



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
RICHARD A. LEOPOLD, DIRECTOR

MINUTES
OF THE
NATURAL RESOURCE COMMISSION
MEETING

APRIL 9, 2009

IOWA DEPARTMENT OF NATURAL RESOURCES

Story County Conservation Board
McFarland Park
56461 180th Street
Ames, IA 50010

Call to Order

The meeting of the Natural Resource Commission was called to order by the NRC Commission Chairperson, Bill Bird at 8:30 a.m. on Thursday, April 9, 2009. Commissioner Bird welcomed the public to the meeting and reviewed the public speaking forum guidelines. Commissioner Bird thanked the Story County Conservation for the use of their facility and. He also thanked DNR and Central Group Management staff for the prior day's informational session on Honey Creek State Park Resort financials; as well the DNR Forestry staff for the presentations and tour of the State Forest Nursery facility in Ames, IA.

Members Present

William Bird
Gregory Drees
Richard (Kim) Francisco
Elizabeth Garst
Tammi Kircher
Janelle Rettig

Members Absent

Carol Kramer

1. Approve Agenda

Moved – Commissioner Garst moved to adjust agenda item #9 to at or as close to 9:00 a.m. as possible; and agenda item#12 to coordinate with the public speaking period at 10:30 a.m.

Seconded - Commissioner Kircher

Motion – Carried by Unanimous Vote

Moved - Commissioner Rettig moved to remove item #16 from the agenda as she believes it is in the disinterest of the department to debate the issue in public.

Seconded – None

Motion – Failed

2. Approve Minutes of 08/14/08

Moved - Commissioner Francisco

Seconded - Commissioner Drees

Motion – Carried by Unanimous Vote

3. Director's Remarks

- Deputy Director Pat Boddy apologized for Director Leopold's absence; and explained there is pending legislation in reference to manure on frozen ground that requires him to be present at the Capital.
- **Budget** – The department will experience an additional \$3.1M general funds cut from original fiscal year 2010 (FY10) budget. Previously, it had been reported that the department would receive a supplemental; however \$420k of the \$2M supplemental that was to go to the parks bureau has since been withdrawn. The Resource Enhancement and Protection (REAP) program is intact at \$18M and Environment First Fund is running at status quo. At

this time it is not known what amounts may be received from bonding packages. In addition to the Governor's proposed bonding package there are a variety of other bonding proposals such as: water quality components in the amount of \$100M; parks in the amount of \$25M; and flood plain work in the amount of \$3M.

- Department management staff is involved in an intense budgeting process, trying to accommodate the increased cuts to the department's general funds, which are beyond what had originally been anticipated. The department's staff has given management feedback and suggestions of budget savings and efficiency ideas; this information has been very useful. Deputy Director welcomed any additional ideas from the NRC Commissioners on this matter as well.
- **Misc.** – Deputy Director and Director Leopold recently participated in a Bobcat & Otter demo March 18th in St. Charles. Deputy Director Boddy is finding the Conservation & Recreation Division to be a very exciting area to be involved in.

Public Participation

- Chris Jones – Attorney for the Center for Biological Diversity – Huntsville, TX – Turtle Petition
- Mike Sells – Washington, IA – Turtle Petition
- Jim Millard – Birmingham, IA – Millard's Turtle Farm - Turtle Petition
- David Sells – Crawfordsville, IA – Turtle Petition
- Howard Larson – Ft. Dodge, IA – Turtle Petition
- Nic Johnson – Bloomfield, IA – Turtle Petition
- Merwin Briggs – Waverly, IA – Deer

4. Construction Project: Palisades-Kepler State Park, Linn County – FEMA Related Silt Removal and Cleanup

Bids were opened March 26, 2009 for the following projects:

1. Palisades-Kepler State Park, Linn County – FEMA Related Silt Removal and Clean-up

This project consists of earthwork, riprap placement, crushed rock surfacing, pressure washing of stone walls, clearing of down trees and seeding as required by the Plans and the DNR Construction Inspector. The project will repair damage caused by the 2008 flood of the Cedar River and restore the riverbank in Palisades-Kepler State Park to a pre-2008 flood condition. The project was designed and will be inspected by Dave Heer, DNR Engineer. DNR estimate is \$90,000. Funding will provided by 90% FEMA and 10% REAP Land Management Minors (Capital Link #157). 20 sets of plans were issued. 17 bids were received. 1 was returned as a late bid.

Arendorf Excavating & Trucking, Inc.	Anamosa, IA	\$52,129.00
B & J Hauling & Excavation	Monticello, IA	\$52,234.90
Seaton Construction	Deep River, IA	\$69,985.00
Connolly Construction	Peosta, IA	\$70,104.50
Mainline Excavating Co. Inc.	Dubuque, IA	\$70,553.88
Cole Construction Company. Inc.	Keosauqua, IA	\$73,866.40
Rays Excavating LLC	Edgewood, IA	\$78,573.00
Taylor Construction, Inc.	New Vienna, IA	\$78,874.40

Michaels Construction	Adel, IA	\$82,613.00
Tschigffrie Excavating	Dubuque, IA	\$82,673.16
BWC Excavating LC	Solon, IA	\$82,769.31
Dolan Excavating	Manchester, IA	\$84,222.70
Borst Brothers Construction, Inc.	Marion, IA	\$84,653.65
Ricklefs Excavating, Ltd.	Anamosa, IA	\$95,074.00
DeLong Construction, Inc.	Washington, IA	\$97,846.80
ESCO Inc.	Solon, IA	\$103,737.00
F J Meyer Construction Co. Inc.	Mount Vernon, IA	\$152,076.21

Staff recommends the acceptance of the low bidder, Arensdorf Excavating & Trucking, Inc.

Don Labate, Bureau Chief
Engineering Services Bureau

Moved – Commissioner Kircher
Seconded - Commissioner Garst
Discussion – Commissioner Kircher commented it was great to see the number of bids received on this project.
Motion – Carried by Unanimous Vote

5. Land Acquisition Projects

Commissioner Garst commented on the first annual “Gift to Iowa’s Future Day.” She attended the ceremony held on April 6, 2009. She commended DNR staff for the wonderful organization of this event. She briefly described to the other commissioners the event highlights and encouraged them to attend in future years.

Commissioner Rettig suggested the use of the new fisheries reporting system to maintain a database that department staff, conservation boards, parks, etc., could input land donations and easements into on an ongoing basis throughout the year.

DNR news release may be viewed at: <http://www.iowadnr.gov/news/09apr/gmap.html>

The proclamation may be viewed at: http://www.inhf.org/landowner_recognition_event09_proclamation2.pdf?ion-forweb.pdf

5.1 Peterson Wildlife Management Area, Dickinson County – Edwin Tindall

1. Peterson Wildlife Management Area, Dickinson County – Edwin Tindall

The Natural Resource Commission’s approval is requested to accept the donation of a permanent flowage easement in the SW¼NW¼ of Section 28-T100N, R35West of the 5th P.M., Dickinson County, Iowa lying below the elevation of 1480 feet MSL (mean sea level). This donation is provided by Edwin Tindall. The easement area consists of approximately 2 acres.

Jerry Gibson negotiated the permanent easement.

The DNR is responsible for managing the existing water outlet control structure for a marsh located on the adjoining (south) State-owned land. The DNR intends to set and maintain the aluminum toe wall structure, and any replacement structure that DNR may construct, up to an elevation of 1480 ft. MSL.

No surveying costs are anticipated. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

<p>Moved – Commissioner Kircher Seconded - Commissioner Francisco Discussion – None Motion – Carried by Unanimous Vote</p>
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5.2 Muskrat Slough Wildlife Management Area, Jones County – Matthew McQuillen

2. Muskrat Slough Wildlife Management Area, Jones County – Matthew McQuillen

The Natural Resource Commission’s approval is requested to purchase a tract of land located in Jones County located northwest of state-owned and managed Muskrat Slough Wildlife Management Area. Matthew McQuillen offers this 15-acre tract for the appraised price of \$38,250. The seller will retain the cropping rights through the end of 2010.

Jamie Nabb, Licensed Appraiser of Mt. Vernon, Iowa, submitted the appraisal. Travis Baker negotiated the purchase agreement.

This property is located three miles west of Olin and eight miles southeast of Anamosa. The nearly level to moderately-sloped tract is comprised of 14.5 acres of cropland with a Corn Suitability Rating of 38.1.

This tract will increase the Muskrat Slough area to 693 acres, and will add high quality diversity to the existing wetland complex. The acquisition will provide upland nesting habitat, improve surface water quality, and enhance public recreation to this area. In addition, this acquisition will provide protection to the Eastern Prairie Fringed Orchid which is a federally threatened and state endangered species. The Wildlife Bureau will manage the property in accordance with the area management plan.

Acquisition funding will be provided by 75% Federal Section 6 (Endangered Species) and 25% from REAP License Plate (Capital Link #162). This property will be exempt from future property taxes. Incidental closing, fencing, and survey costs will be the responsibility of the Department.

Staff recommends approval of this land acquisition.

Travis Baker, Supervisor
Management Services Division

<p>Moved – Commissioner Drees Seconded - Commissioner Francisco Discussion – None Motion – Carried by Unanimous Vote</p>
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6. Land Management Agreement: Olin Recreation Area, Jones County – Jones County Conservation Board

Olin Recreation Area, Jones County – Jones County Conservation Board

The Natural Resource Commission’s approval is requested for the renewal of a management agreement with the Jones County Conservation Board and the DNR. This agreement authorizes the Jones County Conservation Board to manage the Olin Recreation Area through 2034.

The agreement covers 18.45 acres consisting of two parcels lying on the north side and the south side of the Wapsipinicon River. The areas presently provide for wildlife habitat, fishing access points, and other recreational opportunities.

The area has been managed by Jones County since 1983. The county desires to continue the agreement.

Staff recommends approval of the management agreement.

Travis Baker, Supervisor
Management Services Division

<p>Moved – Commissioner Francisco Seconded - Commissioner Kircher Discussion – None Motion – Carried by Unanimous Vote</p>
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7. HUSH Agreement with the Food Bank of Iowa

The Department requests Commission approval to renew the annual agreement with the Food Bank of Iowa to assist in the administration of the Help Us Stop Hunger (HUSH) program. There are no changes from the previous several years. The contract requires the DNR to pay the Food Bank \$70 per donated deer.

Services provided by the Food Bank include arranging for storage and distribution of the ground venison from 90 individual meat processors (lockers) to needy Iowans, making payments to each of the lockers for processing, and completing all financial and deer donation records. The Food Bank retains \$5 per deer for administrative costs and they disburse \$65 per deer to meat processors. Their services allow the DNR to devote only a 0.3 FTE in the administration of one of the nation’s most efficient and largest deer donation programs. The majority of funding for this program is supported by the HUSH fee (\$1) on each deer license and supplemental funding is annually budgeted for in the Fish and Wildlife Trust Fund.

HUSH has, also, become an important part of the deer management strategy; this year accounting for approximately 4.3% of total deer harvested. It is presumed that most donated deer would not have been harvested if HUSH did not exist. During the last contract, hunters donated 7,103 deer which has generated approximately 1.3 million quarter-pound servings of venison for needy Iowans.

Ross Harrison, HUSH Coordinator
Conservation and Recreation Division

Moved – Commissioner Drees

Seconded - Commissioner Kircher

Discussion – Commissioner Garst asked about the deficit on this contract. Deputy Director Boddy responded that the program has been budgeted through the Fish & Wildlife Trust Fund.

Motion – Carried by Unanimous Vote

8. Contract with NE Iowa RC&D for Gypsy Moth Trapping and Monitoring

Commission approval is requested for a 1 year-service contract with NE Iowa RC&D of Postville, Iowa. The contract will begin on May 1, 2009 and terminate on December 31, 2009. The total amount of this contract shall not exceed \$49,170. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

This contract will be funded through a grant from the Gypsy Moth Slow the Spread Foundation pursuant to Iowa code section 456A.24(13).

Gypsy moth is a European insect species that was introduced into the New England States over 100 years ago as an experiment to help provide silk to the textile industries. This exotic insect escaped and continues to spread west and has now established itself in Wisconsin and is continuing to move near the Iowa border. Establishment of gypsy moth in Iowa will affect the survival of our mature and oldest trees. The larvae of the insects feed on over 300 host species during the summer, removing the trees' ability to create food. Repeated defoliation will deplete the stored reservoirs of nutrients the tree has, thus leading to the decline and potential death of the tree.

During the 2008 trapping season, Iowa captured its highest male moth count of 626 moths, compared to 175 male moths captured in 2007. Without continued trapping, DNR cannot detect any early established populations and start treatment options before the population causes significant damage to Iowa's forests. This year, Iowa joined the USDA National Program called the Gypsy Moth Slow the Spread Foundation that targets Iowa as the next state to likely have gypsy moth establishment. This year, the Foundation provided DNR grant funds to trap targeted areas to assist the state in monitoring for gypsy moth establishment.

The parties have entered into this Contract for the purpose of retaining the Contractor to provide placement of approximately 1,788 gypsy moth pheromone traps at designated locations in Allamakee, Delaware, Dubuque, Clinton, Fayette, Jackson and Winneshiek counties. The placement of the traps shall commence on May 4, 2009 and shall be completed by July 1, 2009. Contractor shall return all of the traps by September 21, 2009.

NE Iowa RC&D was identified as the contractor in the federal grant narrative pursuant to Iowa Code section 456A.24(13).

Paul Tauke, Forestry Bureau Chief, State Forester
Conservation and Recreation Division

Moved – Commissioner Kircher

Seconded - Commissioner Garst

Discussion – Commissioner Francisco asked what the preferred food source of the Gypsy Moth was. Paul Tauke, Forestry Bureau Chief, responded that the Gypsy Moth can attack many species of trees but its preferred choice is oak trees ; but because the Gypsy Moth can diversify,

it is an overall forest threat. Commissioner Rettig asked if they could cause death to trees. Paul Tauke responded that it was the repeated defoliation of the trees by the Gypsy Moth that would eventually cause mortality. Commissioner Drees asked what the amount of traps to be used was and also wanted to know the size of the traps. Paul Tauke explained they are very small traps and gave more information on infestation and the reasoning behind the amount of traps to be used. Commissioner Garst asked if the purpose of this program was to only assess or if it was to control. Paul Tauke responded it was only to assess so that other agencies that have regulatory authority can perform eradication if necessary.

Motion – Carried by Unanimous Vote

9. Brass Bluegill Award – INFORMATIONAL ITEM ONLY

Each year, the Department sponsors an award honoring an individual for their efforts in helping our citizens become skilled anglers and advocates of fishing and natural resource conservation. This year we are recognizing Pete Eyheralde, a naturalist with the Mahaska County Conservation Board.

Pete was trained in *Fish Iowa!* in 1999 and has worked with thousands of youth over the years. He runs a monthly after school program, helps run the Mahaska County 4-H fishing club, and works with a vast array of local organizations to offer a wide variety of fishing experiences for youth throughout the summer.

The Brass Bluegill Award has been sponsored by the Iowa Department of Natural Resources Aquatic Education Program since 1997.

Mike Mason, Fisheries Interim Bureau Chief
Conservation and Recreation Division

Moved – N/A Informational Item Only
Seconded - N/A Informational Item Only
Discussion – N/A Informational Item Only
Motion – N/A Informational Item Only

10. Special Events Online Registration System – INFORMATIONAL ITEM ONLY

The Department will provide the Commission information regarding the new online application and approval system for special events. This system has been created to provide the tools to make it easier for the public to request special event permission as well as access special events scheduled, which annually include over 700 fishing tournaments; 300 to 500 all-terrain vehicles, snowmobiles, and boating activities; 120 Dog Field Trials; Scouting events; car shows; pancake feeds; equestrian events and trials; endurance challenges and marathons; and “Geocaches” (electronic scavenger hunts using GPS devices – approximately 125 annually).

Mike Mason, Fisheries Interim Bureau Chief
Conservation and Recreation Division

Moved – N/A Informational Item Only
Seconded - N/A Informational Item Only

Discussion – Commissioner Rettig asked for clarification on the funding source for this project. Mike Mason, Fisheries Interim Bureau Chief, stated that the department was not paying outside consultants, but had written grants and once grant monies were received, had hired an outside consultant to initial develop and write all of the rules for this new application. Another grant will be written for funding to hire an IT firm to build the application. Commissioner Rettig asked if paper applications could still be utilized for those without internet access. Mike Mason responded the paper application would no longer be available. Recent studies indicated that approximately 80% of Iowans do have internet access; he then explained the rationale behind that decision and cost savings. Commissioner Garst asked about the continued fee of \$25 to be charged after 1 year. Mike Mason responded that it would continue to be charged and this would cover maintenance of the application.

Motion – N/A Informational Item Only

11. Contract with Iowa State University for 2009 Iowa Lakes Monitoring

Commission approval is requested for a one year service contract with Iowa State University of Ames, Iowa. The contract will begin on May 11, 2009, and terminate on February 26, 2010. The total amount of this contract shall not exceed \$225,000. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

This contract will be funded through Infrastructure (60%) and Lake Restoration Program (40%).

The DNR intends to utilize the information gathered and analyzed in this Contract to fulfill Clean Water Act requirements of the department including: biennial reports on the status of lake water quality, impaired waters listing, and total maximum daily load reports; manage and evaluate this natural resource; and allocate lake restoration funds most appropriately.

The parties propose to enter into this Contract for the purpose of retaining the Contractor to provide the DNR with lake monitoring data, including water chemistry, biological, and limnological analysis of Iowa's most important lakes. This monitoring program continues systematic monitoring performed by ISU from 2000 – 2007 and UHL from 2005 - 2008.

The Department has a long history of working with the proposed service provider, Dr. John Downing, Professor, ISU, on a variety of water quality related research. These past and on-going projects include Diagnostic Studies of Iowa lakes, the Iowa Lakes Information System (interactive lakes database), and collaboration with the Center of Agriculture and Rural Development on lake economics. Past contracts have been completed in a timely, professional manner.

Mike Mason, Interim Fisheries Bureau Chief
Conservation and Recreation Division

Moved – Commissioner Francisco

Seconded - Commissioner Drees

Discussion – Commissioner Francisco asked what percentage of lakes would be covered. George Antoniou, Fisheries bureau program planner, responded not quite 20%.

Motion – Carried by Unanimous Vote

**12. Petition for Rulemaking to Repeal the Commercial Harvesting of Turtles –
INFORMATIONAL ITEM ONLY**

On March 11, 2009, the Center for Biological Diversity and affiliate conservation groups petitioned the Iowa Department of Natural Resources and Iowa Department of Public Health to immediately repeal commercial harvest of all freshwater turtles. Iowa is one of eight states that were petitioned. The Department is in the process of reviewing the petition in concert with the Iowa Department of Public Health.

At the May 14, 2009, Natural Resource Commission (NRC) meeting, staff will present information regarding the petition and recommendations for appropriate action.

The Iowa Administrative Procedures Act allows the Department 60 days to respond to rulemaking petitions. The Department is submitting a request to the petitioners for a brief extension to provide them with a decision to their petition after the May 14, 2009, NRC meeting.

Mike Mason, Interim Fisheries Bureau Chief
Conservation and Recreation Division

Moved – N/A Informational Item Only

Seconded - N/A Informational Item Only

Discussion – Mike Mason presented a PowerPoint presentation on harvesting of turtles. Commissioner Garst commented that the petition had also been presented to the Department of Public Health (DPH) and inquired how the item would be decided upon. Tamara Mullen, DNR Attorney, responded that DPH would have to deny petition based on the grounds that the petition is aimed at NRC Commission rules (571 I.A.C. 86) and is therefore out of their jurisdiction. The DNR has no jurisdiction over the consumption of turtle meat or any health risk resulting from consumption; the FDA and Inspections & Appeals agencies would need to handle these issues; once turtles are harvested it becomes another agency's jurisdiction to handle. Deputy Director, Pat Boddy commented that it would be appropriate of the NRC Commission to consider health risk issues in this matter and partner with DPH to issue an advisory on the health risks. Tamara Mullen concurred. Commissioner Francisco asked about the status pending legislation. Mike Mason explained that House File 722 had passed the Senate and had been moved on to the House but as of 4:30 p.m. the previous day it had not yet been passed. Commissioner Rettig asked for clarification of procedures on this item. Tamara Mullen advised pursuant to Iowa Code section 17A.7(1) and 571 I.A.C. 5.4(1), the NRC Commission has 60 days to either deny or institute rulemaking when requested to do so by the public. This petition's deadline is May 10th based upon the March 11th receipt. Since the May NRC meeting is on May 14th, a time extension will need to be requested so as to bring the item before the NRC Commissioners for information in April, with final voting in May. The petitioners must consent to this time extension under 571 I.A.C. 5.4(2); if they refuse to grant an extension a special meeting will need to convene before the May 10th deadline.

Motion – N/A Informational Item Only

13. FY2010 Water Trail Grants

The Iowa Legislature annually appropriates funds under Iowa Code section 452A.79. The Iowa Department of Natural Resources under Chapter 30 of 571 Iowa Administrative Code targets a portion of these funds toward the water trails granting program. The program targets an annual total of \$50,000 to implement a water trail program. These funds are available to local governments (city, county, school) and service organizations to create water trails on rivers, lakes, sloughs, and other waterways in Iowa.

The Department received 18 applications requesting \$255,604. The Department's annual water trails budget is \$50,000. The recommended state fiscal year 2010 awards, totaling \$50,000, as determined by scoring committee members including three Department staff and two Iowa citizens, are as follows:

Project	Sponsor	Score	Funding recommendation
Grand River Water Trail	Decatur CCB	95.4	\$16,109
Lizard Creek Water Trail	Webster CCB	94	\$11,002
Turkey River Water Trail Project	Fayette & Clayton CCBs	92.8	\$21,037
Raccoon River Water Trail	City of Des Moines	92	\$1,852
Winnebago River Water Trail	Winnebago CCB	90.4	
Dubuque Water Trail	City of Dubuque	86.8	
Middle River Water Trail	Madison & Adair CCBs	83.8	
Phase I Iowa R Water Trail	City of IA City	82.6	
Volga River Water Trail	UIU	82.6	
Lake Red Rock Water Trail	RRL Assn	81.4	
S. Raccoon R. Water Trail	Guthrie CBB	79.8	
Rathbun Lake South Shore Water Trail	Appanoose County Trails, Inc	75.2	
Turkey River, Elkader to Motor Mill	City of Elkader	72.2	
Hills Access Restroom	Johnson CCB	71.8	
Boies Bend Boardwalk Step	Buchanan CCB	71.6	
Benton Co Cedar River Water Trail	Vinton Unlimited	65.4	
Maple R Access Schoenjahns	Monona CCB	47	
Maple R Access Grays	Monona CCB	46.4	

The Department recommends fully funding the top ranked projects. If a ranked project declines funding, the Department requests authority to offer those funds to the next highest scored project until all funds are spent.

The Department recommends entering into grant agreements with the above-mentioned parties to accomplish the projects identified in their respective applications.

Diane Ford-Shivvers, Deputy Division Administrator
Conservation and Recreation Division

Moved – Commissioner Garst
Seconded - Commissioner Francisco
Discussion – Commissioner Rettig asked about previous year additional water trails funding

from the legislature. Nate Hoogeveen, DNR Rivers Program Director, responded last fall \$1.2 million dollars had been awarded to the Water Trails and Low-Head Dam Public Hazard statewide programs. However, the amount was reduced \$1 million and repurposed for flood relief in the fall 2008. The decision was made during an NRC Commission meeting to award \$200,000 for the Low-Head Dam Public Hazard program. The Water Trails program is down to the department's original commitment of \$50,000. Commissioner Rettig asked if there has been any indication what may come from this fiscal years (FY10) budget. Nate Hoogeveen responded anywhere from \$0 to \$3 million, there is a \$3 million dollar item in the Governor's proposed bonding package for projects of this nature.

Motion – Carried by Unanimous Vote

14. Project Agreement with Lyon and Sioux Rural Water System for project development at Klondike Dam

The Commission is requested to approve a project agreement with Lyon and Sioux Rural Water System, headquartered in Rock Rapids.

This collaborative agreement establishes the partner goals to create a rock-arch rapids at the damaged Klondike Dam on the Big Sioux River. The agreement will result in Lyon and Sioux Rural Water System funding the development of a preliminary design coordinated by Iowa DNR River Programs staff in consultation with engineering staff and/or outside consultants. Various partners have met, including South Dakota Game, Fish, and Parks; Iowa DNR fisheries and river programs; DNR law enforcement; DNR field office (water supply) staff; Lyon and Sioux Rural Water System; Lyon County Conservation; and a state representative. Partner goals include multiple river functions, including a less dangerous alternative to current structure; fish and mussel passage on the Big Sioux River; improved angling access and recreation in the project area; and retention of the water supply function. Deliverables include survey and stream analysis, review of bridge pier protection, and development of a preliminary design at the site. A public open house about the project will be schedule for late April.

The contract will result in Lyon and Sioux Rural Water funding \$17,500 to the Department for development of the preliminary design for the project and shall expire December 31, 2009.

Diane Ford-Shivvers, Deputy Division Administrator
Conservation and Recreation Division

Moved – Commissioner Drees

Seconded - Commissioner Francisco

Discussion – Commissioner Garst asked what a 'Rock Arch Rapids Structure' was.

Nate Hoogeveen explained it is a rapids structure that forms a ramp downstream from the existing dam. The advantage of this design structure is that it is good for fish passage and is also an extremely stable design. Commissioner Garst asked if it also had water retention capacity.

Nate Hoogeveen explained that because the existing dam has damage and is used for water supply, this new structure will assist with maintaining that water supply.

Motion – Carried by Unanimous Vote

15. Starr's Cave State Preserve—appeal of denial for trail construction

The Des Moines County Conservation Board is appealing the Director's decision to deny a request for a Sovereign Lands Construction Permit to retire, improve, construct, and extend trails within the Starr's Cave Park and Preserve, and to permit bicycle use on some.

The County Conservation Board is building a 15-mile Flint River Recreation Trail extending from Burlington to Big Hollow Recreation Area. Part of the route (approximately 1 mile) is proposed to pass through Starr's Cave State Preserve at the north edge of Burlington. The trail plan proposed for the preserve calls for improvement of 5,200 feet of existing trails, retirement of 4,700 feet of existing trails, construction of 3,300 feet of new trails, and for allowance of bicycles on improved trail segments. Starr's Cave State Preserve is a 184-acre DNR property under management agreement with the Des Moines County Conservation Board, acquired as two adjoining tracts. The eastern 143-acre tract was dedicated as a state preserve in 1978 with the western 41-acre tract dedicated in 1992.

The County Conservation Board applied for a Sovereign Lands Construction Permit in July 2007. The State Preserves Advisory Board was asked to approve the project on October 5, 2007; at that meeting, the decision was deferred to January 2008 to allow an on-site tour of the proposed trail project (which was conducted later that month). CCB Director Jeff Bergman was unable to attend the January 2008 meeting, so the Preserves Board tabled the item until April 2008. At its meeting on April 23, 2008, the Preserves Board denied approval of the proposed trail, citing concerns over bicycle use in areas previously reserved for walking access only, construction of a trail through steep topography to bicycle standards, and altering the nature of the trail system from an internal loop to include a through route. In accordance with the Preserves Board recommendation, the DNR denied the Sovereign Lands Construction Permit in September 2008, an action upheld by Director Richard Leopold in February 2009. The County Conservation Board is now appealing this decision to the Natural Resource Commission.

Tamara Mullen, Attorney
Conservation and Recreation Division

Discussion – Commissioner Bird explained the process in which this item would be presented in; DNR Staff would present first and then the Des Moines CCB would have an opportunity to present their, then motion by NRC

Tamara Mullen, DNR Attorney gave introduction to the item before the NRC and explained that the discussion should surround the appeal of the Sovereign Lands permit *not* the Preserve Advisory Board denial of the amendment to the management plan. If the NRC Commission were to vote (with at least 4 to 2) to overturn Director Leopold's denial decision and approve issuance of a Sovereign Lands permit, it would be in conflict of the Preserves Advisory Board. There is no clear procedure in place when two boards disagree on how to proceed on state land; options may be:

- 1.) Ask the Preserves Advisory Board to reconsider their decision.
- 2.) Go before the district court and have the code interpreted to get a resolute answer.

Commissioner Rettig asked for clarification about the Preserves Advisory Board and their regulatory authority in the section of the Iowa code and how DNR staff is allowed to serve on such a board. Tamara Mullen stated that per Iowa Code Chapter 465C, the Preserves Advisory Board is to be composed of seven members; six of which are appointed by the governor and one

to be the Iowa Department of Natural Resources Director. Iowa code Chapter 465C.8 describes the Preserves Advisory Board powers and duties specifically; though there are more detailed provisions in the Preserves Advisory Board rules that deal with the approval and amendment process for the management plan. Commissioner Rettig asked if the Preserves Advisory Board did *not* have authority to issue nor deny a Sovereign Lands permit. Tamara Mullen confirmed that the Preserve Advisory Board does not have the authority to do either. Commissioner Francisco asked how the boundaries of the preserve can be changed, and if so how. Tamara Mullen asked if he meant the land itself or the management of the already dedicated park. Commissioner Francisco clarified that he meant the already dedicated park; making the preserve smaller and increase the park size. John Pearson, DNR Environmental Specialist, advised that there is a de-dedication clause but it would take approval by several levels of authority; starting with the Preserves Advisory Board and then the NRC Commission, the Governor, and would also require a majority vote of the legislature.

Tamara Mullen then concluded by stating that she would be available for any further questions and turned the floor over to the Des Moines County Conservation Board (DMCCB) to present their information on the item.

David Riley, Chairman of the DMCCB introduced those in attendance with him:

- Kim Perlstein, DMCCB Executive Director
- Mike Norris, with the Regional Planning Commission responsible for the development of the Flint River Trail
- Jim Steer, DMCCB Vice-Chair
- Bob Beck, Des Moines County Supervisor

Mr. Riley started by acknowledging that the agenda item before the NRC Commission today is set to have a decision made on it. He stated that the decision did not have to be done today; and invited the NRC Commissioners to tour the property before ruling if they would like. Mr. Riley then presented a PowerPoint, the same one shown to the Preserves Advisory Board in October 2007. The presentation outlined what trails would be retired and where the new multi-purpose trails would be placed. Mr. Riley stated that the implications of this decision is that the money available for trail improvement is not Starr's Cave money, but rather is Flint River Trails grant money. If the Flint River Trail does not go through Starr's Cave there would not be money for any area trail improvement. The other point Mr. Riley made was that with the exception of along Flint Creek where there are cliffs and caves that are of geological interest, this piece of property is a much used and abused property. Mr. Riley explained that an archeologist had just completed a study and found several quarries; his conclusion was that this piece of land had no real preservation value. Mr. Riley went on to say that if the trail does not go through Starr's Cave and has to go around Starr's Cave, the DMCCB does not intend to extend their management agreement past the obligated date of 12/31/2014. Commissioner Rettig asked how long the Starr's Cave Preserve been operating under this management agreement with the DMCCB. Mr. Riley replied it had been under this agreement since the land was first acquired in 1974. Commissioner Rettig asked if there was an area already designated as a park. Mr. Riley replied that there is an 'active recreation area'. Commissioner Rettig asked who called it that. John Pearson replied that it is in the management agreement in the dedication section which outlines the specific legal description of the land.

Commissioner Rettig asked for agreement to the statement "The most unique natural feature of this property is Starr's Cave and it is already in the active recreation area." Mr. Riley agreed that the statement was accurate.

Commissioner Drees asked when the current trails were constructed. Kim Perlstein replied in the 1980s, and since that time a cement ADA Accessible trail has been added (1990s), which

required a Sovereign Lands permit. The permit was approved.

Moved - Commissioner Francisco moved that, given the new information provided by archeological report and fact that neither the Preserves Advisory Board nor Director has had an opportunity to review the information, the matter should be remanded back to the Preserves Advisory Board and Director for reconsideration of their original denial .

Seconded – Commissioner Kircher

Discussion – Commissioner Garst asked to hear from John Pearson as to why the Preserves Advisory Board denied the request.

John Pearson replied that the Preserves Advisory Board had several concerns;

1. The majority of the land had been dedicated in 1978 as a “passive recreation” area.. The Preserves Advisory Board recognized that the eastern-most area would have the most active recreational use, and as such was identified as exempt from the “passive” standard in the preserve’s dedication.
2. Open space lands across the state are under great pressure for development and one area to preserve underdeveloped open space is in the State Preserve system. If development is opened up in these areas, the resource space will shrink.
3. The trail being proposed would have to be built to meet bicycle standards, thus widening the footprint of the trail from its present foot trail standard. The footprint would change dramatically in the areas with steep slopes, as the grade would have to be reduced to only a 5 or 7% slope. The Preserve Advisory Board was concerned about such a stark change to the original condition of the land, which the preserve system is meant to maintain.

Commissioner Garst asked for clarification of active vs. passive recreation.

John Pearson explained the main differences being human powered vs. required device (ie: bike).

Commissioner Rettig asked what types of recreation were allowed in other state preserves.

Johns Pearson explained there are different types of preserves and as such different types of recreation allowed. Those that are considered to be ‘Nature or Biological Preserves’ allow for only passive recreation .

Commissioner Francisco asked if there were any endangered plants in the area.

John Pearson replied that there are some but scattered throughout the preserve. One in the considered trail zone.

Commissioner Drees asked why the archeological report had not been completed earlier.

David Riley explained that the study was not done at DMCCB’s request but had been part of the archeological requirements for the entire trail system not just the proposed area within Starr’s Cave.

Tamara Mullen advised that if reconsideration is to be asked of the Preserves Advisory Board and the Director, the current motion must be withdrawn and a new motion to table the item be made before a motion can be made to ask reconsideration

Motion Withdrawn – Commissioner Francisco withdrew his motion for reconsideration of this item.

Moved – Commissioner Francisco moved to table the Sovereign Lands permit request.

Seconded – Commissioner Kircher

Motion – Carried (5- Yes 1-No (Bird))

Moved - Commissioner Francisco moved to request that the Preserves Advisory Board and the Director reconsider their original decision to deny a Sovereign Lands permit.

Seconded – Commissioner Kircher

Motion – Carried (5- Yes 1-No (Bird))

16. Sustainable Funding For Natural Resources NRC Resolution

The Natural Resource Commission's purpose is to guide the Department of Natural Resources in the policies and rules that protect, preserve, and enhance the natural resources of Iowa and related outdoor recreation.

The Commission finds that:

Our natural resources are one of Iowa's greatest assets, providing economic vitality and enhancing the quality of life for all Iowans;

Iowans value quality natural resource-related amenities, recreation, and the use of Iowa's natural resources contribute greatly to the state's overall economy and the well being of Iowans;

Studies recently conducted confirm that the economic value of Iowa's state and county parks, lakes and trails confirm that recreation is a large and vital industry in Iowa. The outdoor recreation activities and visits to parks, lakes and trails is estimated to achieve spending levels of \$2.6 billion and 50 million visits that implies that more than 27,400 jobs and \$580 million in income are being generated in the Iowa recreation industry (*The Economic Value of Iowa's Natural Resources*, December, 2007 Center for Agricultural and Rural Development, College of Agriculture, Iowa State University);

In 2006, 1.45 million residents and non residents participated in some form of fish and wildlife-related recreation in Iowa. These anglers, hunters and wildlife viewers spent \$974.2 million in retail sales creating \$453.9 million in salaries and wages, and supporting more than 17,800 jobs and with a combined multiplier effect of \$1.54 billion annually (*2006 Economic Benefits of Hunting, Fishing, and Wildlife Watching in Iowa*, November 16, 2007 Southwick Associates, Inc.);

Studies recently conducted confirm that outdoor recreational opportunities and natural resources are important factors that help to attract skilled workers in the state;

Iowa's natural resources and outdoor recreational infrastructure are vital to keeping Iowans healthy and active and provide immeasurable citizen wealth essential to sustain the quality of living through our outdoor heritage;

Iowa's legislature, in different, yet successive General Assemblies, overwhelmingly approved SJR-2002 (in 2008) and HJR-1 (in 2009); an act to provide sustainable funding for natural resources;

This legislative action allows Iowa's citizens an opportunity to vote on this measure through a ballot initiative in 2010;

A bipartisan and broad based group of stakeholders worked diligently for two and one half years to study how to protect Iowa's natural resources and enhance outdoor recreation. Their recommended model of using a 3/8 of one cent portion of Iowa's sales tax which would generate approximately \$150 million, annually, for these purposes;

Therefore, the Natural Resource Commission resolve their support for this historic and important opportunity to protect, preserve, and enhance Iowa's natural resources and related outdoor recreation.

Bill Bird, Chair
Natural Resource Commission

Moved – Commissioner Rettig moved to table the item as not to have a public debate about it.

Seconded – None

Motion - Failed

Moved – Commissioner Kircher

Seconded - Commissioner Garst

Discussion –

Commissioner Bird read the following statement:

Fellow Commissioners, as your Chair, I appreciate the opportunity to make a brief statement regarding the importance of the resolution before the NRC regarding sustainable funding.

As Natural Resource Commissioners, you have had an opportunity to travel across the state and see, firsthand, projects that permanently protect land, improve the water quality of our lakes, provide access to our lakes and rivers, manage our forest resources, and manage and improve our fish and wildlife resources. Each month, you make decisions on agenda items that protect our natural resources through land acquisition, easements, and cooperative strategies with other conservation partners. You have had an opportunity to see the Lewis and Clark Interpretative Center, an important project that remains yet unfinished due to inadequate funding. You have challenged staff to do more to provide additional trails, increase education opportunities, implement green building concepts, and consider more environmentally sustainable developments in all the work brought before the NRC, yet funding remains the single biggest hurdle in this challenge. At first glance, our State Parks may seem like all is well. But when we look closer, we see a backlog of over \$100 million dollars that is needed to put our parks back in the condition envisioned by the Parks 20-20 Foundation. At first glance, it may appear that we are continuing to protect land by fee title acquisition and easements to provide permanent protection to some of Iowa's remaining jewels. However, a deeper look and you may recall that we lost the opportunity to increase the Elinor Bedell State Park on East Okoboji because of lack of funding. A once in a lifetime opportunity to protect this undeveloped shoreline on Iowa's great lakes was lost, perhaps forever, with condominiums or other intensive development in the place of a tranquil state park. Iowa's natural resources touch all Iowan's in some way or other and face ongoing challenges with unprecedented threats of climate change, invasive species, reduced participation by hunters and anglers, and the State's economy. Who should be responsible for the resources?

As you know, before my appointment to the NRC, I worked at the following State Parks: Bellevue, McIntosh, Brushy Creek, and Lake Wapello. I also worked at Clear Lake as a water patrol officer. During that time, I had the chance to work with fisheries, forestry, law enforcement, and wildlife and experienced firsthand the need for additional money for the parks as well as the needs for other bureaus and programs. I can vividly recall the many facilities and program needs that would have meant so much to the visitors of our parks and their impression of the DNR facilities had additional funding been available. I remember many times lamenting how tight dollars were and how long the wait to complete important maintenance for facilities under my care. I also recall how important the REAP program was and how many good things have been accomplished in the 20 year history of REAP. It is hard to even envision what our state parks would be like without even the small investment of REAP dollars that have helped with many of the critical infrastructure needs.

Fellow Commissioners, the sustainable funding initiative gives Iowans a long overdue opportunity to determine if they support using a very small portion of the sales tax to be set aside for a constitutionally protected fund to be used for natural resources. The legislature has determined, with overwhelming support in two consecutive years and under two different General Assemblies that the citizens of Iowa should be allowed to vote on the sustainable funding initiative in November of 2010. The passing of this historic legislation is a critical opportunity to increase funding available to cities, counties, non-governmental agencies, and state organizations that manage and support Iowa's parks, fish and wildlife, fields and forests, lakes and rivers, trails, agriculture, and soil, to meet the challenges that face Iowa's natural resources.

To this end, I support the sustainable funding initiative. I thank Commissioner Tammie Kircher for her work on the original sustainable funding committee, along with Director Rich Leopold's legislatively mandated chairing of the committee, and the legislators for voting to place this issue before the people of Iowa. This shows the comprehensive value and importance of Iowa's natural resources and that we need to act now to invest in our generations to come.

Thank you,
Bill Bird, Chair
Natural Resource Commission
April 9, 2009

Commissioner Rettig read the following statement:

I support additional funding for natural resources. I'm saddened that the DNR would force this issue today to prove by a public vote that some in the environmental community are divided on this issue. I have already been asked by many people about my position on the issue. I would prefer to remain publically quiet on this issue, but by forcing this issue to come to a vote today, you have guaranteed that our descent is public.

(1) In the November 27-30, 2006 sustainable funding statewide public opinion survey 75 % of residents oppose increasing the state sales tax for natural resources, while just 21% support it. Just 24% of those who initially said they would support additional public funding for sustainable funding back an increase in the sales tax, of those 56% would pay \$10: 49% \$25: 40% \$50: 32% \$75

(2) This sales tax is not supported by the public and it is bad public policy. Sales tax is a regressive tax because it ignores someone's ability to pay. Sales tax disproportionately affects low income households. According to the Iowa Fiscal Partnership, families with the lowest 20% of income in Iowa pay 7.3% of their income in sales tax while the top 20% pay between 2.9 to 1.1% A 3/8 cent increase would increase this burden to low income families 7.3% to 7.6% -- this increase is 5 times more than the top 1% income families. Families earning in the lowest 20% would pay an additional \$26.92 on their \$8,600 income, while the middle income (\$41,3000) would pay \$92.39

Remember the opinion poll? Only 40% would support an additional tax of \$50

(3) Amending the constitution for current events is wrong. From 2000-2009, 64 constitutional amendments have been proposed by the legislature. Why not a constitutional amendment on education funding, libraries, roads and bridges, alternative energy. Where does this end?

This constitutional amendment is ill conceived, poorly drafted and in the end should fail because it is terrible tax policy that places an unfair burden on the least able to pay. Natural resources should receive additional funding, but this amendment has divided the progressive community and the natural allies of this issue and Iowans should reject this regressive tax proposal and send it back to the legislature for a more thoughtful deliberation.

Summary of comments by Janelle Rettig
April 9, 2009

Commissioner Francisco made comment about the benefits for sustainable funding and the many programs that would benefit from it; he gave the Resource Enhancement and Protection (REAP) program as an example.

Motion – Carried 5-Yes and 1-No (Rettig)

17. General Discussion

- Commissioner Garst invited fellow commissioners and staff to come burn with her.
- Commissioner Garst commented that Kay Newman with Wildlife Rehabilitators of Iowa has admitted 22 eagles since January 1, 2009
 - 14 positive for lead poisoning
 - 5 test results pending
 - 3 unable to test

 - 19 now dead
 - 1 in flight pen
 - 2 in intensive care
- Commissioner Kircher also had participated in banding of Scaup Banding. She passed along the complements to the DNR staff on how great they are to work with.
- Commissioner Rettig updated the commission on the Johnson County Conservation Board (JCCB) bond initiative. With the assistance of the Iowa Natural Heritage Foundation a piece of land was acquired allowing the JCCB to protect area watershed and flood control and build a trail.
 - Commissioner Drees asked how much money the bond initiative would raise. Commissioner Rettig responded \$20M over the next 20 years.

18. Items for Next Meeting

- Commissioner Garst would like to see the lead presentation at this meeting
- Commissioner Bird reminded the commissioners that commission officer elections will be held at the next meeting and his desire not to be considered for any commission officer position.

Next Meetings:

May 14, 2009 – Davis County

June 11, 2009 – Fremont County

Adjourn:

Moved – Commissioner Kircher

Seconded - Commissioner Francisco

Motion – Carried by Unanimous Vote