EPC COMMISSION MINUTES & AGENDA

MONTH August

YEAR 1988

RECORD COPY
File Name APM-1-1-1
EPC Minutes - August 88
Initials

CONTESTED CASE DECISION APPEAL - THOMAS E. LENNON

Randall Clark, Government Liaison Bureau, presented the following item.

On May 11, 1987, the department issued Administrative Order 87-FP-04 to Thomas E. Lennon. That action assessed an administrative penalty of $700.00 and directed that Mr. and Mrs. Lennon either degrade a levee system or submit an application for action after-the-fact approval of the system. That action was appealed and the matter proceeded to administrative hearing on January 12, 1988. The hearing officer issued the Proposed Findings of Fact, Conclusions of Law, and Order on April 4, 1988. The decision affirmed the department's order.

Mr. Lennon has appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire, record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

APPOINTMENT - KURT WILKE (for Thomas E. Lennon)

Kurt Wilke, Attorney representing Thomas E. Lennon, displayed a copy of a department exhibit submitted at the hearing showing the location of the property in dispute. Mr. Wilke presented a history of the dispute and described the work that had been done on the property by Mr. Lennon and a previous owner. He stated that Mr. Lennon was oblivious to any DNR regulations governing this type of work. Mr. Wilke related that in 1984 Mr. Lennon learned that he must remove the levee, or submit an after-the-fact permit which would cost him approximately $8,000. He added that, in summer of 1984, Mr. Lennon went ahead with the degrading of the levee system. Mr. Wilke circulated photos of the levee system as it was in 1984, along with photos of the levee system as it is today. Mr. Wilke stated that, in regards to the terrace, wrong measurements were taken and the department was notified of this. In conclusion, Mr. Wilke stated that it is Mr. Lennon's contention that he has complied with the DNR requirements to degrade the levee to it's proper height. He added that he is asking for fairness and that Mr. Lennon should not be assessed any penalty, as he was ignorant of the rules and has taken the steps to make the necessary corrections. He asked that the Commission reverse the Administrative Order.

Randall Clark stated that what Mr. Lennon called a "terrace" could obstruct flood flows. Mr. Clark stated that Mr. Lennon built a parallel levee in 1983 and connected it with the flank levee. He added that the parallel levee was lowered somewhat, but the flank levee has not been degraded at all. Mr. Clark explained details regarding dispute of the original ground elevation at the site. He added that the department contends Mr. Lennon is asking his upstream neighbors, and the state floodplain program, to absorb the effects of his unauthorized construction activity. Mr. Clark stated that the channel change

was written off in view of the fact that Mr. Lennon had agreed to degrade the levee, and now he wants to do even less than totally degrade the levee.

Mr. Wilke stated that the benchmark being used by DNR is not a natural ground level and expanded on same.

Mr. Clark circulated photos taken on top of the levee looking parallel to the levee, along with photos looking perpendicular to the levee.

A lengthy discussion followed regarding a benchmark, fish habitat, floodplain impact, ignorance of regulations, and the lack of an attempt by Mr. Lennon to degrade the flank levee.

Mr. Clark reiterated that the Administrative Order requires Mr. Lennon to completely degrade the parallel and flank levees.

Nancylee Siebenmann expressed concern that Mr. Lennon had made no attempt to take down the flank levee, but suggested that the parallel levee would cause no great harm if the flank levee were removed.

Motion was made by Catherine Dunn to affirm the Proposed Decision of the hearing officer. Seconded by Charlotte Mohr .

Discussion followed regarding the elevation of the flank levee and what height it would be, if degraded.

Gary Priebe stated that, in his estimation, the area is already lowered and Mr. Lennon has already done everything he has to do.

Clark Yeager stated that three foot of bank is shallow to begin with and it is not the right thing to do, to remove more dirt.

Chairman Schlutz requested a roll call vote on Commissioner Dunn's Motion. "Aye" votes were cast by Commissioners Dunn, Mohr, and Schlutz. "Nay" votes were cast by Commissioners Hammitt, Priebe, Siebenmann, and Yeager. Vote was 3 ayes and 4 nays; motion failed due to a lack of concurrence of a majority of the Commission.

James Combs advised the Commission that since they voted not to uphold the hearing officer's decision that they need to make a decision, and state how they arrived at that decision in terms of facts and law.

Gary Priebe explained that the parallel levee appears to be lower than the other side of the creek, and if the flank levee is removed so that it does not impede water on the neighbor's property the parallel portion should never cause any problems.

Chairman Schlutz agreed that the flank levee should be removed but stated that, by law, Mr. Lennon is compelled to submit an engineering plan even if he removes the flank levee.

Mr. Clark clarified that the Administrative Order requires Mr. Lennon to degrade both, the north 1000 feet of parallel levee and the flank levee, or submit engineering plans and applications for the entire system.

Chairman Schlutz stated that the Department is going too far by requiring engineering plans for the parallel levee constructed before 1957.

Discussion followed regarding the height of the flank levee and the parallel levee.

Larry Wilson explained that Scott Cline, DNR Construction Services Bureau, interpreted numbers on the engineering draft and that Clark Yeager will explain the interpretation.

Clark Yeager explained that he misinterpreted some of the numbers on the engineering draft and that Mr. Lennon's side of the creek is about two feet higher than the other side. Mr. Yeager expanded on the numbers and areas shown in the engineer's draft.

Motion was made by Clark Yeager to amend the hearing officer's Proposed Decision to the extent that, if Mr. Lennon chooses to submit the engineering study, it be required only for the contested portion of the creek rather than the whole length of his property; or, if he chooses not to submit the engineering plan that he remove the levee system as required by the department. Seconded by Gary Priebe .

Mr. Yeager explained the basis for his proposed amendment, that the Department should not require engineering plans for the portion of the creek not in contention. Gary Priebe asked whether the contested portion included the flank levee and northerly 1000 feet of parallel levee. Chairman Schlutz answered affirmatively.

Motion carried unanimously.

ADM-1-1-1
August 1988

Minutes of the Environmental Protection Commission Meeting

August 15-16 1988

Des Moines, Iowa

TABLE OF CONTENTS

AUGUST Commission Meeting E88-3
Members Present E88-3
FY89 CAPITAL BUDGET, FY90 BUDGET REQUEST, AND RELATED ITEMS E88-3
MONTHLY REPORTS E88-5
ADOPTION OF AGENDA E88-15
ADOPTION OF MINUTES E88-15
Water Quality Standards Revision E88-15
SOLID WASTE DISPOSAL - METRO LANDFILL - MERCY MEDICAL CENTER E88-31
APPOINTMENT - STANLEY ROMANS, MAYOR OF MASON CITY . . . E88-39
REFERRALS TO THE ATTORNEY GENERAL E88-42
Solid Waste Landfill Alternative Grants E88-43
DIRECTOR'S REPORT E88-46
APPOINTMENT - JOHN SARCONE, A.G. Office E88-46
APPOINTMENT - MARTHA MAXON, BRICE PETRIDES E88-47
REFERRALS TO THE ATTORNEY GENERAL (Continued) E88-48
STATE REVOLVING FUND FOR SEWAGE TREATMENT WORKS E88-50
CONTESTED CASE DECISION APPEAL - THOMAS E. LENNON . . . E88-63
ROADSIDE MANAGEMENT AGREEMENT/GRANT APPROVAL - BLACK HAWK COUNTY E88-66
RULE ADOPTION - CHAPTER 7, CONTESTED CASES E88-68
SOLID WASTE PLANNING GRANTS E88-68

REFERRALS TO THE ATTORNEY GENERAL (Continued) E88-71

PROPOSED CONTESTED CASE DECISION - CONOCO GAS & WEST BRANCH INN E88-72

PROPOSED CONTESTED CASE DECISION - CLOYD FOLAND E88-73

RURAL WATER WELL STATISTICAL SAMPLING E88-73

STAN MOSER - REQUEST FOR REHEARING E88-74

1989 LEGISLATION E88-75

APPROVAL OF FY 89 CONSTRUCTION GRANTS STATE PROJECT LIST E88-75

ADDRESS ITEMS FOR NEXT MONTH E88-76

ADJOURNMENT E88-76

NEXT MEETING DATES E88-77

INDEX E88-78

AUGUST COMMISSION MEETING

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building in Des Moines, Iowa, convening at 1:30 P.M. on August 15-16 1988.

MEMBERS PRESENT

Gary Priebe, Nancylee Siebenmann, Donna Hammitt, Richard Timmerman, Robert Schlutz, Charlotte Mohr, Catherine Dunn, and Clark Yeager.

Chairman Schlutz announced that since several Commissioners would be arriving late there was not a majority present, but on advice of counsel he would open the meeting and handle only "information" items at this time.

FY89 CAPITAL BUDGET, FY90 BUDGET REQUEST, AND RELATED ITEMS

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

This item involves the review of the FY89 Fish and Wildlife, Marine Fuel Tax, Park User Fee, and Lottery Capital budgets, a review of preliminary staff recommendations regarding the FY90 and FY91 capital requests, and related revenue issues.

Several major issues facing the Department relate to financing the Fish and Wildlife related programs, and the various lake related initiatives.

Fish and Wildlife. Fees were last increased by the 1984 General Assembly, effective in 1985. Unlike sales tax or income tax, license revenues do not "grow" with inflation. There are only two ways to increase revenues to compensate for salary increases, other inflation, and new programs. Those are (1) sell more licenses, or (2) increase fees. In FY87, in addition to normal COLA and merit increases, most F/W staff received comparable worth increases of either 10% or 15%. The expanded D-J program provides about $1.5 million more each year for fisheries related capitals. However, that also requires about $500,000 more each year in State revenues to match the additional federal aid.

It appears that a fee increase which will generate about $4.0 million in additional revenue will be necessary in FY90 if the DNR is to avoid serious operations and capital program cutbacks.

Even with that level of increase, it seems prudent to defer various capital projects that are funded with revenues that otherwise could be available for operations until adequate revenues can be foreseen. The capital budgets for FY89, FY90 and FY91 reflect this concern.

Lakes Proposal. Currently, there are a number of significant lakes related projects underway. This includes Brushy Creek, renovation of Blackhawk Lake (dredging) and recreational lakes; Deer Creek, Lost Grove, Shawtee, and Whitewater. The staff is proposing that these projects be funded with a combination of various earmarked funds. Lottery funds would be used as a reflection of the economic and tourism benefits these lakes will provide, in line with the original Iowa Plan concept. The use of Marine Fuel Tax reflects the obvious use of these lakes for boating, and the use of expanded D-J aid reflects their fishing recreation values.

Marine Fuel Tax budget. The attached schedules show using the currently available fund surplus and future revenues to provide a part of the financing for the Lakes proposal. The level of routine boat access development would decrease somewhat under the staff's proposal. However, due to the aggressive development of boating accesses during the past several years, this adjustment will not represent a decrease in the number and quality of these facilities for Iowa's boaters.

Park User Fee Fund. This fund currently has a significant surplus. The staff recognizes that it is desirable to place a high priority on proceeding with these projects.

Iowa Plan (lottery) program. In addition to showing the FY89 staff recommendation and the proposals for FY90 and FY91, the attached schedules reflect updated plans for the expenditure of FY88 funds. Due to the better than expected lottery revenues, it is possible to proceed at a somewhat faster pace with the listed projects than earlier anticipated.

The staff is recommending the current approximate level of funding for the Forest Acquisition, County, and Public/Private programs. However, the staff is also recommending that the Public/Private acquisition of unique natural areas program be amended to allow 100% lottery funding of acquisitions proposed by the State Preserves Board, and under the Protected Water Area program.

The FY90 and FY91 proposals reflect an addition of $3.0 million per year for the next five years to fund the Lakes package. $750,000 is requested each year to continue development at major new state recreation areas.

There are no readily available sources of earmarked or federal revenues for major park infrastructure needs such as dam renovation, replacement of major water and waste systems,

maintenance buildings and staff housing. Thus, the staff is proposing a General fund request to meet these concerns.

The project schedules for FY89 will be guiding current acquisition and development efforts, although it is probable that additional minor adjustments will be necessary before the budget is finalized. The staff will be continuing the process of reviewing and finalizing the budget during the next several months. Input regarding these proposals is welcome. The final budget recommendation, including these capitals, will be presented to the commissions for approval, either at the September or October meeting.

This was an information item; no action was required.

MONTHLY REPORTS

Darrell McAllister, Bureau Chief, Surface and Groundwater Protection Bureau, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report

2. Variance Report

3. Hazardous Substance/Emergency Response Report

4. Enforcement Status Report

5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

MONTHLY VARIANCE REPORT 7/31/88

No.	Facility	Program	Engineer	Subject	Decision	Date
1	Fort Dodge, City of	Air Quality		Rubbish	denied	07/06/88
2	West Union, City of	Wastewater Const.	TeKippe Engineering	Minimum Sewer Size	approved	07/01/88
3	Palo Alto County-RdB14	Flood Plain	County Engineer	Freeboard	approved	07/15/88
4	Emerald Hills-Okoboji	Underground Tanks		Closure	approved	07/01/88
5	FollettsStore-Camanche	Underground Tanks		Closure	approved	07/01/88
6	Okoboji Vw.Golf Course	Underground Tanks		Closure	approved	07/01/88
7	Swiss Vly Fres-St.Olaf	Underground Tanks		Closure	approved	07/15/88
8	Dico, Inc.-Des Moines	Underground Tanks		Closure	approved	07/28/88
9	Fidelity Escrow-Oaklnd	Watersupply Const.	H.Gene McKeown Assc	Design Basis	approved	07/25/88

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
AUGUST 1, 1988

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 2 - Public Records	7/18/88	7/25/88		---				
2. Ch. 7 - Contested Case Procedures	3/21/88	4/20/88		---	8/16/88	*8/16/88	*9/07/88	*10/12/88
3. Ch. 8 - Contracts	7/18/88	*8/10/88		---				
4. Ch. 20, 22, 26, 28 PM10	6/20/88	7/27/88	8/16/88	8/30/88 8/31/88 9/01/88				
5. Ch. 22 - Air Quality Permitting	4/25/88	5/18/88	6/14/88	6/08/88 6/15/88 6/22/88	7/18/88	7/18/88	*8/10/88	*9/14/88
6. Ch. 39 - Well Plugging	3/21/88	4/21/88	5/10/88	5/12/88 5/13/88 5/16/88				
7. Ch. 40, 41 - Water Supply	4/25/88	5/18/88	6/14/88	6/13/88 6/14/88 6/15/88	7/18/88	7/18/88	*8/10/88	*9/14/88
8. Ch. 51 Agricultural Drainage Wells	---	---	---	---	7/18/88	7/18/88	*8/10/88	*9/14/88
9. Ch. 70 - Channel Changes	4/25/88	5/18/88	6/14/88	6/09/88	7/18/88	7/18/88	*8/10/88	*9/14/88
10. Ch. 210 - Solid Waste Planning Grants	8/16/88	*9/08/88						

*Projected

REPORTS OF HAZARDOUS CONDITIONS

During the period of July 1, 1988 through July 31, 1988, reports of 63 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office. These do not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
7/14/88 LINN	An employee was filling a tank car with soybean oil at 411 6th Street NE in Cedar Rapids, Iowa on July 14, 1988, when he left the scene to check on a fire in a bean dryer. The pump was left running and about 2,000 gallons spilled into a pit. About 25 gallons reached the storm sewer.	Cargill 411 6th Street NE Cedar Rapids, IA 52402	The material was vacuumed out of the pit and storm sewer. Contaminated soil was excavated and the storm sewer was flushed. No product was observed on Cedar Lake.
7/22/88 IOWA	A hydrochloric acid solution that had been neutralized with sodium hydroxide was mistakenly released to the storm sewer in Middle Amana, Iowa on July 22, 1988. The solution consisted of 275 gallons of HCL, 165 gallons of 50% NaOH, and 460 gallons of water.	Amana Refrigeration Amana, IA 52204	The gate on the end of the storm sewer outfall was closed to prevent any loss. The solution was pumped into trucks and hauled to the facility's wastewater treatment plant.

Numbers in Parentheses Represent Reports for the Same Period in Fiscal Year 1987

		Substance Type				Mode				
Month	Total # of Incidents	Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	69	47	4	18	53	0	9	1	2	4
Nov	48	35	3	10	37	0	4	0	1	6
Dec	46	36	3	7	39	1	2	0	0	4
Jan	54	43	4	7	45	1	5	1	1	2
Feb	51	30	2	19	37	1	9	3	1	0
Mar	67	41	10	16	49	1	11	2	0	4
Apr	130	58	50	22	85	0	36	2	2	5
May	99	39	42	18	48	0	42	2	1	6
Jun	77	37	14	26	51	0	19	4	0	3
Jul	63 (74)	26 (26)	8 (10)	29 (38)	43 (50)	0 (1)	8 (13)	2 (3)	1(1)	9(6)

Total # of Incidents Per Field Office This Period	01	02	03	04	05	06
	9	10	3	6	16	19

REPORTS OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of July 1, 1988 through July 31, 1988, the following number of reports of releases from underground storage tanks was forwarded to the Central Office:

25 (16)

The number in parentheses represents reports for the same period in Fiscal Year 1987.

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
City of Elberon (5)	Drinking Water	Certified Operator	Order/Penalty	07/11/88
Sheldon Farmer's Cooperative Elevator Assoc. (3)	Hazardous Condition	Failure to Notify	Order/Penalty	07/11/88
Miller Products Co., Osceola (4)	Wastewater	Pretreatment	Order/Penalty	07/11/88
Ainsworth 4-Corners Restaurant, Ainsworth (6)	Drinking Water	Construction Without Permit	Order/Penalty	07/11/88
Wiltgen Construction Co., Calmar (1)	Air Quality Solid Waste	Open Burning Open Dumping	Amended Order	07/11/88
Wash Prairie Lutheran Church, Decorah (1)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/19/88
Reeds Interstate Sales New Virginia (5)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/19/88
Colonial Inn Motel, Mason City (2)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/19/88
Davenport Municipal Airport (6)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/19/88
Deer Creek Subdivision, Huxley (5)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/19/88
Fred Iben, Monticello (1)	Solid Waste	Open Dumping	Amended Order	07/19/88
Mercy Hospital Medical Center, Des Moines (5)	Solid Waste	Operation Without Permit	Order	07/20/88
Farmer's Cooperative Elevator Co., Radcliffe (2)	Wastewater	Prohibited Discharge	Referred to AG	07/20/88

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Don Scribner, Nashua (1)	Solid Waste	Open Dumping	Referred to AG	07/20/88
City of Ricketts (4)	Wastewater	MIP	Order/Penalty	07/21/88
R. V. Hopkins, Inc., Davenport (6)	Air Quality	Permit/Rule Conditions	Order/Penalty	07/22/88
Georgia Pacific Corp., Ft. Dodge, (2)	Air Quality	Operation Without Permit	Order/Penalty	07/22/88
Linwood Mining and Minerals Corp., Davenport (6)	Air Quality	Operation Without Permit	Order/Penalty	07/22/88
Celotex Corporation, Ft. Dodge (2)	Air Quality	Operation Without Permit	Order/Penalty	07/22/88
Tonja Mobile Home Park, Council Bluffs (4)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/22/88
Mark Twain Meadows, Muscatine (6)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/22/88
City of Janesville (1)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	07/22/88
Verna Johanningmeier, Monona (1)	Wastewater	Prohibited Discharge	Order/Penalty	07/22/88
City of Rock Valley (3)	Wastewater	MIP	Amended Order	07/22/88
City of Keota (6)	Wastewater	MIP	Amended Order	07/22/88
Ernest Nelson, Rowan (2)	Solid Waste	Open Dumping	Amended Order	07/22/88
Licht Trailer Court, Dubuque (1)	Drinking Water	Monitoring/Reporting - Radioactivity	Order/Penalty	07/28/88

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
AUGUST 1, 1988

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Aidex Corporation Council Bluffs (4)		Hazardous Waste	Release of Hazardous Substances	Referred to Attornet General	Referred EPA suit filed State intervention Motion to dismiss granted/denied Filed interlocutory appeal	12/16/82 2/26/87 3/05/87 2/26/88 3/11/88
ASPRO, Inc. Waterloo (1)		Air Quality	Excess Emissions	Order	Referred	2/16/87
Big Rock Tap Big Rock (6)	Updated	Drinking Water	Monitoring	Order/Penalty	Referred Suit Filed Consent Decree	11/17/87 1/25/88 7/15/88
Bozarth and Bell, Inc. Davenport (6)		Solid Waste	Open Dumping	Order	Referred Suit Filed Default Judgment $7500 Motion to set aside overruled Funds condemned ($2,628)	2/20/87 4/23/87 6/22/87 10/30/87 3/18/88

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
AUGUST 1, 1988

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Bryant, Robert E. Cherokee (3)		Wastewater	Prohibited Discharge	Order	Referred Suit Filed Bankruptcy Proceedings Discovery Proceeding	6/01/86 9/08/86
Cooper, Kenneth Minburn (5)		Storage Tank	Spill Cleanup	Order	Referred	10/27/87
Davis, Richard & Sonja (5)		Solid Waste	Open Unpermitted Dumping	Referred to Attorney General	Referred	6/22/88
Donnellson, City of (6)	Updated	Wastewater	MIP	Order	Referred Consent Decree	2/16/88 7/18/88
Eilers, Dwayne Waterloo (1)		Flood Plain	Unauthorized Fill	Referred to Attorney General	Referred Suit Filed Default Judgment Bankruptcy	6/19/84 11/01/85 1/12/87
Farmers Cooperative Elevator Co. Radcliffe (2)	New	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	7/20/88
Finlan Landfill Chickasaw County (1)		Solid Waste	Permit/Fee	Court Order	Referred Suit Filed	11/17/87 3/08/88
Glidden, City of (4)		Wastewater	MIP	Referred to Attorney General	Referred Referred	6/12/88
IBP, inc. (Langenfeld) Denison (4)		Wastewater	Prohibited Discharge	Order	Referred	11/17/87
Jungling Farms', Inc. Butler County (2)		Wastewater	Prohibited Discharge	Order	Referred Suit Filed	7/21/86 1/31/87
King, James & Julia Warren County (5)		Flood Plain	Channel Change	Order	Referred Suit Filed Trial	8/20/87 10/08/87 11/ /88
Lakewood Sanitary District (5)		Wastewater	Maintenance		Referred	4/26/88
Leamer, Delbert; JTM Ind. Pleasant Valley (6)		Solid Waste	Open Dumping	Order/Penalty	Referred	11/17/87
Mt. Pleasant, City of (6)		Wastewater	MIP	Order	Referred	4/26/88
J.R. Nylen, Ltd. (3)		Solid Waste	Open Dumping	Referred to Attorney General	Referred	5/17/88
Ottumwa - Wapello Co. Sanitary Landfill		Solid Waste	Operational Violation	Referred to Attorney General	Referred	6/22/88
Pester Derby Oil Company Davenport (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Petition Filed Judgment Amended Cleanup Plan Approved	3/ /83 10/12/8 10/24/84 1/27/86

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
AUGUST 1, 1988

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Pleasant Creek Est. Benton Co. (1)		Drinking Water	Penalty Non-payment	Order/Penalty	Referred Informal Settlement	1/21/88 4/13/88
Poggemiller, William et.al. Louisa County (6)		Flood Plain	Channel Change	Referred to Attorney General	Referred Suit Filed	3/20/87 6/25/87
Salisbury, Ronald, Presto-X Des Moines (5)		Hazardous Waste	Treatment and Storage Violations	Referred to Attorney General	Referred Judgment Appealed to Sup. Court Decided in our favor	9/18/84 5/85 7/86 12/23/87
Scribner, Don Nashua (1)	New	Solid Waste	Open Dumping	Order/Penalty	Referred	7/20/88
Shelter Shield Buffalo Center (6)		Air Quality	Excess Emissions; Construction w/o permit	Order/Penalty	Referred Suit Filed Default Judgement $7,500	2/20/87 6/30/87 12/22/87
Vernon Heights Mobile (1)		Drinking Water	Monitoring/Reporting Bacteria	Referred to Attorney General	Referred	6/22/88
Wilton Steel Processing (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	5/17/88
Waterhouse, James & Berna Washington County (6)		Flood Plain	Channel Change	Referred to Attorney General	Referred Suit Filed Trail Set	3/16/87 5/13/87 5/13/88
Wolleson, Robert C. Buena Vista and Cherokee Counties (3)		Wastewater	Prohibited Discharge	Order	Referred Consent Decree Contempt Finding Contempt Finding Contempt Finding	11/27/84 4/25/85 7/02/85 9/25/86 8/24/87
Woodland Pork Jones County (1)	Updated	Wastewater	Prohibited Discharge	Order	Referred Suit Filed Temporary injuuntion Trail Requested by AG	7/31/86 11/09/86 2/13/87
Yocum, Max Johnson (6)		Flood Plain	Prohibited Construction	Defending	Suit Filed Motion to Dismiss Denied	12/18/84 3/06/85 8/07/85
				Referred to Attorney General	Referred Counter Claim Filed	7/12/85 10/85
					Trial Held Judgment for Department Appealed to Supreme Court	6/16/87 8/18/87 9/01/87

ADMINISTRATIVE PENALTY SUMMARY 7-01-88

The table below summarizes administrative penalty assessments through June 1988. The penalty rules became effective in September 1985 and the first penalty order was issued in October 1985. Penalties are not due until at least 60 days after an order is issued, so collections did not start until approximately January 1, 1986.

The first column of this table is a rough breakdown of the environmental program and violation types for which penalties have been assessed. The next four columns state the dollar amounts collected during the stated time periods, and the number of cases in parentheses. Total collections are presented next. The last column states similar data for cases still pending as of July 1, 1988 (penalties appealed, delinquent or assessed but not yet due.

Violation Type	FY 86	FY 87	FY 88-4th	FY-88	TOTAL FY86-88	PENDING
WW Discharge	$ 1,400 (2)	$12,950 (18)	$ 3,100 (6)	$ 9,900 (18)	$ 24,250 (38)	$ 3,000 (5)
WW Monitoring	815 (3)	1,610 (5)	1,192 (2)	4,892 (11)	7,317 (19)	2,000 (2)
WW Other	---	2,500 (3)	500 (1)	5,950 (11)	8,450 (14)	2,500 (3)
SW Permit	1,500 (4)	6,100 (11)	2,050 (3)	8,598 (12)	16,198 (27)	250 (1)
SW Open Dumping	1,250 (2)	4,000 (7)	1,205 (4)	4,175 (10)	9,425 (19)	6,625 (9)
Air Permit	2,600 (3)	3,950 (6)	1,650 (2)	9,275 (14)	15,825 (23)	2,000 (2)
Air Open Burning	625 (2)	3,650 (7)	300 (1)	5,250 (10)	9,525 (19)	2,800 (4)
WS Monitoring	1,859 (20)	7,178 (58)	3,652(20)	11,186 (75)	20,223 (153)	8,630 (17)
WS Permit	598 (2)	---	1,000 (1)	3,225 (7)	3,823 (9)	2,575 (3)
Flood Plain	---	150 (1)	500 (1)	1,200 (2)	1,350 (3)	2,300 (3)
HC Notice	---	600 (1)	---	3,750 (7)	4,350 (8)	---
Water Use	---	---	---	150 (2)	150 (2)	---
Construction Permit	---	100 (1)	---	---	100 (1)	---
TOTALS	$10,647 (38)	$42,788 (118)	$15,149(41)	$67,551(179)	$120,986 (335)	$32,620 (49)

Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	AMOUNT	DUE DATE
*Shelter Shield (Buffalo Center)	$1,000	12-03-86
*JTM Indust./MacDade/Leamer (Pleasant Valley)	1,000	8-12-87
*OK Lounge (Marion)	448	11-01-87
*Richard Davis (Albia)	1,000	2-28-88
*Ellie's Bar and Grill (Grand River)	515	3-05-88
63-I80 Truckstop (Poweshiek Co.)	1,000	5-21-88
**Lawrence Payne (Ottumwa)*	525	6-15-88
Mike's Prairie Home (Ollie)	100	6-16-88
First Place Lanes (Audubon)	1,000	7-05-88
**Chico's Supper Club (Burr Oak)*	283	7-10-88
Clear View Acres Store (Delhi)	230	7-11-88
**Pleasant Creek Estates (Shellsburg)*	150	7-20-88
Dumont Auto Parts (Dumont)	600	7-20-88
City of Malcom	500	7-20-88
**Vernon Heights MHP (Cedar Rapids)*	1,000	8-05-88
**Jesco's Steakhouse Lounge (Castana)	75	8-13-88
**Twelve Mile House (Bernard)*	299	8-15-88
City of Mason City	300	8-17-88
Merle Kuppinger (Mason City)	500	8-20-88
**Don Scribner (Nashua)*	900	8-21-88
Miller Products Co. (Osceola)	1,000	9-12-88
City of Elberon	400	9-13-88
Sheldon Farmer's Cooperative Elevator	600	9-13-88
Ainsworth 4-Corners Restaurant (Ainsworth)	200	9-14-88
Wash Prairie Lutheran Church (Decorah)	215	9-22-88
Colonial Inn Motel (Mason City)	215	9-22-88
Reed's Interstate Sales (New Virginia)	215	9-21-88

NAME/LOCATION	AMOUNT	DUE DATE
Deer Creek Subdivision (Huxley)	245	-------
City of Ricketts	300	9-22-88
Janesville Water Supply	215	-------
Tonja Mobile Home Park (Council Bluffs)	230	-------
R. V. Hopkins, Inc. (Davenport)	1,000	9-29-88
Celotex Corporation (Ft. Dodge)	600	9-29-88
Davenport Municipal Airport	125	9-30-88
Verna Johanningmeier (Monona)	1,000	9-30-88
Mark Twain Meadows Homeowners Assoc. (Muscatine)	1,000	-------
Linwood Mining and Minerals (Davenport)	600	-------
Georgia-Pacifc Corporation (Ft. Dodge)	500	-------
Licht Trailer Court (Dubuque)	100	-------

The following administrative penalties have been appealed:

NAME/LOCATION	AMOUNT
Handi-Klasp, Inc. (Webster City)	1,000
Iowa City Regency MHP	1,000
Thomas E. Lennon (Barnum)	700
Great Rivers Coop (Atavia)	1,000
1st Iowa State Bank (Albia)	1,000
Stan Moser (Hudson)	250
City of University Park	500
Cloyd Foland (Decatur)	800
Lynn Mennenga Feedlot (Wright Co.)	600
Motel Grinnell	1,000
Land O' Lakes, Inc. (Ellsworth)	1,000
Harry Brocka (Dumont)	800
Conoco Gas and West Branch Inn (West Branch)	1,000
City of Marcus	1,000
Milo Chalfant, et.al. (Webster City)	1,000
City of Neola	1,000
Winnebago Industries, Inc. (Forest City)	1,000
Cindi's Chanti (Elgin)	560
Bill Keough (Fertile)	700
The Hayloft Tavern (Grant)	960
Superior-Ideal, Inc. (Oskaloosa)	1,000
City of Olds	1,000
Glenn C. Sevick (Mason City)	600

The following administrative penalties were paid in July:

NAME/LOCATION	AMOUNT
Marv's Lakeside Tap (Davenport)	200
Argyle Rural Water District, Inc.	230
City of Hospers	150
Fort Dodge Asphalt Co. (Fort Dodge)	200
Gradert, Ernest and Kevin (Sibley)	150
Ernest Nelson (Rowan)	100
City of Rippey	230
**Jesco's Steakhouse Lounge (Castana)	25
Lake Hendricks Park (Howard Co.)	50
**Don Scribner (Nashua)*	100
*Big Rock Tap	200
*Cedar Hills Apartments (Dubuque)	1,000
**Twelve Mile House (Bernard)*	60
*City of Dysart	472
TOTAL	$3,167

Penalty for Wapello was rescinded by the Commission.

* Referred to the Attorney General
** On Payment Schedule

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
AUGUST, 1988

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10-17-85	City of Bevington	Administrative Order	WW	Hansen	Settlement offered to city 5-25-88.
1-23-86	Oelwein Soil Service	Administrative Order	WW	Landa	Hearing continued; cleanup study progressing.
6-12-86	ADM - Clinton	Administrative Order	Air	Landa	Hearing continued.
12-03-86	City of Waukee	Administrative Order	WS	Hansen	Hearing continued; settlement close.
12-11-86	Eloise Reese	Permit Condition	FP	Clark	Permit decision affirmed.
5-12-87	Iowa City Regency MMP	Administrative Order	WW	Hansen	Hearing held 11-03-87.
6-11-87	Thomas Lennon	Administrative Order	FP	Clark	Order upheld - appealed to EPC.
8-10-87	Great Rivers Co-op	Administrative Order	HC	Landa	Clean-up proceeding.
8-17-87	City of Wapello	Administrative Order	WW	Hansen	Order reversed.
10-22-87	University Park	Administrative Order	WW	Hansen	Hearing continued. Settlement close.
12-07-87	Stan Moser	Administrative Order	SW	Murphy	Proposed decision 4-12-88; affirmed 7-19-88.
12-11-87	Finlan Landfill	Permit Revocation	SW	Kennedy	Settlement negotiations.
12-31-87	City of Tipton	Administrative Order	WW	Hansen	Received information. Settlement close.
1-15-88	First Iowa State Bank	Administrative Order	SW	Kennedy	Continued. Settlement pending.
1-22-88	IBP, Fort Dodge	NPDES Permit	WW	Hansen	Negotiating before filing.
2-04-88	Beaverdale Heights, Woodsman; Westwood Hills	Administrative Order	SW	Landa	Plans approved. Continued pending resolution.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Landa	Phase I complete. Additional investigation necessary
2-22-88	Amana	Tax Certification Denial	AQ/HW	Landa	Appealed. Request for additional information.
2-29-88	Lynn Mennenga Feedlot	Administrative Order	WW	Murphy	Negotiating before filing.
3-01-88	Cloyd Foland	Administrative Order	FP	Clark	Order upheld.
3-03-88	Motel Grinnel	Administrative Order	WW	Hansen	Hearing continued. Negotiating.
4-13-88	Land O'Lakes, Inc.	Administrative Order	WW	Murphy	Negotiating before filing.
4-28-88	Harry Brocka, Engelena Brocka, Gordon Brocka	Administrative Order	FP	Clark	Hearing held 7-12-88.
5-11-88	Conoco Gas & West Branch Inn	Administrative Order	WS	Murphy	Proposed decision 7-08-88.
5-16-88	Marcus, City of	Administrative Order	WS	Landa	Negotiating before filing.
5-24-88	IBP, Columbus Junction	NPDES Permit	WW	Hansen	Hearing set for 8-15-88; appeal withdrawn.
6-03-88	Milo Chalfant, et.al.	Administrative Order	SW	Landa	Hearing set for 8-05-88.
6-03-88	Neola, City of	Administrative Order	WW	Murphy	Negotiating before filing.
6-07-88	Winnebago Industries, Inc.	Administrative Order	AQ	Landa	Appealed.
6-07-88	Hayloft Tavern	Administrative Order	WS	Murphy	Hearing set for 8-09-88.
6-14-88	Iowa Army Ammunition Plant	Open Burning Variance Denial	AQ	Landa	Hearing set for 8-23-88.
6-22-88	Cindi's Chanti	Administrative Order	WS	Murphy	Negotiating before filing.
7-01-88	Olds, City of	Administrative Order	WS	Landa	Negotiating before filing.
7-01-88	Superior Ideal, Inc.	Administrative Order	WW	Hansen	Hearing scheduled for 8-25-88.
7-06-88	Glenn C. Sevick	Administrative Order	SW	Kennedy	Hearing scheduled for 9-07-88.
7-25-88	Nishna Sanitary Service, Inc.	Permit Conditions	SW	Landa	New case.
7-25-88	Aspro, Inc.	Operation Permit	WW	Landa	New case.
7-25-88	The R.J.S. Enterprises Corp. and Ralph J. Nobbe	Administrative Order	AQ	Landa	New case.

CALL TO ORDER

Commissioner Dunn arrived at 2:30 p.m., constituting a quorum; Chairman Schlutz then called the meeting to order.

ADOPTION OF AGENDA

The following items were added to the agenda:

Appointment for Giese Construction Co. on Monday, August 15, at 4:00 p.m.
Appointment for John Reich - Hunter Oil Co. on Tuesday, August 16, at 9:30 a.m.
Appointment for Ron Moore, 63-I80 Truckstop on Tuesday, August 16, at 10:15 a.m
Request for Rehearing - Stan Moser. (Combs) Decision.

Motion was made by Charlotte Mohr to approve the agenda as amended. Seconded by Catherine Dunn. Motion carried unanimously

ADOPTION OF MINUTES

Motion was made by Catherine Dunn to approve the Minutes of July 18-19, 1988 as presented. Seconded by Charlotte Mohr. Motion carried unanimously.

WATER QUALITY STANDARDS REVISION

Darrell McAllister, Bureau Chief, Surface and Groundwater Protection Bureau, presented the following item.

Federal law (Water Pollution Control Act) requires each state to review state water quality standards at least every three years, and make modifications as appropriate. Nationally, increased attention is being given to addressing proper monitoring and control of toxic substances in water bodies in addition to the traditional pollutants.

The department is proposing changes to existing state water quality standards to address needed improvements in water quality protection programs. Copies of these proposals will be discussed with the commission.

ENVIRONMENTAL PROTECTION COMMISSION (567)
Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission for the Department of Natural Resources gives notice of intended action to amend Chapter 60, "Scope of Title-Definitions-Forms-Rules of Practice," and Chapter 61, "Water Quality Standards."

As required by the U.S. Environmental Protection Agency (EPA), water quality standards are periodically reviewed for technical accuracy, incorporation of current scientific data and consistency with the EPA guidelines and requirements. The Department is proposing the following amendments as the result of this review.

New definitions are added to rule 60.2 for water contact recreational canoeing, mixing zone, zone of initial dilution, four-day, three-year low stream flow, minimum flow, crossover point, intermittent water courses, losing stream, acute toxicity, and chronic toxicity. The definition for secondary contact is amended to explain that secondary contact includes users that do not enter the waterbody while on a boating activity. The definitions for "high quality waters" and "high quality resource waters" are deleted from 60.2.

In subrule 61.2(1), an additional resource document from EPA is added as a reference for application of narrative standards. Subrule 61.2(2)"b" is amended to delete the list of forty-nine high quality waters and extends protection to all waterbodies where the water quality significantly exceeds the levels necessary to protect existing uses. This amendment was requested by EPA and is a minimum requirement of the federal regulations.

Subrule 61.2(2)"c" is amended to conform to EPA regulations. EPA regulations establish three tiers of waters. The highest classification pertains to water bodies where no degradation at all is allowed and where more stringent standards than those applied to other antidegradation waters may be applied. Presently, West Lake Okoboji falls within this class. The format of this subrule is changed to allow for the addition of other waterbodies that may fall within this category. Subrule 61.2(2)"d" is amended to specifically cite a rule reference. Subrule 61.2(2)"f" is amended to delete the specific list of waterbodies protected and to refer to the warm waters listed in subrule 61.3(5)"e." Subrule 61.2(2)"g" is revised to reflect changes in definitions for different types of waterbodies.

Subrule 61.2(4) is rescinded and replaced by a new subrule. As recommended by the EPA, this subrule attempts to better define the term mixing zones. Additionally, the subrule sets forth more detailed procedures for calculating the dimensions of the mixing zone and zone of initial dilution. Reference to the four-day, three-year low flow, newly defined in 60.2, is made in determining the width and length of the mixing zone. The four-day, three-year low flow is also used to determine the stream flow to be used to establish effluent limits to assure compliance with the mixing zone criteria.

Subrule 61.2(5) concerning the implementation strategy has been amended. The revised rule requires the numerical criteria in the water quality standards to be met when the flow of the receiving stream meets or exceeds the four-day, three-year low flow. The standard in the previous rule for the flow of the receiving stream was the average seven-day low flow that occurs once in ten years. The subrule continues to allow for waivers of the low flow requirement and establishment of a minimum flow with the added condition that the continued maintenance of beneficial uses of the receiving waters will be assured. The amendment further provides that toxic conditions will not be allowed to occur in the receiving waters outside the mixing zone. This subrule is proposed following EPA guidelines.

Subrule 61.2(5)"c" has been revised. The word "standards" has been replaced by the word "criteria" throughout this subrule. The revision provides that evaluations for site-specific criteria must be conducted using scientifically accepted procedures approved by the department. EPA must review and approve site-specific criteria.

Existing subrule 61.3(1) is renumbered as 61.3(2) and replaced by new subrule 61.3(1) which pertains to surface water classification. This classification defines general use and designated use segments. Definitions are included for the following designated uses: primary contact recreation, Class A; cold-water aquatic life, Class B(CW); high quality resource warm-water, Class B(HQ); significant resource warm-water, Class B(WW); limited resource warm-water, Class B (LR); lakes and wetlands, Class B(LW); and drinking water supply, Class C. This subrule results from EPA recommendations.

Subrule 61.3(1) is renumbered as 61.3(2) and revised to reflect the definitions added for general use, designated use, and acutely toxic. This subrule is revised to specifically prohibit new wastewater discharges on water courses that directly or indirectly enter sinkholes or losing stream segments.

Subrules 61.3(2)-(4) are rescinded and replaced by subrule 61.3(3). This subrule pertains to specific water quality criteria for Class A, Class B and Class C waters. The subrule includes tables setting forth criteria for chemical constituents, dissolved oxygen, and ammonia for the various classifications of water bodies. Fourteen new toxics were added to the table of chemical constituents. New pH and temperature variables are used for establishing ammonia levels for various waterbodies. This subrule follows U.S. EPA guidelines.

The referenced document in subrule 61.2(5), "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, will be modified to reflect these proposed rule changes. The document changes should be completed near the projected adoption date for these water quality rule changes. Formal rulemaking procedures including public hearing will be completed independently for the changes to the referenced document.

Any interested person may submit written suggestions or comments on the proposed rule changes through _____. Such written materials should be directed to Ralph Turkle, Iowa Department of Natural Resources, Wallace State Office Building,

900 East Grand, Des Moines, Iowa 50319-0034. Persons who have questions may contact Ralph Turkle at 515/281-7025. Persons are also invited to present oral or written comments at public hearings which will be held on November 9, 1988 at 1:00 p.m. in the auditorium of the Elkader Opera House, 207 North Main, Elkader, Iowa; on November 9, 1988 at 7:00 p.m. in the National Guard Armory, 1101 West Madison (Junction of Hwy. 1 and 92), Washington, Iowa; on November 10, 1988 at 1:00 p.m. in the Council Chambers at the City Hall, 19 South Delaware, Mason City, Iowa; on November 15, 1988 at 1:00 p.m. in the Community Center, 530 West Bluff, Cherokee, Iowa; on November 15, 1988 at 7:00 p.m. in the Atlantic Municipal Utilities meeting room, 15 West Third, Atlantic, Iowa; on November 16, 1988 at 1:00 p.m. in the auditorium of the Wallace State Office Building, 900 East Grand, Des Moines, Iowa.

These rules may have an impact upon small businesses.

Copies of these proposed rules may be obtained from Sarah Detmer, Records Center, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part I.

ITEM 1. Amend rule 60.2 by deleting the definitions for "high-quality waters" and "high-quality resource waters" entirely and revising the definition for "secondary contact" to read as follows:

"Secondary contact" means any recreational or other water use in which contact with the water is either incidental or accidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, commercial and recreational boating and any limited contact incidental to shoreline activity. This would include users who do not swim or float in the waterbody while on a boating activity.

ITEM 2. Amend rule 60.2 by adding new definitions in alphabetical order to read as follows:

"Acute toxicity" means that level of pollutants which would rapidly induce a severe and unacceptable impact on organisms.

"Chronic toxicity" means that level of pollutants which would, over long duratons or recurring exposure, cause a continuous, adverse and unacceptable response in organisms.

"Crossover point" means that location in a river or stream in which the flow shifts from being principally along one bank to the opposite bank. This crossover point usually occurs within two curves or an S-shaped curve of a water course.

"Four-day, three-year low stream flow" means the lowest average stream flow which would statistically occur for four consecutive days once every three years.

"Intermittent watercourses" means watercourses which contain flow associated with rainfall/runoff events and which periodically go dry even in pooled areas.

"Losing streams" means streams which lose thirty percent or more of their flow during the four-day, three-year low stream

flow periods to cracks and crevices of rock formations, sand and gravel deposits, or sink holes in the streambed.

"Minimum flow" means that established stream flow in lieu of the four-day, three-year low stream flow to which the provisions of Chapter 61 apply.

"Mixing zone" means a delineated portion of a stream or river in which wastewater discharges will be allowed to combine and disperse into the waterbody. The chronic criteria of subrule 61.3(3) will apply at the downstream edge of this zone.

"Water contact recreational canoeing" means the type of activities associated with canoeing outings in which primary contact with the water does occur. This would include users who swim or float in the water body while on a canoeing outing.

"Zone of initial dilution" means a delineated portion of a mixing zone in which wastewater discharges will be allowed to rapidly combine and begin dispersing into the waterbody. The acute criteria of subrule 61.3(3) will apply at the downstream edge of this zone.

ITEM 3. The third unnumbered paragraph of subrule 61.2(1) is revised as follows:

Certain of the criteria are in narrative form without numeric limitations. In applying such narrative standards, decisions will be based on the U.S. Environmental Protection Agency's methodology described in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," 1985 and on the rationale contained in "Quality Criteria for Water," published by the U.S. Environmental Protection Agency (1977), as updated by supplemental Section 304 (of the Act) Ambient Water Quality Criteria documents.

ITEM 4. Subrule 61.2(2)"b" is amended by deleting the list of forty-nine waterbodies entirely and by amending the first paragraph of this subrule as follows:

b. Chemical integrity: ~~Those existing high-quality waters, named below,~~ For those waterbodies where water quality significantly exceeds levels necessary to protect existing uses that water quality will be maintained at or above existing quality, except when, ~~after full satisfaction of the intergovernmental coordination and public participation provisions of the continuing planned process,~~ it is determined by the Environmental Protection Commission after public hearing that there is need to allow a lower the chemical quality because of necessary and justifiable economic and social development in the area . ~~In allowing such degradation or lowered chemical quality, t~~The state shall ~~assure~~ ensure adequate chemical quality to fully protect existing uses.

ITEM 5. Subrule 61.2(2)"c" is amended as follows:

c. ~~It is intended that rules defining facility design criteria, discharge limitations, and other restrictions will be adopted by the commission for specific application to antidegradation waters. West Lake Okoboji is an outstanding Iowa Lake, and s~~ Standards and restrictions more stringent than those applied to other antidegradation waters may be applied by the commission to ~~West Lake Okoboji~~ those waters listed below when it is determined ~~through broadly based public participation~~ that

such more stringent standards and restrictions are ~~justified~~ necessary to fully maintain water quality at existing levels .

(1) West Lake Okoboji in Dickinson County

ITEM 6. Amend subrule 61.2(2)"d" as follows:

d. The Mississippi River and the Missouri River do not meet ~~existing high quality waters~~ the criteria of 61(2)(2)"c" but nevertheless constitute waters of exceptional state and national significance. Water quality management regulatory actions affecting them will be directed toward water quality improvement commensurate with the exceptional value of the resource.

ITEM 7. Delete the list of forty-three waterbodies from subrule 61.2(2)"f" and amend the remaining paragraph of this subrule as follows:

f. Physical and biological integrity: Water quality management regulatory actions affecting the waters designated as high-quality resource ~~waters~~ warmwater, ~~listed below~~ in subrule 61.3(5)"e", will be directed at water quality improvement commensurate with the exceptional value of the resource and at preserving and enhancing not only the chemical but also the physical and biological integrity of these waters. This involves the protection of such features of the waterbody as channel alignment, bed characteristics, water velocity, aquatic habitat, and the type, distribution and abundance of existing aquatic species.

ITEM 8. The second unnumbered paragraph of subrule 61.2(2)"g" is amended as follows:

For those waters of the state designed as ~~high quality~~ coldwater aquatic life or high quality resource warmwaters and the Mississippi and Missouri Rivers, any proposed activity that will adversely impact the existing physical, chemical or biological integrity of that water will not be consistent with Iowa's water quality standards. Mitigation will not be allowed except in highly unusual situations where no other project alternatives exist. In these cases, full mitigation must be provided by the applicant and approved by the department.

ITEM 9. Subrule 61.2(4) is rescinded entirely and replaced by the following:

61.2(4) Regulatory mixing zones. Mixing zones are recognized as being necessary for the initial assimilation of point source discharges which have received the required degree of treatment or control. Mixing zones shall not be used for, or considered as, a substitute for minimum treatment technology required by subrule 61.2(3). The objective of establishing mixing zones is to provide a means of control over the placement and emission of point source discharges so as to minimize environmental impacts. Waters within a mixing zone shall meet the general water quality criteria of subrule 61.3(2). Waters at and beyond mixing zone boundaries shall meet all applicable standards and the chronic criteria of subrule 61.3(3) Table 1 for that particular waterbody or segment. A zone of initial dilution may be established within the mixing zone beyond which the applicable standards and the acute criteria of subrule 61.3(3) will be met.

a. Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be

defined on a site specific basis. These rules are not intended to define each individual mixing zone, but will set maximum limits which will satisfy most biological, chemical, physical and radiological considerations in defining a particular mixing zone.

b. The dimensions of the mixing zone and the zone of initial dilution will be calculated using the following factors:

(1) The width of a mixing zone may not exceed the following percentages of the stream width during the four-day, three-year low stream flow as measured at the point of discharge:

i. Twenty-five percent for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

ii. Ten percent for the Mississippi and Missouri Rivers.

The stream width will be measured perpendicular to the basic direction of stream flow from the edge of water from one bank to the edge of water of the opposite bank. This measurement will only include the distance of continuous water surface. The width of side channels, cutoffs or other flowage ways will not be included as the stream width.

(2) The length of the mixing zone below the point of discharge shall be set by the most restrictive of the following:

i. A distance equivalent to the product of seven times the width of the stream during the four-day, three-year low flow.

ii. The distance to the juncture of two perennial streams.

iii. The distance to a public water supply intake.

iv. The distance to the upstream limits of a heavily used recreational area.

v. The distance to the middle of a crossover point in a stream where the main current flows from one bank across to the opposite bank.

vi. The distance to another mixing zone.

3. The width and length of the zone of initial dilution may not exceed 10 percent of the width and length of the mixing zone.

c. The stream flow used in determining effluent limits to assure compliance with the mixing zone criteria may not exceed the following percentages of the four-day, three-year low stream flow as measured at the point of discharge:

(1) Twenty-five percent for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

(2) Ten percent for the Mississippi and Missouri Rivers.

The stream flow used in determining effluent limits to assure compliance with the zone of initial dilution criteria may not exceed 10 percent of the calculated flow associated with the mixing zone.

d. The following exceptions apply to the mixing zone requirements:

(1) No mixing zone or zone of initial dilution will be allowed for waters designated as lakes or wetlands.

(2) No zone of initial dilution will be allowed in waters designated as cold-water.

e. Temperature changes within mixing zones established for heat dissipation will not exceed the temperature criteria in subrule 61.3(3)"b"(5).

f. The appropriateness of establishing a mixing zone where a substance discharged is bioaccumulative, persistent,

carcinogenic, mutagenic, or teratogenic will be carefully evaluated. In such cases, effects such as potential groundwater contamination, sediment deposition, fish attraction, bioaccumulation in aquatic life, bioconcentration in the food chain, and known or predicted safe exposure levels shall be considered.

ITEM 10. Subrule 61.2(5) is amended as follows:

Implementation strategy. Numerical criteria specified in tThese water quality standards shall be met ~~at all times~~ when the flow of the receiving stream equals or exceeds the ~~average seven-day~~ four-day, three-year low flow ~~which occurs once in ten years~~. Exceptions may be made for intermittent or low flow streams~~.~~ ~~Where intermittent or low-flow streams are~~ classified as ~~for Class~~ B ~~aquatic life protection~~ significant resource warmwaters or limited resource warmwaters. For these waters, the department may waive the ~~seven-day, ten-year~~ four-day, three-year low flow requirement and establish a minimum flow in lieu thereof. Such waiver shall be granted only when it has been determined that the aquatic resources of the receiving waters are of no significance at flows less than the established minimum, and that the continued maintenance of the beneficial uses of the receiving waters will be assured. In no event will toxic conditions be allowed to occur in the receiving waters outside of mixing zones established pursuant to subrule 61.2(4). ~~of these rules.~~ The policy for granting waivers is described in the "Supporting Document for Iowa Water Quality Management Plans" (Iowa Department of Water, Air and Waste Management, Chapter IV, July 1976, as revised on October 16, 1984. (Copies are available upon request to the Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319-0034. Copy also on file with the Iowa Administrative Rules Coordinator.)

All minimum flows established under the provisions of this section will be published annually by the Department.

ITEM 11. Subrule 61.2(5)"c" is amended as follows:

c. Site specific water quality ~~standards~~ criteria may be allowed in lieu of the ~~water quality standards referenced in~~ specific numerical criteria listed in Tables 1 and 3 of this chapter if adequate documentation is provided to show that ~~site specific~~ the proposed criteria will protect all existing or potential uses of the surface water. Site specific water quality standards criteria may be appropriate where:

(1) The types of organisms differ significantly from those used in setting the statewide ~~standards~~ criteria, or;

(2) The chemical characteristics of the surface water such as pH, temperature, and hardness differ significantly from the characteristics ~~of the water~~ used in setting the statewide standard criteria .

Development of site specific criteria shall include an evaluation of the chemical and biological characteristics of the water resource and an evaluation of the impact of the discharge. All evaluations for site specific criteria modification must be coordinated through the department, and be conducted using scientifically accepted procedures approved by the department.

Any site specific criterion developed under the provisions of this subrule is subject to the review and approval of the U.S. Environmental Protection Agency. All criteria approved under the provisions of this subrule will be published periodically by the department. ~~and performed with prior consent and approval of the department using scientifically accepted procedures.~~ Guidelines for establishing site specific water quality criteria can be found in "Water Quality Standards Handbook," published by the U.S. Environmental Protection Agency, December, 1983.

ITEM 12. Renumber the existing subrule 61.3(1) as 61.3(2) and add the following language as subrule 61.3(1):

61.3(1) Surface water classification. All waters of the state are classified for protection of beneficial uses. These classified waters include General Use segments and Designated Use segments.

a. General use segments. These are intermittent watercourses and those watercourses which typically flow only for short periods of time following precipitation in the immediate locality or as a result of discharges from wastewater treatment facilities, and whose channels are normally above the water table. These waters do not support a viable aquatic community of significance during low flow, and do not maintain pooled conditions during periods of no flow.

However, during periods when sufficient flow exists in the intermittent water courses to support various uses, the General Use segments are to be protected for livestock and wildlife watering, noncontact recreation, crop irrigation, and industrial, agricultural, domestic and other incidental water withdrawal uses. The aquatic life existing within these water courses during elevated flows will be protected from acutely toxic conditions.

b. Designated use segments. These are natural waterbodies which maintain flow throughout the year, or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community of significance.

Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Designated use segments include:

(1) Primary contact recreation (Class "A"). Waters in which recreational or other uses may result in prolonged and intimate contact with the water, involving considerable risk of ingesting water in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

(2) Coldwater aquatic life (Class "B(CW)"). Waters in which the temperature, flow, and other habitat characteristics are suitable for the maintenance of a wide variety of coldwater species, including nonreproducing populations of trout and associated aquatic communities.

(3) High quality resource warmwater (Class "B(HQ)"). Waters of substantial recreational or ecological significance which possess unusual, outstanding or unique physical, chemical, or biological characteristics which enhance the beneficial uses and warrant special protection.

(4) Significant resource warmwater (Class "B(WW)"). Waters in which temperature, flow and other habitat characteristics are suitable for the maintenance of a wide variety of reproducing populations of warmwater fish and associated aquatic communities, including sensitive species.

(5) Limited resource warmwater (Class "B(LR)"). Waters in which flow or other physical characteristics limit the ability of the waterbody to maintain a balanced warmwater community. Such waters support only populations composed of species able to survive and reproduce in a wide range of physical and chemical conditions, and are not generally harvested for human consumption.

(6) Lakes and wetlands (Class "B(LW)"). These are artificial and natural impoundments with hydraulic retention times and other physical and chemical characteristics suitable to maintain a balanced community normally associated with lake-like conditions.

(7) Drinking water supply (Class "C"). Waters which are used as a raw water source of potable water supply.

ITEM 13. Subrule 61.3(1) is renumbered as 61.3(2) and amended as follows:

61.3(2) General water quality criteria. The following criteria are applicable to all surface waters including ~~those which have been designated as Class "A", "B", or "C"~~ general use and designated use waters, at all places and at all times to protect livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, domestic, agricultural and other incidental water withdrawal uses not protected by ~~Class A, B, or C criteria in this rule~~ the specific numerical criteria of subrule 61.3(4) .

a. Such waters shall be free from substances attributable to point source wastewater discharges that will settle to form sludge deposits.

b. Such waters shall be free from floating debris, oil, grease, scum and other floating materials attributable to wastewater discharges or agricultural practices in amounts sufficient to create a nuisance.

c. Such waters shall be free from materials attributable to wastewater discharges or agricultural practices producing objectionable color, odor or other aesthetically objectionable conditions.

d. Such waters shall be free from substances attributable to wastewater discharges or agricultural practices in concentrations or combinations which are acutely toxic ~~or harmful~~ to human, animal, or plant life.

e. Such waters shall be free from substances, attributable to wastewater dischargers or agricultural practices, in quantities which would produce undesirable or nuisance aquatic life.

f. The turbidity of the receiving water shall not be increased by more than 25 Nephelometric turbidity units by any point source discharge.

g. Total dissolved solids shall not exceed 750 mg/l in any lake or impoundment or in any stream with a flow rate equal to or greater than three times the flow rate of upstream point source discharges.

h. Water which enters a sinkhole or losing stream segment shall not exceed a fecal coliform count of 200 organisms/100ml, except when the waters are materially affected by surface runoff, but in no case shall fecal coliform levels downstream from ~~a~~ an existing discharge which may contain pathogens to humans be more than 200 organisms/100ml higher than the background level upstream from the discharge. No new wastewater discharges will be allowed on watercourses which directly or indirectly enter sinkholes or losing stream segments.

ITEM 14. Subrules 61.3(2)-(4) are rescinded and replaced by subrule 61.3(3) as follows:

61.3(3) Specific water quality criteria.

a. Class "A" waters. Waters which are designated as Class "A" in subrule 61.3(5) are to be protected for primary contact recreation. The general criteria of subrule 61.3(2) and the following specific criteria apply to all Class "A" waters.

(1) From April 1 through October 31, the fecal coliform content shall not exceed 200 organisms/100 ml, except when the waters are materially affected by surface runoff; but in no case shall fecal coliform levels downstream from a discharge which may contain pathogens to humans be more than 200 organisms/100 ml higher than the background level upstream from the discharge.

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

b. Class "B" waters. All waters which are designated as Class B(CW), B(WW), B(LR), or B(LW) are to be protected for wildlife, fish, aquatic and semiaquatic life, and secondary contact water uses. The following criteria shall apply to all Class "B" waters designated in subrule 61.3(5).

(1) Dissolved oxygen. Dissolved oxygen shall not be less than the values shown in Table 2 of this subrule.

(2) pH. The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

(3) General chemical constituents. The specific numerical criteria shown in Tables 1, 2, and 3 of this subrule apply to all waters designated in subrule 61.3(5). The sole determinant of compliance with these criteria will be established by the department on a case-by-case basis. Effluent monitoring and/or in-stream monitoring will be the required approach to determine compliance.

i. The acute criteria represent the level of protection necessary to prevent acute toxicity to aquatic life. Excursions above the acute criteria will be allowed only inside the zone of initial dilution for a short-term period.

ii. The chronic criteria represent the level of protection necessary to prevent chronic toxicity to aquatic life. Excursions above the chronic criteria will be allowed only inside of mixing zones or only for short-term periods outside of mixing zones; however, these excursions cannot exceed the acute criteria shown in Tables 1 and 3. The chronic criteria will be met as short-term average conditions at all times the flow equals or

exceeds either the four-day, three-year flow or any site specific low flow established under the provisions of subrule 61.2(5).

(4) The waters shall contain no substances in concentrations which will make fish or shell fish inedible due to undesirable tastes or cause a hazard to humans after consumption.

(5) Temperature.

(a) No heat shall be added to interior streams or the Big Sioux River that would cause an increase of more than 3éC. The rate of temperature change shall not exceed 1éC. per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 32éC.

(b) No heat shall be added to streams designated as cold water fisheries that would cause an increase of more than 2éC. The rate of temperature change shall not exceed 1éC per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 20éC.

(c) No heat shall be added to lakes and reservoirs that would cause an increase of more than 2éC. The rate of temperature change shall not exceed 1éC. per hour. In no case shall heat be added in excess of that amount that would raise the temperature of the lake or reservoirs above 32éC.

(d) No heat shall be added to the Missouri River that would cause an increase of more than 3éC. The rate of temperature change shall not exceed 1éC. per hour. In no case shall heat be added that would raise the stream temperature above 32éC.

(e) No heat shall be added to the Mississippi River that would cause an increase of more than 3éC. The rate of temperature change shall not exceed 1éC. per hour. In addition, the water temperature at representative locations in the Mississippi River shall not exceed the maximum limits in the below table during more than one percent of the hours in the 12-month period ending with any month. Moreover, at no time shall the water temperature at such locations exceed the maximum limits in the below table by more than 2éC.

Zone II--Iowa-Minnesota state line to the Northern Illinois border (Mile Point 1534.6)

Zone III--Northern Illinois border (Mile Point 1534.6) to Iowa-Missouri state line.

Month	Zone II	Zone III
January	4 degrees C	7 degrees C
February	4 degrees C	7 degrees C
March	12 degrees C	14 degrees C
April	18 degrees C	20 degrees C
May	24 degrees C	26 degrees C
June	29 degrees C	29 degrees C
July	29 degrees C	30 degrees C
August	29 degrees C	30 degrees C
September	28 degrees C	29 degrees C
October	23 degrees C	24 degrees C
November	14 degrees C	18 degrees C
December	9 degrees C	11 degrees C

c. Class "C" waters. Waters which are designated as Class "C" are to be protected as a raw water source of potable water supply. The following criteria shall apply to all Class "C" waters designated in subrule 61.3(5).

(1) Radioactive substances.

i. The combined radium-226 and radium-228 shall not exceed 5 picocuries per liter at the point of withdrawal.

ii. Gross alpha particle activity (including radium-226 but excluding radon and uranium) shall not exceed 15 picocuries per liter at the point of withdrawal.

iii. The average annual concentration at the point of withdrawal of beta particle and photon radioactivity from man-made radionuclides other than tritium and strontium-90 shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

iv. The average annual concentration of tritium shall not exceed 20,000 picocuries per liter at the point of withdrawal; the average annual concentration of strontium-90 shall not exceed 8 picocuries per liter at the point of withdrawal.

(2) All substances toxic or detrimental to humans or detrimental to treatment process shall be limited to nontoxic or nondetrimental concentrations in the surface water.

(3) The pH shall not be less than 6.5 nor greater than 9.0.

TABLE 1: Criteria For Chemical Constituents
(all values as micrograms per liter unless noted otherwise).

Parameter		Use Designations				
		B(CW)	B(WW)	B(LR)	B(LW)	C
Arsenic (III)						
	Chronic	200	200	1000	200	--
	Acute	360	360	1800	360	50
Barium						
	Acute	--	--	--	--	1000
Benzene						
Acute	--	--	--	--	5	
Cadmium						
Chronic	1	15	25	1	--	
Acute	4	75	100	4	10	
Carbon Tetra-chloride						
Acute	--	--	--	--	5	
Chloride						
Acute	--	--	--	--	250*	
Chlordane						
Chronic	.004	.004	.15	.004	--	
Acute	2.5	2.5	2.5	2.5	--	

Chromium (VI)					
Chronic	40	40	200	10	--
Acute	60	60	300	15	50
Copper					
Chronic	20	35	55	10	--
Acute	30	60	90	20	1000
Chronic	5	10	10	10	--
Acute	20	45	45	45	20
para-Dichloro-benzene					
Acute	--	--	--	--	7.5
1,2-Dichloro-ethane					
Acute	--	--	--	--	5
1,1-Dichloro-ethylene					
Acute	--	--	--	--	7
Fluoride					
Acute	--	--	--	--	2000
Lead					
Chronic	3	30	80	3	--
Acute	80	200	750	80	50
Mercury (II)					
Chronic	.05	.05	.25	.05	--
Acute	6.5	6.5	10	2.5	2
Nitrate as NO3					
Acute	--	--	--	--	45*
Nickel					
Chronic	350	650	750	150	--
Acute	3250	5800	7000	1400	--
Polychlorinated					
Chronic	.014	.014	1	.014	--
Biphenols (PCBs)					
Acute	2	2	2	2	--
Polynuclear	Chronic	.03	.03	3	.03	--
Aromatic Hydro-	Acute	30	30	30	30	--
Carbons (PAHs)						
Phenols	Chronic	50	50	50	50	--
	Acute	1000	2500	2500	1000	50
Selenium (VI)	Chronic	10	125	125	70	--

	Acute	15	175	175	100	10
Silver	Chronic	2.5	8.5	8.5	.35	--
	Acute	30	100	100	4	50
Toluene	Chronic	50	50	150	50	--
	Acute	2500	2500	7500	2500	--
Total Residual Chlorine (TRC)	Chronic	10	20	25	10	--
	Acute	35	35	40	20	--
1,1,1-Trichloroethane	Acute	--	--	--	--	200
Trichloroethylene (TCE)	Chronic	80	80	80	80	--
	Acute	4000	4000	4000	4000	5
Vinyl Chloride	Acute	--	--	--	--	2
Zinc	Chronic	200	450	2000	100	--
	Acute	220500	2200	110	1000	

*expressed as milligrams/liter

TABLE 2: Criteria For Dissolved Oxygen

Minimum value for at least 16 hours of every 24-hour period	7.0	5.0	5.0	5.0**
Minimum value at any time during every 24-hour period	5.0	5.0	4.0	5.0**

*applies only to the upper layer of stratification in lakes

TABLE 3a: Criteria For Ammonia -- Coldwater Streams

Temp.		pH 7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0
5.0	Acute	21.7	18.7	15.2	11.8	8.7	6.2	3.9	2.5	1.6	1.0	.7
	Chronic	4.3	3.7	3.0	2.4	1.7	1.2	0.8	0.5	.3	.2	.1
10.0	Acute	20.6	17.7	14.5	11.2	8.3	5.9	3.8	2.4	1.6	1.0	.7
	Chronic	4.1	3.5	2.9	2.2	1.7	1.2	0.8	0.5	.3	.2	.1
15.0	Acute	19.8	17.0	13.9	10.8	8.0	5.7	3.7	2.4	1.5	1.0	.7
	Chronic	4.0	3.4	2.8	2.2	1.6	1.1	0.7	0.5	.3	.2	.1
20.0	Acute	19.3	16.6	13.6	10.6	7.9	5.6	3.6	2.4	1.5	1.0	.7

Chronic	3.9	3.3	2.7	2.1	1.6	1.1	0.7	0.5	.3	.2	.1	
25.0 Acute		13.5	11.6	9.5	7.4	5.5	4.0	2.6	1.7	1.2	.8	.6
Chronic	2.7	2.3	1.9	1.5	1.1	0.8	0.5	0.3	.2	.2	.1	
30.0 Acute	9.6	8.2	6.8	5.3	4.0	2.9	1.9	1.3	.9	.6	.5	
Chronic	1.9	1.6	1.4	1.1	0.8	0.6	0.4	0.3	.2	.1	.1	

TABLE 3b: Criteria For Ammonia -- Warmwater Streams and Lakes

Temp.		pH										
		7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0
5.0	Acute		37.4	32.1	26.2	20.3	15.0	10.6	6.8	4.3	2.8	1.8	1.2
	Chronic		7.5	6.4	5.2	4.1	3.0	2.1	1.4	0.9	.6	.4	.2
10.0	Acute		35.5	30.5	24.9	19.3	14.3	10.1	6.5	4.1	2.7	1.8	1.2
	Chronic		7.1	6.1	5.0	3.9	2.9	2.0	1.3	0.8	.5	.4	.2
15.0	Acute		34.1	29.3	24.0	18.6	13.8	9.8	6.3	4.1	2.7	1.8	1.2
	Chronic	6.8	5.9	4.8	3.7	2.8	2.0	1.3	0.8	.5	.4	.2	
20.0	Acute		33.3	28.6	23.4	18.2	13.5	9.7	6.2	4.1	2.7	1.8	1.2
	Chronic	6.7	5.7	4.7	3.6	2.7	1.9	1.2	0.8	.5	.4	.2	
25.0	Acute		32.9	28.3	23.2	18.1	13.5	9.7	6.3	4.2	2.7	1.8	1.2
	Chronic	6.6	5.7	4.6	3.6	2.7	1.9	1.3	0.8	.5	.4	.2	
30.0	Acute	16.5	14.2	11.7	9.1	6.8	5.0	3.3	2.2	1.5	1.1	.8	
	Chronic	3.3	2.8	2.3	1.8	1.4	1.0	0.7	0.4	.3	.2	.2	

TABLE 3c: Criteria For Ammonia -- Limited Resource Streams

Temp.		pH										
		7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0
5.0	Acute		54.6	46.8	38.2	29.6	21.9	15.5	9.9	6.3	4.0	2.6	1.7
	Chronic		10.9	9.4	7.6	5.9	4.4	3.1	2.0	1.3	.8	.5	.3
10.0	Acute		51.8	44.4	36.3	28.2	20.8	14.8	9.4	6.1	3.9	2.6	1.7
	Chronic		10.4	8.9	7.3	5.6	4.2	3.0	1.9	1.2	.8	.5	.3
15.0	Acute		49.8	42.8	35.0	27.2	20.1	14.3	9.2	5.9	3.9	2.6	1.8
	Chronic	10.0	8.6	7.0	5.4	4.0	2.9	1.8	1.2	.8	.5	.4	
20.0	Acute		48.6	41.7	34.2	26.6	19.7	14.1	9.1	6.0	4.0	2.7	1.9
	Chronic	9.7	8.3	6.8	5.3	3.9	2.8	1.8	1.2	.8	.5	.4	
25.0	Acute		48.0	41.3	33.8	26.4	19.7	14.2	9.2	6.1	4.0	2.7	1.9
	Chronic	9.6	8.3	6.8	5.3	3.9	2.8	1.8	1.2	.8	.5	.4	

30.0 Acute	24.1	20.7	17.0	13.3	10.0	7.2	4.8	3.2	2 2	1.6	1.2
Chronic	4.8	4.1	3.4	2.7	2.0	1.4	1.0	0.6	.4	.3	.2

s/Larry J. Wilson
Larry J. Wilson, Director

Mr. McAllister distributed a draft copy of proposed revisions to Water Quality Standards Rules. Mr. McAllister stated that a two phase revision is being proposed, as contained in the draft rules. He gave a detailed explanation of the proposed changes and asked the Commission to review them and provide staff with their comments.

This was an informational item; no action was required.

SOLID WASTE DISPOSAL - METRO LANDFILL - MERCY MEDICAL CENTER

Darrell McAllister, Bureau Chief, Surface and Groundwater Protection Bureau, presented the following item.

At the specific direction of the commission, an informational briefing on the current practices of solid waste disposal at the Metro East Landfill, including disposal of wastes from Mercy Medical Center will be given to the commission.

Chariman Schlutz stated that he received several requests from people who want to address this item and asked that contributors limit their time to 15 minutes each.

Frank Sloan - Speaker

Frank Sloan, resident of Runnells, presented a video tape showing incidents he described in his written statement as follows:

TO: Department of Natural Resource Commission

Today, I showed you Commission members polluted creek, dead cows, leachate, an underground septic tank, air pollution and human waste being scattered on our streets and highways.

Now I ask the question "why." Why do we have to have polluted creeks. Why do cattle die because of the water they drink? Why do we have leachate floating on top of creek water? Why do we have a septic tank of several hundred acres?

Well, Dr. Tinlin has stated this hill of garbage will be around for the next 400 years or more.

Last week we lost a little three-year-old girl in Carlisle to a disease called cancer. Do you suppose it was something she caused in her life, or do you think it was something we the human society caused? George Raveling once said, "I don't like it in this lifetime or the next one." Well, just how long is a lifetime? Is it three years or is it 80 years? At three years, it's going to take a lot of lifetimes to see this mountain go away. If it's to stop polluting, or at 80 years it would only take five or more lifetimes. Do you the people of this Commission realize every pound of fresh dirt that is put on this hill to cover garbage is contaminated for now and forever. In just 100 or 200 years, can you imagine the amount of dirt it's going to take to fill in the hole that rots and decays. This is the most disorganized landfill in the state of Iowa.

Only last week the dust was so bad that Mr. Voglin had to call neighbors for help. The landfill didn't know these conditions were going on simply because the director was in a nice clean environment in Des Moines, Iowa. I ask you Commission members why does an 80-year-old man have to be driven off his land and out of his home?

I ask you Commission people why some day your children and grandchildren and great-grandchildren will have to drink the polluted water that is going down that creek to Red Rock Lake? Pella people are drinking that leachate now. Why is Marion County the highest cancer county in the state of Iowa?

Can you imagine 400 years from now? Can you imagine the next five lifetimes what this is going to be like? Now we have a disease called AIDS. Doctors tell us they don't know where it came from or what it is going to do next. And as you could see, human waste was running from the back of the garbage truck. Is this why 60 Minutes estimated 240,000 people will die in the next 12 months because of AIDS?

I ask and beg you people not to give any more permits to this landfill or any other -- stop polluting the air, water and our health so we might live a longer lifetime.

Thank you - Frank Sloan

<u>Terree Caldwell-Johnson - Speaker</u>

Terree Caldwell-Johnson, Director, Des Moines Metropolitan Area Solid Waste Agency presented the following statement:

TO: The Chairman and Members of the Environmental Protection Commission

I am Terree Caldwell-Johnson, Director of the Des Moines Metropolitan Area Solid Waste Agency. Joining me today is Board Member Jim Fleming representing the West Des Moines agency, legal counsel Jim Brick, and agency Operations Manager Gary Stroud.

The Des Moines Metropolitan Area Solid Waste Agency was established in 1969 to provide for disposal of solid waste on a regional basis within the Des Moines Metropolitan Area. A 28E quasi-governmental entity, the agency membership consists of 16 municipalities and one county: Altoona, Ankeny, Bondurant, Clive, Des Moines, Elkhart, Grimes, Johnston, Mitchellville, Norwalk, Pleasant Hill, Polk City, Runnells, Urbandale, West Des Moines, Windsor Heights, and Polk County.

The agency currently operates two facilities, a sanitary landfill and a transfer station. The landfill, known as Metro Park East, is located on Highway 163 about 10 miles east of the Des Moines city limits. The majority of solid waste generated by member municipalities (commercial, industrial, and residential) is delivered to Metro Park East. The transfer station, located at 4198 Delaware Avenue, handles only residential solid waste and services municipal collection vehicles from the communities of Des Moines, Urbandale, and West Des Moines.

As Iowa's largest landfill, Metro Park East is composed of 600 acres and handles nearly 400,000 tons of solid waste annually. This figure equates to approximately 20 percent of all waste generated in the state of Iowa.

As we are all aware, solid waste is a difficult social, political and environmental issue. Managing solid waste has become a controversial public process in which the general public expresses little concern or has limited understanding as long as their garbage is taken away and not disposed of in a facility in their backyard. Metro Solid Waste has been confronted by many issues since its inception. Over the years, our approach has always been to anticipate and act on those issues and problem areas we are aware of and to respond and handle others that are called to our attention. Accordingly, I believe that the record will reflect that in its nearly 20 years of operation, Metro Solid Waste has endeavored to provide an environmentally safe and sound operation and has operated in accordance with rules and regulations as established by the State Department of Natural Resources and the Federal EPA.

In June, allegations were made that Mercy Hospital was disposing of infectious waste at Metro Park East. In July, those same allegations were made before this Commission. The allegations, made by residents who live adjacent to the landfill, also charged, among other things, off-site contamination of ground and surface water and called for the closing of the landfill.

I am quite sure that the other parties present today will review the details of the allegations made, therefore, as opposed to reiterating those details, I would like to direct my comments to those steps taken at Metro Solid Waste to ensure that we are not only in conformance with existing guidelines but also responding

to the issues and concerns raised by those residents who live adjacent to our facility.

The Commission should understand that the definition of infectious waste is still under considerable debate in both the medical community and within all governmental regulatory agencies. In addition, the federal government has been slow to react to concerns raised related to infectious waste. There are still no federal regulations that deal directly with the treatment, collection, transportation or disposal of these wastes. Most recently, Congress has called upon its research arm, the U.S. Office of Technology Assessment, to study the medical waste dilemma. That report, to be released in November, will examine the pros and cons of federal and state waste disposal systems, waste tracking systems, definitions of infectious waste and emission control standards. According to a report released by the Council of State Governments on state infectious waste programs, state regulation of infectious waste has increased dramatically in the past two years. In 11 states, new or amended infectious waste statutes or regulations have been developed since 1986. In addition, 25 states have initiated processes that could result in changes to their requirements for infectious waste handling and disposal. The Iowa Code lists "infectious waste" under its rules governing "toxic and hazardous waste," wastes which require a special waste authorization for disposal. Beyond this reference, in the DNR rules, Iowa generators, haulers and disposers of hospital waste are relying on the EPA's Draft Manual for Infectious Waste Management--the same manual that merely defines infectious waste and stops short of providing any regulations for treatment, collection, transport or disposal of hospital wastes.

Despite these factors, the Metro Board has appointed a committee to review agency policy and operation relative to hospital waste. That committee has directed staff to continue with the monitoring program that is currently utilized and to develop a more comprehensive program for future use. Currently, an additional man is assigned at the face of the fill to screen loads as they are emptied from trucks. Employees are instructed to pull out any items that are deemed unacceptable. Given that situation, the hauler would then be required to reload the materials and transport them back for proper processing prior to disposal at the landfill or disposal at a site authorized for handling the appropriate waste. In addition, the landfill gate attendant is logging in all trucks and tracking information ranging from hauler name, truck number, and delivery date and time to type and origin of waste delivered. The manifesting of loads is also a measure that the Committee has directed staff to investigate. Per the administrative order rendered to Mercy Hospital, the committee has also determined that all hospitals in the Des Moines metro area are required to obtain a special waste authorization from the state for disposal of hospital waste and incinerator ash.

All of the measures I have just presented have been put in place to ensure quality control at our facility. Measures that will continue to allow us to provide an environmentally safe and sound solid waste disposal operation.

The issue of off-site contamination of surface and groundwater is one of utmost concern to both Metro Solid Waste and landfill neighbors. The groundwater consulting firm of Geraghty and Miller was contracted to review the available data concerning the potential for off-site contamination. The review of the landfill was initiated for two primary reasons: (1) to address the concerns of local residents who felt the landfill posed an environmental hazard and (2) to determine if off-site contamination of surface water and groundwater had occurred. Dr. Richard Tinlin, Vice-President, Geraghty and Miller was retained by Metro Solid Waste under the recommendation of landfill neighbors Frank Sloan, Dick Burdock and Jerry Kane. The first phase of the hydrogeologic study, completed at a cost of $26,000 to Metro Solid Waste, revealed no evidence of waste contamination by landfill leachate. The results further indicated that due to significant gaps in the data available additional testing should be done, work that the Agency recently commissioned and is currently underway at a cost to Metro Solid Waste of $52,000. At the conclusion of the subsequent phases as proposed by G&M, the report will assess whether there is off-site contamination, estimate the amount of leachate in the landfill, identify flow directions and velocities of groundwater in the subsurface geologic units. The authorization of this study is an example of our active approach to addressing areas of our operation that could have an impact on the environment and those individuals who live adjacent to the facility. Again, a measure taken to ensure that the operation we run is one that meets all environmental and safety standards as provided by DNR and EPA.

Since its opening, Metro Solid Waste has had a monitoring well system on-site at Metro Park East. These wells, which are located in various locations around the site are tested twice a year. As a part of the Geraghty and Miller study, additional on- and off-site monitoring wells are proposed for installation. In addition to the monitoring well system, analysis has been performed on Camp Creek and the channel running under the Southeast Sixth Bridge. This analysis has been done on numerous occasions over the years and has revealed no concentrations of heavy metals or other contaminants. The most recent tests, completed by both DNR and Metro Solid Waste on July 11 and 15 revealed no contamination.

As I indicated, MSW has been confronted with many issues since its inception. Our approach has always been to anticipate, act and respond as is necessary and appropriate. Being a good neighbor is not always easy for us. Landfills by their very nature carry negative images and connotations. Images and connotations that are not easily dealt with or dismissed. For this reason, we continue to build in safeguards, develop programs

and expand monitoring systems to ensure that we are doing our part to protect the environment.

As we approach the 21st Century, it will become increasingly more important for the entities generating waste and those collecting, disposing and regulating solid waste to work cooperatively in an effort to address the many issues surrounding the industry. For this reason, we look upon the most recent experience with hospital waste as an opportunity for all parties involved to analyze their operations to determine whether they are doing their part to address the issues of a changing environment.

Thank you - Terree Caldwell-Johnson

Darrell McAllister distributed a copy of results from testing done on water quality and sediments at the Metro East Landfill. He stated that 26 wells around the area were sampled, by the DNR, at three different times last year; analytical sheets of those tests were also provided to the Commission.

Mr. McAllister also provided the following information:

The original permit application for the Des Moines Metro East Sanitary Landfill estimated a 10-year life for the site with a projected life of 20 years if the site west of Des Moines was developed. The special use zoning permit granted by the Polk County Zoning Board on May 21, 1970 contains no requirement on the ending of landfill operations at the site. No record of a challenge to the zoning change was found in departmental records.

The Department of Natural Resources records does contain the minutes from two Des Moines Metro Solid Waste meetings of May 20, 1970 and August 12, 1970. The May 20 meeting did discuss the present landfill site and mentioned that completion of the landfill was expected in fifteen to twenty years. The August 12 meeting was concerned with another proposed landfill site.

The permit renewal application of October 4, 1979 estimated a remaining site life of six to seven years. Approved redesign of the site on December 12, 1986 was estimated by the landfill agency to extend the site life approximately 32 years. Part of the redesign raised the site elevations.

COMPLAINTS AND INSPECTIONS 1984 THROUGH 1986
DES MOINES METRO EAST SANITARY LANDFILL

No complaints were recorded in the Department of Natural Resources file against the Des Moines Metro East Sanitary Landfill in 1984, 1985 and 1986.

Eight inspections of the site were made by Field Office 5 in this time span. The four inspections made in 1984 noted violations

that led to the issuing of an administrative order, No. 85-LQ-02, on January 8, 1985. The chronology to the order is as follows:

April 26, 1984 inspection -- no daily cover, inadequate intermediate cover, ponding, litter and leachate seeps. A letter requesting correction of the violations was sent.

July 12, 1984 inspection -- the same violations as April 26 with daily cover present but inadequate. Another letter was sent requesting correction of the violations.

November 8, 1984 inspection -- no cover at the wet weather disposal area which had not been used for five days. The rest of the areas had inadequate cover, erosion, ponding and litter.

November 15, 1984 inspection -- there was still inadequate cover, erosion, ponding and litter. A letter was sent to the landfill agency December 3, 1984 notifying them of being referred for legal action due to their continued operation of the landfill in violation of the rules.

An inspection one month following the order, February 12, 1985, found inadequate cover and minor ponding. A subsequent inspection on April 3, 1985 found only minor ponding and some erosion. Inadequate cover was found at the wet weather area during the inspection of January 14, 1986. The last inspection in 1986 on June 15 found inadequate daily cover, leachate seeps, and erosion. After each inspection, a copy of the inspection report was sent to the landfill agency with recommendations that they were to follow.

Mr. McAllister gave a detailed history of complaints received from Richard Burdock and Frank Sloan, from February 1987 to date. He provided a history of inspections made by DNR and actions taken by the Department.

Catherine Dunn asked about results of the samples taken on August 5, 1988 when several Commissioners toured the landfill.

Mr. McAllister responded that it takes 30 to 45 days turn around time to receive the test results.

A lengthy discussion followed regarding a leachate collection and treatment system; possible monitoring of air quality at the landfill; black ash from Meredith; requirements for cover and vegetation; and description of medical wastes.

Mr. McAllister stated that the department, before issuing a special waste authorization for medical wastes, require the wastes be heat treated or incinerated.

Charlotte Mohr asked if that is now being done.

Mr. McAllister stated that he cannot guarantee 100% that every bit of infectious waste from hospitals is being autoclaved or incinerated before it goes to the landfill. He added that those requirements were our instructions to the hospitals and landfills.

Chairman Schlutz inquired as to who is responsible when infectious waste is put into a landfill.

Mr. McAllister responded that if the landfill accepts this waste from a disposer who does not have a special waste authorization from the department, then the landfill is responsible. It is the responsibility of the disposer to get the special waste authorization before disposing of properly treated infectious waste.

Jim Brick - Speaker

Jim Brick, Attorney for Des Moines Metro Landfill, stated that his firm did some research, in regards to hospital waste, to find out the responsibilities and obligations of the landfill. He stated that the federal government has guidelines relative to the disposal of infectious waste, but there are no regulations governing these wastes. Mr. Brick added that there is no unanimity among experts as to what does, or does not, constitute infectious wastes. He stated that, in Des Moines, there are a number of hospitals, medical clinics, doctor's offices, and veterinarian offices who generate wastes that could be described as within the suggested procedures under EPA for infectious wastes. Mr. Brick stated that the Metro Landfill could not determine from a site inspection whether or not something had been autoclaved, unless there was some chemical reaction that would key in that the material had been autoclaved. He went on to say that the responsibility is on the generator, not the landfill. Unless there is a chemist on site, there is no way to determine what is, or is not, infectious waste.

Frank Sloan disputed the information presented by Darrell McAllister in relation to sludge applied at the landfill. He related that the truck going to the landfill was stopped on July 14, rather than July 7.

Dick Burdock - Speaker

Dick Burdock addressed the Commission expressing his concerns with the life of the landfill and the lack of control of water runoff.

Chairman Schlutz stated that the Department has recently taken various samples from the landfill area, and when the test results of these samples are received the matter will again be taken into consideration.

Clark Yeager requested that, sometime in the near future, he would like to hear a presentation in regards to hydrology at the landfill.

APPOINTMENT - STANLEY ROMANS, MAYOR OF MASON CITY

Stanley Romans, Mayor of Mason City, addressed the Commission in regards to radium in drinking water and related EPA rules governing same. Mr. Romans stated that cities should be able to challenge EPA rules without further reprisals or deadlines, and that he is appealing to the department for cooperation on this problem. He added that numerous city officials around the State of Iowa share these concerns and asked each official present to introduce themselves. Mr. Romans indicated that there are several questions that need to be answered: 1) Is there a health hazard in the radium that is in our water? 2) How should one go about removing radium in the water? Many communities are not aware of methods, technologies, or types of treatment available to them. Mr. Romans stated that these communities are proposing that variances be granted to allow their community water supplies to continue to be in operation. He expressed further concerns about the removal of radium and the disposal of sludge created from that process. Mr. Romans recommended the establishment of a pilot project with the purpose of studying the technical and feasibility of the treatment process of radium in the water, along with costs feasiblility. He added that the cost to Mason City will be $22.5 million over a period of 20 years, and they are looking for a cheaper alternative.

Dr. Paul Rebers - Speaker

Dr. Paul Rebers, City of Nevada, outlined reasons that radium may not be the health hazard that it is claimed to be by the EPA. Dr. Rebers stated that there have been no epidemiological studies showing that there is an increase in the incidence of cancer from drinking water containing radium. He expanded on his viewpoints presented at his symposium and listed several other doctors who supported his viewpoints. Dr. Rebers presented the following written statement: NEVADA WATER AND RADIUM

Is there a health hazard from drinking Nevada water which contains radium? The hazard, if any, should be related to how much of the radium in the water is retained by the body.

According to Dr. McDonald Wrenn, Radiobiologist, University of Utah, the amount of calcium in food and water determines the uptake of radium from food and water. In the presence of large amounts of calcium, much less radium is absorbed by the gastrointestinal tract from food and water.

Those parts of the body which contain calcium, bones and teeth, can be used to indicate the retention of radium .

The degree of retention of radium in the following experiment was compared by analyses of the teeth extracted from persons living in Ames (no radium in water);

to those extracted from parsons living in Nevada (Nevada water contains 226 radium 6pCi/l; calcium as CaCO3 273 mg/l).

EPA limit of permissible 226/228 radium 5pCi/l

ANALYSES OF TEETH

Tooth Sample	Ames Water	Nevada Water
	226 Radium	pCi/g ash
1	.020	.030
2	.030	.015
3	.040	.020
4	.030	.040
5	.040	.020
6	.015	.025
7	.025	.010
8	.030	.020
9	.025	.040
10		.010
Sum, S	.255	.23
Average	.028	.023
Standard deviation, s	á.008	á.011

Analyses for 226 radium performed by Dr. J. Crawford Brown by the radon emanation procedure.

CONCLUSION

The samples of teeth from Ames and Nevada are comparable in radium content even though Ames water is free of radium and Nevada water contains about 6pCi/l 226 radium. The research should be expanded to verify that there really is no difference in radium content of the two groups of teeth, and hence appears to be no health hazard from drinking Nevada water.

In conclusion, Dr. Rebers stated that on the basis of the studies that he has been working with, he feels sure that the amount of calcium in the drinking water does have an effect on the amount of radium retained by the body. On this basis, he suggested that the whole standard should be re-evaluated, and until this can be done he would request delay in the enforcement of the standards.

Richard Krueger - Speaker

Richard Krueger, City of West Point, stated that with enforcement of these rules it would cost their small community a lot of money, and they do not have the resources to solve this problem.

Don Sexton - Speaker

Don Sexton, City of Oxford, expressed concerns with cost of a new water system for the small population of his town, and condemnation action in getting access to a site. Mr. Sexton also spoke of alternative methods and treatments available and problems with same.

Ron Anderson - Speaker

Ron Anderson, City of Nevada, expressed concerns with the cost to correct the water problem. He stated that it will put the city at their bonding capacity.

Ray Randall - Speaker

Ray Randall, Mason City, stated that he has copies of materials that show contradictions and lack of scientific support for the rule proposals. He added that this is moving ahead too fast, that the guidelines or time schedules are not realistic, and financially it is a terrible burden.

Loren Stowater - Speaker

Loren Stowater, City Councilman from Marcus, stated that it is difficult for him to convince the citizens to believe in this program when he doesn't believe in it himself. He felt there should be more evidence to support the rules.

John Poe - Speaker

John Poe, New London, expressed concerns with the cost of installing a softening plant. He stated that with a population of 2,300 people it will cost each citizen approximately $1,000 each. He added that more time is needed to explore other ways of solving the problem.

Robert Schlutz asked if this was an EPA requirement.

Darrell McAllister stated that radium is a federal maximum contaminant level and the state adopted the same level in 1978. The EPA guidelines were available in the early 1960's.

Nancylee Siebenmann stated that, after Dr. Romans called her, she talked to Dr. Peter Isaacson who sent her two studies regarding the radium situation. Mrs. Siebenmann expanded on the details of each study. She reported that they found an increased incidence of cancer in the bladder, breast, lungs, colon, and prostate as the levels of radium increased. The final conclusion was that while there is no conclusive evidence that this the positive

factor, it suggests that there is a linkage. One of the studies done in Florida linked high exposure of radium to leukemia. Mrs. Siebenmann stated that the study at Mason City did show only two cases of bone cancer since 1969. The figures in the county showed a much higher incidence of cancer than in Mason City proper.

As a final comment, Ray Randall appealed to the Commission to allow for variances on the timetable and to explore other technologies.

REFERRALS TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Giese Construction Company, Inc. (Eagle Grove)

Mark Landa presented a detailed history of this case.

APPOINTMENT - WILLIAM GIESE, GIESE CONSTRUCTION CO.

William Giese stated that he had numerous meetings with the landfill in Wright County in attempt to relieve some of the rules. He added that he had to wait for 45 days to get a meeting with the landfill commission, and he can now take demolition products to the landfill even though it does contain concrete. The problem was in having to wait for the meeting to take place, and neighboring counties who would not take refuse except from their own counties. He stated that he then dumped four loads in an abandoned gravel pit on his property. He noted that he has 180 people on his force and it's difficult to know what they are all doing, but they do not intentionally operate illegally. He stated that without any alternatives there was no place to go with it. Mr. Giese concluded by saying that he has been working on the situation for more than two months to get the problem solved.

Considerable discussion followed in regards to dumping at the quarry, and the denial of Mr. Giese's request for extension of time to comply.

Motion was made by Richard Timmerman for referral to the Attorney General's Office. Seconded by Catherine Dunn.

Chairman Schlutz requested a roll call vote. "Aye" vote was cast by Richard Timmerman. "Nay" votes were cast by Commissioners by Dunn, Hammitt, Mohr, Priebe, Siebenmann, Yeager, and Schlutz. Motion failed 7 to 1.

SOLID WASTE LANDFILL ALTERNATIVE GRANTS

Teresa Hay, Division Administrator, Waste Management Authority Division, presented the following item

Seven solid waste grant proposals submitted under the competitive grants program for energy conservation and renewable resource projects have negotiated contracts or are in the process of completing negotiations. This round of grants is funded with oil overcharge funds through the Groundwater Protection Fund.

1. A grant with Northwest Iowa Area Solid Waste Agency to establish a pilot recovery system for material classification. The pilot plant will be supplied with materials from source separation programs in the cities of Hawarden, Orange City and Spencer. The project also includes an educational program designed to provide a basis of understanding of reducing solid waste flow to the landfill and to provide a method to reduce hazardous waste material flows from commercial and residential activities. The total cost of the project is $256,025. The original grant request was for $174,520 (68%). WMAD has negotiated a contract amount of $163,500 to reduce the state's match to 63%.

2. A grant with Waste Resource Recycling Company of Iowa Falls, Inc. to establish a recycling center utilizing the Lundell system which will divide the waste flow into metals, glass, plastics, paper and compostable garbage. Markets for disposal of individual recycled materials will be sought and a composting site has been secured for the collection and treatment of compost produced by the system. Total project cost is $1,561,000. The grant request and negotiated amount is for $200,000. The Department will be funding 22% of building costs (up to $100,300) and 77% of other machinery and equipment costs (up to $99,700).

3. A grant with the Cherokee County Solid Waste Commission to establish a multi-county recycling center utilizing the Lundell separation system. Bids will be solicited for the purchase of recycled materials and, where appropriate, contracts for recyclables purchased will be obtained. Total cost of the project is $1,370,000. The grant request was for $435,000 and has been negotiated down to $375,000. The Department will be funding 42% of the cost of the separation system (up to $375,000).

Grant contracts are also being negotiated with the other four grantees and detailed scopes of work and budgets will be provided at the August 15 Commission meeting. These grantees are:

1. City of Sioux City - Leaf and Yard Waste Composting
2. Fareway Stores - Recycling of Plastics

3. City of Keokuk - Recycling Center and Composting
4. Scott County - Sludge and Yard Waste Composting

Richard Timmerman asked about the similarity in Projects #2 and #3.

Ms. Hay responded that one is a private venture and the other is a public project, and she presented details of each project.

Discussion followed regarding a need for research on incineration rather than sorting and recycling.

Ms. Hay explained the criteria and rules used in prioritizing the projects. She stated that only one application was received pertaining to incineration and that was for a feasibility study. She added that the law gives preference to demonstration projects.

Nancylee Siebenmann stated that one of the best approaches for the Commission to take is to lobby the legislature to change priorities in order to be more explicit about the types of things the Commission would like to see.

Motion was made by Catherine Dunn to approve Solid Waste Landfill Alternative Grant Proposals #1, #2, and #3 as presented. Seconded by Richard Timmerman .

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Dunn, Hammitt, Mohr, Siebenmann, Timmerman, and Yeager. "Nay" votes were cast by Commissioners Priebe and Schlutz. Motion carried 6 to 2.

Supplement to Agenda Item 7

Three additional grant contracts have been negotiated. The following is a summary of the projects and detailed scope of work and budget for each.

1. A grant with the City of Sioux City, Jebro Inc., and Solid Waste Services of Sioux City to conduct a leaf and yard waste collection program and composting operation. Leaf and yard waste in one section of Sioux City will be collected and hauled to Jebro, Inc. (a permitted composting site) to be processed as compost. This project also includes data collection on the collection time, number of stops, quantities of waste per stop, and travel time to and from the landfill and the composting site on various collection routes in the city. The total cost of the project is $269,390. The initial grant request was for $220,213. The WMAD has negotiated a contract for $192,685.

2. A grant to twelve (12) community work activity centers throughout the state coordinated by Fareway Stores to collect and recycle post consumer plastics. Funding from this grant would go to assist in the purchase of bailers and collection bins to be used by the work activity centers in recycling of plastics.

Collection bins would be erected in various locations near the activity centers where residences could drop off plastics for recycling. Bailing of the plastics would be accomplished at the activity centers. Fareway Stores will be assisting in the hauling of the bailed plastic to the markets. The initial grant request was for $138,000. The WMAD has negotiated a contract for $91,960.

3. A grant to the Scott County Landfill Commission to conduct a project co-composting sewage sludge and yard waste. Yard waste would come from the current source of yard waste in Scott County currently disposed of at the landfill and sewage sludge would be received from the City of Davenport wastewater treatment plant. The two waste streams would be composted at the Scott County Landfill. Information would be obtained on the developed composting procedure and the environmental acceptability of the compost product. The total cost of the project is $430,840. The WMAD has negotiated a contract for $313,780.

Ms. Hay explained Project #1, a grant with the City of Sioux City and invited Steve Hoambrecker to speak.

Steve Hoambrecker - Speaker

Steve Hoambrecker, City of Sioux City, gave a detailed description of their project and the reasoning behind their proposal.

Motion was made by Catherine Dunn to approve the grant with the City of Sioux City, Jebro Inc., and Solid Waste Services of Sioux City as presented. Seconded by Charlotte Mohr .

Gary Priebe stated that he feels it is a total waste of money to learn about picking up leaves. He feels that the money should be spent on projects that would do a lot more good.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Dunn, Hammitt, Mohr, Siebenmann, Timmerman, Yeager, and Schlutz. "Nay" vote was cast by Commissioner Priebe. Motion carried 7 to 1.

Ms. Hay explained the details of Project #2, a grant to 12 community work activity centers coordinated by Fareway Stores.

Motion was made by Nancylee Siebenmann to approve grant Project #2 as presented. Seconded by Catherine Dunn .

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Dunn, Hammitt, Mohr, Siebenmann, Timmerman, Yeager, and Schlutz. "Nay" vote was cast by Commissioner Priebe. Motion carried 7 to 1.

Ms. Hay explained the details of Project #3, a grant to Scott County Landfill Commission.

Motion was made by Charlotte Mohr to approve grant Project #3 as presented. Seconded by Catherine Dunn .

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Dunn, Hammitt, Mohr, Siebenmann, Timmerman, and Schlutz. "Nay" votes were cast by Commissioners Priebe and Yeager. Motion carried 6 to 2.

RECESS

Chairman Schlutz recessed the meeting at 6:15 p.m. on Monday, August 15, 1988.

MEETING RECONVENES 8:30 A.M., TUESDAY, AUGUST 16, 1988

DIRECTOR'S REPORT

Director Wilson reported that last week, on Channel 8, there was a news report regarding state departments that did not get public record information right-to-know rules prepared by July 1; DNR was listed as one of the departments. These rules are being developed for the Natural Resources Commission, the Environmental Protection Commission and the department. The department rules will be before the Administrative Rules Review Committee today, and the DNR and EPC rules will be final within the next 30-45 days.

Director Wilson commented that he is considering changes in the referral procedure, and would like Commission input regarding same. He stated that following reorganization, agreement was made that the department would not make any referrals to the Attorney General's Office that the Commission elected not to refer. Director Wilson added that he will be re-thinking that issue and wanted the Commission to know that.

Catherine Dunn stated that she would hope this would nct alienate the Commission from the Department and that they would work as partners.

Director Wilson assured the Commission that it is most important that their relationship continue as partners.

APPOINTMENT - JOHN SARCONE, A.G. Office

John Sarcone, Attorney General's Office, updated the Commission on the Aidex case stating that the State's final brief was filed

yesterday in the 8th Circuit Court of Appeals, and that it is now just a question of waiting for oral argument to be set.

Chairman Schlutz asked about the Pester-Derby case. Mr. Sarcone reported that they are proceeding with their clean up. Recovery operation is taking place; they are not down to the required level but they are working toward it. The court case is finished.

Other case actions were reported as follows:

The Iowa City case has been settled through a consent decree.

The Tri-County Feeder Pig case was resolved; they paid their penalty two weeks before the trial date.

There has been a trial date set in the King case.

A contempt action has been taken in the Bryant Beef case.

APPOINTMENT - MARTHA MAXON, BRICE PETRIDES

Mike Carrier, Division Administrator, Parks, Recreation and Preserves Division, prefaced introductions with a brief history of Brushy Creek. He then introduced Martha Maxon and Dale Tekippe of Brice Petrides, and related that any of the three of them would be happy to answer Commissioner's questions.

Martha Maxon gave a presentation addressing water quality issues relative to the 690 acre lake to be built at Brushy Creek. Ms. Maxon presented slides showing the proposed lake site and the watershed area which drains into the Des Moines River. She explained the variables of watershed to lake surface ratio for a good lake. Ms. Maxon displayed a topographic map showing the Brushy Creek area and pointed out three different dam site options, and further explained reasons for, or against, placing a dam there. She related that Brice Petrides hired two consultants (Dr. Gerald Schnoor and Dr. Roger Bachman) to do a study to help determine what would be best for Brushy Creek in regards to lake water quality. Ms. Maxon gave a detailed explanation of each study.

The Commission thanked Ms. Maxon for an excellent presentation.

Commissioner Timmerman was excused from the meeting at 9:30 a.m., due to another commitment.

REFERRALS TO THE ATTORNEY GENERAL (Continued)

Hunter Oil Company (Adel)

Mark Landa, Government Liaison Bureau, stated that the department is seeking referral to the Attorney General to compel the company to investigate, and if necessary, abate a hazardous condition that currently exists on Hunter Oil Co. property. Mr. Landa explained that this is the companion case to the referral for Mr. Kenneth Cooper, which occurred in October, 1987. It pertains to a situation which, the department alleges, was caused in part by both, The Hunter Oil Co. and by Mr. Kenneth Cooper. Mr. Landa presented details pertaining to the case.

APPOINTMENT - JOHN REICH

John Reich, attorney representing Hunter Oil Co., stated that Hunter Oil Co. finds itself in a cache-22 situation, since in 1985 Hunter Oil sold the station, on contract, to Mr. Cooper. When Mr. Cooper was issued an Administrative Order he quit making payments and threatened to go into backruptcy. Hunter Oil's only options were to forfeit the contract, or do nothing. Mr. Reich stated that Mr. Jim Anderson, with Hunter Oil Company, decided to forfeit the contract which then gave him legal title, but he was not the person in control when any hazardous chemical was placed upon the property. Mr. Reich added that there is no scientific data to show that any previous spills occurred. He stated that the owner who was there when the spill occurred is the person who is liable, and he does not feel Hunter Oil should be responsible. Mr. Reich stated that action should be taken against Mr. Cooper.

Chairman Schlutz stated that the Attorney General's Office may determine whether there is responsibility of another party.

Mr. Reich expanded on the rights and duties of a property seller.

Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by Catherine Dunn . Motion carried unanimously.

63 - I80 Truckstop (Poweshiek Co.)

Diana Hansen, Government Liaison Bureau, briefed the Commission on the history of this case.

APPOINTMENT - RON MOORE

Ron Moore stated that in reference to the Administrative Order which was issued in March, he had told the manager of his truckstop to call Jack Clemens of DNR for further information. He related that DNR personnel told his manager to get a hold of a Mr. Tom Thorp. The manager was under the impression that Mr.

Thorp was an engineer and that he was going to submit a report to the department. Mr. Moore stated that when his manager later asked Mr. Clemons about the report, Mr. Clemons informed her that Mr. Thorp was not an engineer. He added that he still has no idea who Mr. Thorp is and why the department recommended him. In conclusion, Mr. Moore stated that his company is not trying to avoid anything, it is just that the DNR is very vague as to what they expect to be done. He added that his manager does not know what needs to be done.

Catherine Dunn asked if Mr. Moore or his manager received anything in writing advising them what to do.

Mr. Moore stated that he received the administrative order in March and he then asked his manager to handle it.

Discussion followed regarding a management problem at the facility.

Motion was made by Catherine Dunn for referral to the Attorney General's Office. Seconded by Donna Hammitt.
Discussion followed regarding possible penalty.

Catherine Dunn withdrew her motion for referral. Donna Hammitt concurred.

CLOSED SESSION

Motion was made by Nancylee Siebenmann to go into closed session pursuant to Iowa Code Section 21.5(1)c to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation. Seconded by Gary Priebe .

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Dunn, Hammitt, Mohr, Priebe, Siebenmann, Yeager, and Schlutz. Motion carried 7 to 0.

Motion was made by Charlotte Mohr to adjourn the closed session and go into open session. Seconded by Donna Hammitt. Motion carried unanimously.

Motion was made by Catherine Dunn for referral to the Attorney General's Office to seek collection of the administrative penalty, and to also authorize the Attorney General to seek additional penalties if the administrative orders are not complied with. Seconded by Gary Priebe.Motion carried unanimously.

PUBLIC PARTICIPATION

Chairman Schlutz announced public participation at 10:30 a.m., Tuesday, August 16, 1988; no one requested to speak.

STATE REVOLVING FUND FOR SEWAGE TREATMENT WORKS

Darrell McAllister, Bureau Chief, Surface and Groundwater Protection Bureau, presented the following item.

The commission will be given a status report on development of SRF program proposals. Issues and options will be identified where commission direction is needed to facilitate final rule development. Input received at this meeting will be incorporated into proposed rules for consideration by the commission at their September meeting.

Mr. McAllister distributed a draft copy of Chapter 92, State Revolving Fund Loans for Wastewater Treatment. He explained in detail the bonding program, and goals of the SRF rules and issues. Mr. McAllister stated that staff will, next month, ask that the Commission to emergency adopt these rules and give authorization to put them out to public notice.

Chapter 92
State Revolving Fund Loans For Wastewater Treatment

567--92.1 (455B) Statutory authority. The authority for the Iowa Department of Natural Resources to provide loans to eligible applicants to assist in the construction of wastewater treatment facilities is provided by Iowa Code section 455B.294.

567--92.2 (455B) Scope of title. The department has jurisdiction over the surface and groundwater of the state to prevent, abate and control pollution. As a part of that general responsibility, the department and the authority are jointly delegated the administration of the State Revolving Fund (SRF) loan program to assist in water pollution abatement projects pursuant to the Clean Water Act. A project must comply with the rules of this chapter to be eligible for an SRF loan. This chapter provides for the general rules of practice for the department's administration of the program, including the criteria for loan eligibility, and the general project and program administration rules.

567--92.3 (455B) Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

92.3(1) Applicable interest rate means the interest rate applied to each individual loan as determined by the Director and in accordance with any agreement with the Iowa Finance Authority.

92.3(2) Authority means the Iowa Finance Authority (IFA) as established by the Iowa Code Chapter 220.

92.3(3) Clean Water Act means the Federal Water Pollution Control Act of 1972, PL 92-500 as amended by the Water Quality Act of 1987, PL 100-4 as published in 33 U.S.C. 1251-1376.

92.3(4) Commission means the Iowa Department of Natural Resources Environmental Protection Commission of the state of Iowa.

92.3(5) Department means the Iowa Department of Natural Resources (DNR).

92.3(6) Eligible cost means the cost of all labor, material, machinery, equipment, necessary land purchase, easements, or rights-of-way, loan initiation and service fees, construction engineering services, and all other expansion, construction and rehabilitation of all or part of a project.

92.3(7) Eligible recipient means a municipality (as defined below) that meets the following criteria:

a. Appears on the State Project Priority List.

b. Has submitted a complete application for a project with eligible costs.

c. Will be in a state of readiness to proceed to construction and use loan payments timely.

d. Has been included on the state's Intended Use Plan as a proposed loan recipient.

92.3(8) Director means the Director of the Iowa Department of Natural Resources.

92.3(9) Fiscal year means the federal fiscal year starting October 1 and ending September 30.

92.3(10) Intended Use Plan means a plan identifying the intended uses of funds available for loans in the SRF for each fiscal year as described in Section 606(c) of the Clean Water Act.

92.3(11) Municipality means the city, county, sanitary district, or other governmental corporation or body empowered to provide sewage collection and treatment services, or any combination of the two or more of such governmental bodies, or corporations acting jointly, in connection with a project.

92.3(12) Project means the acquisition, construction, reconstruction, extension, equipping, improvement, or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner including treatment works as defined in section 212 of the Clean Water Act, or the implementation and development of management programs established under sections 319 and 320 of the Clean Water Act. The term also applies to a separate segment or phase of a segmented or phased project.

92.3(13) State Project Priority List (PPL) means the list of projects in priority order that may qualify for SRF loan assistance. The list is developed in accordance with Chapter 91.

92.3(14) State Revolving Fund (SRF) means the sewage treatment works revolving loan fund established in section 455B.295.

567--92.4 (455B) General policy. Loans up to 100% of the eligible costs will be made available pursuant to the requirements of these rules and Title VI of the Clean Water Act. Loans are available for construction only and will not be considered for planning and design activities as well as other costs identified as unallowable for loan assistance in section 92.8(2).

92.4(1) Administration. The department, in conjunction with the authority, has been delegated the responsibility of administering the SRF program. The Director will coordinate with the authority under the terms of an interagency agreement entered pursuant to Chapter 28E of the Iowa Code.

92.4(2) Decisions.

a. Departmental staff decisions in administering the SRF loan program shall conform to generally accepted principles and standards of good practice. Guidance shall include, but not be limited to:

1. 40 CFR, Parts 31 and 35
2. Applicable state laws, rules, and court decisions
3. Guidance available from the EPA
4. Any applicable federal regulations

b. Decisions of department staff are final unless the recipient files a written petition for review with the Director. The petition must be addressed to the Director and clearly state the decision in question and the basis for the requested review. The recipient has the right to appeal a decision to the Commission pursuant to Chapter 17A of the IAC or to the state court.

92.4(3) First use of funds. All funds in the SRF fund as a result of capitalization grants under Title VI of the Clean Water Act will be first used to assure maintenance of progress toward compliance with enforceable deadlines, goals, and requirements of the Clean Water Act, including the municipal compliance deadline as provided by the Clean Water Act. Progress toward compliance with the Clean Water Act is considered to be the operation of a wastewater treatment facility that meets effluent limitations required in an NPDES permit or having an enforceable schedule either filed or in place which requires the facility to meet permit limits or having a funding commitment prior to the end of the first year covered by the Intended Use Plan. The department will identify any municipalities that will qualify for this "first use" requirement in the Intended Use Plan.

92.4(4) Minimum/maximum loans. The minimum loan amount which will be considered is $50,000. The maximum amount loaned to any municipality shall not exceed 60% of the available loan funds in the SRF attributable to any fiscal year.

92.4(5) Phased projects. Loan funds for future portions of phased or segmented projects cannot be assured. Partial or phased funding for a project may be made on a case-by-case basis with no assurance of future funding. Loans made for separate phases or segments of a project will be administered separately.

92.4(6) Eligible recipient determination. Municipalities projected to be able to qualify for SRF assistance will be identified in an annual Intended Use Plan. Only those projects on the current fiscal year State Project Priority List developed pursuant to Chapter 91 may be considered as an eligible recipient. SRF assistance will be available to projects in priority order with first consideration given to the "first use" criteria of section 92.4(3).

92.4(7) State capitalization grant. The Clean Water Act authorizes the Environmental Protection Agency (EPA) to offer

capitalization grants to states for use in a revolving fund loan program through fiscal year 1994. All projects which receive loan assistance from the fund before fiscal year 1995 will meet the requirements of section 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of the Clean Water Act, as described in 92.10 of this chapter. A portion of the capitalization grant, as allowed by Title VI of the Clean Water Act, will be used to administer the SRF program.

92.4(8) Loan commitments. Loan agreements will be binding commitments based on estimated eligible costs prior to construction. A final adjustment to a loan amount may be made upon completion of construction.

92.4(9) Loan adjustments. Loans will be made to eligible recipients as soon as possible after monies are available. The SRF will be managed such that contingency monies are available in loans to allow for final loan adjustments approved by the Director. If eligible costs exceed the loan amount, the recipient may request an increase. The Director in coordination with the authority will evaluate the request considering available monies in the fund as well as the financial risk to determine the appropriate action, including renegotiation of the loan. Should costs be less than the loan amount, the loan shall be adjusted downward by a corresponding amount when the final adjustment to the loan agreement is executed.

92.4(10) Double benefits. Projects that have received a federal construction grant under provisions of the Clean Water Act are not eligible to receive a loan for the nonfederal share of the project.

567--92.5 (455B) Application procedures.

92.5(1) Forms. The department will provide an application package to apply for SRF loan assistance and to provide documentation in the program. Forms can be obtained from the Environmental Protection Division, Iowa Department of Natural Resources, Henry A. Wallace Building, 900 E. Grand, Des Moines, Iowa 50319-0034.

92.5(2) General requirements. The following items in addition to the requirements of 92.5(1) must be included in a complete SRF loan application:

a. Two copies of the planning report certified by a professional engineer registered to practice in Iowa;

b. Two copies of project plans and specifications certified by a professional engineer registered to practice in Iowa;

c. A schedule for submission of an operation and maintenance manual and plan of operation;

d. A user charge system;

e. A project construction schedule and cash flow projection including the acquisition of necessary land;

f. A summary of all financial arrangements necessary to fund the project; and

g. A description of a dedicated revenue source for loan repayments.

92.5(3) Timing. In preparing the IUP for fiscal year 1989 loan funds, the Director may consider potential applicants he considers capable of submitting applications within the time necessary to effectively utilize SRF funds provided by the initial capitalization grant. To be considered for loan assistance during subsequent fiscal years, applications must be received by the department on or before July 1 preceding the fiscal year.

567--92.6 (455B) Intended Use Plan.

92.6(1) Development. The Director shall prepare an Intended Use Plan (IUP) each year. The IUP will be subjected to a public hearing and approved by the Commission.

92.6(2) Contents. The IUP will identify the anticipated uses of loan funds available for that fiscal year and will include the following:

a. A list of projects from the State Project Priority List that are eligible for SRF loans and any proposed activities eligible for assistance under 319 and 320 of the Clean Water Act. The list will include the name of the eligible recipient, any applicable NPDES permit number, the projected amount of loan assistance, schedule of estimated disbursement of funds and preliminary identification of projects that may undergo an environmental impact statement. The department will consider the following in developing the list of eligible recipients for the Intended Use Plan:

(1) The list will first include in priority order any unfunded "first use" projects addressed in section 92.4(3).

(2) Applications on file.

(3) Whether a project will be ready to proceed on a schedule consistent with time requirements for outlays of funds.

(4) Whether the proposed project addresses the need upon which the municipality's priority is based.

(5) Applicant's financial capability to service the loan, provide operation and maintenance, provide replacement and debt service reserves.

(6) Applicant's statement of willingness to accept all loan terms and conditions.

b. Discussion of the long- and short-term goals of the SRF.

c. Information on the types of activities to be supported by the SRF.

d. Assurances and specific proposals on how the state intends to meet requirements of the following sections of the Clean Water Act:

(1) 602(a) Environmental reviews.

(2) 602(b)(3) The state will agree to enter binding commitments equal to at least 120% of each quarterly federal capitalization grant payment within one year after receipt.

(3) 602(b)(4) Certify that expenditure of all funds in the SRF will be done in an expeditious and timely manner.

(4) 602(b)(5) All SRF funds will be first used toward compliance with the enforceable requirements of the Clean Water Act including the municipal compliance deadline of July 1, 1988.

(5) 602(b)(6) All projects funded will meet the requirements of Sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of the Clean Water Act.

(6) Contingency list. The IUP will list those projects that are fundable in a fiscal year. In addition, a contingency list will also be included. These projects could become fundable in accordance with the procedures found in section 92.8(7) should a fundable project not proceed in a timely manner.

e. Amendment of the IUP

567--92.7 (455B) Loan and project initiation.

92.7(1) Loan and project initiation conference. Each eligible recipient shall schedule loan initiation conference with the department. The eligible recipient's official representative (and usually their consultant) will meet with the department to discuss:

a. SRF Loan Program policies, procedures, and guidelines.
b. Allowable costs.
c. Treatment technologies.
d. Environmental impacts and review considerations.
e. Public participation.
f. Scheduling.
g. Other information as needed.

92.7(2) Review criteria. The Director shall review SRF loan applications for eligible recipients and verify the following items:

a. The project is on the State Project Priority List.
b. The applicant has prepared and received approval of an adequate facility plan report.
c. The project will be in conformance with any applicable area-wide water quality management plans.
d. The applicant has or will adopt an acceptable user charge system.
e. The applicant has demonstrated its ability to provide the necessary legal, institutional, managerial and financial capability to complete the project.
f. The applicant has provided an acceptable project schedule for project initiation and completion.
g. The applicant's ability to repay the loan is consistent with the department's requirements after consultation with the authority.

92.7(3) Loan denial. The Director shall inform the applicant in writing the reason for denial and return any application not in substantial compliance with these rules.

567--92.8 (455B) General administrative requirements.

92.8(1) Loan agreement conditions. The Director in coordination with the authority will prepare a loan agreement when the application has been determined to be in compliance with the requirements of the Clean Water Act and applicable state rules for SRF funding. The loan agreement to be executed by the applicant and the department shall be a binding commitment, shall include conditions and terms to be effective for the loan period,

and shall be accompanied by evidence of legality and tax exempt status satisfactory to the Director.

92.8(2) Allowable and unallowable costs. Allowable costs shall be limited to those eligible costs deemed necessary, reasonable, and directly related to the efficient completion of the project. Generally, the Director will determine project costs eligible for loan assistance in accordance with state rule 567--91.6 (455B). However, any land purchase, easement or rights-of-way costs necessary for the construction of any project will be considered an allowable cost. In addition to those identified in Chapter 91, unallowable costs include the following:

a. Cost of the nonfederal share of any project funded by an EPA grant under the provisions of the Clean Water Act.
b. Costs of planning and design phases of the project.
c. Legal costs.
d. Cost of service lines and in-house plumbing.
e. Administrative costs of the recipient.
f. Vehicles and tools.

92.8(3) Records requirements. The recipient shall maintain adequate records that document all costs associated with the project. Monies from the SRF and those contributed by the recipient shall be accounted for separately. Accounting procedures shall conform with generally accepted government accounting standards as defined by the U.S. General Accounting Office (GAO) publication "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," dated May, 1988. All records shall be preserved and made available to the department, the authority, State Auditor, and the Office of the Inspector General of the EPA for at least three years from the date of the final loan payment.

92.8(4) Audit and inspection. The recipient shall provide access at all times for the department, the authority, State Auditor, and U.S. EPA Office of Inspector General to all project records and documents for inspection and audit purposes for a period of three years after the date of last loan payment. The same access to the project site(s) shall be provided for inspection purposes.

92.8(5) Crosscutting laws. Other federal and state statutes and programs may affect an SRF project. Loan agreements will include an assurance that a recipient will comply with all applicable federal and state requirements.

92.8(6) Construction payment schedules. The recipient must submit a construction drawdown schedule to the department prior to the award of contracts.

92.8(7) Project bypass. Any project identified in the Intended Use Plan for funding in a fiscal year that has not signed a binding commitment by August 31 of the fiscal year will be bypassed by projects of a lower priority that are in a state of readiness.

92.8(8) Termination. The Director shall have the right to terminate any loan when terms of the agreement have been violated or project activities are not progressing in a satisfactory manner. Loans will be terminated if construction has not begun

within one year of the execution of a loan agreement. The Director in coordination with the authority will establish a repayment schedule for funds already loaned to the recipient. All terminations must be in writing.

567--92.9 (455B) Loan payment requirements.

92.9(1) Interim payments.

a. General. Payments will be made to the recipient for actual costs incurred. Payment requests can be made monthly using forms furnished by the department with adequate documentation to assure that the costs are allowable. Interim payment requests shall be certified by the recipient that costs incurred reflect the value of work in place and materials and equipment on hand. Documentation should include evidence costs are incurred but need not include evidence of payment by the loan recipient. Interim payments will be made in accordance with the loan agreement.

b. Retainage. The department will retain loan payments to the extent that progress payments to the contractor from the recipient are withheld according to state law.

c. Reversion. Any funds paid to the recipient that are not expended after the project is complete shall revert back to the SRF after the loan is adjusted.

92.9(2) Final payment. Final payment to the recipient can be made following the final inspection and acceptance by the recipient and the department, and the following have been reviewed and approved:

a. A request for final payment from the recipient.

b. Certification by the recipient of project completion and acceptance by the recipient or an acceptable close-out settlement for projects that have encountered a dispute.

c. Certification by the recipient that labor standard provisions have been met.

d. An acceptable operation and maintenance manual, if applicable.

e. Recap of all engineering, legal, administrative, and all other allowable and unallowable expenses.

f. Final project budget showing all funding sources utilized by budget categories.

g. Execution of a loan agreement adjustment based on final costs.

567--92.10 (455B) Project requirements. The following requirements apply to all projects receiving assistance from the SRF. They are identified here with references to sections of the Clean Water Act and federal regulations, where appropriate.

92.10(1) Planning. The planning phase of a project include those necessary plans and studies which directly relate to facilities needed to comply with enforceable requirements of the Clean Water Act and state statutes. It consists of a systematic evaluation of alternatives that are feasible considering the unique demographic, topographic, hydrologic, and institutional characteristics of the planning area. Facilities planning will determine which alternative is cost-effective.

The planning phase must include the following:

a. A description of the proposed project and the complete system of which it is a part.

b. Best practicable waste treatment technology - section 201(b), requires that projects apply best practicable waste treatment technology (see 40 CFR 35.2005(b)(7): Definition of BPWTT, 40 CFR 35.2030(b)(2): Facilities Planning).

c. Alternative waste management techniques - section 201(g)(2) requires that alternative technologies be considered in project design (40 CFR 35.2030: Facilities Planning).

d. Infiltration/inflow - section 201(g)(3) requires the applicant to show that the related sewer collection system is not subject to excessive infiltration (40 CFR 35.2030(b)(4): Facilities Planning, 40 CFR 35.2120: Infiltration/Inflow).

e. Innovative/alternative technology - section 201(g)(5) requires that applicants study innovative and alternative treatment technologies and take into account opportunities to construct revenue producing facilities and to make more efficient uses of energy and resources (40 CFR 35.2030: Facilities Planning).

f. Recreation and open space opportunities - section 201(g)(6) requires that the applicant analyze the potential recreation and open space opportunities in the planning of the proposed facilities (40 CFR 35.2030(b)(5): Facilities Planning).

g. Water quality management planning - section 204(a)(1) and (2) (Two statutory references) requires that treatment works projects be included in plans developed under Sections 208 and 303(3) (40 CFR 35.2102: Water Quality Management Plans).

h. Environmental review . Loan recipients will conduct environmental review of projects using construction grants procedures in 40 CFR Part 6 as a part of facility planning. The potential applicant should work with the department as early as possible in the facilities planning process to determine if the project qualifies for a categorical exclusion from 40 CFR Part 6 requirements, or whether a finding of no significant impact or an environmental impact statement is required. In conjunction with the facility planning process as described in 40 CFR 35.2030(c) July 1, 1987 edition, a potential applicant may request formal determination under 40 CFR Part 6. All of 40 CFR Part 6, July 1, 1987 edition, pertaining to Procedures for Implementing the Requirements of the Council on Environmental Quality on the National Environmental Policy Act, is hereby adopted and incorporated herein. However, all references to the U.S. Environmental Protection Agency as performing acts or reviews shall be substituted with the department for the purposes of this chapter.

92.10(2) Project design and construction. The project design and construction phase must include the following items:

a. Value engineering - section 218 assures that treatment systems are cost-effective and requires that projects of over $10 million include a value engineering review (40 CFR 35.2030(b)(3). The value engineering review must be conducted before the project design nears substantial completion.

b. User charge system - section 204(b)(1) requires that a system of user charges be developed and enacted to assure that

users will pay their proportionate share of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the recipient. A user charge system may also include methods of revenue collection for loan repayments.

c. Recipient capability . The recipient must demonstrate to the department that it has the legal, institutional, managerial and financial capability to ensure adequate construction, operation and maintenance of treatment works, as required by section 204(b)(1) of the Clean Water Act.

d. Davis-Bacon Act - section 513 applies Davis-Bacon labor wage provisions to treatment works construction (see 29 CFR Part 5). Wages paid for the construction of treatment works must conform to the prevailing wage rates established for the locality by the U.S. Department of Labor under the Davis-Bacon Act (section 513, applies 40 U.S.C. 276 et. seq.).

e. Project performance certification . The recipient shall confer with the department and a date for project works in operation shall be determined. One year after the project has been (or is capable of being) placed into operation, the recipient must certify to the department whether or not the project meets design specifications and effluent limitations. If, for any reason, the recipient is not able to certify affirmatively on the due date, a report outlining timely corrective measures must be submitted in lieu of certification.

f. Minority Business Enterprise/Women's Business Enterprise (MBE/WBE). The recipient must comply with requirements of MBE/WBE participation as found in 40 CFR 31.36(e) March 11, 1988. The Director will negotiate with the EPA Regional Administrator to determine the overall "fair share" objective for SRF loan-assisted projects. The recipient shall take the following affirmative steps to assure that small, minority, and women's business enterprises are utilized where possible as sources of supplies, construction, and services:

(1) Placing qualified small, minority, and women's business enterprises on solicitation lists;

(2) Assuring that small, minority, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's business enterprises;

(4) Establishing delivery schedules, where requirements of the work permit, which encourage participation by small, minority, and women's business enterprises;

(5) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and

(6) Requiring prime contractors to take the affirmative steps listed above when awarding subcontracts.

g. Site . When real property is necessary to be acquired as part of the project and within the project period, the recipient shall submit documentation of the acquisition, including the legal description, the date the property was acquired, and an

appraisal report by a qualified appraiser. Submittal to the department shall occur prior to contract award.

h. Project changes . The recipient must submit to the department prior to final loan payment all modifications to the project including changes to the plans and specifications and changes in the contract (change orders) for approval. The recipient is responsible for any actions necessary should the changes be implemented prior to departmental review and subsequently found to be unapprovable.

i. State inspections . Personnel of the department shall have the right to examine all construction aspects of the project, including materials and equipment delivered and stored on site for use on the project.

92.10(3) Qualifying requirements. The Clean Water Act includes several conditions not identified in any particular phase of a project but which are basic qualifying factors necessary to qualify any project for SRF assistance. These consist of the following:

a. Fundable categories, as defined in I.A.C. 567--91.6 (2), including:

(1) Treatment - section 201(g)(1) limits assistance to projects for secondary treatment, advanced treatment, or any cost-effective alternative, new interceptors and appurtenances, and infiltration - inflow correction. This section retains the Governor's discretionary set-aside by which a state can use up to 20 percent of its allotment for other projects within the definition of treatment works in section 212(2), and for certain non-point source control and groundwater protection purposes, as defined in section 319 of the Clean Water Act and subsequent agency regulations (40 CFR 35.2015(b)(2)(ii-iv): State Priority System and Project Priority List).

(2) Sewers - Governor's Discretionary Fund - section 211 provides that major rehabilitation or replacement of collectors is not eligible under the Governor's 20 percent discretionary authority of 201(g)(1) unless the collector is needed to assure the total integrity of the treatment works, or that, for a new collector, adequate capacity exists at the facilities (40 CFR 35.2116 Collection System).

(3) Combined sewer overflows - section 201(n)(1) provides that funds under section 205 may be used for water quality problems due to discharges of combined sewer overflows which are not otherwise eligible, if such discharges are a major priority in a state (40 CFR 35.2015(b)(2)(iv): State Priority Systems - categories of need and 35.2024(a): Combined Sewer Overflows).

b. Capital financing plans. Section 201(o) calls on the state to assist eligible recipients in the development of a capital financing plan which, at a minimum:

(1) Projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

(2) Projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

(3) Sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.

The recipient must submit the plan to the department for any comments deemed necessary.

92.10(4) Other.

a. Cost information. Cost estimates for the total project and costs allowable for loan financing shall be provided to the department by an eligible recipient.

b. NPDES compliance. To qualify for an SRF loan, a recipient must demonstrate to the satisfaction of the Director that the project receiving loan assistance is a part of the recipient's overall plan that addresses all wastewater treatment needs and that describes how compliance with NPDES permit limitations will be achieved and maintained.

567--92.11 (455B) Loan agreement and repayment policy.

92.11(1) Loan policy. The prime purpose of SRF loan assistance is for construction of facilities necessary to solve existing pollution problems. Municipalities must qualify for placement on the State Project Priority List according to Chapter 91.

92.11(2) Loan terms and conditions. Loan terms shall include, but not be limited to, the following:

a. Purpose of payments. The recipient shall use the proceeds of the SRF loan solely for the purpose of funding the project. Timely disbursements from the loan shall be made to contractors.

b. Costs. All costs must be documented to the satisfaction of the Director before proceeds can be disbursed. Records should be maintained in accordance with 92.8(3).

c. Applicable interest rate. For each pool there shall be a single below-market interest rate applicable to all recipients, which shall be based upon the cost of program funds, according to the following formula:

Applicable interest rate = A-B, where A is the rate of interest payable in the bonds issued to provide the State portion of funds to be loaned to a pool of borrowers for an annual or other period; and B is the lesser of 0.25 times A or one and one half percent of interest.

d. Repayment. The maximum repayment period allowed is 20 years. Principal repayments will commence not later than one year after project completion, generally on a level debt service schedule. Adjustments of maturities may be granted to enable a recipient to conform its loan terms to its existing debt obligations, but the average principal maturity of the loan shall not be longer than the average principal maturity of the loan would be if it were determined on a level debt service basis. Principal payments will be made annually and interest payments will be made semi-annually on a schedule determined by the Director which is consistent with these rules and financing requirements applicable to the SRF.

e. Security. The loan shall be secured by a first lien upon the dedicated source of repayment which may rank on a parity basis with other obligations.

The dedicated source of repayment is expected to be the net revenues of the municipal sewage utility plant and the system of the recipient, but may also include a general obligation secured by the levy of debt service taxes or its equivalent.

f. Loan initiation fee. A fee of 0.5% of the amount of the loan will be payable within 90 days of completion of construction and the final loan agreement adjustment.

g. Annual loan servicing fee. A fee of 0.5% of the loan principal will be due at the time of each annual loan repayment.

h. Provision for adjustment of the loan amount based on final costs at completion of construction.

i. Applicable laws. The recipient shall agree to comply with all applicable laws, rules, and regulations of the department, the authority, or other state, federal and local jurisdictions concerning the financing, construction, operation, maintenance, and use of the wastewater facilities.

j. Delinquency provisions. Failure of the recipient to repay the loan in accordance with the schedule contained in the loan agreements will result in the loan being declared in default. Should a loan be declared in default, the Director shall take legal action to collect amounts past due. Also, other state agencies will be notified and actions will be taken to preclude the recipient from receiving other grant or financial assistance from them until such time that all delinquent payments have been recovered.

92.11(3) Financial requirements.

a. Dedicated repayment source. The recipient shall establish sufficient revenue sources that are acceptable to the Director for the repayment of the loan.

b. Project accounts. The recipient shall maintain separate financial records according to generally accepted government accounting standards for construction cost accourting, operating revenue and for loan repayments.

c. Audit. The authority or an independent firm acceptable to the authority may conduct an audit on all projects assisted by SRF loan funds to establish conformance with loan terms and conditions and the requirements of the Clean Water Act. Audit authority includes access to all files and documents associated with the project.

d. Increase revenues. To ensure repayment of obligations according to the terms of the loan agreement, the recipient shall agree to impose, collect, and increase, if necessary, user charges, taxes, or other dedicated revenue sources identified for the loan repayment. In case of loan default, the state shall have authority to require revenue adjustment to collect delinquent loan payments.

s/Larry J. Wilson

Larry J. Wilson, Director

E88-62

MEMO TO COMMISSIONERS:

Attached are corrected minutes pertaining to the Lennon proposed decision appeal. The minutes previously distributed to you on this matter had not been fully reviewed. The corrected portions are underlined to facilitate your inspection. Commission approval of the minutes for the August 1988 meeting would include the attached corrected minutes instead of those previously distributed for the Lennon matter.

and order on April 4, 1988. The decision affirmed the department's order.

Mr. Lennon has appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire, record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

APPOINTMENT - KURT WILKE (for Thomas E. Lennon)

Kurt Wilke, Attorney representing Thomas E. Lennon, displayed a copy of a department exhibit submitted at the hearing showing the location of the property in dispute. Mr. Wilke presented a history of the dispute and described the work that had been done on the property by Mr. Lennon and a previous owner. He stated that Mr. Lennon was oblivious to any DNR regulations governing this type of work. Mr. Wilke related that in 1984 Mr. Lennon learned that he must remove the levee, or submit an after-the-fact permit which would cost him approximately $8,000. He added that, in summer of 1984, Mr. Lennon went ahead with the degrading of the levee system. Mr. Wilke circulated photos of the levee system as it was in 1984, along with photos of the levee system as it is today. Mr. Wilke stated that, in regards to the terrace, wrong measurements were taken and the department was notified of this. In conclusion, Mr. Wilke stated that it is Mr. Lennon's contention that he has complied with the DNR requirements to degrade the levee to it's proper height. He added that he is asking for fairness and that Mr. Lennon should not be assessed any penalty, as he was ignorant of the rules and has taken the steps to make the necessary corrections. He asked that the Commission reverse the Administrative Order.

Randall Clark stated that what Mr. Lennon called a "terrace" could obstruct flood flows. Mr. Clark stated that Mr. Lennon built a parallel levee in 1983 and connected it with the flank levee. He added that the parallel levee was lowered somewhat, but the flank levee has not been degraded at all. Mr. Clark explained details regarding dispute of the original ground elevation at the site. He added that the department contends Mr. Lennon is asking his upstream neighbors, and the state floodplain program, to absorb the effects of his unauthorized construction activity. Mr. Clark stated that the channel change was written off in view of the fact that Mr. Lennon had agreed to degrade the levee, and now he wants to do even less than totally degrade the levee.

Mr. Wilke stated that the benchmark being used by DNR is not a natural ground level and expanded on same.

Mr. Clark circulated photos taken on top of the levee looking parallel to the levee, along with photos looking perpendicular to the levee.

A lengthy discussion followed regarding a benchmark, fish habitat, floodplain impact, ignorance of regulations, and the lack of an attempt by Mr. Lennon to degrade the flank levee.

Mr. Clark reiterated that the administrative order requires Mr. Lennon to completely degrade the parallel and flank levees.

Nancylee Siebenmann expressed concern that Mr. Lennon had made no attempt to take down the flank levee, but suggested that the parallel levee would cause no great harm if the flank levee were removed.

Motion was made by Catherine Dunn to affirm the Proposed Decision of the hearing officer. Seconded by Charlotte Mohr.

Discussion followed regarding the elevation of the flank levee and what height it would be, if degraded.

Gary Priebe stated that, in his estimation, the area is already lowered and Mr. Lennon has already done everything he has to do.

Clark Yeager stated that three foot of bank is shallow to begin with and it is not the right thing to do, to remove more dirt.

Chairman Schlutz requested a roll call vote on Commissioner Dunn's Motion. "Aye" votes were cast by Commissioners Dunn, Mohr, and Schlutz. "Nay" votes were cast by Commissioners Hammitt, Priebe, Siebenmann, and Yeager. Vote was 3 ayes and 4 nays; motion failed due to a lack of concurrence of a majority of the Commission.

James Combs advised the Commission that since they voted not to uphold the hearing officer's decision that they need to make a decision, and state how they arrived at that decision in terms of facts and law.

Gary Priebe explained that the parallel levee appears to be lower than the other side of the creek, and if the flank levee is removed so that it does not impede water on the neighbor's property the parallel portion should never cause any problems.

Chairman Schlutz agreed that the flank levee should be removed but stated that, by law, Mr. Lennon's is compelled to submit an engineering plan even if he removes the flank levee.

Mr. Clark clarified that the administrative order requires Mr. Lennon to degrade both, the north 1000 feet of parallel levee and the flank levee, or submit engineering plans and applications for the entire system.

Chairman Schlutz stated that the Department is going too far by requiring engineering plans for the parallel levee constructed before 1957.

Discussion followed regarding the height of the flank levee and the parallel levee.

Larry Wilson explained that Scott Cline, DNR Construction Services Bureau, interpreted numbers on the engineering draft and that Clark Yeager will explain the interpretation.

Clark Yeager explained that he misinterpreted some of the numbers on the engineering draft and that Mr. Lennon's side of the creek is about two feet higher than the other side. Mr. Yeager expanded on the numbers and areas shown in the engineer's draft.

Motion was made by Clark Yeager to amend the hearing officer's Proposed Decision to the extent that, if Mr. Lennon chooses to submit the engineering study, it be required only for the contested portion of the creek rather than the whole length of his property; or, if he chooses not to submit the engineering plan that he remove the levee system as required by the department. Seconded by Gary Priebe.

Mr. Yeager explained the basis for his proposed amendment, that the Department should not require engineering plans for the portion of the creek not in contention. Gary Priebe asked whether the contested portion included the flank levee and northerly 1000 feet of parallel levee. Chairman Schlutz answered affirmatively.

Motion carried unanimously.

Considerable discussion followed regarding bonding, funding, priority system, administration, loan repayment, and interest rates.

Clark Yeager was concerned with section 92.11(2)g stating that he did not feel a half percent should be tacked on each year. He suggested the interest rate be put on up front. It was determined that the service fee needs to be studied.

Chairman Schlutz asked that staff bring to the next commission meeting, a formula which will show money accumulation over the next ten years.

Mr. McAllister asked the Commission to study the draft proposal and if they have any questions or comments to get them to Allan Stokes within the next couple of weeks.

CONTESTED CASE DECISION APPEAL - THOMAS E. LENNON

Randall Clark, Government Liaison Bureau, presented the following item.

On May 11, 1987, the department issued Administrative Order 87-FP-04 to Thomas E. Lennon. That action assessed an administrative penalty of $700.00 and directed that Mr. and Mrs. Lennon either degrade a levee system or submit an application for action after-the-face approval of the system. That action was appealed and the matter proceeded to administrative hearing on January 12, 1988. The hearing officer issued the Proposed Findings of Fact, Conclusions of Law, and Order on April 4, 1988. The decision affirmed the department's order.

Mr. Lennon has appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

APPOINTMENT - KURT WILKE (for Thomas E. Lennon)

Kurt Wilke, Attorney representing Thomas E. Lennon, displayed a copy of a department exhibit submitted at the hearing showing the location of the property in dispute. Mr. Wilke presented a history of the disputeand described the work that had been done on the property by Mr. Lennon and a previous owner. He stated that Mr. Lennon was oblivious to any DNR regulations governing this type of work. Mr. Wilke related that in 1984 Mr. Lennon

learned that he must remove the levee, or submit an after-the-fact permit which would cost him approximately $8,000. He added that, in summer of 1984, Mr. Lennon went ahead with the degrading of the levee system. Mr. Wilke circulated photos of the levee system as it was in 1984, along with photos of the levee system as it is today. Mr. Wilke stated that, in regards to the terrace, wrong measurements were taken and the department was notified of this. In conclusion, Mr. Wilke stated that it is Mr. Lennon's contention that he has complied with the DNR requirements to degrade the levee to it's proper height. He added that he is asking for fairness and that Mr. Lennon should not be assessed any penalty, as he was ignorant of the rules and has taken the steps to make the necessary corrections. He asked that the Commission reverse the Administrative Order.

Randall Clark stated that what Mr. Lennon called a "terrace" could obstruct flood flows. Mr. Clark stated that Mr. Lennon built a parallel levee in 1983 and connected it with the flank levee. He added that the parallel levee was lowered somewhat, but the flank levee has not been degraded at all. The department requests that both levees be reduced. Mr. Clark stated that the main issue is whether the parallel levee is adequately degraded, and that the flank levee has not been degraded at all. Mr. Clark explained details regarding dispute of the original ground elevation at the site. He added that the department contends Mr. Lennon is asking his upstream neighbors, and the state floodplain program, to absorb the effects of his unauthorized construction activity. Mr. Clark stated that the channel change was written off in view of the fact that Mr. Lennon had agreed to degrade the levee, and now he wants to do even less than totally degrade the levee.

Mr. Wilke stated that the benchmark being used by DNR is not a natural ground level and expanded on same.

Mr. Clark circulated photos taken on top of the levee looking parallel to the levee, along with photos looking perpendicular to the levee.

A lengthy discussion followed regarding a benchmark, fish habitat, floodplain impact, ignorance of regulations, and the lack of an attempt by Mr. Lennon to degrade the flank levee.

Mr. Clark reiterated that the administrative order requires Mr. Lennon to completely degrade the parallel and flank levees.

Motion was made by Catherine Dunn to affirm the Proposed Decision of the hearing officer. Seconded by Charlotte Mohr.

Discussion followed regarding the elevation of the flank levee and what height it would be, if degraded.

Gary Priebe stated that, in his estimation, the area is already lowered and Mr. Lennon has already done everything he has to do.

Clark Yeager stated that three foot of bank is shallow to begin with and it is not the right thing to do, to remove more dirt.

Chairman Schlutz requested a roll call vote on Commissioner Dunn's motion. "Aye" votes were cast by Commissioners Dunn, Mohr, and Schlutz. "Nay" votes were cast by Commissioners Hammitt, Priebe, Siebenmann, and Yeager. Vote was 3 ayes and 4 nays; motion failed due to a lack of concurrence of a majority of the Commission.

James Combs advised the Commission that since they voted not to uphold the hearing officer's decision that they need make a decision, and state how they arrived at that decision in terms of facts and law.

Gary Priebe explained that the parallel levee appears to be lower than the other side of the creek, and if the flank levee is removed so that it does not impede water on the neighbor's property the parallel portion should never cause any problems.

Chairman Schlutz stated that, by law, Mr. Lennon is compelled to submit an engineering plan even if he removes the flank levee.

Mr. Clark clarified that the administrative order requires Mr. Lennon to grade both, the parallel levee and the flank levee, <u>or</u> submit engineering plans and applications for the entire system.

Discussion followed regarding the height of the flank levee and the parallel levee.

Larry Wilson explained that Scott Cline, DNR Construction Services Bureau, interpreted numbers on the engineering draft and that Clark Yeager will explain the interpretation.

Clark Yeager explained that he misinterpreted some of the numbers on the engineering draft and that Mr. Lennon's side of the creek is about two feet higher than the other side. Mr. Yeager expanded on the numbers and areas shown in the engineer's draft.

Motion was made by <u>Clark Yeager</u> to amend the hearing officer's Proposed Decision to the extent that, if Mr. Lennon chooses to submit the engineering study, it be required only for the contested portion of the creek rather than the whole length of his property; or, if he chooses not to submit the engineering plan that he remove the levee system as required by the department. Seconded by <u>Gary Priebe.</u> Motion carried unanimously.

ROADSIDE MANAGEMENT AGREEMENT/GRANT APPROVAL - BLACK HAWK COUNTY

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Commission is requested to approve an agreement with the Black Hawk County Conservation Board. The agreement awards a grant of up to $36,427 to coordinate a state-wide roadside vegetation management program. The grant is made from $50,000 made available for roadside management projects through the Groundwater Protection Act. Background information on the program and agreement is attached. This project received the highest priority ranking and will have the greatest state-wide benefit consistent with the groundwater protection goals, in our opinion. This grant will fund roughly 50% of the first year of this project.

ROADSIDE MANAGEMENT GRANTS TO COUNTY CONSERVATION BOARDS

At the February, 1988 meeting of the Environmental Protection Commission, the Department presented a format that the Director would use for receiving, reviewing and awarding roadside management grants to county conservation boards. The Department of Agriculture and Land Stewardship has allocated $50,000 of their portion of the Agriculture Management Account of the Groundwater Protection Fund for this grant program as prescribed by HF 631.

Ten county conservation boards applied for roadside management grants totaling $175,324, and these projects were reviewed on May 5 by the Review and Screening Committee. The following is a complete list of the projects that were received and the amount of dollars that was approved for five of those projects.

1. Black Hawk County - The employment of a roadside vegetation management coordinator in cooperation with the University of Northern Iowa and the Soil Conservation Service to coordinate a statewide roadside vegetation management program. The coordinator will provide information, advice and education to counties upon request; work with UNI to provide an annual workshop; coordinate seminars; teach mini-courses for students; develop technical information in brochure format covering such topics as renovation of prairie remnants, prescribed burning, planting techniques, seed production and management techniques; and produce a technical education training video on VHS format. This is a two-year project with an annual cost of $73,210. The grant requested and approved is for one year for $36,427. The balance will be provided by the Black Hawk County Conservation Board, the University of Northern Iowa and the Soil Conservation Service.

2. Story County - The purchase of an over seeder and a power mulcher during FY 1989 for use in an ongoing roadside management program. Total project cost - $15,080. Grant amount approved - $2,400 for the over seeder.

3. Mitchell County - To conduct a roadside vegetation inventory along county roads, to develop an education program for landowners and to establish eight acres of demonstration prairie in a roadside. The total project cost is $5,633. Grant amount approved - $5,423 for all of project proposal excluding chemicals.

4. Iowa-Poweshiek County - To conduct a roadside inventory of county road ditches, the renovation of certain target areas and seeding of new roadsides, and the acquisition of equipment and supplies. The total project cost is $15,117. Grant amount approved - $3,750 for inventory, informational signs and public notices.

5. Dallas County - To develop a demonstration area by planting one mile of roadside with a mixture of warm and cool season native grasses and forbs. Total project cost is $4,125. Grant amount approved - $2,000 for labor costs, brochures and public relations programs.

TOTAL GRANTS AWARDED -- $50,000

The following projects were not approved for roadside management grant dollars.

1. Winneshiek County - The purchase of equipment to plant native grasses in roadside ditches and on private land and to conduct a roadside vegetation inventory. Total project cost is $12,500.

2. Buchanan County - To conduct a roadside vegetation inventory for a total project cost of $5,803.

3. Lee County - To conduct a roadside vegetation inventory and removal of brush and controlled prairie burns in road ditches for a total project cost of $7,876.

4. Sac County - To plant native grasses and create roadside vegetation demonstration projects for a total project cost of $9,280.

5. Carroll County - To hire a roadside vegetation management coordinator and to produce an educational program and demonstration areas in county road ditches for a total project cost of $26,700.

Motion was made by Nancylee Siebenmann to approve an agreement with Black Hawk County Conservation Board for roadside vegetation management as presented. Seconded by Donna Hammitt. Motion carried unanimously.

RULE ADOPTION - CHAPTER 7, CONTESTED CASES

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Commission is requested to adopt by reference the contested case rules of the Department. Minor changes were made from the Notice of Intended Action, as shown in the preamble.

Motion was made by Donna Hammitt to approve Final Rule--Chapter 7, Contested Cases. Seconded by Clark Yeager. Motion carried unanimously.

SOLID WASTE PLANNING GRANTS

Teresa Hay, Division Administrator, Waste Management Authority Division, presented the following item.

The 1988 General Assembly revised the portion of the Code concerning the appropriation of the solid waste tonnage fee so that a portion of the fee collected between July 1, 1987 and June 30, 1988 is available to cities and counties for comprehensive solid waste planning. The fees were due to the Department on July 30, 1988.

The attached rules will be available in the format of a Notice of Intended Action for Commission approval. The rules repeat the

criteria set out in the Code, set a deadline for application, and describe the application requirements. If the rules are finalized in a timely manner the grants could be issued by January 1, 1989.

ENVIRONMENTAL PROTECTION COMMISSION (567)

Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.304 and 455E.9 (1987 Code Supp.) the Environmental Protection Commission hereby gives notice of intended action to adopt new Chapter 210 "Grants for Solid Waste Comprehensive Planning," Iowa Administrative Code.

This rule provides the procedures and criteria for local governments or their agents to apply for and obtain grants to assist in preparing comprehensive solid waste plans.

Any interested person may make written suggestions or comments on these proposed rules prior to September 27, 1988. Such written materials should be directed to the Waste Management Authority Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Division at 515/281-8263.

This rule is intended to implement the provisions of Iowa Code sections 455B.311.

The following rules are proposed.

Item 1. Adopt a new chapter, 567--Chapter 210, as follows:

Chapter 210
GRANTS FOR SOLID WASTE COMPREHENSIVE PLANNING

567-210.1(455E, 455B) Purpose.Money is designated from the solid waste account of the groundwater protection fund for grants to assist with the completion of the Comprehensive Solid Waste Management Plans as required under Iowa Code Section 455B.306. Fifty percent of the $.25 per ton solid waste fee that was collected between July 1, 1987 and June 30, 1988 will be made available in the form of grants by the Waste Management Authority Division of the Department of Natural Resources. This chapter governs the administration of these grants.

567-210.2(455B) Eligible Applicants.Grants may be awarded to a city or a county, a central planning agency representing more than one city or county or combination of cities or counties for the purpose of planning and implementing regional solid waste management facilities, or to private or public agencies working in cooperation with a city or county.

567-210.3(455B) Selection Criteria.Grant will be awarded in a manner which will distribute the funds geographically throughout the state to the greatest extent possible. An application may be rejected by the director if in the department's judgement the applicant could not reasonably be expected to adequately and properly complete the plan for which the grant is requested or the applicant could not reasonably be expected to implement a sanitary disposal project.

Grant proposals will be evaluated according to the following criteria:

210.3(1). The extent to which the proposal reflects the State's solid waste management policy and hierarchy as established in Section 455B.301A;

210.3(2). The extent to which the planning area is regionalized;

210.3(3). The extent to which the planning area is committed to regional planning; and

210.3(4). The extent to which the project involves environmentally fragile areas which are particularly subject to groundwater contamination.

567-210.4(455B) Grant Amounts.Grants shall be awarded only for an amount determined by the department to be reasonable and necessary, to conduct the work as set forth in the grant, application, according to the "Guidelines for Solid Waste Comprehensive Plans, Part I: Waste Management Alternatives", July 1, 1988. Grants for less than a county-wide planning area shall be limited to twenty-five percent state funds, for a single-county planning area the state funds shall be limited to fifty-percent, and for a two-county planning area the funds shall be limited to seventy-five percent. For each additional county above a two-county planning area, the maximum allowable state funds shall be increased by an additional five percent, to a maximum of ninety percent state funds. The department may maximize participation in the program and distribution of the funds by providing less than the maximum allowable amounts.

567-210.5(455B) Application Requirements.Applications should include at a minimum: the scope of work to be completed, a schedule for the completion of the plan, a description of the jurisdictions in the planning area, a statement of commitment to participate by those jurisdictions, a cost estimate that is broken down by local share and grant request, and an official contact person. The statement of commitment to regionalization is necessary to receive the preference given to regional plans.

567-210.6(455B) Application Deadline.The deadline for submittal of applications is December 15, 1988.
s/Larry J. Wilson

LARRY J. WILSON, DIRECTOR
DEPARTMENT OF NATURAL RESOURCES

Motion was made by Charlotte Mohr to approve Notice of Intended Action--Chapter 210, Solid Waste Planning Grants. Seconded by Catherine Dunn. Motion carried unanimously.

REFERRALS TO THE ATTORNEY GENERAL (Continued)

Donald Renslow (Grand Junction)

Mr. Combs briefed the Commission on the history of this case.

Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by Clark Yeager. Motion carried unanimously.

City of Dakota City

Mr. Combs stated that staff is working out a consent decree in this case; therefore, no action is needed.

City of University Park

Mr. Combs reported that the city has appealed the administrative order; therefore, no action is needed at this time.

First Place Lanes (Audubon)

Mr. Combs stated that this case will be removed from the list this month since there is a question as to whether or not this is a public water supply.

Mike's Prairie Home (Ollie)

Mr. Combs briefed the Commission on the history of this case.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Nancylee Siebenmann. Motion carried unanimously.

Fred Thomas (Delhi)

Mr. Combs briefed the Commission on the history of this case.

Motion was made by Charlotte Mohr for approval to the Attorney General's Office. Seconded by Gary Priebe. Motion carried unanimously.

City of Malcom

Mr. Combs stated that this case has been resolved as they have paid the administrative penalty.

PROPOSED CONTESTED CASE DECISION - CONOCO GAS & WEST BRANCH INN

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On May 3, 1988, the department issued Administrative Order 88-WS-42 to Conoco Gas & West Branch Inn. That action assessed a $1,000 penalty and required proper monitoring of drinking water. That action was appealed and the matter proceeded to administrative hearing on June 29, 1988. The hearing officer issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on July 8, 1988, and clarification of that order on July 19, 1988. The decision affirms the Order but reduces the penalty to $630.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own

motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

The Commission took no action. This has the effect of upholding the hearing officer's decision unless there is an appeal.

PROPOSED CONTESTED CASE DECISION - CLOYD FOLAND

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On February 5, 1988, the depratment issued Administrative Order 88-FP-1 to Cloyd Foland. That action assessed an $800 penalty and directed the Folands to degrade a portion of their levee or to obtain after-the-fact approval. That action was appealed and the matter proceeded to administrative hearing on June 28, 1988. The hearing officer issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on July 29, 1988. The decision affirmed the department's Order.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

The Commission took no action; this has the effect of upholding the hearing officer's decision unless there is an appeal.

RURAL WATER WELL STATISTICAL SAMPLING

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Groundwater Protection Act of 1987 provided funding to the Department to conduct a statistically valid sampling of rural water wells throughout the State in order to correlate water quality with well characteristics and to obtain a general picture

of the quality of groundwater quality statewide. This project is being conducted by the Geological Survey Bureau of the Energy and Geological Resources Division of the Department with assistance being provided by the University of Iowa College of Preventative Medicine and the University Hygienic Laboratory.

A briefing on the objectives and status of this project will be presented to the Commission.

Mr. Combs reported that 42 counties have been sampled at 260 sites, plus there are some repeats put in place to make sure there is some idea of variations. Some quarterly samples will continue to be taken throughout the whole process to give a picture of how things are changing throughout the year. Testing locations were selected based on hydrogeologic conditions. Mr. Combs gave details of several individual cases where testing was high with nitrates or pesticides. Univeristy Hygienic Laboratory is using parameters that are indicators of various things. They are considering collecting some epidemiological data at the time the sampling is done. There will be 700 sites tested for 37 synthetic organic compounds. The final report is due by September, 1989.

Charlotte Mohr requested that the Commission be informed of the areas where the sampling will be done.

STAN MOSER - REQUEST FOR REHEARING

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Mr. Moser has filed a request for rehearing regarding the Commission's final decision, which affirmed the hearing officer's decision in this matter. Attached is his request and the Department's response. The Commission may grant the request, in which case the matter should either be referred back to the hearing officer for further hearing or set for further hearing before the Commission; the Commission may deny the request; or the Commission may take no action, in which case the request will be deemed denied by operation of law, 20 days after our receipt, or August 25, 1988.

E88-74

Mr. Combs reviewed the history of this case. He informed the Commission that a copy of Mr. Moser's letter requesting a rehearing was attached to their item brief.

Discussion followed.

Motion was made by Catherine Dunn to deny the Mr. Moser's request for rehearing. Seconded by Clark Yeager. Motion carried unanimously.

1989 LEGISLATION

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Mr. Combs stated that at the last Commission meeting he reviewed some possible legislative ideas with the Commission. The Commission decided, at that time, that they would have their Legislative Committee meet to discuss these and other possible legislative items. He added that he would like to know if the Commission has any ideas, direction, or desires in regards to legislation.

Chairman Schlutz related that the Legislative Committee had not met. He then appointed Richard Timmerman to chair the committee, and appointed Nancylee Siebenmann to serve along with Charlotte Mohr and Richard Timmerman on the committee.

Nancylee Siebenmann mentioned a possible legislative item in regards to changing criteria for prioritizing solid waste alternative grants.

APPROVAL OF FY 89 CONSTRUCTION GRANTS STATE PROJECT LIST

Darrell McAllister, Chief, Surface and Groundwater Protection Bureau, presented the following item.

It is recommended that the Commission adopt the attached FY 89 Construction Grants State Project List.

A public hearing was held in Des Moines on June 29, 1988, to receive comments on the proposed FY 89 Construction Grants State Project List. The project List was developed in accordance with provisions contained in the Priority System which is part of departmental rules 567--91 (455B) Iowa Administrative Code. Copies of the proposed list and notice of intended action were mailed to all facilities on the funding list; to EPA Kansas City; and the notice also appeared in the Des Moines Register, all at least 30 days prior to the hearing date.

The only oral comment received was from Rita Klaewer, City Clerk, Town of Panama, who expressed her town's appreciation for the proposed grant funding. One written comment was received during the comment period. The city of St. Mary's affirmed in writing their interest in proceeding with a grant funded project. No changes are proposed to be made in the final Project List based on the comments received.

Discussion followed regarding the grant for Des Moines.

Motion was made by Catherine Dunn to approve the FY 89 Construction Grants State Project List as presented. Seconded by Clark Yeager. Motion carried unanimously.

ADDRESS ITEMS FOR NEXT MONTH

Study of costs for engineering studies on various projects.
Geology report on Des Moines Metro Landfill.

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 2:45 p.m., Tuesday, August 16, 1988.

E88-76

NEXT MEETING DATES

September 19-20, 1988
October 17-18, 1988 (Muscatine)
November 21-22, 1988

Larry J. Wilson, Director

Charlotte Mohr, Secretary

INDEX

A

ADDRESS ITEMS FOR NEXT MONTH E88-76
ADJOURNMENT E88-76
ADOPTION OF AGENDA E88-15
ADOPTION OF MINUTES E88-15
APPOINTMENT
JOHN SARCONE, A.G. Office E88-46
MARTHA MAXON, BRICE PETRIDES E88-47
STANLEY ROMANS, MAYOR OF MASON CITY E88-39
APPROVAL OF FY 89 CONSTRUCTION GRANTS STATE PROJECT LIST E88-75
AUGUST COMMISSION MEETING E88-3

C

City of Dakota City
Referrals to the Attorney General E88-71
City of Malcom
Referrals to the Attorney General E88-72
City of University Park
Referrals to the Attorney General E88-71
CLOSED SESSION
63-I80 Truckstop E88-49
Conoco Gas & West Branch Inn
Contested Case Decision
proposed E88-72
Contested Case Decision
appeal
Thomas E. Lennon E88-63
proposed
CLOYD FOLAND E88-73
Conoco Gas & West Branch Inn E88-72
County Conservation Boards
Black Hawk
Roadside Management E88-66

D

DIRECTOR'S REPORT E88-46

F

First Place Lanes (Audubon)
Referrals to the Attorney General E88-71
Foland, Cloyd
Contested Case Decision
proposed E88-73
Fred Thomas (Delhi)
Referrals to the Attorney General E88-72
FY89 CAPITAL BUDGET, FY90 BUDGET REQUEST, AND RELATED ITEMS E88-3

G

Giese Construction Co.
Referrals to the Attorney General E88-42

H

Hunter Oil Company (Adel)
Referrals to the Attorney General E88-48

L

Lennon, Thomas E.
Contested Case Decision
appeal E88-63

M

Mason City Mayor
Appointment E88-39
MEMBERS PRESENT E88-3
Mike's Prairie Home (Ollie)
Referrals to the Attorney General E88-72
MONTHLY REPORTS E88-5
Moser, Stan
REQUEST FOR REHEARING E88-74

N

NEXT MEETING DATES E88-77

R

radium
Mason City E88-39
REFERRALS TO THE ATTORNEY GENERAL
City of Dakota City E88-71
City of Malcom E88-72
City of University Park E88-71
Donald Renslow (Grand Junction) E88-71
First Place Lanes (Audubon) E88-71
Fred Thomas (Delhi) E88-72
Giese Construction Co. E88-42
Hunter Oil Company (Adel) E88-48
Mike's Prairie Home (Ollie) E88-72
Renslow, Donald (Grand Junction)
Referrals to the Attorney General E88-71
ROADSIDE MANAGEMENT AGREEMENT
GRANT APPROVAL - BLACK HAWK COUNTY E88-66
RULE ADOPTION - CHAPTER 7, CONTESTED CASES E88-68
RURAL WATER WELL STATISTICAL SAMPLING E88-73

S

solid waste disposal
Metro Landfill
Mercy Medical Center E88-31
SOLID WASTE LANDFILL ALTERNATIVE GRANTS E88-43
SOLID WASTE PLANNING GRANTS E88-68
STATE REVOLVING FUND FOR SEWAGE TREATMENT WORKS E88-50

W

WATER QUALITY STANDARDS REVISION E88-15

1

1989 LEGISLATION E88-75

ADM-1-1-1
August 1988

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
August 15-16, 1988

Meeting Convenes at 1:30 p.m., August 15, 1988 in the fourth floor conference room and reconvenes on August 16, 8:30 a.m.

Break	3:15 p.m.
Appointments:	
Stanley Romans, Mayor - Mason City	3:30 p.m.
Giese Construction Co.	4:00 p.m.

Meeting Reconvenes 8:30 a.m., August 16, 1988

Appointments:	
John Sarcone, Attorney General's Office	8:30 a.m.
Martha Maxon, Brice Petrides	9:00 a.m.
Hunter Oil Co. - John Reich	9:30 a.m.
Break	10:00 a.m.
Ron Moore - 63-I80 Truckstop	10:15 a.m.
Public Participation	10:30 a.m.
Thomas E. Lennon	11:00 a.m.

1. Approval of Agenda.

2. Approval of Minutes of July 18-19, 1988

3. Director's Report. (Wilson) Informational.

4. FY 89 Capital Budget, FY 90 Budget Request, and Related Items. (Kuhn) Informational.

5. Solid Waste Disposal - Des Moines Metro Landfill - Mercy Medical Center. (Stokes) Informational.

6. Notice of Intended Action--Chapter 210, Solid Waste Planning Grants. (Hay) Decision.

7. Solid Waste Landfill Alternative Grants. (Hay) Decision.

8. Monthly Reports. (Stokes) Informational.

9. State Revolving Fund for Sewage Treatment Works. (Stokes) Informational.

10. Water Quality Standards Revisions. (Stokes) Informational.

11. Approval of FY 89 Construction Grants State Project List. (Stokes) Decision.

12. Roadside Management Agreement/Grant Approval - Black Hawk County. (Combs) Decision.

13. Final Rule--Chapter 7, Contested Cases. (Combs) Decision.

14. Referrals to the Attorney General. (Combs) Decision.

15. Contested Case Appeal -- Thomas E. Lennon. (Combs) Decision.

16. Proposed Contested Case Decision -- Conoco Gas and West Branch Inn. (Combs) Decision.

17. Proposed Contested Case Decision -- Cloyd Foland. (Combs) Decision.

18. Rural Water Well Statistical Sampling Program. (Combs) Informational.

19. 1989 Legislation. (Combs) Informational.

20. Address Items for Next Meeting.

21. Stan Moser - Request for Rehearing. (Combs) Decision.

NEXT MEETING DATES
September 19-20, 1988
October 17-18, 1988
November 21-22, 1988

ENVIRONMENTAL PROTECTION COMMISSION

August 15, 1988

NAME	COMPANY OR AGENCY	CITY
(Please print)	City	
ERNEST MAYO	Toledo	Toledo
Marv Berger	Toledo	Iowa
Loren Stowater	Council	Marcus, Ia
Steve Galigan		Marcus, Ia.
Gene Winnike	Utility board	West Point, Ia
Richard Kruger	Utility Director	West Point, Ia
Larry C. Stone	Operator	Bayard Ia
R. Harper	Utility	New London,
Robert H. Damaron	Utility	New London, Ia
Dean Davis	Utility	New London Ia
John R. Pa	NEW LONDON UTILITIES	NEW LONDON, IA
Elynn Charlson	(Utility) F.C.	Forest City, Ia.
Lloyd Witte	City of Des Moines	City of D.M
Donna Eastman	City of Callender	Callender
Pat Dellockuis	City of Lehigh	Lehigh
Ron Anderson	City of Nevada	Nevada
Harold Mitchell	City of Nevada	Nevada
Roy L. Randall	Mason City, Ia.	Mason City, Ia.
Dr. Ela Romans	Mason City.	
Dr. Paul Rebus	Nevada	Nevada
Ron A. Nowadzky	League of Iowa Municipalities	

ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
(Please print)		
ROBERT FULLER	St. Rep	St. Rock 50672
TONY CIOFALO	Solid Waste Services	Sioux City, IA
Steve Hoambrecker	City of Sioux City	Sioux City IA.
David Dillman	Jebro Inc.	Sioux City, IA.
TEREE CALDWELL JOHNSON	Metro Solid Waste	DM Ia
Jim Brick	D.M Metro Agency	DM Ia
Gary Stroud	" " "	" "
JANE McALLISTER	AHLERS LAW FIRM	DM. IA
DAN WEST	GROUNDWORK, INC.	BLOOMINGTON, IL.
Teresa Kehoe	St. Sen Dem Caucus	DSM
Winton Eichen	[illegible]	DSM
Connie Mulal	[illegible]	DSM
Richard Burdsall		Mitchellville
Frank Sloan		Runnells Ia
Wayne M Miller		
J B Flemong	DM Metro Agency	West Des Moines
JEFF ROBINSON	Fiscal Bureau	

ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
(Please print) William H Giese	Giese Constr	Eagle Grove, IA

ENVIRONMENTAL PROTECTION COMMISSION

August 16, 1988

NAME	COMPANY OR AGENCY	CITY
(Please print)		
DAN VEST	GROUNDMARK, INC.	BLOOMINGTON, IL.
M. H. IVERSON	CITY SOLICITOR	DES MOINES
Lloyd Witte	Engineering Dept	Des Moines
JANE McALLISTER	AHLERS LAW FIRM	DM
Martha MAXON	Brice-Petrides Donohue	Waterloo
Dale R. Tekippe	B P-D	Des Moines
John O. Reich	Hunter Oil Co	Adel, Iowa
Jim Anderson	Hunter Oil Co.	Adel, Iowa
~~Randy & Judy Brown~~	~~RR5 Box 73~~	~~Pacific Iowa~~
~~Ia. ATV Assoc.~~	~~Self~~	~~Indianola, Ia~~
~~Hugh Griffin~~		
Theresa Kehoe	Sen Pemo Caucus	PSM
Ted Chapler	Iowa Finance Authority	DSM
Tom STANBERRY	AHLERS LAW FIRM	Des Moines
Ron Moore	MOORE OIL CO	CEDAR RAPIDS
Robert Pyle	Radio Iowa	
Kurt Wilke	Bennett & Wilke	Ft. Dodge, Ia.
Erwin Janssen		Palmer
Robert Coppinger		Barnum

ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
(Please print)		
LUCIAN Roberts		Marion Ia
Lyle D. Roberts		Calendar, IA.
Don Lang		Manson
Zone Moen		