he shares that concern but this rulemaking needs to go forward. We will be using other measures to hold accountable the same parameters that we are discussing here. We need to continue to move forward with next steps.

Jon Tack said we have two tools that we use for setting the geometric levels. What we are doing here is saying that the sample max will not be used to set end of the pipe limits. It does not change the water quality standard for bacteria levels.

*Motion was made by Susan Heathcote to approve the final rule as presented. Seconded by Marty Stimson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**PROPOSED RULES- CHAPTERS 90 - 93 – CLEAN WATER STATE REVOLVING FUND**

Wayne Gieselman, Division Administrator for Environmental Services presented the following item.

Chapters 90-93 are the rules for the Clean Water State Revolving Fund programs. The rule changes are proposed to address several general areas:

- Continuing to remove financial policies and procedures which are now under the management of the Iowa Finance Authority.

- Better defining eligibility for both publicly owned wastewater projects and nonpoint source projects. This includes changing the definitions of eligible projects to conform with new Environmental Protection Agency Clean Watersheds Needs Survey categories.
- Revising the rules to reflect current operations in the program that have proven to be more effective or that have changed due to federal laws or regulations.
- Updating the priority system and integrating eligible point source and nonpoint source projects. The updated system will result in more objective rankings and more effective targeting of funds to high priority projects as needed.

Some of the key specific changes include:

- Eliminating compliance status as a factor in the ranking system. Points for project purpose are proposed instead, with the goal of promoting projects that maintain compliance or go beyond compliance as well as those that need to achieve compliance.
- Providing funding for nonpoint source projects on a first-come, first-served basis until 90% of the set-aside funds are allocated. With more than 500 nonpoint source projects per year, administered by counties and soil and water conservation districts, it is impractical to rank each project. However, if available funds are less than demand, the integrated priority system may be used.
- Clarifying rules on new, replacement and expanding animal feeding operations in the Livestock Water Quality Facilities program. The goal of the changes is to target loan funds to water quality improvement and avoid subsidizing other production benefits. The formula proposed for expanding operations also attempts to take into account the need for economies of scale, such as for deep-bedded buildings replacing open feedlots.

Chapters 90-93, the environmental rules for the program, are complemented by the Iowa Finance Authority's Chapter 26, which provides the financial rules. Changes to Chapter 26 re being proposed concurrently and include:

- Eliminating minimum loan amounts for drinking water and wastewater projects. This is in response to the demand for loan amounts less than \$50,000, particularly for "green" projects.
- Allowing repayment of planning and design loans to extend beyond the original three year period.
- Capping assistance per owner for Local Water Protection (LWP) and Livestock Water Quality (LWQ) Facilities program loans at \$500,000 outstanding at any one time. Previously the maximum loan for LWP was \$50,000, which sometimes required owners to take several loans to complete larger projects. The maximum for the LWQ program was 50% of the set-aside.

- Reducing the maximum loan term for the Livestock Water Quality Facilities program from 20 years to 10 years.

A stakeholder meeting was held June 22, 2009 in order to solicit input from municipal, engineering, agricultural and environmental organizations. We appreciate their comments, and changes were made to the original drafts based on their input.

The notice of intended action will be presented to the Commission for decision at the September 2009 meeting.

Susan Heathcote asked about the relocation issues. If an open feedlot was in a bad location because of its implications to the environment and monies were available for it to be moved, would there would be an easement on that site so that no other open feedlots could be in placed there at a later date?

Gene VerSteeg asked about someone who wanted to place a few horses there?

Wayne Gieselman said that would not constitute an open feedlot. Therefore it would not apply in this case.

Susan Heathcote said that you would be restricted from having an open feedlot there, which is defined in the rules.

Gene Tinker said that his understanding with the easement is that it would not prohibit someone from having recreational animals there unless they are operating as an open feedlot.

Gene VerSteeg said that this issue needs to be addressed in the rules.

<b>INFORMATION</b>
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**PROPOSED RULE - WATER SUPPLY: WATER USE & ALLOCATION ANNUAL PERMIT FEE**

Wayne Gieselman, Division Administrator of Environmental Services presented the following item.

The Commission is asked to review the Water Use and Allocation Program budget and SFY 2010 annual permit fee, in anticipation of approving the annual fee at its September meeting. The proposed annual permit fee is \$135.00 per permit for SFY 2010.

**Background**

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 always been used to fund the issuance of the water use permits and related costs. During the 2008 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." There are two types of fees in the Water Use and Allocation Program: an application fee and an annual permit fee. This request is for the determination of the annual fee for SFY 2010.

The adopted and filed rulemaking allowing the annual fee was approved earlier this year at the Commission's March meeting. The annual fee rule is summarized below (IAC 567-50.4(2) "b"):

- Each year, the Commission will be asked to set the annual 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.
- 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.
- 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 department shall request Commission approval of the amount of the annual fee no later than September 30 of each year.
- The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date.
- The annual fee due date is December 1, 2009; 60 days prior is October 1, 2009.

There is no annual fee required for either a water storage permit (permitted for the life of the structure) or a minor nonrecurring water use registration (one-year permit duration).

**SFY 2010 Budget**

The worksheet included with this agenda brief illustrates the actual expenditures in SFY 2006 – 2008 and the budgeted amounts for SFY 2009 - 2010. The actual expenditures for SFY 2009 should be available in August. The indirect expense is 13.76% for SFY 2010. The changes to the budget in 2010 from the previous years include the following:

- Reduction in General Fund appropriation from previous years, which will be covered by the fee revenue;
- Revision of the Water Use Program's computer database, which will improve tracking permits and addresses; enabling access to the database from the Internet (i.e., web-based application); and developing electronic payment feature;
- Tasks associated with the new fees, including mailing the annual fee statement, collection of the appropriate application and annual fees, revision of forms;
- Staffing to conduct more thorough review of the permits and associated data; and
- Enforcement of the state water use program rules.

**Fee Analysis**Base Rate:

On June 16, 2009, the water use database contained 3,432 active water use permits. Using the target budget figure of \$415,000, the per permit annual fee is \$120. ( $\$415,000/3,432$  permits = \$120)

Compression Assumptions:

Because of the new annual fee, it is anticipated that permits will be vacated where water has not been withdrawn. Prior to this annual fee, the \$25 per permit renewal fee (10 year permit duration) was not enough to cause people to vacate permits when they didn't actually use the water.

- Assume the 250 permits with reported zero water usage in the 2005 – 2007 will be vacated. ( $3,432 - 250 = 3,182$  permits)
- Approximately 5% of the remaining permits, or 159 permits, will be merged, or else dropped because they haven't used the minimum 25,000 gallons in one day during the year. ( $3,182 \times 95\% = 3,023$  permits)

Calculated Fee:

Amount needed for the budget divided by the number of water use and allocation permits:

$$\$415,000 / 3,023 \text{ permits} = \$137.28$$

Based on the fee analysis, the annual water use permit fee for SFY 2010 should be \$135.00.

Charlotte Hubbell asked if the Department reviews quantity of water in the area where a permit is being requested.

Wayne Gieselman said yes. Most of the time irrigators use surface water but utility companies are easier to gauge since they know how much they will use.

Charlotte Hubbell asked what the \$210,000 for professional services will be used for.

Wayne Gieselman said it's for database development.

Paul Johnson asked if we are looking at water quantity and regulations.

Wayne Gieselman said not currently, but we are meeting in September to discuss the State water plan with stakeholders which will address many issues and may raise questions with water quantity. We are not ready to propose any legislation yet.

<b>INFORMATION</b>
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**NOTICE OF INTENDED ACTION - CHAPTER 133, RULES FOR DETERMINING CLEANUP ACTIONS AND RESPONSIBLE PARTIES**

Ed Tormey, Legal Bureau Chief presented the following item.

In part, Chapter 133 provides for compensation to the state and public for damages to natural resources and wildlife resulting from a hazardous condition. For fish loss specifically, the rule authorizes the use of the American Fisheries Society's special publication on fish counting methods and restitution valuation.

The Fisheries Bureau is making changes to AFS-based policy and procedure and updating their fish restitution rules in chapter 571 IAC 113 accordingly. For internal consistency, Chapter 133 must be amended to reflect those changes as well.

The following changes are to be made: (1) update the definition of "AFS" in the rule to state the American Fisheries Society's Special Publication 30 shall be used and (2) revise the fish species to be valued at \$15 a fish unless the AFS publication requires a higher value, in which case the higher value shall be applied.

This rulemaking will go before both the EPC and Natural Resources Commission for their review and approval.

*Motion was made by David Petty to approve the notice of intended action as presented. Seconded by Paul Johnson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**PRESENTATION – AGRICULTURAL DRAINAGE WELLS**

Presented by Jeff Vansteenburgh and Jeremy Klatt, Field Office 2. Jeff went through and addressed the following issues regarding Ag Drainage wells.

**Overview**

- Background Information
- What is an Ag Drainage Well
- State Law and ADWs
- Inspection Process
- Results

For more information on his presentation, please visit:

<http://www.iowadnr.gov/epc/archive/09aug18h.pdf> or email  
[jeff.vansteenburgh@dnr.iowa.gov](mailto:jeff.vansteenburgh@dnr.iowa.gov) or [jeremy.klatt@dnr.iowa.gov](mailto:jeremy.klatt@dnr.iowa.gov)

Susan Heathcote asked for a white paper on this issue that would include stats of inspections. We need to keep moving forward with this goal to cap and address ag drainage wells.

Jeff VanSteenburg said that it costs approximately \$7,600 per well to close it off.

Paul Johnson asked if IDALS was helping address this issue since they have funds for this.

Jeff VanSteenburg said that he is unaware of IDALS involvement regarding the closure of wells.

Paul Johnson encouraged more communication with IDALS regarding this issue.

<b>INFORMATION</b>
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**REFERRALS TO THE ATTORNEY GENERAL - RANDY WARD – AIR QUALITY (ASBESTOS) AND DENNIS SPENCER – AIR QUALITY (ASBESTOS)**

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

Kelli Book, Attorney for the Department of Natural Resources presented the following information.

Asbestos is a known cause of lung disease, asbestosis, and cancer, specifically mesothelioma. Asbestos is a hazardous air pollutant and failure to properly follow disposal techniques can result in an environmental hazard to the workers and general public through asbestos fibers. Asbestos containing materials need to be wet until properly contained, hauling trucks need to be marked, must be disposed as a hazardous material at the landfill and a certified asbestos supervisor must be on site when demolition is being done.

Mr. Ward owned the Le Chateau apartment complex located in Coralville. The buildings are about 40 years old. During the summer of 2008, the apartments were damaged by flooding. The buildings were demolished in September and October in 2008.

In October 2008, Marion Burnside, DNR's asbestos received a compliant and went to investigate.

Marion Burnside went to the site and observed that 3 of 4 apartment buildings had already been knocked down but the debris was still on site. The fourth building was in the process of being demolished. Mr. Burnside spoke with Mr. Ward and stated that Mr. Spencer was the demolition contractor. He also went on to say that there had been an inspection prior to demolition and they collected two samples both of which came back positive for asbestos, with content of 15%. Mr. Burnside noted asbestos dust throughout the piles of demolition. Mr. Burnside told Mr. Ward that since the asbestos had not been removed prior to demolition that all material must be taken to the landfill as asbestos containing material.

In late October, DNR received a notice from Mr. Ward stating that Shive-Hattery would be overseeing the removal of debris and that all material would be kept wet and taken to the Iowa City landfill.

On November 5, DNR issued a Notice of Violation to Mr. Ward for several violations including: failure to notify, failure to remove all regulated material prior to demolition, failure to keep all material wet, failure to have a trained supervisor on site, and failure to keep all material wet during transport and wrecking. A notice of violation was also sent to Mr. Spencer for the same violations.

On December 18, DNR received a compliant indicating that asbestos was intentionally left in the buildings.

On December 22, Marion Burnside contacted the Iowa City landfill and requested a copy of the waste shipment records. The landfill personnel indicated that the debris was brought as construction and demolition waste and not as asbestos containing material.

Today, you will probably hear stories on the impact of the flood and the money spent to fix the damages. We can't deny the impacts of the flood, however other municipalities were impacted by the flood as well and they also had to demolish and dispose of buildings. Municipalities were also instructed to follow guidelines as well.

We believe that the violations noted warrant referral to the Attorney General's Office: failure to notify, failure to remove all regulated material prior to demolition, failure to keep all material wet until collected and contained, failure to have a licensed asbestos contractor on site, failure to dispose of all material as asbestos containing material, failure to properly mark transportation vehicles, failure to maintain waste shipment records and failure to keep all material wet during transport and wrecking. In addition to the large number of violations, there was an economic benefit to Mr. Ward by not handling this material as asbestos containing material.

Therefore, the DNR is requesting that you refer the owner, Mr. Ward and demolition contractor Dennis Spencer to the Attorney General.

Mr. Ward said that he lost \$3 million dollars when he demolished the building. My life has changed drastically. I don't know much about asbestos. Many people informed me that it was a flood situation and that Johnson County landfill was not even charging a fee to take any debris. I allowed my tenants 90 days to vacate. For that reason, we waited until October to tear them down. I believe very highly in being a green person. We recycled as much of the material as possible. I feel we did many things right. We did do some things wrong, we listened to a lot of other people. I have an invoice from Sokman Erosion control for 9 tanker trucks wetting things down. We originally knocked down the building four feet into the foundation and we received two days of rain. There was very little dust. After Marion told us that we needed to wet it down, we did. I feel like we did everything we could when it came to wetting it down. The landfill still took our debris and they still charged me \$74,000. So saying I had an economic gain, yeah, you're right, now my loss is \$3 million instead of \$3.1 million. I'm sorry for what went wrong. I never intend to do this again and I hope no one has to go through this again. By the way, I'm still paying \$98,000 a year in property taxes on a site that doesn't have anything on it, plus \$8,000 a month for the building. The city will not let me rebuild because we are a little bit below the 100 year floodplain and under the new rules I won't be allowed too. So I deserve some punishment but I think I got it. So I'm just asking for your mercy today.

Mr. Spencer, Demolition contractor for Mr. Ward said that I come ill prepared today because of the lack of notice of this meeting. This is the first demolition job that I have ever done. I've done two other tear downs since then one which did not require any notification but I did make sure that was the case. The other one was commercial and I did follow all of the rules. I was trying to break any rules. When Mr. Ward went to get the permit from the city, they informed him it wasn't required for tear down. I didn't know I had to inform the DNR, no one informed me along the way. When Marion came down in October, I had one man on the job and the equipment he was running is completely enclosed with good ventilation.

After we were shut down, there was probably over a week where we sat idle. Mr. Ward was in contact with Marion. I personally talked with the landfill, they didn't ask if it was asbestos containing and I didn't tell them. They just told us to get it out here. Since this time, we've followed the letter.

Charlotte Hubbell said that this was very devastating time for Iowans but it's no excuse for the poor handling of asbestos. It appears to me that you were just hoping that no one would find out what you were doing. I understand the time constraints and the weather, but on the other hand this is why we have rules. I'm sure a lot of people were exposed to asbestos.

Commissioners went on to ask questions regarding the disposal process.

Richard Leopold said that ignorance of the law is no excuse. There were many businesses that went through and followed the proper procedures. These laws don't exist to be a nuisance to you but because of public health concerns.

*Motion was made by Marty Stimson to refer both Mr. Randy Ward and Mr. Dennis Spencer to the Attorney General. Seconded by Susan Heathcote. Motion carried unanimously.*

<b>REFERRED</b>
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**REFERRALS TO THE ATTORNEY GENERAL - PIEPER, INC. – ANIMAL FEEDING OPERATIONS AND SOLID WASTE**

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

Kelli Book, Attorney for the Department presented the following information.

Pieper, Inc. owns properties in Lee County including a swine animal feeding operation. The facility consists of 7,100 head gestation, farrowing and finishing operation as well as a 1,300 head nursery. Manure storage consists of below building pits and a large slurry tank.

On March 19, 2009, DNR received a complaint that Pieper had been land applying manure with an irrigation gun for several days and that manure was running off the field into the ditch by Highway J50.

Mark Heiderscheit, DNR field office environmental specialist, investigated the complaints. Mark noted manure irrigation system in a field owned by Craig and Michelle Pieper. At this point he did not observe any manure runoff. Mark continued along HWY J50 and noted a stream of manure from a different field following into the drainage ditch. The liquid was green in color and had an odor of hog manure. Mark collected a samples of liquid at the point in the field where the liquid had dissipated. The results from the lab were at a level of 4,100 mg/L. He continued to take tests with results indicating levels of ammonia above 3.0 mg/L.

On March 21, Mr. Pieper contacted the field office and provided an update on the cleanup of the site. He stated the clean up was going well and water in ditch was looking cleaner.

On March 23, Mark and Josh Sobaski, DNR environmental specialist conducted a follow up visit. They met Mr. Pieper at the drainage ditch. The field tests indicated that the ammonia levels in the ditch were still high. They then noted a stream of manure in the field east of the manure slurry tank. They also observed a hose inserted into a hole in the ground that was full of manure. Mr. Pieper did state that his personnel were certified manure applicators.

On March 27, DNR field staff visited the site again. The ditch was much clearer so the pumping had stopped and ammonia levels were dropping. He asked them to continue pumping.

On March 31, a Notice of Violation was sent to Pieper detailing the violations that had been discovered.

In April, Mr. Pieper provided a written report as well as the number of employees to the DNR. DNR then responded and asked for clarification information regarding the employee's names and who was applying on the land during the March investigation. DNR later determined that the applicators listed were not properly certified at the time of the incident. The DNR then issued a notice of violation to the applicators that were not properly certified.

We are requesting that Pieper Inc. be referred to the Attorney General because of the water quality violations, prohibited discharge, improper land applications, and uncertified manure applicators. Pieper has had a long history of environmental violations resulting in numerous complaints.

Mark Pieper said that the two manure applicators went to get certified but were unable to attend the class because of a snow day and it was canceled. So we set up another day for renewal training, but we missed it. The equipment was not running properly. It was not intentional to dump manure. I purchased this company from my family. The past violations that were noted were not from me. I was not involved with it on that end. We've gone back and cleaned up the site.

Susan Heathcote asked Mark Heiderschiedt questions regarding the actual spill and location.

*Motion was made by David Petty to refer Pieper, Inc. to the Attorney General. Seconded by Paul Johnson. Motion carried unanimously.*

**REFERRED**

## **REFERRALS TO THE ATTORNEY GENERAL - KOLLASCH LAND AND LIVESTOCK, INC., OF WHITTEMORE, IOWA— ANIMAL FEEDING OPERATIONS**

### **GENERAL DEVELOPMENT L.C. – ANIMAL FEEDING OPERATIONS**

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

Kelli Book, Attorney for the Department is asking referral of Kollasch Land and Livestock, Inc. and General Development LC because of failure to complete manure management plans, phosphorus indexes at least nine of their facilities in 2009. Four belong to Kollasch and five belong to General Development. These two companies own and operate separate feeding

operations. Each animal feeding operation is required to submit an updated manure management plan and compliance fee each year. Additionally, all facilities are required to submit an phosphorus index based on a phased in schedule and must be renewed every four years there after.

Whittemore South – 3,300 head hog confinement located in Palo Alto County.

Cylinder 4 – 4,000 head hog confinement in Palo Alto County.

Cylinder 5 – 4,450 head hog confinement in Palo Alto County.

Whittemore North – 3,300 head hog confinement located in Kossuth County.

These facilities were issued letters from the DNR reminding General Development to file their MMPs and compliance fees. The letter also stated that the MMP update must include the Iowa Phosphorus index.

There was no reply from General Development and to date the information has not been submitted. Therefore, General Development has failed to submit a complete MMP update with an Iowa Phosphorus index for 2009 for these four facilities.

Kollasch Hawkeye Woods – 3,600 head wean to finish hog confinement in Palo Alto County. A P-index was submitted but it was 3 months late.

Kollasch Land O'Lakes – 1,038 head gestating sows, 192 sows and litters, 64 boars and 3,640 nursery pigs confinement feeding operation.

Algona Nursery – 6,000 nursery pig confinement operation. MMP and fees were submitted but no P-index to date.

Kollasch Home Site – 2,400 finishing hog and 1,200 nursery pigs confinement operation.

These facilities were issued letters from the DNR reminding Kollasch to file their MMPs and compliance fees. The letter also stated that the MMP update must include the Iowa Phosphorus index.

To date the requested information has not been submitted. Therefore, Kollasch has failed to submit a complete MMP update with an Iowa Phosphorus index for 2009 for these four facilities.

Based on these two companies failure to submit their phosphorous indexes from nine of their facilities along with their enforcement history, we ask that you refer this to the Attorney General.

Paul Johnson asked why they have failed to respond.

Kelli Book said that Mr. Kollasch called me last night at 4:30 and indicated that he was working on the P-indexes. He was having issues with his neighbors and getting access to the land for taking samples.

*Motion was made by Paul Johnson to refer Kollasch Land and Livestock, Inc. to the Attorney General. Seconded by Marty Stimson. Motion carried unanimously.*

*Motion was made by Marty Stimson to refer General Development LLC. to the Attorney General. Seconded by Susan Heathcote. Motion carried unanimously.*

<b>REFERRED</b>
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**FINAL RULE -CHAPTER 65 – DEFINITIONS AND REGULATIONS PERTAINING TO NPDES PERMITS**

Gene Tinker, Coordinator of the Animal Feeding Operations presented the following item.

The Commission is requested to approve a final rule to amend 567 Iowa Administrative Code Chapter 65 – Animal Feeding Operations. The purpose of the amendments is to make corrections so the administrative rules are equivalent to the Code of Iowa and consistent with federal law. The proposed corrections are made to definitions, land application practices to prevent environmental damage and nutrient management plan requirements with associated phosphorus index implementation. In addition, changes are made where the rules indicated specific dates which are now past.

Four public hearings were held across the state in March 2009 and oral comments were heard. Additionally, the department received written comments on the proposed revisions. A responsiveness summary addressing the comments received is attached. As a result of the written and oral comments, the following changes have been made to the amendments as published in the Notice of Intended Action: in Items 3 and 6, the “equivalent or better” demonstration in subparagraph 65.3(3)“g”(1) and subparagraph 65.101(6)“b”(1), respectively, is modified to refer to the federal 100-foot setback rather than Iowa’s 200- or 800-foot setbacks. In Item 4, the last sentence in paragraph 65.17(6)“b” regarding penalty preclusion is retained and a sentence is added indicating that the preclusion does not apply to a confinement feeding operation owner subject to the NPDES permit program.

<i>Motion was made by Dale Cochran to approve the final rule as presented. Seconded by Susan Heathcote.</i>
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Gene VerSteege said that regarding the 1,250 feet separation, it was his understanding that producers were advised that there were no separation distances involved. So they proceeded and now there is a 1,250 foot separation. I don’t think this should be retro-active but rather from this point on.

Gene Tinker explained that federal regulations use the term “adjoining instead of a separation distance for determining when two operations are considered one. Iowa law already uses 1,250 feet for open feedlots so it is consistent to use this for combining a confinement operation and an open feedlot. . The primary impacts will be to open feedlots that could now be considered a large CAFO. If they have the potential to discharge to a water of the state and have a sufficient number of animals, then they would have to add additional environmental protections and

controls pursuant to an NPDES permit. We would only be looking at the animal capacity of the confinement operations when determining the separation distances to residences etc.

Gene VerSteege asked how the producer will proceed if manure is spread and corn is not planted by June 1<sup>st</sup>. Can you plant soybeans?

Gene Tinker said that the rule does not say that the department will penalize and that to his knowledge, the department has not taken any action against anyone in this situation. We will continue to review the MMPs to make sure there's not over application of manure. We would want to make sure that the producer is not doing that annually and that they do follow their cropping plan.

*Motion carried.*

Carrie LaSuer abstained from voting.

**APPROVED AS PRESENTED**

## **MONTHLY REPORTS**

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

The following monthly reports are enclosed with the agenda for the Commission's information and have been posted on the DNR website under the appropriate meeting month: <http://www.iowadnr.gov/epc/index.html>

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

**INFORMATION**

## GENERAL DISCUSSION

Wayne Gieselman said that there is a large manure spill from a dairy operation near Luster, Iowa.

He also gave an update on the cyanobacteria issue, which is blue green algae. Lake Rathbun has had this issue before. Last year, it was in the Raccoon River. Des Moines Water Works has done a lot of testing and purifying. In and of itself its not harmful except when it contains a microcystin. Iowa has been paying attention to this issue more than other states. This year we have found cyanobacteria in both Des Moines River and Raccoon River as well as in Minnesota. This is mainly due to nutrient overloads of nitrogen and primarily phosphorus. Positive tests can be different all along a stream. They typically find it in non to slow moving waterbodies. We are monitoring for cyanobacteria and microcystis. We do test for it in our ambient monitoring program.

Susan Heathcote feels this is a large issue affecting 400,000 individuals that are served by water from the Des Moines Water Works. This algae affects the recreational use when it is present at beaches but can also effect the drinking water. This really becomes a big issue for Des Moines Water Works in regards to costs to purify, water quality issues to the consumer and extra work for the staff. 5,000 cells is when it becomes a problem for Des Moines Water Works. I don't know what the solution is but it's a raising issue that needs to be addressed with the watersheds.

David Petty said that it appears that Rathbun works locally with landowners. It does not appear that Des Moines Water Works is working with locals.

Susan Heathcote said that the DNR has a place in addressing this issue. The main concern is phosphorus and it's important that we remain on top of this. We need to look for hot spots and if there are control strategies to address this concern.

Richard Leopold said that it's hard to define this problem and how to stop it. It's based on weather conditions. We continue to do less water monitoring because of budget constraints.

Susan Heathcote said that we can get information out there on the website regarding cyanobacteria and what we do for beach monitoring. The public and consumers of the water need to be informed. We need to ask the legislature for additional resources to address this issue.

Marty Stimson said that the public also needs to get involved to push for more resources.

Charlotte Hubbell asked if this is due to an increased rainfall.

Richard Leopold said it could come from mucky back waters, wetlands, erosion, etc.

Susan Heathcote said that we know how it surveyed in lakes but how does it survey in streams and rivers? It's a research issue.

Wayne Gieselman said that we are not a researching agency but we have been doing monitoring for years. We do need to figure out what the problem is and where its coming from.

Richard Leopold said that we can raise the issue.

**NEXT MEETING DATES**

September 15, 2009

October 20, 2009 – Fayette County

**ADJOURNMENT**

With no further business to come before the Environmental Protection Commission, Chairperson Charlotte Hubbell adjourned the meeting at 4:30 p.m., Tuesday, August 18 , 2009.

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Richard A. Leopold, Director

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Charlotte Hubbell, Chair

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