



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
AUGUST 13, 2009

IOWA DEPARTMENT OF NATURAL RESOURCES
LAKEVIEW COMMUNITY ROOM/BANDSHELL
CLEAR LAKE, IA

Call to Order

The meeting of the Natural Resource Commission was called to order by the NRC Commission Chairperson, Gregory Drees on Thursday, August 13, 2009 at 8:30 a.m. He welcomed the public to the meeting and reviewed the public speaking forum guidelines. He then thanked DNR staff for the tour and informative presentations of the prior day. The commission toured the rain garden and paving projects in downtown Clear Lake, Union Hills wildlife area, Clear Lake dredging project and spoil site. As always, these tours provided the Commission with important information to assist with decision making.

Members Present

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

Members Absent

None

Public Participation (10:30am)

- Jeremy Rosonke – waterfowl seasons
- Dick Hutmacher – waterfowl seasons
- Ed Barker – waterfowl seasons
- Chris Phillips – waterfowl seasons
- Fred Heinz – waterfowl seasons
- WC Byerly – waterfowl seasons
- Cindy Findley – waterfowl seasons
- Bob Stille – waterfowl seasons
- Tim Ackarman – waterfowl seasons
- Mike Heller – update on IA Ducks Unlimited license plates partnership with DNR

1. Approve Agenda

Moved – Commissioner Kircher

Seconded - Commissioner Francisco

Motion – Carried by Unanimous Vote

Commissioner Kircher recommended moving item 18 to follow the Director's comments and item 14 to follow the public comment period.

Amendments – Carried by Unanimous Vote

2. Approve Minutes of 07/9/09

Moved – Commissioner Garst

Seconded - Commissioner

Motion – Carried by Unanimous Vote

- Commissioner Garst recommended change to page 22: Taylor should be Caylor
- Commissioner Rettig recommended change to page 22: regarding losing volunteers, add the word AmeriCorps before the word volunteers
- Deputy Director Boddy recommended change to page 2: change Keigler to Koegler

Amendments – Carried by Unanimous Vote

3. Director's Remarks

Deputy Director Boddy reported:

- Pine Lake State Park was heavily damaged in a storm this past weekend. She visited the park and pines have been snapped off and the campgrounds were in a shambles. The staff has done an amazing job along with volunteers in working hard and fast to get the park ready for visitors, which it will be within days. The lodge will be functional this weekend. The park manager's house on the grounds will need much repair work. It will be a while until that park looks the same again.
- Commissioners received the Auditor of the State report for the DNR. Commissioner Garst offered congratulations to the staff on the results in the audit and the only area of significant concern was in the ELSI section.

Director Leopold acknowledged this would be Commissioner Bill Bird's last meeting, due to his moving to South Dakota, and presented him with a plaque of appreciation for his service on the Commission from May 2007-August 2009.

4. Construction Projects

4.1 E.B. Lyons Interpretive Center, Dubuque County – Sanitary Sewer Forcemain

This project consists of installing approximately 2600 ft. of 2.5" forcemain, connecting the Interpretive Center building to the City Sewer, installing a duplex lift station, and construction of approximately 300 ft. of 4" gravity sewer from the maintenance shop to the lift station. This project is in conjunction with the construction of an additional wing to the E.B. Lyons Interpretive Center. The existing leach field will be abandoned as it is not big enough to absorb any additional load and will be replaced by construction of a lift station with a forcemain to transport the wastewater to a nearby city sewer.

The two alternatives that were considered were:

1. Expanding the leach field to accommodate increased loading, or
2. Pumping the wastewater to a city sewer from where it will be transported to the city's treatment plant.

After careful evaluation it was decided that the wastewater should be pumped to the city sewer for the following reasons:

1. Environmentally it made more sense to connect to the city sewer as compared to the leach field, the city's wastewater facilities are much more advanced and are operated under strict environmental laws and the effluent is monitored to meet the NPDES effluent permit limits.
2. There was limited area for leach field expansion as the interpretive center is situated right next to a steeply sloped hill.
3. Connecting the building to a city sewer will free the manager of any long-term maintenance and flow peaking issues.

This project was designed by Mike Hameed and will be inspected by Mel Pacovsky, District Inspector. DNR estimate is \$93,212.90. Funding source is REAP Open Spaces Acquisition and Development (FY10 capital link #151). 38 sets of plans were issued. 10 bids were received.

Connolly Construction Inc.	Peosta, IA	\$82,151.00
Gaylord Construction Inc.	Fort Madison, IA	\$89,466.60
McDermott Excavating	Dubuque, IA	\$91,640.00
Drew Cook & Sons Excavating Inc.	Dubuque, IA	\$94,459.00
Volkens Inc.	Dyersville, IA	\$97,582.00
McPeak Trenching	LuVerne, IA	\$98,260.00
Portzen Construction	Dubuque, IA	\$99,963.00
FL Krapfl Company Inc.	Dyersville, IA	\$112,032.00
Engineering Consultants Inc.	Cedar Rapids, IA	\$115,867.00
Tschigffrie Excavating Co.	Dubuque, IA	\$142,256.60

Staff recommends the acceptance of the low bidder, Connolly Construction Inc.

Moved – Commissioner Rettig
Seconded - Commissioner Francisco
Discussion – Commissioner Francisco noted he had asked Don Labate about storm water and warning systems. Don reported that we do not allow storm water into this system and there is an alarm system in all we install. In this case, we have a visible and audible system which is manned by staff.
Motion – Carried by Unanimous Vote

4.2 Burr Oak Lake, Emmet County, - Wetland Restoration

This project involves the creation of a wetland area through use of shallow water excavations, earth dikes, and ditch plugs. Work under this project includes tile investigation, tile plugs, a water control structure, shallow excavation, earthfill, and seeding.

The Young Tract of the Burr Oak Lake complex was purchased approximately one year ago for the purpose of wetland restoration. The tract contains 366 acres located along the Des Moines River, 7 miles southwest of Estherville, IA, in Emmet County. The restoration will create approximately 46 acres of wetland area for public use through construction of shallow water excavations, earth dikes, and ditch plugs. Moreover, this tract effectively doubles the current size to the Burr Oak Lake area, which field staff likes to say offers “something for everyone”. This tract specifically will add not only wetland area but also upland prairie, timber, and access to about a 1-mile stretch of the Des Moines River. The property is enrolled in the NRCS’s WRP program and therefore, all costs associated with the restoration will be reimbursed by the NRCS.

This project was designed and will be inspected by DNR Staff as specified in the WRP agreement with NRCS. DNR estimate is \$85,000. Funding source is Federal NRCS (FY10 capital link #37). 6 sets of plans were issued. 3 bids were received, 1 was rejected due to incomplete bid.

Carnarvon Sand and Gravel	Wall Lake, IA	\$56,980.00
Abel Farm Drainage, Inc.	Greenville, IA	\$57,295.00

Staff recommends the acceptance of the low bidder, Carnarvon Sand and Gravel.

Moved – Commissioner Garst
Seconded - Commissioner Kircher
Discussion – Commissioner Drees commented that he flew over the sight on Tuesday and this will be a nice project.
Motion – Carried by Unanimous Vote

5. Small Construction Projects Contracts – INFORMATIONAL ITEM ONLY

The following projects have been let utilizing the Competitive Quotation process for projects \$100,000 or less:

BID DATE	PROJECT	COUNTY	AREA	DESCRIPTION	ESTIMATE	BIDS
7/2/09	05-06-44-05	Henry	Geode State Park	Beach Septic	\$7,000.00	\$8,440.00
						\$6,250.00
						\$8,809.90
7/2/09	09-06-89-06	Van Buren	Lacey Keosauqua State Park	Stone Bridge Repair	\$6,600.00	\$9,282.96
						\$9,886.00
7/16/09	10-01-81-01	Sac	Black Hawk State Park	Sewer Replacement	\$25,000.00	\$15,381.15
						\$18,719.00
						\$24,747.50

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

6. Land Acquisition Projects

6.1 Tuttle Lake Wetland Complex, Emmet County – Mitchell/Stoner

The Natural Resource Commission’s approval is requested for the acquisition of a parcel of land located 1½ miles north and 3 miles East of Dolliver, and 18 miles Northeast of Estherville. This 2.43-acre tract is offered by Mark and Arlys Mitchell, and Janet Stoner for \$14,500. The DNR acquired title to the surrounding 155 acres in January 2009. The adjacent tract is encumbered by a Wetland Reserve Program easement acquired by the NRCS in 2004.

Jerry Gibson negotiated the purchase agreement in compliance with Title 49 CFR Part 24 which allows the acquisition agent to negotiate without an appraisal from a value of \$10,000 to \$25,000 with the landowners waiving an appraisal. Comparable sales in Emmet County supported the negotiated acquisition price.

The subject tract consists of 2.43 acres of a former building site unencumbered by the WRP easement. There are 2.08 acres-net (0.35 acres right of way) adjacent to the county road. Acquisition of the subject tract by the DNR will eliminate the strong possibility of a residential in-holding and corresponding buffer area surrounding the probable development. The landowners withheld the tract from the previous DNR acquisition for purposes of marketing it to residential buyers.

Acquisition funding will be 100% Wildlife Habitat Stamp (FY10 capital link 65). Incidental closing costs will be the responsibility of the Department. The property will remain on the property tax rolls.

Staff recommends approval of the land acquisition.

Moved – Commissioner Francisco

Seconded - Commissioner Rettig

Discussion – Commissioner Kircher noted appreciation that this property will stay on the tax rolls. Ken Herring reported that staff are very well versed in these opportunities and seek them out. Commissioner Rettig asked Travis Baker if he knew about the in holding site on his map. Travis reported it is private land and it does not appear developed.

Motion – Carried by Unanimous Vote

6.2 Otter Creek Marsh, Tama County – James and Susan Chizek

The Natural Resource Commission’s approval is requested for the acquisition of a parcel of land located in Tama County adjacent to Otter Creek Marsh. The land is located three miles East and one mile South of Tama. The property is immediately North of the Iowa River, and South of 340th Street. James and Susan Chizek are offering this 298.37-acre tract for the appraised price of \$388,000.

David W. Nebel, Licensed Appraiser of Hertz Appraisal Services, Nevada, Iowa, submitted the appraisal. Jerry Gibson negotiated the purchase agreement and negotiated by Jerry Gibson.

The subject tract consists of a mixture of timber, wetlands, and open grass with 200.6 acres encumbered with a Wetland Reserve Program easement. It borders an Iowa River Corridor Project tract on the West side, and the Iowa River on the South. The tract consists of 145 acres of pasture, 88.37 acres of timber, and 65 acres of wetlands. The tract would make an excellent addition to the Otter Creek Marsh Complex with its many acres of developed wetlands.

Acquisition funding will be from the Iowa River Corridor NAWCA (100%) (FY10 capital link 45). Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

Moved – Commissioner Kircher

Seconded - Commissioner Bird

Discussion – Commissioner Garst asked for clarification on the 298 acres total, 200 acres of wetland, leaving 98 acres, but the pasture is 145 acres. Travis Baker commented that was the original breakdown and the pasture is not included. Commissioner Rettig stated she was happy to see land along the Iowa River, of the most impaired waterways, and this looks like a great acquisition to facilitate cleaner water.

Motion – Carried by Unanimous Vote

6.3 Chain-O-Lakes WMA, Linn County – Iowa Natural Heritage Foundation

The Natural Resource Commission's approval is requested to purchase a parcel of land located in Linn County. The DNR managed Chain-O-Lakes Wildlife Management Area surrounds the property on three sides. The Iowa Natural Heritage Foundation (INHF) offers the 43-acre parcel for the appraised price of \$141,500. The INHF purchased the property in June 2008 for \$141,500.

John Stortz, Licensed Appraiser of Cedar Falls, submitted the appraisal. Travis Baker negotiated the purchase agreement.

This property is located in west central Linn County, Iowa. The town of Palo is located just west, across the Cedar River from the property. The area will be a good addition of upland for pheasants and grassland birds. Part of this will be planted to native prairie and some spot shrub plantings.

Nesting cover of hay and native prairie will enhance upland birds. A portion of row crop will be left over winter as a food plot. A dike at the very south end of the property is broken. Fixing this dike will allow additional marsh acres on existing DNR land to the west of the acquisition.

The property is primarily flood prone, wet tillable land. There is approximately 35 acres of tillable land that has not been cropped for a number of years. Recent severe flooding on the Cedar River inundated the appraised property. This acquisition will become part of the 640-acre Chain-O-Lakes WMA and will be managed by the Conservation and Recreation Division in accord with the area management plan.

Funding used for this acquisition will be: \$121,500 Wildlife Habitat Stamp (FY10 capital link 65) and \$20,000 Linn County Pheasants Forever. The property will remain on the Linn County property tax rolls. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

Moved – Commissioner Kircher

Seconded - Commissioner Francisco

Discussion – Commissioner Garst asked if this property could be put in the wetland reserve program (WRP) and if we could not do it, then have someone else buy it and put it in the wetland reserve program and have them give it to us. Todd Bishop reported WRP is only funded at a certain level and this tract would score low and it would not be a probability that it could compete with better projects and the Department works to leverage as often as possible. Deputy Director Boddy commented that she believes the WRP guidelines have recently changed to having to own the property for seven years before putting it in WRP and INHF has not had it that long. Mark Ackelson, by phone, reported that INHF explored WRP and EWP and the elevation is too high so the project ranked low and they could not get the land qualified.

Motion – Carried by Unanimous Vote

6.4 Red Rock WMA – Warren County – Iowa Natural Heritage Foundation

The Natural Resource Commission's approval is requested to purchase a parcel of land located in Warren County. The DNR managed Red Rock Wildlife Management Area surrounds the property on two sides. The Iowa Natural Heritage Foundation (INHF) offers the 126-acre parcel for \$71,500. The appraised value of the property is \$114,500. The INHF purchased the property in 2002 for \$32,000.

Chad Thatcher, Licensed Appraiser of Toledo, submitted the appraisal. Travis Baker negotiated the purchase agreement.

This property is located in northeast Warren County, Iowa. The entire property is encumbered by a Wetland Reserve Program (WRP) conservation easement. The easement was recorded in 2002.

The property is adjacent to publicly held land that is part of the Red Rock WMA, which is owned and managed by the DNR. This acquisition will become part of the Red Rock WMA and will be managed by the Conservation and Recreation Division in accord with the area management plan.

Funding used for this acquisition will be provided by the Wildlife Habitat Stamp (FY10 capital link 65). The property will remain on the Warren County property tax rolls. Incidental closing costs will be the responsibility of the Department.

Moved – Commissioner Rettig
Seconded - Commissioner Francisco
Discussion – Commissioner Francisco noted that the Chain-O-Lakes will remain on the tax rolls. Commissioner Garst inquired as to why INHF held the property for seven years. Todd Bishop stated that the Department had not had the funds and the INHF held the property until it could be acquired.
Motion – Carried by Unanimous Vote

Commissioner Rettig asked Travis Baker if he will be presenting another Annual Report of Realty Services to the Commission. Travis Baker replied that he would be.

7. Land Management Projects

7.1 Management Agreement, Decatur Co. - Little River WMA

The Natural Resource Commission is requested to approve renewal of a management agreement with the Decatur County Board of Supervisors to authorize the DNR to manage an approximately 1,723-acre portion Little River Wildlife Management Area through August 31, 2034. The DNR has managed the wildlife portion of the area and lake fisheries and since 1983.

Decatur County owns the entire 2,200-acre area. It is located one mile northwest of the City of Leon. A 787-acre lake, constructed as a watershed improvement project, is located within the area. The Decatur County Conservation Board manages 477 acres along on the south and east sides of the lake providing picnicking, thirty campsites, log style cabins for rent and a shower house with modern restrooms. The county retains management of the dam.

The agreement will be according to the terms and conditions of the standard DNR management agreement.

Staff recommends approval of the management agreement.

Moved – Commissioner Francisco
Seconded - Commissioner Kircher
Discussion – None
Motion – Carried by Unanimous Vote

7.2 Management Agreement, Louisa Co. - Upper Mississippi River Wildlife Management Area

The Natural Resource Commission is requested to approve renewal of a management agreement with the U.S. Army Corps of Engineers to authorize the DNR to manage the Upper Mississippi River Wildlife Management Area, Pool 17 through March 31, 2034. The DNR has managed the area since 1984. This management agreement covers approximately 97.1 acres located adjacent to and along approximately three miles of the west shoreline of Lake Odessa, a backwater of the Mississippi River, four miles east of the City of Wapello. Boat launching facilities are maintained at three sites in the management area. The Louisa County Conservation Board manages one of those sites under a management agreement with the DNR.

The agreement will be according to the terms and conditions of the standard Army Corps of Engineers management agreement.

Staff recommends approval of the management agreement.

<p>Moved – Commissioner Rettig Seconded - Commissioner Francisco Discussion – None Motion – Carried by Unanimous Vote</p>

7.3 Final Rule, Chapter 21, Agricultural Lease Program

The Natural Resource Commission is requested to amend Chapter 21, Agricultural Lease Program. Chapter 21 provides the regulations for the agricultural lease program, which through the use of agricultural leases enhances wildlife habitat and expands recreational opportunities to the public. The program also reduces operating expenses for the Department while providing agricultural producers access to additional lands.

The proposed amendment increases the threshold for which negotiation, as opposed to formal competition, of a lease may be considered by the Department of Natural Resources. This change will provide the Department with more flexibility in selecting appropriate renters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 28, 2009, as ARC 7533B. No written comments regarding the rules were received.

The final adopted amendments are unchanged from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 461A.25, 456A.24(2), and 456A.24(5).

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 21, "Agricultural Lease Program," Iowa Administrative Code.

The adopted amendment increases the threshold for which negotiation, as opposed to formal competition, of a lease may be considered by the Department of Natural Resources.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 28, 2009, as ARC 7533B. No comments regarding the amendment were received.

The final adopted amendment is unchanged from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 461A.25, 456A.24(2), and 456A.24(5).

This amendment shall become effective October 14, 2009.

The following amendment is adopted.

Amend subrule 21.4(7) as follows:

21.4(7) Negotiated leases. The land manager may negotiate a lease with any prospective operator, subject to approval of the director, in any of the following instances:

- a. No bids are received.
- b. Gross annual rent is ~~\$2500~~ 5000 or less.
- c. Where the land acquired by the department is subject to an existing tenancy.
- d. To synchronize the lease period of newly of newly leased areas with other leases in the same management unit.
- e. Where a proposed lease includes only land not accessible to equipment necessary to perform the required farming operations, except over privately owned land, provided the prospective operator possesses legal access to the leased land over said privately owned land.
- f. Where the director authorizes a lease as a condition of a land purchase or trade.

Date

Richard A. Leopold, Director

Staff recommends approval of the rule amendment.

<p>Moved – Commissioner Garst Seconded - Commissioner Kircher Discussion – None Motion – Carried by Unanimous Vote</p>
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8. Chapter 15, General License Regulations Final

Ken Herring presented item brief.

The Natural Resource Commission's approval is requested for the attached Final Notice to amend Chapter 15 "General License Regulations." The changes proposed would revise the administrative fee charged to customers for most privileges sold through the Electronic Licensing System of Iowa (ELSI) from 50 cents to \$1.50 and includes an administrative fee of \$3.65 for boat registrations, renewals, and transfers.

The department has successfully sold hunting and fishing licenses through ELSI since 2001 and it has been well received by both license sellers and buyers. The department has executed a new contract with the existing vendor which includes the transition to a new system (ELSI 2). ELSI 2 will incorporate new technology and will be a web-based system. ELSI 2 will offer a number of improvements to the current system that benefit license sellers and buyers as well as the department.

Along with the new technology and the benefits that ELSI 2 will bring, the cost of implementing the program will increase as well. For example, the fee the department pays to its contractor for most privileges sold will increase from \$.74 to \$1.28 per privilege and the ability to register, renew, and transfer boats through ELSI includes a \$3.65 per transaction fee paid to the contractor. The proposed revision will help to offset these costs as well as other administrative costs.

NATURAL RESOURCE COMMISSION [571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6) and 483A.10, the Natural Resource Commission hereby amends Chapter 15, "General License Regulations," Iowa Administrative Code.

Iowa Code section 483A.10 authorizes the Commission to adopt rules governing issuance of licenses. As part of these rules, the Commission is authorized to assess an administrative fee, which shall be forwarded to the Department. This fee shall be used to offset costs incurred in administering the licensing program. See Iowa Code subsection 455A.5(6).

This adopted amendment revises the administrative fee charged to customers for most privileges sold through the Electronic Licensing System of Iowa (ELSI) from 50 cents to \$1.50 and includes an administrative fee of \$3.65 for boat registrations and renewals. The Department has executed a new contract with its existing vendor which includes the transition to a new system (ELSI 2). ELSI 2 will incorporate new technology and will be a Web-based system. ELSI 2 will offer a number of improvements to the current system that benefit license sellers and buyers as well as the Department; for example, state-of-the-art equipment allowing for a more user-friendly sales process, speedier transactions, and improved communication with license agents, including electronic newsletters, updates and messaging. Along with the new technology and the benefits that ELSI 2 will bring, the cost of implementing the program will increase as well. For example, the fee that the Department pays to its contractor for most privileges sold will increase from 74 cents to \$1.28 per privilege. Also, the Department will pay a contractor fee of \$3.65 for boat registration, renewal, transfer, and duplicate transactions. The adopted revision will help to offset these costs as well as other administrative costs.

The adopted amendment will revise language in a previous amendment to Chapter 15 adopted by the Commission on May 14, 2009, and published in the Iowa Administrative Bulletin on June 17, 2009, as ARC 7852B. The previous amendment became effective on July 22, 2009.

A public hearing was held on July 21, 2009. There were no attendees at the public hearing and no comments were received during the public comment period. There have been no changes made to the Notice of Intended Action.

This amendment is intended to implement Iowa Code chapters 321G, 456A, 462A, 481A, 481B, 482, 483A, 484A, and 484B.

This amendment will become effective October 14, 2009.

The following amendment is adopted.

Amend rule 571—15.4(483A) as follows:

571--15.4(483A) *Administration fee*. An administration fee of ~~50 cents~~ \$1.50 per privilege purchased shall be collected from the purchaser at the time of purchase, except upon the issuance of free landowner deer and turkey hunting licenses, free annual hunting and fishing licenses, free lifetime fishing licenses, ~~and free group home fishing licenses,~~ and boat registrations, renewals, transfers, and duplicates. An administrative fee of \$3.65 will be collected from the purchaser at the time of boat registration, renewal, transfer, and duplicate purchases.

Date

Richard A. Leopold, Director

(P:15f.doc/mg)

<p>Moved – Commissioner Bird Seconded - Commissioner Francisco Discussion – None Motion – Carried by Unanimous Vote</p>

9. Chapter 113, Restitution for Pollution Causing Injury to Wild Animals NOIA

Martin Konrad presented brief

The Department requests Commission approval of Chapter 113, Restitution for Pollution Causing Injury to Wild Animals Notice of Intended Action.

Chapter 113 provides for compensation to the state and public for damages to wildlife resulting from water pollution. For fish loss specifically, the rule authorizes the use of the American Fisheries Society's special publication on fish counting methods and restitution valuation.

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

NATURAL RESOURCES COMMISSION[571]

Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6) and Iowa Code section 481A.151, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 113, "Restitution for Pollution Causing Injury to Wild Animals," Iowa Administrative Code.

These amendments will redefine the meaning of "AFS," the acronym used for the American Fisheries Society's special publications on fish counting methods and restitution valuation. The amendments will update the rule to state that "Special Publication 30," the most-current AFS publication regarding fish and freshwater mussel counting methods and restitution valuation, shall be used by the Department. Iowa Code section 455B.151 authorizes the Department to use the AFS to conduct fish kill counts and assess restitution for damages to the State's natural resources and wildlife. The amendments will also revise the fish species to be valued at \$15 a fish unless the AFS publication requires a higher value, in which case the higher value shall be applied.

Any interested person may make written suggestions or comments on the proposed amendment on or before October 23, 2009. Such written materials should be directed to Martin Konrad, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Martin.Konrad@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-6976 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on October 6, 2009, at 2 p.m. in the Fourth Floor (West) Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who attend the public hearing and have special needs such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 456A.23, 481A.2, and 481A.151.

The following amendments are proposed.

ITEM 1. Amend rule 571-113.2(481A), definition of "AFS," as follows:

"AFS" means the Special Publication 24, ~~"Investigation and Valuation of Fish Kills,"~~ 30 "Investigation and Monetary Values of Fish and Freshwater Mussel Kills," published by the American Fisheries Society.

ITEM 2. Amend rule 571-113.3(481A) as follows:

571-113.3(481A) Persons who cause by water pollution the destruction of or injury to wild animals of the state shall be liable to the state as provided by ~~2002 Iowa Acts, Senate File 2293, section 58~~ in

Iowa Code section 481A.151. These rules establish the methodologies and criteria for evaluating the extent and value of the destruction or injury and establish the methods of compensation. If the person and the department cannot agree to the proper resolution of a particular case, the issues of liability, damage and compensation will be established through contested case proceedings, as provided by 571—Chapter 7.

ITEM 3. Amend paragraph 113.4(2)“c” as follows:

c. The monetary valuation of fish shall be the replacement values as published in AFS for all fish lost except ~~those fish that are members of the families Ictaluridae (catfish/bullheads), Esocidae (northern pike/muskellunge), Salmonidae (trout), Percichthyidae (white bass/yellow bass/wipers), Centrarchidae (black bass/crappie/sunfish/rock bass/warmouth), and Percidae (yellow perch/walleye/sauger)~~ the following: channel catfish, flathead catfish, blue catfish, northern pike, muskellunge, northern pike/muskellunge hybrid, rainbow trout, brown trout, brook trout, white bass, yellow bass, white bass/striped bass hybrid, largemouth bass, smallmouth bass, spotted bass, crappie, rock bass, bluegill, redear sunfish, warmouth, pumpkinseed, freshwater drum, yellow perch walleye, sauger and walleye/sauger hybrid. The value of these fish shall be \$15 each, unless AFS establishes a higher value. Notwithstanding the above, the value of each fish classified by the department as an endangered or threatened species shall be \$1,000.

DATE

Richard A. Leopold, Director

(P:113n2/mg)

Moved – Commissioner Kircher

Seconded - Commissioner Francisco

Discussion – Commissioner Garst asked for the reasoning in using a publication number versus stating “the current” AFS publication. Martin Konrad reported they considered that. Tamara Mullen reported that it is easier to go to trial when we are able to refer to a specific publication and because it changes every 9-10 years it is not an encumbrance to make rule changes when needed. Martin Konrad also reported if we changed it to “the current,” the change would roll right into effectiveness and it would not allow an opportunity for public comment when the changes in the publications occur. Commissioner Rettig confirmed with staff that this rule will lower the value of certain fish (i.e. green sunfish) and that there are higher AFS values for certain fish, ie blue gill.

Motion – Carried by Unanimous Vote

10. Contract with Lake Improvements Commission for Storm Lake Dredging

Mike McGhee presented brief.

The Department requests Commission approval of a two year contract with the Lakes Improvements Commission (LIC), Buena Vista County, Iowa. The LIC is a nonprofit corporation pursuant to Iowa Code Chapter 504 and the DNR recognizes the creation and governance of the LIC, as defined by the Articles of Agreement established under Joint Agreement #024020 filed with the Buena Vista County Recorder. The contract will begin on July 1, 2009, and terminate on June 30, 2011. The total amount of this contract shall not exceed \$1,000,000. 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 the Lake Restoration Program with funding appropriated under SF376, Section 24. The parties propose to enter into this contract for the purpose of reimbursing the LIC for continued and planned lake dredging operations at Storm Lake (Buena Vista County).

Storm Lake is one of the 35 significant public lakes prioritized for restoration. Lake Restoration Program guidelines recommend the Department give priority for funding to active lake projects so long as progress toward completion of the project remains consistent with the goals of the program. The LIC is in the final stages of a multi-year dredging project. The goal of the project is to increase lake mean water depth and improve the lake water quality.

This Agreement is made pursuant to statutory authority granted to the parties pursuant to Iowa Code section 28E.4 or 28E.12 (2009). The DNR and the LIC enter into this agreement pursuant to a program established under Iowa Code §456A.33B, LAKE RESTORATION PLAN AND REPORT, known as the State Lake Restoration Program.

Moved – Commissioner Francisco

Seconded - Commissioner Kircher

Discussion – Commissioner Garst asked why Clear Lake’s dredging project would be completed in one year and Storm Lake has been ongoing for many years. Mike McGhee reported that Storm Lake has a larger dredge project and we are seeing a 2-3” per year water quality improvement. They submit an annual dredging plan and we assist them on how and where they dredge. Commissioner Garst asked if Mike McGhee was comfortable with the proposal and if we are getting a good deal. Mike McGhee reported, yes, because of the water quality improvement. Commissioner Rettig commented on the \$4.75 million spent on this project before this \$1 million and asked if there was another 4-5 years to go. Mike McGhee report up to a few years ago, there was federal funding available to the locals but that is no longer available to them. We are looking to seek federal opportunities to match these dollars and, until then, we are the funding source for this water quality project. Commissioner Rettig commented this could be about an \$11 million to dredge Storm Lake.

Motion – Carried by Unanimous Vote

11. Chapter 77, Endangered and Threatened Plant and Animal Species, Final Rule

The Department requests Commission approval of the amendments to Chapter 77 “Endangered and Threatened Plant and Animal Species.” Notice of Intended Action was approved by the Commission on May 14, 2009. The proposed amendments upgrade the status of the bald eagle and peregrine falcon from endangered to special concern species and correct a typographical error in the common name of the Forster’s tern. Notice of Intended Action was published in the Iowa Administrative Code Bulletin on June 17, 2009, as ARC 7856B. A public hearing was held on July 16, 2009, at the Wallace State Office Building in Des Moines. No one attended the public hearing. One written comment was received. The written comment agreed with the proposed amendments for the bald eagle and peregrine falcon but encouraged the Department to continue monitoring programs for the bald eagle because of the potential for lead poisoning.

NATURAL RESOURCE COMMISSION [571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 481B.3, the Natural Resource Commission hereby adopts amendments to Chapter 77, “Endangered and Threatened Plant and Animal Species,” Iowa Administrative Code.

The rules in Chapter 77 list plant and animal species whose continued existence within Iowa

has been found to be endangered, threatened, or of special concern. The proposed amendments upgrade the status of the bald eagle and peregrine falcon from endangered to special concern species and correct a typographical error in the common name of the Forster's tern. It is proposed that the bald eagle be listed as special concern rather than being removed from the list because of the potential effects from lead poisoning. Additional monitoring will be conducted to ensure that the bald eagle and peregrine falcon continue to increase or remain stable before they will be removed from the special concern list.

A Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 2009, as ARC 7856B. A public hearing was held on July 16, 2009. No one attended the public hearing. One written comment was received and it agreed with the proposed amendments for the bald eagle and peregrine falcon but encouraged the Department to continue monitoring programs for the bald eagle because of the potential for lead poisoning.

There have been no changes to the adopted amendments from those published as Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 481B.

These amendments shall become effective October 14, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 77.2(1), listing for "Birds," as follows:

Birds

Red-shouldered Hawk	Buteo lineatus
Northern Harrier	Circus cyaneus
Peregrine Falcon	Falco peregrinus
Piping Plover	Charadrius melodus
Common Barn Owl	Tyto alba
Least Tern	Strena antillarum
Bald Eagle	Haliaeetus leucocephalus
King Rail	Rallus elegans
Short-eared Owl	Asio flammeus

ITEM 2. Amend subrule 77.2(3), listing for "Birds," as follows:

Birds

Forester's <u>Forster's</u> Tern	Sterna forsteri
Black Tern	Chlidonias niger
<u>Peregrine Falcon</u>	<u>Falco peregrinus</u>
<u>Bald Eagle</u>	<u>Haliaeetus leucocephalus</u>

Date

Richard A. Leopold, Director

(P:77f.doc/mg)

Moved – Commissioner Francisco

Seconded - Commissioner Kircher

Discussion – Commissioner Francisco expressed disappointment in how routinely this process has become and this is something to celebrate. Commissioner Rettig agreed and stated there is an interest in staying on top of this. Commissioners Garst and Rettig commented on the need to improve or increase sighting data. Dale Garner commented that the department is working to incorporate other staff of the DNR to participate in this work.

Motion – Carried by Unanimous Vote

12. Cultural Resource Evaluation Contract with ISU

The Department requests Commission approval of a contract with Iowa State University (ISU) to perform cultural resource evaluations of DNR properties. Cultural resource evaluations include archaeological surveys and evaluation of historic properties to determine significance and eligibility for the National Register of Historic Places.

DNR is required to evaluate potential impacts to cultural resources as a condition of using federal funding and to comply with our agreement with the State Historical Society of Iowa. This agreement is intended to ensure that DNR complies with state and federal regulations regarding cultural resources. This agreement includes conditions and criteria that describe activities that are excluded from cultural resource evaluation and those activities that require formal evaluation through this contract. Information derived from these evaluations is used by area managers to protect any cultural resources that are identified on DNR lands.

The contract amount will be up to \$35,000 per fiscal year with funding coming from the Fish & Wildlife Trust Fund. The term of this contract shall be July 1, 2009 through June 30, 2010. DNR and ISU shall have the option to renew and extend this contract for subsequent periods, adding up to no more than 6 years total, by executing a signed contract amendment prior to the expiration of this contract.

Moved – Commissioner Kircher

Seconded - Commissioner Francisco

Discussion – Commissioner Garst confirmed with staff this is a renewal to a prior contract and the rate covers per project.

Motion – Carried by Unanimous Vote

13. Wildlife Habitat Promotion With Local Entities Program Grant Review

In 1979, the Iowa General Assembly passed legislation requiring hunters and trappers to purchase a wildlife habitat stamp. All revenue derived from the sale habitat stamps are used within the state of Iowa for acquisition of land, leasing of land, or obtaining easements from willing sellers for use as wildlife habitats and for the development and enhancement of wildlife lands and habitat areas. At least 50 percent of the stamp revenues are apportioned to local entities (county conservation boards) on a semiannual basis each year. Cost sharing will not be approved for more than 75 percent of the approved appraised value. The Wildlife Habitat Stamp Fund Program is administered by the DNR in compliance with Iowa Administrative Code 571-23.

Natural Resource Commission approval is requested for the wildlife habitat grant recommendations. The Wildlife Habitat Promotion with Local Entities Program Grant Review Committee met on July 17, 2009, to review a total of 18 county conservation board projects requesting \$1,284,326.75 in Habitat Funds. A total of \$600,000.00 was available for this grant review.

The committee recommends fully funding the top eight (8) ranked projects and the remaining funds of \$62,790.00, along with any undistributed funds from previous grant cycles, to the next ranked projects. Undistributed funds may be available from cost savings on other projects and/or previous funds declined by county conservation boards. If the next ranked project declines the remaining funding, the Department requests authority to offer those funds to the next highest scored project.

Rank by Score	County	Project	Acres	Grant Request	Grant Awarded	Total Project Cost
1	Winnebago	Prairie Lakes III Wetland Project - Underbakke Tract	157	23,800.00	23,800.00	141,300.00
2	Washington	Nolan Addition	167	66,792.00	66,792.00	111,900.00
3	Carroll	Carroll County Greenbelt Connection	156	124,000.00	124,000.00	172,000.00
4	Jones	Hale Wildlife Area	60	41,940.00	41,940.00	206,000.00
5	Mitchell	Wapsi River Greenbelt Additions	60	46,800.00	46,800.00	181,050.00
6	Des Moines	Wasson Land Acquisition	52.45	36,700.00	36,700.00	118,012.50
7	Worth	Grass Lake Project - Loren Wallin Tract	29	13,028.00	13,028.00	49,400.00
8	Sioux	Fairview Wildlife Complex, Ranschau	98	184,150.00	184,150.00	306,917.00
9	Kossuth	Schuffham Acquisition	127.88	102,170.00	\$62,790.00	193,400.00
10	Wright	McClenahan Wildlife Area	65	25,870.00	\$0.00	106,620.00
11	Clinton	Ringneck Marsh Wildlife Area Addition	100.4	50,000.00	\$0.00	105,000.00
12	Linn	Matsell Bridge Natural Area - Anderson Area	79	168,000.00	\$0.00	327,150.00
13	Hancock	Upper Grove Wildlife Area	79	78,999.00	\$0.00	150,000.00
14	Chickasaw	Kennedy Acquisition	71	51,750.00	\$0.00	69,000.00
15	Page	Ross Bros Pheasants Forever Wildlife Area	55.42	63,000.00	\$0.00	104,294.00
16	Tama	Hansen Addition - Parcel D	59.97	105,192.75	\$0.00	183,177.00
17	Madison	Jensen Marsh Addition	30.15	39,000.00	\$0.00	52,000.00
18	Greene	Horseshoe Bend Addition	42.09	63,135.00	\$0.00	84,180.00

Moved – Commissioner Kircher
Seconded - Commissioner Francisco
Discussion – none
Motion – Carried by Unanimous Vote

14. Chapter 91, Waterfowl and Coot Hunting Seasons - Emergency Final Rule

NRC approval is requested to adopt a final rule to amend Chapter 91, Waterfowl and Coot Hunting Seasons. These rules set regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and designation of areas open to hunting. The season dates are a change from the notice of intended action and would move the starting date of the duck season in the North Zone from October 17 to October 10. Also, the Canada goose season would be closed December 14-18 instead of December 21-25 in both the North and South Zones so the season is open over the Christmas holiday.

A total of 29 comments were received during the comment period. Twenty of those comments wanted the duck season in the north zone to open as early as possible so that hunters in northern Iowa could hunt ducks during October when the marshes are open rather than in December when most areas are frozen. Nine favored the later season so they could hunt late-season mallards.

Federal regulations for hunting migratory game birds during the 2009-10 seasons allow the same bag limits for ducks and geese as were used in 2008-09 except hunters may take one canvasback and two scaup per day for the entire season this year. Duck and goose season lengths are the same as used for the 2008-09 seasons.

The goose zone boundary is being moved from Highway 20 to Highway 30 so that the duck and goose zone boundaries are the same. Seventy-one percent of the respondents to the 2006 Waterfowl Hunter Survey preferred that the duck and goose zone boundaries be the same in Iowa. The Worth-Winnebago and Monona-Woodbury Canada goose closed hunting zones are being shrunk to allow more Canada goose hunting around these areas. Landowners within Canada goose closed hunting zones where permitted hunts are allowed are being permitted to hunt Canada geese until October 31 instead of October 15.

NATURAL RESOURCE COMMISSION[571]

Filed Emergency after Notice

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 91 "Waterfowl and Coot Hunting Seasons", Iowa Administrative Code.

These rules set regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. Season dates were adjusted to comply with federal law and to ensure that seasons open on weekends. The amendments adjust season dates for calendar date changes; change bag limits for scaup, mottled ducks, and canvasbacks pursuant to 2009 federal regulations; change the boundary dividing the state into north and south goose hunting zones so that it is the same as the boundary that divides the state into north and south duck hunting zones; allow landowners to hunt in Canada goose closed hunting zones until October 31 instead of October 15; decrease the size of the Worth-Winnebago and Monona-Woodbury Canada goose closed hunting zones.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as ARC 7686B. A public hearing was held on April 29, 2009. A total of 29 comments were received during the comment period. Twenty of those comments wanted the duck season in the north zone to open as early as possible so that hunters in northern Iowa could hunt ducks during October when the marshes are open rather than in December when most areas are frozen. Nine favored the later season so they could hunt late-season mallards.

Based upon these comments and historical migration patterns the season dates were changed from the Notice of Intended Action. The starting date of the duck season in the North Zone was changed from October 17 to October 10. Also, the Canada goose season was changed so that it is closed December 14-18 instead of December 21-25 in both the North and South Zones so the season is open over the Christmas holiday.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing with the Administrative Rules coordinator, as it confers a benefit.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendments are proposed.

ITEM 1. Amend subrules 91.1(2), 91.1(3), and 91.1(4) as follows:

91.1(2) Season dates - north zone. For all ducks: September ~~20~~ 19 through September 24 23 and October ~~18~~ 10 through December ~~11~~ 3.

91.1(3) Season dates - south zone. For all ducks: September ~~20~~ 19 through September 24 23 and October ~~18~~ 17 through December ~~11~~ 10.

91.1(4) Bag limit. The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 3 wood ducks, 1 black duck, 1 pintail, ~~3~~ 1 mottled duck, 1 canvasback, 2 redheads, and ~~1~~ 2 scaup., ~~except during November 1 through November 20 when the daily limit for scaup is 2. No canvasbacks may be included in the daily bag limit; the canvasback season is closed.~~ The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

ITEM 2. Amend subrules 91.3 (1), 91.3(2), and 91.3(3) as follows:

91.3(1) Zone boundaries. ~~The north goose hunting zone is that part of Iowa north of U.S. Highway 20. The north goose hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border.~~ The south goose hunting zone is the remainder of the state.

91.3(2) Season dates - north zone. Canada geese and brant: September ~~27~~ 26 through October ~~5~~ 4 and October ~~18~~ 10 through December ~~21~~ 13 and December ~~27~~ 19 through January ~~11, 2009~~ 3, 2010. White-fronted geese: September ~~27~~ 26 through December ~~7~~ 6. Light geese (white and blue-phase snow geese and Ross' geese): September ~~27~~ 26 through January ~~11, 2009~~ 10, 2010.

91.3(3) Season dates - south zone. Canada geese and brant: September ~~27~~ 26 through October ~~5~~ 4 and October ~~18~~ 17 through December ~~21~~ 13 and December ~~27~~ 19 through January ~~11, 2009~~ 10, 2010. White-fronted geese: September ~~27~~ 26 through December ~~7~~ 6. Light geese (white and blue-phase snow geese and Ross' geese): September ~~27~~ 26 through January ~~11, 2009~~ 10, 2010.

ITEM 3. Amend subrule 91.3(7) as follows:

91.3(7) Light goose conservation order season. Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January ~~12, 2009~~ 11, 2010, through April 15, ~~2009~~ 2010.

ITEM 4. Amend subrule 91.4(2) paragraphs (d) and (i) as follows:

d. Area four. ~~Portions of Winnebago and Worth Counties bounded as follows: Beginning at a point two and one half miles east of Lake Mills, Iowa, at the junction of State Highway 105 and County Road S10 (also named Bluebill Ave.); thence south along County Road S10 (including the right-of-way), i.e., Bluebill Ave., three-fourths mile to 448th St.; thence east three-fourths mile on 448th St. to Cardinal Ave.; thence south one-fourth mile to 445th St.; thence east one-fourth mile to Cedar Ave.; thence south one-half mile on Cedar Ave. to 440th St.; thence east three-fourths mile on 440th St. to Dove Ave.; thence south on Dove Ave. one-half mile to 435th St.; thence east one-fourth mile on 435th St. to Dove Ave.; thence south on Dove Ave. to County Road A34; thence east one mile on County Road A34 (including the right-of-way) to Evergreen Ave.; thence south two miles to County Road A38 (also named 410th St.); thence west eight and one-half miles along County Road A38 including the right-of-way; thence north four miles along County Road R72 (also named 210th Ave.) (including the right-of-way); thence east along State Highway 69 approximately one mile (including the right-of-way) to the intersection with State Highway 105; thence east along State Highway 105 (including the right-of-way) five miles to the point of beginning.~~ Portions of Winnebago and Worth Counties bounded as follows: Beginning at the junction of U.S. Highway 69 and County Road 105 in the town of Lake Mills, thence east along County Road 105 (including the right-of-way

and all other road right-of-ways identified in this description) approximately 5 miles to Dogwood Ave.; thence south along Dogwood Ave. to 440th St.; thence east one-fourth mile on 440th St. to Dove Ave.; thence south on Dove Ave. one-half mile to 435th St.; thence east one-fourth mile on 435th St. to Dove Ave.; thence south on Dove Ave. to County Road A34; thence east one mile on County Road A34 (also named 430th St.) to Evergreen Ave.; thence south one mile to 420th St.; thence west along 420th Street to Cedar Ave., thence south one half mile along Cedar Ave. to Lake St., thence west one fourth mile along Lake St. to Front St., then southeast one half mile along Front St. to County Road A38 (also know as 410th St.); thence west along County Road A38 to County Road R74 (also named 225th Ave.); thence north along County Road R74 to 420th St., thence west along 420th St. to County Road R72 (also named 210th Ave.); thence north along County Road R72 to U.S. Highway 69; thence east along U.S. Highway 69 to point of beginning.

i. Area nine. Portions of Monona and Woodbury Counties bounded as follows: For the portion in Monona County, beginning at the junction of County Road K42 and 120th Street; thence south along County Road K42 (including the right-of-way and all other road right-of-ways identified in this description) approximately 4 miles; thence south on Berry Avenue approximately 1 mile to 170th Street; thence east along 170th Street to Cashew Avenue; thence south along Cashew Avenue to 200th 190th Street; thence east along 200th 190th Street to County Road K42; ~~thence south and east along County Road K42 to Cherry Avenue; thence south along Cherry Avenue to 243rd Street; thence east along 243rd Street to Cypress Avenue; thence south along Cypress Avenue to 245th Street; thence east and northeast along 245th Street to Filbert Avenue; thence north and northwest along Filbert Avenue to State Highway 175; thence east along State Highway 175 to County Road K45; thence north and northwest approximately 4 7 miles along Monona County Road K45 to 120th Street; thence west along 120th Street to the point of beginning; and for the portion in Woodbury County, beginning at the junction of County Road K45 and State Highway 141; thence northwest along County Road K45 approximately 6 miles to the intersection with Woodbury County Road K25; thence west approximately 3 miles along Woodbury County Road K25 to the intersection with Port Neal Road; thence continuing along the same westerly line approximately 1 mile on the north border of section 6, township 86 north, range 47 west, to the ~~Iowa-Nebraska state line along center of the Missouri River;~~ thence southerly along the ~~state line~~ Missouri River channel approximately 8 miles to a point where 340th Street meets the Iowa-Nebraska state line on the Missouri River except that portion of Nebraska lying on the east side of the Missouri River; thence east to and along 340th Street approximately 5.5 miles to County Road K42; thence north and east along County Road K42 approximately 2.5 miles to the point of beginning.~~

ITEM 5. Amend subrule 91.5(1), introductory paragraph, as follows:

~~91.5(1) Clay County, Dickinson County, Emmet County, Jackson County, and Butler County closed areas.~~ Area 1 (Emmet Co.), Area 2 (Clay and Palo Alto Cos.), Area 3 (Dickinson Co.), Area 4 (Winnebago and Worth Cos.), Area 11 (Jackson Co.), and Area 15 (Butler Co.) as described in subrule 91.4(2).

ITEM 6. Amend subparagraph 91.5(1)“b”(7) as follows:

(7) Hunting within the closed area will be allowed through October ~~15~~ 31.

ITEM 7. Amend rule 571--91.6(481A) as follows:

~~571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held on October 4 and 5, 2008 3 and 4, 2009,~~ in the north duck hunting zone and October 4 ~~and 5, 2008 3 and 4, 2009,~~ in the south duck hunting zone. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

Date

Richard A. Leopold, Director

(N:91f.doc/mg)

Moved – Commissioner Bird

Seconded - Commissioner Kircher

Discussion –

- Commissioner Bird stated that he came to the meeting today with my mind all but made up for a later season, but through the public participation and information provided he will support the department's recommendation now.
- Commissioner Francisco commented that he agonized over this item; he had received a lot of public comments, and review of the supporting information he too will support the department's recommendation.
- Commissioner Rettig stated that as a non hunter she approached this issue differently; needing to understand it from a broader aspect. While she appreciates the people across the state who contacted the commissioners to express their thoughts. She stated that she trusts the biology and the science and sees no compelling reason not to vote that way. She too will vote in favor of the department's recommendation.
- Commissioner Garst stated that after reviewing all of the materials she feels that in the end it isn't a science question; but a question about people management and the DNR needs to honor that. Your job is people; and be proud of that and understand that. It's a hard call and there are two kinds of hunters here. I didn't realize there were people actually breaking ice. It's a sociological question. I'm going to support the department's recommendation that the majority hunters rule.
- Commissioner Drees stated that he views this issue differently. By his count, the public comments were 7-2 in favor of the early season, and he said it was also obvious from commissioners' comments where the vote was headed. He said he had deferred to the experts the last two years on the issue and appreciates the staff's work, but he was going to go on record as disagreeing this year. Drees discussed his experiences from his first duck hunt to current hunts and he values that as part of the whole experience of being a waterfowler. A lot of his journal data from 35 years of keeping hunting journals – which note weather conditions and wildlife observations - disagrees with waterfowl biologist Guy Zenner. His journal entries show quality hunts in most years until the end of the seasons and he feels fortunate to experience late season hunts.

Dale Garner stated that from the department's staff perspective; we only provide the data for you to make the best decision possible. He went on to say that the public comment period addressed the sociological aspect which was included in the decision by the department. Our goal is to provide the greatest opportunity for the people.

Vote:

All in favor: Commissioners Bird, Francisco, Garst, Kircher, and Rettig

All opposed: Commissioner Drees

Motion: Carried with 5 to 1 vote

15. Agreement with Pheasants Forever and the Natural Resources Conservation Service

The Commission is requested to approve an agreement among the Department and Pheasants Forever (PF). The primary purpose of this agreement will be to fund 2 Reload Iowa PF Wildlife Specialist positions to work with private landowners utilizing best management practices that improve wildlife habitat. This agreement will further achieve the goals of the Iowa Department of Natural Resources Wildlife Bureau and the objectives of the Contribution Agreement between DNR and the Natural Resources Conservation Service (NRCS).

The DNR enters into an Contribution Agreement with NRCS annually in which NRCS provides funding for staff in the Wildlife Bureau's Private Lands Program (PLP), in return the PLP staff complete specific work products associated with Federal Farm Bill Programs. The agreement has consistently included 5 Wildlife Specialists, one for each of the 5 NRCS Areas. Due to the Fish and Wildlife Trust Fund budget and therefore hiring freeze we have two vacancies.

The intent of this agreement is for DNR to enter into an agreement with PF where PF hires two Reload Iowa Wildlife Specialists, locates them one in each of the NRCS Areas where we have vacancies as indicated above. DNR would in turn provide funding in the amount of half the cost of the two Wildlife Specialists which it receives from the Contribution Agreement with NRCS. The PF employees will complete work products from the DNR/NRCS Contribution Agreement. Partnering with PF will allow the DNR to meet the terms of the Contribution Agreement

The funding for the two positions (up to \$55,000 each) will be paid through Pheasants Forever (50%) and NRCS Contribution Agreement Federal Funding (50%) which will be disbursed through the DNR.

Moved – Commissioner Bird

Seconded - Commissioner Kircher

Discussion – Commissioner Kircher inquired on the location of these additional employees.

Dale Garner replied in the southwest corner of the state with the understanding future needs may dictate location. Commissioner Garst asked for a clarification of the funding. Dale stated the Department is just a pass through for the funding. Commissioner Drees stated this partnership is a good move especially when we are concerned about the pheasant population.

Motion – Carried by Unanimous Vote

16. Donations

The Natural Resource Commission is requested to approve the following donations:

Donation to:	Amount	Description	Donation Provided by (Name/Org):
FW Trust Fund- Wildlife Diversity Program	50.00	support for wildlife diversity	Kenneth Hunt
Fish and Wildlife Trust Fund	335.00	support of wildlife habitat in memory of Michael Robinson	Mike Wallace
Wapsipinicon State Park	100.00	tools or building supplies needed	Guy Cain Buffalo Fork Settlers Club
Lacey-Keosauqua State Park	130.00	repair of a post hole digger and welding a new firering to make it theft proof	McQuoid Welding and Machining
Lacey-Keosauqua State Park	181.89	support in paying the invoice to Gingerich Logging Company for the repair of a Stihl pole pruner	Rex Ornduff
Law Enforcement Bureau	966.00	Motorola EX600 portable two-way radio	Phil Peterson Iowa Great Lakes Water Safety Council
Hunter Education	1,839.20	sixteen reversible hunter safety harnesses	Hunter Safety System, Inc.

Moved – Commissioner Francisco

Seconded - Commissioner Kircher

Discussion – Commissioner Garst asked what a reversible safety harness was. Commissioner Francisco said you should always wear a harness when climbing or sitting in a tree and a reversible one is blaze orange on one side and camouflage on the other depending on the type of hunting season. These are full body harnesses.

Motion – Carried by Unanimous Vote

17. Natural Resource Based Business Opportunity Grants Program – INFORMATIONAL ITEM ONLY

Ken Herring presented brief.

A total appropriation of \$250,000 was made to this grant program from the following sources: \$237,500 came from the DNR Environment First Fund for the development of projects related to natural resource-based business opportunities, and \$12,500 was appropriated for administration costs. Local Resource Conservation & Development (RC&D) Boards sponsored by county governments or Soil & Water Conservation Districts were eligible to receive funding on a competitive basis. The applicants received a dollar-for-dollar match.

DNR staff recently met with the Executive Director and the President of the Iowa League of RC&D to establish guidelines on the facilitation and use of these funds. This was deemed necessary as this is only the fourth year funds have been appropriated for this program. An Emergency Rule will be proposed in September based upon these discussions.

Moved – N/A

Seconded – N/A

Discussion – Commissioner Garst commented that she had the pleasure of living near two private natural resource contractors who are constantly infuriated that RC&D governmental bodies are competing for private contracts and she is in sympathy with these neighbors. She encourages the Department to consider this in their rule making process. Commissioner Rettig asked why this item was coming before the commission as an emergency rule since it has been going on for four years now and the money became available at the beginning of the fiscal year. Commissioner Rettig stated that she understood that in this case stakeholders were involved in the process but in general she believes that emergency rule making should be very rare. Ken Herring concurred and deferred since this is an informational item only. He will take the comment back to staff and request in the future there be explanation as to why an item comes before the commission as an emergency ruling. Director Leopold agreed regarding the use of emergency rules and offered the explanation that it is used when something has come very fast.

Motion – N/A Informational Item Only

18. Council Bluffs Riverfront Development, Pottawattamie County – INFORMATIONAL ITEM ONLY

The City of Council Bluffs developed, with the assistance of a consultant, an extensive plan for recreational development of the riverfront of the Missouri River extending from Harrah's Casino northward to north of the Iowa approach to the newly constructed Bob Kerry pedestrian bridge linking Council Bluffs and Omaha. Council Bluffs is contemplating a formal request to the Natural Resource Commission to transfer ownership of state-owned land along the riverfront upon which development proposed in the plan would occur. The area proposed for development is sovereign state owned land formed from the bed of the Missouri River resulting from the channelizing of the river by the U.S. Army Corps of Engineers. Council Bluffs currently manages the area under a management agreement with the DNR.

Moved – N/A

Seconded – N/A

Discussion – Commissioner Bird asked how long Council Bluffs has had the property under their control. Greg Jones, Realty Services responded it had been approximately 5 years; before that the property was a wild area. It is sovereign land and use to be riverbed.

Commissioner Francisco commented that the south end parking areas looked like they were on the state side of the levee. Greg Jones explained that there had been a title agreement that the commission approved about 10 years ago and the state agreed to recognize that the state does not own all the land.

Commissioner Kircher asked about the riverfront wetlands and how they would be dealt with appropriately. Larry Foster explained they would be dealt with the Army Corps. Reestablishment of the wetlands on the site would be the preferred method. The wetlands are a single culture of reed canary grass; nothing about it is pristine. If we replace them we would replace them with more diverse wetlands.

Commissioner Kircher asked DNR Attorney Tamara Mullen to explain how the code reads in transferring land. Tamara Mullen referred to Iowa Code section 461A.

Larry Foster stated that the city is agreeable to any clause the State may have.

Commissioner Rettig asked about the slides that showed current parks (Playland Park) and asked if the area would be developed for mixed use. Larry Foster stated that it is currently an open space.

Commissioner Rettig asked if there would be other green space. Larry Foster said that as a part of this project, there would be a small area developed as a neighborhood park in Playland Park.

Commissioner Rettig commented on the amount of concrete in the plan for the State's land such as parking lots and the amphitheater. Larry Foster stated that they have tried to minimize hard surfaces as much as possible while still providing the parking needs to such an area.

Commissioner Bird asked if it was fair to say the Department does not want to maintain this; how could the department get something for this instead of transferring this to the city for nothing.

Possibly we may want to look at to see if the city could purchase desirable property near State land that we could trade. Commissioner Bird recommended looking into that.

Ken Herring, Conservation and Recreation Division Administrator stated that the department views this as an opportunity for all Iowans. If this was integral, we would look for compensation but this is an area of land we think it would be a benefit and are supportive in the transfer of this land.

Director Leopold reiterated that the department looked at the presentation and asked some of the same questions based on the existing use and the proposed use. There is hardly any conservation area to most of this land, weeds and sand, except the wetlands area. The plan for the education center is in dire need in this area. The amphitheater will have concrete added, but the city is separated from the river and this will be a connector and facilitate appreciation and ownership of the area and river.

Commissioner Garst stated that although she not a fan of concrete; she has visited in Ganges in India where they use "gats" which are concrete steps that go down to the river, which felt incredibly accessible. Commissioner Garst also added that she felt trade price should be to extract alternate green areas where possible versus getting another piece of land, ie: get rid of reed canary grass and make a better wetland.

Larry Foster was agreeable to this but please consider not recommending the impossible, such as removing reed canary grass which is a natural growth.

Commissioner Rettig asked if they would develop green spaces now. She would like to see strict development and unbreakable language on development such as on the shoots, green space, and storm water runoff.

Deputy Director Boddy recommended that Mr. Foster view Jester Park in Polk County to see a natural playground area and regarding porous pavement, there are options for parking lot overflow.

Motion – N/A Informational Item Only

19. General Discussion

- Kevin Szcodronski, State Parks Bureau Chief, gave Commissioner Bird his words of appreciation and thanks for his love of State Parks and his friendly challenges he gave him while working in the parks area.
- The commission discussed alcohol use in state parks (specifically state parks within Dickinson County and at Lake Macbride on July 4th). Commissioners addressed concerns of safety, park law enforcement, and disruptive behavior by some visitors at park beach areas. Director Leopold proposed that a specific rule to drive meaningful public discussion and solicit information from the rest of the state so that a selective and careful rule can be drafted in relation to alcohol in state parks.
- Commissioner Garst invited people to attend the Star Party at Whiterock Conservancy this Friday night. There will be a public viewing of the stars and it is free on the Friday night.
- Commissioner Bird shared that earlier in the meeting he was surprised by the plaque presentation and want to share his appreciation to Director Leopold and he is going to miss all the Commissioners. He has enjoyed what he has done here and, even though we have disagreed on some issues, he appreciates and respects Director Leopold and Department staff, too many to name.
- Commissioner Francisco noted he has had correspondence regarding shallow water lakes management plans and it has turned out that we were talking apples and oranges because of the different types of water bodies and the fish or no fish that are in those. He requested a presentation from staff on shallow water lakes. Commissioner Drees stated that during the September tour, that particular topic is on the agenda.
- Commissioner Rettig noted that Commissioner Carol Kramer has resigned from this commission after 10 years of service under two governors and she wishes her well.

20. Items for Next Meeting

Next Meetings:

September 10, 2009 – Dickinson County

October 08, 2009 – Monroe County

Adjournment of meeting on August 13, 2009 at 2:00 p.m.

Moved – Commissioner Kircher

Seconded - Commissioner Francisco

Discussion – None

Motion – Carried by Unanimous Vote