

**IOWA DEPARTMENT OF NATURAL RESOURCES  
NATURAL RESOURCE COMMISSION MEETING SUMMARY**

<b>Thursday</b>		<b>May 13, 2010</b>		<b>NRC MEETING AGENDA</b> Meeting convenes at 10:00 am Public Comment Period begins at approximately 10:30am	
1	Approve Agenda				
2	Election of NRC Officers				
3	Approve Minutes of 04/08/10				
4	State of the Environment Presentation - Director Leopold				
5	Director's Remarks				
6	Honey Creek Update				
7	Construction Project Change Order - Honey Creek Resort State Park Roads and Parking			Decision	CARRIED
8	Construction Items				
	8.1	Munson WRP, Dickinson County – Wetland Restoration/Earthwork		Decision	CARRIED
	8.2	Lost Grove SRA, Scott County – Earthen Dam and Spillway Construction		Decision	CARRIED
	8.3	Lake Ahquabi State Park, Warren County – Asphalt Overflow Parking – Main Ramp		Decision	CARRIED
	8.4	Eagle Grove WMA, Emmet County – Kirk Wetland Restoration		Decision	CARRIED
9	Small Construction Projects Contracts			Information	N/A
10	Land Acquisition Projects				
	10.1	Jemmerson Slough – Dickinson County – INHF		Decision	CARRIED
	10.2	Lost Grove Lake – Scott County – Lois Klever		Decision	CARRIED
	10.3	Good Neighbors Marsh WMA – Winnebago County – Northern Prairie, LLC		Decision	CARRIED
	10.4	Wood Duck Marsh – Winnebago County - Helgeson		Decision	CARRIED
11	Land Management Projects				
	<del>11.1</del>	<del>Pine Ridge Recreation Area – Hardin County – Hardin ECB</del>		<del>Decision</del>	REMOVED from Agenda
	11.2	Crabb Island, Mississippi River – Louisa County – MidAmerican Energy		Decision	TABLED
	11.3	Five Island Lake Access – Palo Alto County		Decision	CARRIED
12	<del>Agreement with Louisa Soil and Water Conservation District</del>			<del>Decision</del>	REMOVED from Agenda
13	Award: 2008 Sport Fishery Development and Management Outstanding Sport Fish Restoration Project of the Year			Information	N/A
14	Muskellunge 50 inch length limit			Information	N/A
15	Chapter 61 “State Parks and Recreation Areas” - Final			Decision	CARRIED
16	Chapter 61 “State Parks and Recreation Areas” - Notice of Intended Action			Decision	CARRIED
17	Chapter 62 “State Forest Camping” - Final			Decision	CARRIED
18	Chapter 65 “Fireworks Displays—State Parks and Recreation Areas” - Notice of Intended Action			Decision	CARRIED
19	Brushy Creek Trails Advisory Board Appointment			Decision	CARRIED
20	Land and Water Conservation Fund - City and County Grants			Decision	CARRIED
21	Chapter 68, “Alcohol Use at State Parks” - EMERGENCY FILING and Notice of Intended Action			Decision	<u>Emergency Filing:</u> FAILED <u>Notice of Intended Action:</u> CARRIED with public hearing date amended
22	28E Agreement with Whiterock Conservancy			Decision	CARRIED
23	Chapter 15, General License Regulations – Notice of Intended Action			Decision	CARRIED
24	Water Recreation Access Cost-Share (WRAC) Grant FY 2011			Decision	CARRIED
25	Donations			Decision	CARRIED
26	Chapter 44, Special Events - Final			Decision	CARRIED as Amended
27	Chapter 12, Conservation Education			Decision	CARRIED
28	General Discussion				
29	Items for Next Meeting				
Next Meetings: 06/10/10, Thursday-Polk County 07/22/10, Thursday-Polk County					

**MINUTES**  
**OF THE**  
**NATURAL RESOURCES COMMISSION**  
**MEETING**  
**MAY 13, 2010**

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**HENRY WALLACE OFFICE BUILDING**  
**502 E. 9<sup>TH</sup> STREET**  
**DES MOINES, IA 50319**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by the NRC Commission Chairperson, Gregory Drees on May 13, 2010 at 10:00 a.m. He welcomed the public to the meeting and reviewed the public speaking forum guidelines.

### COMMISSIONERS PRESENT

Gregory Drees, Chairperson  
Richard (Kim) Francisco, Secretary  
Elizabeth Garst  
Tammi Kircher, Vice-Chairperson  
Dennis Schemmel  
Margo Underwood  
Janelle Rettig – left meeting at 3:23pm prior to item #4

### COMMISSIONERS ABSENT

None

### PUBLIC COMMENT

- \* Note - Commissioner Garst exited the meeting to recuse herself to avoid conflict of interest.
- Ryan Hanser, President of Central Iowa Trails Association addressed the commission in reference to the partnership agreement request between the DNR and Whiterock Conservancy to develop a sustainable trails system. He thanked the commission for their consideration of the agreement.

### 1. APPROVAL OF AGENDA

**Moved (1)** – Commissioner Kircher moved to amend the agenda as follows; delay item #4 to the end of the meeting prior to item #28, strike item # 11.1 from the agenda at the request of the department, move item #'s 15-18 to follow item #26.

**Seconded** - Commissioner Francisco

**Motion** – Carried as Amended by Unanimous Vote

**Moved (2)** – After the Election of NRC Officers Commissioner Francisco moved to also strike item #12 at the request of the department.

**Seconded** – Commissioner Rettig

**Motion** – Carried as Amended by Unanimous Vote

## 2. ELECTION OF NRC OFFICERS

### **NRC Chairperson:**

Nominations were opened for NRC Chairperson

**Moved** – Commissioner Garst nominated Commissioner Drees

**Seconded** – Commissioner Underwood

No other Nominations from the floor

**Motion** – Carried by Unanimous Vote

**Commissioner Drees will remain as NRC Chairperson.**

### **NRC Vice-Chairperson:**

Nominations were opened for NRC Vice-Chairperson

**Moved** – Commissioner Garst nominated Commissioner Kircher

**Seconded** – Commissioner Francisco

No other Nominations from the floor

**Motion** – Carried by Unanimous Vote

**Commissioner Kircher will remain as NRC Vice-Chairperson.**

### **NRC Secretary:**

Nominations were opened for NRC Secretary

**Moved** – Commissioner Kircher nominated Commissioner Francisco

**Seconded** – Commissioner Schemmel

No other Nominations from the floor

**Motion** – Carried by Unanimous Vote

**Commissioner Francisco will remain as NRC Secretary.**

## 3. APPROVAL OF MINUTES FROM APRIL 8, 2010

**Moved** – Commissioner Kircher

**Seconded** – Commissioner Francisco

**Amendments** – Minor edits were requested by Commissioners Francisco and Underwood prior to meeting via email.

**Motion** – Carried as Amended by Unanimous Vote

\*\* Note \*\* Commissioner Rettig left meeting at 3:23pm prior to item #4

## 4. STATE OF THE ENVIRONMENT PRESENTATION

**INFORMATIONAL ONLY**

Director Leopold presented the State of the Environment Report to the commission.

The full report may be found at: <http://www.iowadnr.gov/status.html>.

## 5. DIRECTORS REMARKS

<b>INFORMATIONAL ONLY</b>
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- Last week the department Staffing Plan was submitted to the Governor's Office, Department of Management, and Department of Administrative Services for approval.
- State Employee Retirement Incentive Plan (SERIP) sign up dead line was April 15, 2010. 63 eligible employees signed up for SERIP, 8 of those employees have since rescinded their SERIP intent. 24 full time employee's (FTE's) will be eliminated due to SERIP; reducing the department FTE's from 1168.95 to 1144.95.
- Deputy Director Boddy has lead effort in drafting the master plan which incorporates the department staffing plan into the overall department strategic plan.
- Reorganization Bill savings are not predicted to be what was once thought; additional budget cuts are likely.
- As a precaution to white-nose bat syndrome the department has closed all state owned caves to help slow the spread of the disease.
- The Director and Deputy Director recently participated in 'fish squeezing' at Spirit Lake. It was very encouraging that the walleye restock levels were achieved in record time this year.

## 6. HONEY CREEK RESORT STATE PARK UPDATE

<b>INFORMATIONAL ONLY</b>
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Linda Caird, Central Group Companies and Andy Woodrick, Honey Creek Resort General Manager reviewed with the commission the resort's financial information for March 2010 and the new fiscal year (FY10-FY11) pro forma.

All financial information can be found at: <http://www.iowadnr.gov/honeycreek.html>

### Discussion

- Commissioner Rettig commented that in March 2009 the lodge occupancy was at 51.6% and now after all of the changes that have been made the lodge occupancy for March 2010 is at 41% which is drop of 10.6%.
  - Andy Woodrick explained that the difference is the cottages. The combined total resort occupancy rate is down from 1,652 in 2009 to 1,474 in 2010. The cottages are what are driving the higher daily average room rate.
- Commissioner Rettig asked about the food & beverage revenue loss.
  - Andy Woodrick agreed that this is a challenging area and stated that they are constantly monitoring it.
- Commissioner Kircher asked about reservations at RV Park.
  - Andy Woodrick responded that there have been a few so far this season but due to the weather it has been slow.

- Commissioner Garst asked what the end of year net operating income estimate would be.
  - Linda Caird responded it was estimated at approximately a \$65k operating loss for fiscal year 2010.
- Commissioner Garst asked how the fiscal year operating loss would be covered.
  - Linda Caird explained it would be covered by advance guest deposits.
- Commissioner Rettig commented that the resort assets are up \$30k but liabilities are also up \$1M
  - Linda Caird explained that the bond payment is a large portion of the resort liabilities.
  - Commissioner Garst commented that guest reservation deposits were a good liability to have.
- Commissioner Garst once again requested a complete balance sheet that reflects all assets & liabilities.
  - Jennifer Nelson, DNR Budget & Finance Bureau Chief responded that it is in process and once the FY11 budget is complete she will be able to refocus on this and hopes to have it complete for presentation to the commission in the near future.
- Commissioner Garst asked the department about the hiring of an Asset Manager.
  - Michelle Wilson explained that the Request for Proposal (RFP) has been finalized for posting on the website for interested applicants. The department along with and will be posted within the next week for interested firms to apply for the position. The Deputy Director has requested assistance from other agencies such as the Treasurer and Auditors Office's to assist in the selection process.
- Michelle Wilson & Don Labate then updated the commission on the status of the activities building, dock installation, and beach.
- Commissioner Schemmel thanked Central Group Companies for their hard work

## **7. CONSTRUCTION PROJECT CHANGE ORDER – HONEY CREEK RESORT STATE PARK ROADS AND PARKING**

This decision is for change orders for roads and parking at the resort. All change orders for this contract total \$1,361,539.25. The funding breakdown is as follows:

- Park and Institutional Road Fund - \$930,619.31
- General Honey Creek Funds - \$305,316.39
- SWAP/Waste Tire Funds - \$95,596.25
- Marine Fuel Tax - \$30,007.30

The work completed is through 6 change orders over a two year period for bioentention, erosion control and revised seeding plan, design changes, trail loop at the front property and to the beach, and the playground. Additional value-added pieces that were not a part of any other contract on the property include signage, landscape materials, grading for the day-use facilities, and other amenities.

Since the sum of all these change orders exceeds 10% of the original contract amount, additional NRC approval is required.

DNR recommends awarding the contract change orders.

**Moved** – Commissioner Francisco  
**Seconded** – Commissioner Rettig  
**Discussion** – Commissioner Underwood asked what was the impact of using the SWAP/Waste Tire Fund. Michelle Wilson explained that this did not impact any other projects as the SWAP/Waste Tire Fund had been previously dedicated to the playground installation. Commissioner Rettig commented that in 2008 she had asked the project manager at the time about these changes and if these items would need to come back to the commission and was told that it was not necessary; she stated that at this point she felt the commission had no choice but to approve the change order request.  
**Motion** – Carried by Unanimous Vote

**8. CONSTRUCTION PROJECTS**

**8.1 MUNSON WRP, DICKINSON COUNTY – WETLAND RESTORATION/EARTHWORK**

This project consists of the restoration of wetlands including constructing dikes, locating and disabling subsurface drainage, intake installation, and incidental work as required by the Plans and/or the DNR Construction Inspector. This design creates a 17 acre wetland that will improve and/or enhance the amount of aquatic habitat available in the area for several species of plants and animals.

This project was designed by DNR Engineering staff and will be inspected by Jeff Felts, PE, DNR District Inspector. DNR estimate is \$113,793. Funding source is Federal NRCS (Capital Link #37). 23 sets of plans were issued and 12 bids received.

LeRoy and Sons, Inc.	Arcadia, IA	\$ 92,684.20
Diamond Concrete & Construction, Inc.	Spirit Lake, IA	\$105,283.74
Beck Excavating	Spirit Lake, IA	\$107,002.13
Carnarvon Sand & Gravel	Wall Lake, IA	\$112,108.34
Reutzel Excavating, Inc.	Burt, IA	\$120,512.54
Rognes Bros Excavating Inc.	Lake Mills, IA	\$123,222.15
King Construction	Wall Lake, IA	\$128,389.13
Vaughn DeLoss Construction	Spencer, IA	\$151,652.00
K & L Landscape & Construction, Inc.	Sergeant Bluff, IA	\$158,117.45
Cohrs Construction Inc.	Spirit Lake, IA	\$163,846.00
Valley Contracting Inc.	Estherville, IA	\$198,567.40
Peterson Contractors Inc.	Reinbeck, IA	\$246,202.40

DNR recommends awarding project to the low bidder, LeRoy and Sons, Inc.

**Moved** – Commissioner Kircher  
**Seconded** – Commissioner Garst  
**Motion** – Carried by Unanimous Vote

**8.2 LOST GROVE SRA, SCOTT COUNTY – EARTHEN DAM AND SPILLWAY CONSTRUCTION**

This project consists of the construction of a dam and spillway and related structures in Scott County, by the intersection of 250th Street and 240th Avenue, which will impound Lost Creek, resulting in a 350 acre lake. This new lake will create multiple conservation and recreation opportunities in an area lacking these resources. Future projects will develop ramps, access, parking, restrooms and other amenities. The dam was designed as a high hazard earth bermed dam under the Federal Fish and Wildlife criteria. The dam will control downstream flood protection. Previous related projects included relocation of power lines, construction of sediment basins and construction of a concrete causeway to allow boater and fishing access to the middle of the future lake.

This project was designed by AECOM and will be inspected by AECOM and Dave Heer, PE, DNR District Inspector. DNR estimate is \$5,600,000. Funding source is Federal Dingle Johnson and Marine Fuel Tax (Capital Link #134). 63 sets of plans were issued and 8 bids received.

JB Holland Construction	Decorah, IA	\$4,158,640.54
DeLong Construction, Inc.	Washington, IA	\$4,227,591.55
Peterson Contractors, Inc.	Reinbeck, IA	\$4,488,375.85
Foley Construction Co.	Davenport, IA	\$4,895,222.20
Hy-Brand Industrial Contractors	Muscatine, IA	\$5,347,318.40
T.J. Lambrecht Construction, Inc.	Joliet, IL	\$5,675,913.46
WC Stewart Construction	Dubuque, IA	\$5,868,461.60
Ceres Environmental Services, Inc.	Brooklyn Park, MN	\$8,527,104.44

DNR recommends awarding project to the low bidder, JB Holland Construction.

**Moved** – Commissioner Rettig  
**Seconded** – Commissioner Garst  
**Motion** – Carried by Unanimous Vote

**8.3 LAKE AHQUABI STATE PARK, WARREN COUNTY – ASPHALT OVERFLOW PARKING – MAIN RAMP**

This project consists of the construction of an asphalt parking lot including porous HMA at Lake Ahquabi State Park in Warren County, Iowa. This project provides a paved parking surface for overflow parking at the main boat ramp at Ahquabi. Normal Asphalt will cover the majority of the site. The site naturally drains toward the south and east so a 24’ wide strip of porous asphalt will be placed along the south and east edges of the parking area to catch all runoff from the parking lot, filter through a bed of rock and slowly infiltrate into the ground. This will prevent potentially contaminated surface runoff from directly entering the lake.

This project was designed by DNR Engineering staff and will be inspected by Jason Kruse, PE, DNR District Inspector. DNR estimate is \$150,000. Funding source is Fish and Wildlife Trust - Boat Registration Fund (Capital Link #72). 8 sets of plans were issued and 2 bids received.

OMG Midwest (Des Moines Asphalt)	Des Moines, IA	\$184,466.50
Grimes Asphalt & Paving	Grimes, IA	\$194,030.00

DNR recommends awarding project to the low bidder, OMG Midwest

**Moved** – Commissioner Underwood  
**Seconded** – Commissioner Rettig  
**Motion** – Carried by Unanimous Vote

**8.4 EAGLE GROVE WMA, EMMET COUNTY – KIRK WETLAND RESTORATION**

This project consists of the restoration of wetlands including constructing dikes, locating and disabling subsurface drainage, intake installation, and incidental work as required by the Plans and/or the DNR Construction Inspector. This design creates a 48 acre wetland that will improve and/or enhance the amount of aquatic habitat available in the area for several species of plants and animals.

This project was designed by DNR Engineering staff and will be inspected by Jeff Felts, PE, DNR District Inspector. DNR estimate is \$69,000. Funding source is Federal NRCS (Capital Link #37). 9 sets of plans were issued and 5 bids received.

Carnarvon Sand & Gravel	Wall Lake, IA	\$54,758.25
Cohrs Construction	Spirit Lake, IA	\$58,055.25
Beemer Companies	Fairmont, MN	\$64,160.20
Abel Farm Drainage, Inc.	Greenville, IA	\$71,608.00
Valley Contracting Inc.	Estherville, IA	\$81,957.00

DNR recommends awarding project to the low bidder, Carnarvon Sand & Gravel.

**Moved** – Commissioner Kircher  
**Seconded** – Commissioner Francisco  
**Motion** – Carried by Unanimous Vote

**9. SMALL CONSTRUCTION PROJECTS CONTRACTS**

<b>INFORMATIONAL ONLY</b>
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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
3/25/10	10-04-15-03	Cass	SW Regional Office/Cold Springs	Seal-coat existing parking lot	\$5,000.00	\$11,200.00
						\$14,650.00
3/25/10	10-03-03-02	Allamakee	Yellow River State Forest	Roof replacement/ Carpenter shop	\$8,000.00	\$5,933.00
3/25/10	10-03-03-01	Allamakee	Yellow River State Forest	Roof replacement/ Corrigan Barn	\$15,000.00	\$15,500.00
3/25/10	09-03-31-05	Dubuque	EB Lyons Interpretive Center	Parking lot expansion	\$18,000.00	\$18,870.40
						\$22,635.00
						\$23,501.00
						\$24,962.05
						\$26,108.15
4/1/10	09-03-22-04	Clayton	Ensign Hollow WMA	Stream bank repair	\$12,275.00	\$5,810.00
						\$5,910.00
						\$6,197.25
						\$7,083.85
						\$7,985.80
						\$8,230.00
4/1/10	09-03-28-07	Delaware	Hoffman WMA, Little Turkey River	Bank stabilization & bankhides	\$8,000.00	\$9,659.00
						\$3,990.00
						\$4,849.00
						\$5,968.00
						\$7,429.00
4/1/10	09-03-28-06	Delaware	Fountain Springs Park	Bank stabilization & bankhides	\$14,500.00	\$8,050.00
						\$11,200.00
						\$14,850.00
						\$15,354.70
						\$16,758.00
4/1/10	08-03-17-09	Cerro Gordo	Venture Spoil Site	Construct tile outlet	\$49,000.00	\$17,007.39
						\$18,894.00
						\$20,189.50
						\$26,146.50
						\$41,300.00
4/1/10	09-03-28-09	Delaware	Richmond Springs/Backbone SP	Bank & Fish Habitat Repair	\$26,800.00	\$48,635.00
						\$59,750.00
						\$62,985.00
						\$9,311.00
						\$9,392.51
4/1/10	09-03-28-08	Delaware	Manchester Hatchery, Spring Branch	Bank & Fish Habitat Repair	\$22,000.00	\$9,480.60
						\$9,961.40
						\$11,364.25
						\$13,531.50
						\$15,758.00
						\$20,880.50
						\$22,320.00
						\$29,595.00
						\$33,954.65
						\$52,508.80

						\$6,363.00
						\$6,726.00
						\$7,078.50
						\$7,536.00
						\$7,805.00
						\$10,595.00
4/1/10	09-03-31-06	Dubuque	Bankston Park	Bank stabilization & bankhides	\$18,700.00	\$12,341.50
4/8/10	10-04-15-02	Cass	Lake Anita State Park	Residence septic system	\$10,000.00	\$7,462.55
4/8/10	10-04-43-01	Harrison	Loess Hills State Forest	Reroof Maintenance Bldg	\$15,000.00	\$12,491.61
4/8/10	10-01-11-01	Buena Vista	Storm Lake	Bel Aire boat ramp improvements	\$15,000.00	\$17,315.20
4/15/10	10-01-97-02	Woodbury	Brown's Lake	Inlet channel silt removal	\$9,000.00	\$7,595.00
4/15/10	10-01-97-01	Woodbury	Snyder Bend WMA	Inlet channel silt removal	\$13,000.00	\$9,967.50
4/22/10	09-03-07-12	Blackhawk	George Wyth State park	Pit Vault removal/disposal	\$5,000.00	\$21,187.50
						\$10,560.00
						\$17,065.00
						\$24,725.00
						\$5,270.00
						\$7,600.00
						\$9,500.00

**10. LAND ACQUISITION PROJECTS**

**10.1 JEMMERSON SLOUGH – DICKINSON COUNTY – INHF**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located one mile Northwest of Spirit Lake adjacent to 135th Street. The 40.24-acre tract is offered by the Iowa Natural Heritage Foundation for \$61,784.00. The tract was appraised for \$202,000.00. Sellers have stipulated as a condition of sale that they retain agricultural rights through March 1, 2011, and a twenty-foot easement on the west side of the property. Funding consists of:

1. The Iowa Natural Heritage Foundation received a grant for \$69,000.00 to apply to this tract;
2. The Iowa Natural Heritage Foundation received a check from the Dickinson County Water Quality Commission for \$71,216.00; and
3. \$61,784.00 from DNR-NAWCA-Prairie Lakes II.

Licensed appraiser, Steven K. Schmidt of Schmidt Appraisal Services, Spirit Lake, Iowa submitted the appraisal. The purchase agreement was negotiated by Jerry Gibson.

The subject tract has 38.72 acres of cropland, and 1.52 acres of road right-of-way. After restoration the tract will contain 31 acres of native prairie plantings, and 7.5 acres of restored wetlands that will provide watershed protection. There are no buildings.

Staff recommends approval of the land acquisition.

**Moved** – Commissioner Kircher  
**Seconded** – Commissioner Underwood  
**Motion** – Carried by Unanimous Vote

**10.2 LOST GROVE LAKE – SCOTT COUNTY – LOIS KLEVER**

The Natural Resource Commission’s approval is requested to accept the donation of a permanent flowage easement in the NE¼ of Section 4-T79N, R4East of the 5th P.M., Scott County, Iowa lying below the elevation of 715 feet MSL (mean sea level). The permanent easement is offered by Lois L. Klever, as Trustee of the Lois L. Klever Revocable Trust.

Jerry Gibson negotiated the permanent easement.

The lake site is located 10 miles north of Davenport, Iowa, and will produce public fishing opportunities for the area’s 400,000 residents. A proposed culvert riser on the west side of Utica Ridge Road will temporarily pond water on the Klever property to an elevation of 714.9 MSL, and extend for approximately 0.4 mile.

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

Staff recommends approval of the easement acquisition.

<p><b>Moved</b> – Commissioner Rettig <b>Seconded</b> – Commissioner Kircher <b>Motion</b> – Carried by Unanimous Vote</p>
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**10.3 GOOD NEIGHBORS MARSH WMA – WINNEBAGO COUNTY – NORTHERN PRAIRIE, LLC**

The Natural Resource Commission’s approval is requested to purchase a tract of land located in Winnebago County adjacent to state-owned and managed Good Neighbors Marsh Management Area. Northern Prairie, LLC offers this 270-acre tract for the appraised price of \$285,000.

Fred Greder, Licensed Appraiser of Mason City, Iowa, submitted the appraisal.

All but seven acres of this property is encumbered by a permanent WRP easement. 13 wetlands have been restored and the uplands have been seeded to native prairie. This tract will provide excellent habitat for waterfowl and migratory birds. The property is located two miles northeast of Thompson, Iowa. The topography is gently undulating with several large depressional areas scattered throughout.

Acquisition funding will be provided by NAWCA. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

<p><b>Moved</b> – Commissioner Garst <b>Seconded</b> – Commissioner Schemmel <b>Motion</b> – Carried by Unanimous Vote</p>
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**10.4 WOOD DUCK MARSH – WINNEBAGO COUNTY - HELGESON**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located within a half mile of the southwest corner of Lake Mills. Milford and Doris Helgeson are offering the 46.76-acre tract for the appraised amount of \$44,400.00.

Licensed appraiser, Fred Greder of Benchmark Agribusiness, Mason City, Iowa submitted the appraisal. The purchase agreement was negotiated by Jerry Gibson.

The subject tract has 46.46 acres of land encumbered by a WRP easement; and 0.30 of an acre of road right-of-way. The restored tract contains 33.5 acres of grassland; 8 acres of wetlands, and 5 acres of woodland. The tract provides excellent habitat for nesting waterfowl and migratory birds. Acquisition of this tract will connect two tracts of Wood Duck Marsh, one of which is land-locked.

Acquisition funding will be Wildlife Habitat Stamp. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

**Moved** – Commissioner Francisco  
**Seconded** – Commissioner Schemmel  
**Motion** – Carried by Unanimous Vote

**11. LAND MANAGEMENT PROJECTS**

**11.1 PINE RIDGE RECREATION AREA – HARDIN COUNTY – HARDIN CCB**

**REMOVED FROM AGENDA**

**11.2 CRABB ISLAND, MISSISSIPPI RIVER – LOUISA COUNTY – MIDAMERICAN ENERGY**

The Natural Resource Commission is requested to approve issuance of a 4.9-acre permanent easement to MidAmerican Energy Company for existing electric transmission lines across Crabb Island in the Mississippi River.

Crabb Island is state owned by sovereignty. It is located approximately five miles downstream from the City of Muscatine at River Mile 447.2, in Section 10, Township 75 North, Range 2 West of the 5th P.M., Louisa County, Iowa. It has an area of approximately 29 acres, 2,800 feet long by 500 feet wide. Typical flood plain trees and shrubs occupy the entire island. Two transmission line towers are the only structures on the island. The DNR’s Wildlife Bureau manages it as wildlife habitat.

The area occupied by the transmission lines was leased to MidAmerican Energy Company in 1982. The lease has expired. At the time the lease was issued, the Conservation Commission did not have authority to issue an easement. Therefore, a lease was utilized to authorize MidAmerican's use of the property. Today, the Natural Resource Commission has authority to approve issuance of an easement, pursuant to Iowa Code Section 461A.25. Easements are the usual instrument now used by the DNR to authorize electric transmission lines. Staff recommends an easement to authorize use of the property.

The easement will cover a 410 foot north south by 520 foot east-west corridor across the island. Only trees and shrubs which grow to a height of twelve feet or greater may be cut and trimmed to preserve the wildlife habitat value. Only treating of stumps with herbicides will be permitted.

The value of the easement is \$10,000.00 as determined by a private licensed real estate appraiser. MidAmerican paid the cost of the appraisal. A DNR staff appraiser reviewed the appraisal and found it to be accurate and meet required appraisal standards.

Staff recommends approval of the easement issuance.

**Moved (1)**– Commissioner Underwood

**Seconded** – Commissioner Francisco

**Discussion** – Commissioner Underwood asked if there are other similar easements in place.

Travis Baker explained that there are other agreements with utility companies but was unsure if this type of mechanism has ever been used before as the DNR's authority to grant this type of easement has not been in place very long. Commissioner Rettig asked about dollar amount of the lease agreement. Travis Baker responded \$1,200. Commissioner Rettig then addressed concerns about revenue from a lease vs. an easement. Commissioner Garst commented that she would also like to see that there is a habitat management plan incorporated into the easement agreement.

**Moved (2)** – Commissioner Kircher moved to table item until costs can be presented to the commission

**Seconded** – Commissioner Rettig

**Motion** – Carried by Unanimous Vote

### **11.3 FIVE ISLAND LAKE ACCESS – PALO ALTO COUNTY**

The Natural resource commission is requested to approve issuance of a permanent easement to a 0.11 acre to Palo Alto County for public road purposes across portion of Five Island Lake Access. The area proposed for the easement is a 16 foot north south by 320 foot east-west parcel located north and adjacent to the existing county right of way.

Five Island Lake Access was acquired by the state in 1946. The 4.4-acre area is comprised of an approximately 1,800-foot length east-west corridor occupied by a public road and at its east end about 700 feet of shoreline access with a parking area.

Palo Alto County has been requested to consider establishment of a new segment of public right of way to serve residential development to be located north of the Access. Establishment of the

new right of way will require use of the state owned parcel. The new right of way will also provide direct driveway access to three existing residences located north of the state owned access. These three residences currently obtain access over a driveway that crosses state property. That private access has not been authorized by the DNR. The new right of way will allow the DNR to eliminate that private driveway and free the area for public use.

Staff recommends approval of the easement issuance.

**Moved** – Commissioner Garst  
**Seconded** – Commissioner Rettig  
**Discussion** – Commissioner Francisco asked if the area could support additional development. Mike McGhee responded that there is still quite a bit of shoreline that is undeveloped.  
**Motion** – Carried by Unanimous Vote

**12. AGREEMENT WITH LOUISA SOIL AND WATER CONSERVATION DISTRICT**

**REMOVED FROM AGENDA**

**13. AWARD: 2008 SPORT FISHERY DEVELOPMENT AND MANAGEMENT  
 OUTSTANDING SPORT FISH RESTORATION PROJECT OF THE YEAR**

**INFORMATIONAL ONLY**

The annual Sport Fish Restoration outstanding project awards given by the Fisheries Administration Section of the American Fisheries Society are intended to both highlight the importance and effectiveness of the Sport Fish Restoration program and recognize excellence in fisheries management, research, and education.

The Iowa Department of Natural Resources Fisheries Bureau project; Restoration of Four Southwest Iowa Constructed Lakes was selected to receive the 2008 Sport Fish Restoration Award in Sport Fisheries Management and Development.

This Southwest Iowa Lakes Restoration Project addressed lake-basin and watershed problems and was critical to Iowa Department of Natural Resources’ efforts to build partnerships and improve water quality, fish habitat and lake access in four important Southwest Iowa lakes. Partnerships (County Conservation Boards, Soil & Water Conservation Districts, Cities, NRCS, IDALS, and cooperating landowners) established during the lake restoration efforts were invaluable for moving forward to address problems at other related lakes and watersheds. Information learned from their study has widespread applicability for numerous lakes throughout Iowa and other surrounding states that suffer from similar problems.

The project is expected to result in significant positive economic impact to Southwest Iowa. According to recent studies by Iowa State University's Center for Agriculture and Rural Development during the 2002-2005 period, the four Southwest Iowa project lakes averaged 199,625 visitors annually. They spent an average \$14.42 million annually, which in turn supported jobs and labor income to the region.

The project will also result in improved long-term fishery habitat improvement and access for anglers. Success of this project has generated interest and public support for Iowa's Lake Restoration Program, which will lay the foundation for future projects.

#### **14. MUSKELLUNGE 50 INCH LENGTH LIMIT**

<b>INFORMATIONAL ONLY</b>
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Muskellunge (muskie) are a long lived predator species capable of reaching a large size. The current Iowa record for muskellunge is 50 lbs 6 oz and 52 inches in length caught at Big Spirit Lake. Muskellunge are not native to Iowa's inland waters, and the program was initiated to provide anglers a trophy opportunity for this species. The stated objectives of this trophy program are 1) to maintain an adult population density of 0.10 to 0.15 fish/acre, and 2) provide a catch rate of one fish per 70 to 100 hours of angling effort. Muskellunge do not successfully reproduce in Iowa's waters and their populations are maintained through stocking.

The muskie stocking program began in 1960 when 80 fingerlings were stocked into Clear Lake and West Okoboji Lakes. In 1969, a local muskie club was established and purchased 340 muskie fingerlings that were stocked in Clear Lake and West Okoboji Lake from 1970 to 1972. The muskie stocking program has been very contentious at times. Muskies have been blamed for fluctuations in walleye and yellow perch populations in the natural lakes. Although no biological information exists that substantiates these claims, densities are maintained at levels far below those of other game fish species and monitored extensively on many lakes in an effort to ease concerns. Regulations for muskellunge have changed many times since the first stocking. Significant changes include: In 1970, a 30 inch minimum length limit imposed. In 1991, the minimum length limit was increase to 36 inches. In 2000, the minimum length limit was raised to 40 inches. Most recently in 2005, the open season was shortened from May 21<sup>st</sup> - February 15<sup>th</sup> to May 21<sup>st</sup> - November 30<sup>th</sup> in the Iowa Great Lakes.

In general, minimum length limits are used to improve the quality of a fish population by limiting harvest of small fish. For a minimum length limit to be successful, harvest of fish under the proposed length limit must be shown to be negatively impacting the population. Although muskies are harvested, creel surveys show that muskie harvest on Iowa lakes has been very low. Creel surveys on a number of lakes indicate that nearly 100% of legal sized muskies are returned to water after being caught. Growth rates of muskie in Iowa's waters are very good. While male muskies typically reach about 41 inches, females can reach 51 inches. Fish over 50 inches can be quite rare. Since 2002, fisheries personnel at Clear Lake have tagged 615 muskies. The largest muskie tagged was 48.5 inches. In the Iowa Great Lakes 3,109 muskellunge have been caught in spring gillnetting since 1994. Only 18 of these fish measured over 50 inches.

Iowa's muskellunge program has been expanded in recent years and continues to improve. Angler catch rates can be variable from year to year, but have dramatically improved over the past decade. In fact, catch rates in some years far surpass our objectives. Muskellunge populations will continue to mature and size structure is improving with more trophy sized fish being caught each year. In summary, extensive population monitoring and numerous harvest surveys indicate that harvest of 40 to 50 inch fish may not be influencing the quantity or quality of the muskies in Iowa. Secondly, a 50 inch length limit on muskies would essentially create a catch and release fishery since most adult females will not attain 50 inches in length. Iowa continues to face challenges with maintaining and improving trophy muskie fisheries in Iowa, but overall the program has been very successful and continues to improve. Fisheries biologists from across Iowa met earlier this year to identify challenges and potential research needs for refine the management of Iowa's muskie populations.

### **15. CHAPTER 61 "STATE PARKS AND RECREATION AREAS" - FINAL**

The Departments requests Commission approval for amendments to Chapter 61 "State Parks and Recreation Areas". Notice of Intended Action was approved by the Commission on February 10, 2010. The proposed amendments:

1. Update the definition of "immediate family" to also include spouses, legal guardians, and domestic partners.
2. Limit the number of persons allowed on a campsite to no more than six with two exceptions: (1) designated, chaperoned organized youth group campsites; and (2) families that exceed six persons, are all members of an immediate family, and cannot logically be split to occupy two campsites.
3. Remove the requirement that the occupants of an approved second tent on a campsite must be under the age of 18 and dependent members of the immediate family occupying the basic unit. This last change will, for example, allow individuals such as a husband and wife to sleep in two small separate tents on the same campsite, and allow unrelated campers with six or fewer people, such as school club members or friends, to have an approved second tent on a campsite.

Notice of Intended Action was published in the Iowa Administrative Code Bulletin on March 10, 2010 as ARC 8593B. A public hearing was held on March 20, 2010 at the Wallace State Office Building in Des Moines. No written or oral comments were received.

**Moved** – Commissioner Francisco moved items 15 and 17

**Seconded** – Commissioner Garst

**Discussion** – Commissioner Rettig commented about the recent remarks made by Senator Bartz. She stated that she fully supports the proposed rule change to update the definition of "immediate family" to include spouses, legal guardians, and domestic partners. All people have the legal right to go camping our state parks. She said she felt that the DNR should recognize these couples as it is the law of the land.

**Motion** – Carried by Unanimous Vote

## 16. CHAPTER 61 “STATE PARKS AND RECREATION AREAS” - NOTICE OF INTENDED ACTION

The Departments requests Commission approval for publication of a Notice of Intended Action to amend Chapter 61 “State Parks and Recreation Areas”. The proposed amendments:

1. Remove Pine Lake multifamily cabin from the cabin rental fee list because the cabin will not be constructed. Establish a new cabin rental fee for a new cabin being constructed at Union Grove State Park. Remove the extra cot fee as the department does not provide cots anymore.
2. Remove the reference to Pine Lake multifamily cabin regarding minimum stay requirements as the cabin will not be constructed.
3. Rescind the subrule regarding special events and adopt a new subrule regarding special events permits which establishes procedures to obtain a permit, permit requirements and a nonrefundable administrative fee of \$25 to process a special event application.
4. Update the afterhours fishing area at Green Valley State Park.

**Moved** – Commissioner Kircher

**Seconded** – Commissioner Schemmel

**Discussion** – Commissioner Garst commented that modern cabin rate prices are too low and felt that the rates should be reviewed for possible rate increase. Kevin Szcodronski explained that the intent is to review all state park fees eventually but at this time with the economy the way it is the department does not want to discourage people from using park facilities. Commissioner Rettig asked about the special event definition. Sherry Arntzen explained what would qualify as a special event in chapter 61, she gave the example of a wedding in a park.

**Motion** – Carried – 6-Yes and 1-No (Rettig)

## 17. CHAPTER 62 “STATE FOREST CAMPING” - FINAL

The Departments requests Commission approval for amendments to Chapter 62 “State Forest Camping”. Notice of Intended Action was approved by the Commission on February 10, 2010.

The proposed amendments:

1. Update the definition of “immediate family” to also include spouses, legal guardians, and domestic partners.
2. Limit the number of persons allowed on a campsite to no more than six with two exceptions: (1) designated, chaperoned organized youth group campsites; and (2) families that exceed six persons, are all members of an immediate family, and cannot logically be split to occupy two campsites.
3. Remove the requirement that the occupants of an approved second tent on a campsite must be under the age of 18 and dependent members of the immediate family occupying the basic unit. This last change will, for example, allow individuals such as a husband and wife to sleep in two small separate tents on the same campsite, and allow unrelated campers with six or fewer people, such as school club members or friends, to have an approved second tent on a campsite.

Notice of Intended Action was published in the Iowa Administrative Code Bulletin on March 10, 2010 as ARC 8592B. A public hearing was held on March 20, 2010 at the Wallace State Office Building in Des Moines. No written or oral comments were received.

**Moved** – Commissioner Francisco moved items 15 and 17

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**Discussion** – Commissioner Rettig commented about the recent remarks made by Senator Bartz. She stated that she fully supports the proposed rule change to update the definition of “immediate family” to include spouses, legal guardians, and domestic partners. All people have the legal right to go camping our state parks. She said she felt that the DNR should recognize these couples as it is the law of the land.

**Motion** – Carried by Unanimous Vote

## **18. CHAPTER 65 “FIREWORKS DISPLAYS—STATE PARKS AND RECREATION AREAS” - NOTICE OF INTENDED ACTION**

The Departments requests Commission approval for publication of a Notice of Intended Action to rescind Chapter 65 “Fireworks Displays--State Parks and Recreation Areas” and adopt a new chapter with the same title. The proposed amendment:

Rescinds 571—65 and replaces it with a new version of the chapter. The chapter is being restructured for organizational purposes to incorporate components of the new online centralized special event application process. The chapter also establishes a nonrefundable administrative fee to process the applications.

**Moved** – Commissioner Rettig

**Seconded** – Commissioner Francisco

**Motion** – Carried by Unanimous Vote

## **19. BRUSHY CREEK TRAILS ADVISORY BOARD APPOINTMENT**

On April 19, 2010, Kelly Keller sent an e-mail of resignation off the Brushy Creek Trails Advisory Board. The resignation came with mixed feelings because she truly enjoys the park and she was looking forward to assisting in its future direction. However, her two young sons will soon be joined by twin baby girls and Kelly understandably feels she will not have time to be a consistent board member.

The commission at its April 8, 2010 meeting made two new appointments to the Board. These appointments were the top two ranked people that applied to serve on the board for the terms that were up for replacement this year. Since staff just completed the solicitation and rating of applicants for this year, the Commission is asked to select Kelly Keller’s replacement from this same pool of applicants. Mike Tinkham is the third ranked person on last month’s list of applicants. Commission approval is requested to appoint Mike Tinkham onto the Brushy Creek Trails Advisory Board to complete the remaining year of Kelly Keller’s original term (2009 – 2010).

Mike Tinkham lives in Maxwell and works for Harold Pikes Construction in Ames. Mike has been an active Brushy Creek Trails Advisory Board member for 13 years and has been a great advocate for the DNR, trails, and Brushy Creek State Recreation Area. He is an avid equestrian trail rider and loves to camp. Mike is interested in serving this new three-year appointment. Mike's three-year term appointment will maintain staggered terms with three members just beginning a new three-year, two members having two years remaining in their terms, and two members with one year remaining.

On a related note, Pat Reed, Chairperson of the Brushy Creek Trails Advisory Board, will attend the June 2010 Commission to present the Board's 2009 Annual Report.

**Moved** – Commissioner Garst

**Seconded** – Commissioner Schemmel

**Discussion** – Commissioner Kircher commented that she appreciated that the commission would be provided an update from the trails advisory board annually.

**Motion** – Carried by Unanimous Vote

## 20. LAND AND WATER CONSERVATION FUND - CITY AND COUNTY GRANTS

The Commission is requested to approve the ranking of the project applications for the Land and Waters Conservation Fund Program, City and County Grants, and award grants to applicants in that ranked order and as funds are available. The Land and Water Conservation Fund is a federal fifty percent cost share grant program. The funds may be used by Iowa's cities and counties for outdoor recreation projects and is governed by program rules adopted in Chapter 27 of the Iowa Administrative Code.

The Department received 6 applications by the March 15, 2009 deadline, comprising a total request of \$617,904.00 for over \$1.6M in projects. The five-member Review and Selection committee, comprised of three department staff and two persons appointed by the Director with input from the Iowa Association of County Conservation Boards, the Iowa League of Cities and the Iowa Parks and Recreation Association, scored and ranked the applications based on the following criteria, as established by rule: Relationship to SCORP Priorities (Statewide Comprehensive Outdoor Recreation Plan); direct recreation benefits provided; local need; and quality of the site. In addition, the Review and Selection committee awarded bonus and penalty points, also as established by rule, based on such criteria as: level of prior assistance from the LWCF; special features for the elderly and handicapped; minority populations served; degree of public participation and support; recycled content material use; and level of planning that has preceded the application for a LWCF grant.

This year Congress has appropriated \$27,994,976.00 nationwide, resulting in an appropriation to Iowa in the amount of \$504,845 which derives from appropriations from LWCF and revenues authorized by the Gulf of Mexico Energy Security Act. This amount plus \$110,008.82 available from previous closed grants, makes this year's allotment \$614,853.82. One half, \$307,426.91 is available to cities and counties for outdoor recreation acquisition and development projects.

Ranked List of Land and Water Conservation Fund - City and County Grants

<b>Applicant -2009</b>	<b>Project</b>	<b>Request</b>	<b>Total Cost</b>	<b>Score (Avg)</b>	<b>Grant Award</b>
Hamilton County Conservation Board	Little Wall Lake Campground	60,500.00	129,000.00	67.8	60,500.00
Polk County Conservation Board	Jester Park Bison/Elk Exhibit	67,500.00	180,000.00	65.6	67,500.00
Woodbury County Conservation Board	Bigelow Park Improvement Project	200,000.00	513,000.00	65.4	179,462.91
Linn County Conservation Board	Shaw Parcel addition to Wickiup Hill Outdoor Learning Area	137,500.00	275,000.00	63.6	
O'Brien County Conservation Board	Mill Creek Lodge Renovation	27,404.00	54,808.00	63	
Carroll, City of	Graham Park Tennis Complex	125,000.00	480,526.00	61.6	

The Department requests that the Commission approve the proposed rankings and approve the Department’s funding of these projects in the order they are listed and as funds are available.

**Moved** – Commissioner Underwood  
**Seconded** – Commissioner Schemmel  
**Motion** – Carried by Unanimous Vote

**21. CHAPTER 68, “ALCOHOL USE AT STATE PARKS” – EMERGENCY FILING AND NOTICE OF INTENDED ACTION**

The Department requests Commission approval of new Chapter 68, “Restriction on Alcohol Use at State Parks, State Recreation Areas, and Public Access Areas on the Iowa Great Lakes during the July 4<sup>th</sup> Holiday,” Iowa Administrative Code.

The Department is proceeding with a “double-barreled” filing on this rule. The rule shall become effective immediately upon filing, with a simultaneous Notice of Intended Action being published as well, thus providing for public participation. Once the Notice is ultimately adopted it shall replace the earlier emergency filing.

The Department requests the Commission approve both the emergency filing and the Notice of Intended Action.

The proposed new chapter bans alcohol as that term is defined at all state park beaches on the Iowa Great Lakes during every July 4<sup>th</sup> holiday period. The specific time frame for the ban depends upon the weekday the holiday falls on. Beer and wine as defined may still be consumed at the campgrounds, picnicking areas outside of the beach area, rental shelters and lodges at these parks during this period.

## NATURAL RESOURCE COMMISSION[571]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 455A.5(6)"a", 461A.3, 461A.35, 461A.43, and 461A.57, the Natural Resource Commission hereby adopts new Chapter 68, "Restriction on Alcohol Use at State Parks, State Recreation Areas, and Public Access Areas on the Iowa Great Lakes During the July 4<sup>th</sup> Holiday," Iowa Administrative Code.

Pursuant to Iowa Code sections 17A.4(2) and 17A.5(2)"b"(3), the Department finds that notice and public participation are impracticable and the normal effective date of this chapter should be waived and this chapter should be effective upon filing with the Administrator Rules Coordinator. Emergency filing is warranted due to imminent peril to the resource and both public and Department personnel safety at state park, state recreation area, and public access beaches located on the Iowa Great Lakes over the July 4th holiday. Documented incidences at these beaches due to excessive alcohol consumption include assaults, unconsciousness, public intoxication, drunk driving, destruction of public property, littering, public urination, indecent exposure, minors in possession, noise, trespassing, and over-crowding. Over the July 4th holiday, Department park rangers and law enforcement officers are typically out numbered several hundred to one and are therefore unable to manage the crowds or protect the resource from harm. These same problems have already been addressed at the local level with an alcohol ban on all city and county beaches. Unfortunately, this has exacerbated the problem at the state beaches, as they remain the sole public water-front area permitting alcohol.

The proposed new chapter bans alcohol as that term is defined in this chapter at all state park, state recreation area, and public access beaches on the Iowa Great Lakes on every July 4th. The specific time frame for the ban depends upon the weekday the holiday falls on. Beer and wine as defined may still be consumed at the campgrounds, picnicking areas located outside the beach area, rental shelters and lodges at these areas during this period.

This new chapter is also published herein under Notice of Intended Action as **ARC** \_\_\_\_\_ to allow for public comment.

This emergency filing allows the Department to impose the ban for the upcoming July 4th holiday with sufficient time to adequately publicize this change via public outreach, press releases, and signs.

This new chapter is intended to implement Iowa Code sections 455A.5(6)"a", 461A.3, 461A.35, 461A.47, and 461A.57.

This new chapter shall become effective May 14, 2010.

The following new chapter is adopted.

Adopt the following **new** 571—Chapter 68:

### CHAPTER 68

RESTRICTION ON ALCOHOL USE AT STATE PARKS, STATE RECREATION AREAS,  
AND PUBLIC ACCESS AREAS ON THE IOWA GREAT LAKES DURING THE JULY 4<sup>TH</sup>  
HOLIDAY

**571—68.1(455A,461A) Purpose.** The purpose of these rules is to ban alcoholic liquor, beer, and wine as each is defined in this chapter at state park, state recreation area, and public access area beaches on the Iowa Great Lakes over the July 4th holiday to protect the resource from improper use, destruction, littering, and to ensure public and department personnel safety.

**68.1(1) Time frame.** This ban shall apply during the July 4th holiday as follows:

a. When July 4th is on a Tuesday, Wednesday, or Thursday, the ban shall be from the Friday before July 4th through the Sunday after.

b. When July 4th is on a Friday, Saturday, Sunday, or Monday, the ban shall be from the Thursday before July 4<sup>th</sup> through Monday.

**571—68.2(455A,461A) Definitions.**

*“Alcohol”* means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

*“Alcoholic liquor”* means the varieties of liquor which contain more than five percent of alcohol by weight, beverages which contain more than five percent of alcohol by weight but which are not wine as defined, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the wine-making process containing more than seventeen percent alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes.

*“Beach”* or *“beach area”* means that portion of state parks, state recreation areas, and public access areas designated for swimming activity including the sand, a 200-foot buffer of land surrounding the sand or a designated area which is fenced in, and the water contiguous to the beach as marked by swim buoys or swim lines.

*“Beer”* means any liquor capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

*“Department personnel”* means employees of the department of natural resources.

*“Wine”* means any beverage containing more than five percent alcohol by weight but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contained in fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grains, cereals, molasses, or cactus.

**571—68.3(455A,461A) Applicability.**

**68.3(1) Scope of ban.** Alcoholic liquor, beer, and wine as defined in this chapter are banned on every July 4<sup>th</sup> holiday as identified in 571--68.1(1) at the following state park, state recreation area, and public access beaches:

- a. Crandall Public Access Beach, Big Spirit Lake
- b. Orleans Public Access Beach, Big Spirit Lake

- c. Gull Point State Park, West Lake Okoboji
- d. Emerson Bay Recreation Area, West Lake Okoboji
- e. Pikes Point State Park, West Lake Okoboji
- f. Triboji Public Access Beach, West Lake Okoboji

**68.3(2)** Other restrictions. Beer and wine, as defined, are not banned at the picnicking areas outside of the beach area, campgrounds, rental shelters, and lodges at the locations listed in subrule 68.3(1). Alcoholic liquor is prohibited in all locations listed in subrule 68.3(1). Keg beer is permitted at the picnicking areas outside of the beach area, campgrounds, rental shelters and lodges at the locations listed in subrule 68.3(1) only as authorized pursuant to 571—Chapter 63.

**571—68.4(455A,461A)Penalty.** Any person violating this chapter is guilty of a simple misdemeanor.

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Date

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Richard A. Leopold, Director

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**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 461A.3, 461A.35, 461A.43, and 461A.57, the Natural Resource Commission hereby gives notice to adopt new Chapter 68, “Restrictions on Alcohol Use at State Parks, State Recreation Areas, and Public Access Areas on the Iowa Great Lakes During the July 4<sup>th</sup> Holiday,” Iowa Administrative Code.

The proposed new chapter bans alcohol as that term is defined in this chapter at all state park, state recreation area, and public access beaches on the Iowa Great Lakes during every July 4<sup>th</sup> holiday period. The specific time frame for the ban depends upon the weekday the holiday falls on. Beer and wine, as defined, may still be consumed at the campgrounds, picnicking areas located outside the beach area, rental shelters and lodges during this period.

It is well-documented that excessive alcohol consumption at these beaches is destroying the resource and presenting legitimate safety risks to the public and Department personnel. Documented incidences at these beaches due to excessive alcohol consumption include assaults, unconsciousness, public intoxication, drunk driving, destruction of public property, littering, public urination, indecent exposure, minors in possession, noise, trespassing, and over-crowding. Over the July 4<sup>th</sup> holiday, conservation officers are typically outnumbered several hundred to one and are therefore unable to manage the crowds or protect the resource from harm. These same problems have already been addressed at the local level with an alcohol ban on all city beaches. Unfortunately, this has exasperated the problem at the state beaches as they remain the sole public water-front area permitting alcohol.

Public comments shall be accepted through June 22, 2010. Written comments should be directed to Kevin Szcondronski, Department of Natural Resources, Wallace State Office Building, 502 E 9<sup>th</sup> Street, Des Moines, IA 50319; or E-mail [kevin.szcondronski@dnr.iowa.gov](mailto:kevin.szcondronski@dnr.iowa.gov). Persons who wish to convey their views orally before the public hearing may contact Mr. Szcondronski at (515)281-8674 or visit his office on the Fourth Floor of the Wallace State Office Building.

A public hearing will be held at Gull Point State Park Lodge on June 22, 2010, beginning at 6:30 p.m. At the public hearing, persons may present their views either orally or in writing. Persons presenting comments at the hearing shall be asked to state their names and addresses for the record and to confine their remarks to the subject of the proposed chapter. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advice of specific needs.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC \_\_\_\_\_**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code sections 461A.3, 461A.35, 461A.47, and 461A.57.

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Date

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Richard A. Leopold, Director

**Gull Point State Park Beach  
Fourth of July Concern  
Stakeholder's Meeting Report Highlights**

**Background**

On April 29, 2010 at Gull Point State Park Lodge, DNR facilitated a meeting of area stakeholders recruited by Natural Resources Commission Chair Greg Drees on the topic of public safety at Gull Point State Park over the fourth of July holiday. The public safety issue stems from high numbers of adults drinking to excess at the beach and from boats anchored nearby, creating concerns over crowd control, drowning, assault, and personal safety of law enforcement personnel.

Stakeholders included representatives of Lakes area businesses and tourism, beach users, beach neighbors, DNR parks and law enforcement, DNR administration and legal, community leaders and area city administration. (A specific list of these stakeholders is at the back of this report).

**Discussion Process**

Discussion was facilitated in order to provide ample opportunity for all at the table to voice issues, concerns, and solutions. The identified (potentially ambitious) goal, was to achieve a consensus regarding the approach to take for the July 4 weekend 2010.

- Summarize the challenges they were witnessing/experiencing at the Gull Point State Park beach on and around the July 4 holiday weekend
- Identify causes of these challenges
- Address broad-based obstacles to solutions
- Identify downsides and benefits of past efforts to control the problem
- Brainstorm solutions (new, old, solution packages)
- Analyze solutions for viability/effectiveness
- Articulate a consensus "solution"

**Results**

The stakeholders developed a consensus recommendation to the NRC for approval of a limited alcohol ban around the July 4 holiday. Specifically:

- This ban would be in effect for all beaches and adjacent areas in the Lakes Area only during the fourth of July holiday (and potentially for a few days before/after depending on what day of the week the holiday falls). Note: It was discussed that this would not cause problem spill-over to other Lakes area parks due to bans already in existence at those facilities year-round
- Even with the ban, additional law enforcement would need to be available at Gull Point State Park beach and possibly other gathering areas in the Lakes region
- Law enforcement must work to enforce the ban equitably and not target young adults
- Signs would need to be posted prior to and during the ban period
- Public education/communication about the need for the ban must be provided in advance of the ban taking effect

- Extend the buoys over the holidays to continue to prevent boating-swimmer accidents in the beach area caused by the anchored party boats

Community leaders will additionally look at the potential for an expanded “Greenspace” activity presence during the July 4 holiday. (Greenspace is a community area in the Okoboji region that already has controls for alcohol consumption and entertainment options in place. The concept here was to offer additional activity to further discourage the desire for large-scale public – and potentially underage - drinking.)

The stakeholders wanted to try this plan for 2010 and promised to provide feedback on what they felt were the results of this action. They also wanted to ensure that the DNR would allow long-standing traditions (e.g. annual reunions or corporate events) to be able to seek a variance if this rule would be dramatically restrictive to how they have enjoyed the beaches at this time of year in the past.

### ***Highlights of the Discussion***

#### **Describe the challenge at the beach and associated causes.**

Participants described a “drunken brawl” with drinking occurring at excessive and dangerous levels for the participants and passersby. An assault of a park user occurred last year by someone extremely inebriated and fights routinely break out among the participants, according to law enforcement and beach neighbors. The beach cannot be used by anyone else during the holiday. DWI is potentially common place. Lodge activities are severely impaired (a popular site for holiday weddings) by the adjacent noise and parking problems. Access for emergency vehicles is severely restricted. Officers do not feel safe policing under these conditions. The problem has been exacerbated by college word of mouth, national publicity, and other local venues banning alcohol. Our alcohol culture is one of the problem’s root causes, aided by a lack of resources, limited enforcement options, easy access from many points to the beach and insufficient law enforcement tools.

#### Comments include:

*Situation has become progressively more dangerous. It is a complete drunken brawl with nudity. No other users can go in. Too many people. Countless cases of public intox. They’re “funneling” alcohol all day long. We’re at risk for drownings. We’ve had fights break out and at least one assault. We don’t have enough officers, but even with more officers, we can’t get enough to control the problem. The other parks (city and county) have already banned alcohol. A jail backlog occurs and if we leave the park to take someone in, we’re gone for at least 90 minutes. I’m concerned about the pollution and trash left behind. They’re hurting the reputation of the Okoboji area. College word of mouth has spread. Corporate sponsorships – Red Bull, Girls Gone Wild – demonstrate the magnitude of the problem. The problem has gotten much worse as others have banned alcohol.*

**Identify solutions, obstacles, and analyze**

A series of solutions were brainstormed and in the ensuing discussion, it became apparent many suggestions had already been tried on multiple occasions but to no avail. The greatest drawback articulated around a solution involving an alcohol ban was the perception that casual users not participating in the Big Party would be harmed through the ban. Still, business owners/tourism participants were equally concerned about the image these parties were projecting and neighbors pointed out that during the party itself, no one else could actually use the beach.

The Arnold's Park City Manager was one of those who pushed the stakeholders to look at an alcohol ban, maintaining he had been opposed to such a move for his community originally, but that in the end, it was the only workable tool his community had been able to find to control excessive/dangerous drinking and its impact on users and innocent bystanders.

After more than one attempt to focus on how a solution could be crafted without banning alcohol, the discussion turned to what would need to be in place to address concerns around an alcohol ban. Participants wanted equitable enforcement so that young adults did not feel targeted, and they thought a variance process should be in place for any other large groups that may have traditionally been coming to the Okoboji's and using alcohol on the beaches with no ill effects.

In the final analysis, with the bans in place elsewhere and this ban applying to all state park beaches in the area, participants felt it would go a long way to eliminating the problem. Law Enforcement could stop the problem before it began, which would automatically discourage the large groups from congregating. While all stakeholders believed the drinking would continue, they felt that the congregating would likely be in smaller, more dispersed and manageable parties. They further hoped it might encourage the party-goers to frequent local venues better equipped for vending alcohol and providing related security.

Solutions brainstorm included:

*Checkpoint before the beach. Litter clean-up methods. More enforcement. Extend the buoys. Citations for littering. Controlling the alcohol source – through vending or carry-in checks. Limit parking. Limit number of occupants. Deputize additional law enforcement from somewhere. Cancel the fourth. Ban funnels. Ban large groups. Rope off a section for other beach users. Park user fee/beach user fee. Close the beach.*

**Stakeholders Meeting Participants**

DNR

Richard Leopold, Director  
Pat Boddy, Deputy Director and Meeting Facilitator  
Tamara Mullen, Legal Counsel  
Rich Jordet, NW District Law Enforcement Supervisor  
Gary Owen, Law Enforcement and Lake Patrol  
Frank Rickerl, NW District Parks Supervisor  
Steve Reighart, Gull Point Park Ranger  
Tim Richey, Gull Point Park Ranger

OTHER

Greg Drees, Natural Resource Commission  
Stacey Rosemore, Okoboji Tourism Director  
Tom Kuhlman, Iowa Great Lakes Area Chamber of Commerce Executive Director  
Susan Mau, co-owner of Mau Marine, Okoboji  
Charles Vignal, Dickinson County Naturalist, beach user  
Ron Walker, Arnolds Park City Administrator  
Becky Peters, curator of Iowa Rock n' Roll Museum, beach user  
Gail Goodson, nearby property owner  
Don Hoven, nearby property owner  
Deidre Rosenboom, co-owner of The Wine Bar, Arnolds Park, Young Professional

**Moved (1)** – Commissioner Kircher

**Seconded** – Commissioner Francisco

**Discussion** – Tamara Mullen advised that the public hearing date was going to be postponed until July 13th.

**Moved (2)** – Commissioner Garst moved to temporarily table item to await the Director's return.

**Seconded** - Commissioner Kircher

**Roll Call Vote** –

Gregory Drees – Aye  
Richard (Kim) Francisco – Aye  
Elizabeth Garst – Aye  
Tammi Kircher – Aye  
Janelle Rettig – Nay  
Dennis Schemmel – Nay  
Margo Underwood – Aye

**Motion** – Carried

**Moved (3)** – Commissioner Kircher moved to untable item #21

**Seconded** – Commissioner Francisco

**Moved (4)** – Commissioner Kircher amended original motion to split the Emergency Filing and the NOIA into separate item motions

**Seconded** - Commissioner Francisco

**Motion** – Carried by Unanimous Vote

**Emergency Filing**

**Discussion** – Director Leopold explained how things have evolved to this point. He explained that the situation has become such that he is unable to guarantee the safety of the public or DNR staff in the area during the July 4th holiday weekend. Commissioner Rettig distributed a document to the commission entitled ‘Understanding Administrative Rules in Iowa State Government’. Commissioner Rettig indicated that she did not think the situation met the legal test for an emergency rule. The commission addressed concerns of filing the proposed item as an ‘Emergency Filing’. Commissioner Kircher stated that she felt the ban should be put in place until a final rule can be decided upon. Director Leopold again reiterated why he is so concerned.

**Emergency Filing Roll Call Vote:**

Gregory Drees – Aye  
 Richard (Kim) Francisco – Nay  
 Elizabeth Garst – Nay  
 Tammi Kircher – Aye  
 Janelle Rettig – Nay  
 Dennis Schemmel – Nay  
 Margo Underwood – Aye

**Motion** – Motion Failed

**Notice of Intended Action (NOIA)**

**Motion** – Commissioner Kircher

**Seconded** – Commissioner Francisco

**Discussion** – The Commission addressed concerns in reference to the public hearings that would be conducted on this matter. Tamara Mullen, DNR Legal Counsel advised that of the administrative rules surrounding when a public hearing may be held once a NOIA is approved for posting. Commissioner Garst expressed concern that this rule discriminates against young adults, a group that we need to welcome in this state. Commissioner Rettig commented that staff should concentrate on enforcing existing laws rather than writing new ones.

**Moved** – Commissioner Kircher amended motion to change the public hearing date be set for July 13<sup>th</sup>, 2010.

**Seconded** – Commissioner Francisco

**Motion** – Carried 6-Aye 1-Nay (Rettig)

**NOIA Roll Call Vote:**

Gregory Drees – Aye  
 Richard (Kim) Francisco – Aye  
 Elizabeth Garst – Nay  
 Tammi Kircher – Aye  
 Janelle Rettig - Nay  
 Dennis Schemmel – Aye  
 Margo Underwood – Aye

**Motion** – Motion Carried

## **22. 28E AGREEMENT WITH WHITEROCK CONSERVANCY**

The Department requests Commission approval of a 28E Agreement between the Department and Whiterock Conservancy, whereby the Department is funneling federal Transportation Enhancement (TE) Grant dollars to Whiterock on behalf of the Iowa Department of Transportation (IDOT), who requires TE grant recipients to partner with another public agency. These grant dollars are being used by Whiterock to refurbish 22 miles of backcountry biking, hiking, and horseback riding trails.

**Moved** – Commissioner Rettig

**Seconded** – Commissioner Kircher

**Discussion** – Commissioner Garst recused herself for possible conflict of interest.

**Motion** – Carried by Unanimous Vote

## **23. CHAPTER 15, GENERAL LICENSE REGULATIONS – NOTICE OF INTENDED ACTION**

The Commission is requested to approve the Notice of Intended Action to amend Chapter 15, “General License Regulations,” Iowa Administrative Code.

The Legislature adopted a law in 2008 allowing the Department of Revenue to require license-issuing state agencies to suspend, revoke, and not renew licenses for failure to pay state liabilities. The Iowa College Student Aid Commission gained similar authority prior to that session. The new chapter provides a mechanism through which the department is able to comply with the requirement to suspend, revoke, or deny issuance or renewal of licenses of persons who owe the state money, in compliance with the requirements in Iowa Code chapter 272D and section 261.126.

**Moved** – Commissioner Kircher

**Seconded** – Commissioner Rettig

**Motion** – Carried by Unanimous Vote

## **24. WATER RECREATION ACCESS COST-SHARE (WRAC) GRANT FY 2011**

The Commission is requested to approve funding for the recommended Water Recreation Access Cost-Share (WRAC) Grant applications for FY11, funded through the Marine Fuel Tax Program (50%) and Federal Coast Guard (50%).

Grant applications have been reviewed and prioritized by a review committee who met on April 5, 2010, to review a total of 14 projects requesting \$292,396.79 in MFT funds according to rules provided for in Iowa Administrative Code chapter 571 - 30. One application received additional consideration pursuant to Iowa Code section 303.3C, as it is a participant in Iowa’s Great Places. A total of \$100,000.00 was available for distribution.

The committee recommends fully funding the top 4 ranked projects and partially funding Dallas County Conservation Board. In the event any of the recommended applicants are unable to meet the obligations of the WRAC program and funds remain available, the Department requests authority to offer those funds to complete the Dallas County Conservation Board project or the next highest scored project until funds available are exhausted.

Rank By Score	Applicant	Project Description	MFT Grant Request	Local Match	Total Project Cost	MFT Grant Awarded
1	City of Perry	Construction of a boat ramp parking lot and access road	\$25,900.00	\$29,100.00	\$55,000.00	\$25,900.00
2	Johnson County Conservation Board	River Junction Access Area removal of stone abutment jeopardizing the boat ramp	\$1,785.00	\$595.00	\$2,380.00	\$ 1,785.00
3	Clinton County Conservation Board	Rock Creek Marina boat ramp replacement	\$28,239.75	\$9,413.25	\$37,653.00	\$28,239.75
4	Mitchell County Conservation Board	Interstate Park boat ramp and dock pier replacement	\$14,462.50	\$7787.50	\$22,250.00	\$14,462.50
5	Dallas County Conservation Board	Dawson boat ramp construction	\$37,500.00	\$12,500	\$50,000.00	\$29,612.75
6	Jackson County Conservation Board	Spruce Creek Park boat dock purchase	\$6,185.25	\$2,061.75	\$8,247.00	
7	Jackson County Conservation Board	South Sabula Lake Park boat dock purchase	\$6,185.25	\$2,061.75	\$8,247.00	
8	O'Brien County Conservation Board	Prairie Heritage Center boat ramp repair and resurfacing	\$51,375.00	\$17,125.00	\$68,500.00	
9	Greene County Conservation Board	Eureka Bridge acquisition and boat ramp construction	\$62,566.50	\$20,955.50	\$83,422.00	
10	Allamakee County Conservation Board	Land purchase, gravel parking and gravel access to river edge	\$25,500.00	\$8,500.00	\$34,000.00	
11	Osceola Parks & Recreation Department	West Lake Marina boat dock replacement	\$14,557.50	\$4,852.50	\$19,410.00	
12	Howard County Conservation Board	Turkey River canoe access construction	\$8,006.25	\$2,668.75	\$10,675.00	
13	City of Cascade	North Fork Maquoketa River access	\$5,408.79	\$1,802.93	\$7,211.72	
14	Howard County Conservation Board	Upper Iowa River Canoe Access	\$4,725.00	\$1,575.00	\$6,300.00	
	Total		\$292,396.79	\$120,998.93	\$413,295.72	\$100,000.00

DNR recommends approving funds for the FY2011 WRAC Grants.

**Moved** – Commissioner Schemmel  
**Seconded** – Commissioner Underwood  
**Discussion** – Commissioner Rettig abstained as she is a member of the Johnson County Board of Supervisors.  
**Motion** – Carried 6-Yes and 1-Abstain (Rettig)

**25. DONATIONS**

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

<b>Donation To:</b>	<b>Amount</b>	<b>Description</b>	<b>Donation Provided by (Name/Org):</b>
Parks	\$10.00	donation in memory of Liz Murray	John Schmidt
Fish and Game Trust Fund	\$50.00	donation to support Iowa's natural resources	Lisa Kovernusz
Brushy Creek	\$94.00	donation toward license allowing movies to be shown in the campgrounds	Kari Pruismann
Red Haw State Park	\$100.00	funds to support Red Bud Days Kids Fishing Outing	Tourism Lucas County
Fish and Game Trust Fund	\$150.00	donation to support wildlife	Grant and Rosella Van Duzee
Parks	\$175.00	donation in memory of Liz Murray	Greg Patterson
Brushy Creek Rec Area	\$2,000.00	funds toward the repair of Bobcat, which would still be a very large paperweight without this donation. This machine is essential to operations and has been a key component to responding to several natural disasters	Rex and Martha Buttolph
Lewis and Clark State Park	\$15,000.00	White Pirogue (boat) for on water interpretive programs	Beverly Hinds

**Moved** – Commissioner Underwood  
**Seconded** – Commissioner Schemmel  
**Discussion** – Commissioner Underwood asked how recognition was given to those that make donations, she wanted to know if information was published in local newspapers, Iowa Outdoor magazine, etc. Diane Ford explained that a letter was sent to each donor along with the Gift to Iowa Day. Commissioner Underwood commented that she wanted to make sure all donors were recognized. Diane Ford offered to send the commissioners a copy of the donation policy for their information  
**Motion** – Carried by Unanimous Vote

## **26. CHAPTER 44, SPECIAL EVENTS - FINAL**

The Commission is requested to approve new Chapter 44, "Special Events," Iowa Administrative Code.

The changes to Chapter 44 establish special event permit requirements for ATVs and snowmobiles, while also updating the boating requirements. The changes also address and support the department's new centralized special events application system.

A Notice of Intended Action was published on January 13, 2010 as ARC 8462B. A public hearing was held on March 31, 2010 and one comment was received.

### **NATURAL RESOURCE COMMISSION[571] Adopted and Filed**

Pursuant to the authority of Iowa Code sections 321G.2, 321I.2, and 462A.16, the Natural Resource Commission hereby amends Chapter 44, "Boating, Special Events," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 13, 2010, as ARC 8462B. A public hearing was held March 31, 2010, and one public comment was received.

The Notice proposed changes to fulfill statutory requirements regarding special events for snowmobiles and all-terrain vehicles (ATVs). This chapter previously only contained special event permit requirements for boating. These amendments add special event permit rules applicable to snowmobiles and ATVs, and update those for boating. These changes also address and support the Department's new centralized special events application system.

The Department received a detail comment on the rules and the response to it is as follows:

The comment asked for clarification on the proposed new title, as it limited itself to the "Law Enforcement Bureau" and special events on state lands and waters can impact several other bureaus in the Department. The Department agrees this may be confusing so has changed the title to just "Special Events." Additionally, the Department has added language in rule 44.16(321G,321I,462A) that addresses situations in which multiple special events permits may be needed; under this rule, and other applicable chapter changes in Administrative Code 571, acquiring one permit from the Department is sufficient.

The comment sought clarity in some of the definitions and proposed language to refine the definition for "authorization letter," and "permit" throughout the chapter, centralized special events application system, and exhibition. The Department has made these proposed edits. The Department also struck, per the comment's suggestion, "navigable waters" from the definition list as it was not a utilized term in the chapter.

The comment recommended refining rule 44.2(321G,321I,462A), which describes the applicability of these rules to lands and waters in the state; the Department has made that change, deleting repetitive clauses.

The comment sought clarity on the application timeline contained in subrule 44.5(3) and the Department has reworded that to more clearly express that applications may be submitted up to 14 months before the event, but no later than 30 days prior to.

The comment suggested procedural changes in rule 44.6(321G,321I,462A), which describes the ability of an applicant to submit and use an alternate date for a special event. The Department has made appropriate edits to better refine the notification and approval process for an alternate date.

The Department has struck three rules from the chapter: the rule on inclusion of vehicles, the snowmobile special event rule, and the indemnification rule. The first two are already captured by other rules, and the later is unnecessary due to the chapter's insurance requirement.

These amendments are intended to implement Iowa Code sections 321G.2, 321I.2, 462A.16.

These amendments shall become effective July 7, 2010.

The following amendments are adopted.

**ITEM 1.** Amend 571---Chapter 44, title, as follows:

### **BOATING, SPECIAL EVENTS**

**ITEM 2.** Rescind rule 571--44.1(462A) and adopt the following new rule in lieu thereof: **571—44.1(321G,321I,462A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

*“Administrative processing fee”* means the fee collected for the processing of each special event application that is submitted for specific vessel, snow, and all-terrain vehicle events.

*“All-terrain vehicle”* or *“ATV”* means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*“Centralized special events application system”* means the Web-based system used by applicants for regulated vehicles and vessels to submit an application for activities permitted under this chapter. Approved applications shall be placed on a calendar of events Web page, accessible from the department's homepage, to inform the general public of scheduled events on public land, ice, and water.

*“Commission”* means the natural resource commission.

*“Demonstration”* means an outward display or showing of how items or equipment are used or work, with or without the intent to sell; a meeting, gathering, or parade; a competitive event, tournament, or race.

*“Department”* means the Iowa department of natural resources.

*“Exhibition”* means the act or fact of exhibiting items or equipment; or a public show or display of items or equipment.

*“Off-road motorcycle”* means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Iowa Code chapter 321, but which contains design features that enable operation over natural terrain.

*“Off-road utility vehicle”* means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A motorized vehicle that was previously titled or is currently

titled under Iowa Code chapter 321 shall not be registered or operated as an off-road utility vehicle.

*“Permit”* means a document issued by the department that enumerates all stipulations, requirements, and contingencies that the applicant must accept and adhere to throughout the duration of the approved event.

*“Snowmobile”* means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread and which is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle, as defined in Iowa Code section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

*“Special event”* means an organized race, tournament, exhibition, or demonstration of limited duration that is conducted on public land, ice, or waters of the state under the jurisdiction of the commission according to a prearranged schedule and in which general public interest is manifested.

*“Vessel”* means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are considered watercraft.

**ITEM 3.** Rescind rule 571--44.2(462A) and adopt the following **new** rule in lieu thereof:

**571—44.2(321G,321I,462A) Applicability.** These rules are applicable to all fee title and dedicated lands and all waters under the jurisdiction of the commission or those lands and waters managed by the commission for public access.

**ITEM 4.** Adopt the following **new** rules 571—44.3(321G,321I,462A) to 571—44.20(321G,321I,462A):

**571—44.3(321G,321I,462A) Permit required.** A permit issued by the department is required in order to conduct a special event as defined in this chapter on public land, ice, or waters under the jurisdiction of the natural resource commission, including deader demonstrations.

44.3(1) Any one of these criteria may determine the need for a special event permit:

- a. The event is open to the public.
- b. The event charges an admission fee.
- c. The event awards prizes.
- d. The event promotes competitive events.
- e. Attendance is solicited through advertising, invitation, or other solicitation.
- f. The event may adversely impact the use of the area by others.

**571—44.4(321G,321I,462A) Permit conditions.** The department may impose conditions not specifically covered herein for any special event as deemed necessary to protect the resource or to ensure public safety. Such conditions shall be included in the permit issued by the department.

**571—44.5(321G,321I,462A) Application procedures.** The following procedures shall be used when applying for a special event permit:

44.5(1) Application shall be made on an electronic form accessed through the department’s centralized special events application system.

44.5(2) The application shall be received electronically by the department via the centralized special events application system.

44.5(3) Applications may be submitted up to 14 months before the special event but no less than 30 days prior to the event.

44.5(4) The number of events to be held at any area on the same day may be restricted if deemed necessary to avoid congestion within the area so as to protect the resource. The commission shall consider the capacity of facilities such as boat ramps, docks, parking lots, and other area facilities and features when processing applications.

44.5(5) Permits are non-transferable.

**571—44.6(321G,321I,462A) Alternate dates.** Alternate dates for the event may be submitted by the applicant. The department may approve a submitted alternate date for the event. If an alternate date is approved, the primary date shall still be used unless unforeseen circumstances prevent its use. If an alternate date must be used for the event, the applicant shall contact the program coordinator at least one week in advance of the date on which the event shall take place to obtain final approval to use the alternate date. The program coordinator shall document this approval in writing. Upon approval of an alternate date, the applicant shall notify the local conservation officer and the program coordinator shall update the calendar of events.

**571—44.7(321G,321I,462A) Insurance coverage.** The applicant shall secure event liability insurance and shall name the department as an additional insured. Insurance information shall be available at the time the application is submitted. The applicant shall have a copy of the insurance policy available at the event location to present to department personnel if requested.

**571—44.8(321G,321I,462A) Fees.** The administrative fee for processing each special event application is \$25. The fee is nonrefundable.

**571--44.9(321G,321I,462A) Buildings or structures placed on ice during a special event.** The following criteria apply to the placement, construction, or erection of structures placed on ice during a special event:

44.10(1) Vendor information provided on application. The applicant shall identify the names and addresses of any vendors who will be on site during the special event.

44.10(2) Owner information. The full name, street address, and city of the building or structure owner shall be displayed legibly in a color contrasting to the background on all sides of the building or structure in block letters at least four inches in height.

44.10(3) Accessibility. Buildings or structures shall not be locked when in use.

44.10(4) Reflectors. Buildings or structures shall have reflectors attached to all sides of the building or structure in such a manner to enable them to reflect light at all times from sunrise to sunset.

**571--44.10(462A) Boating special events – registration exemptions.** Vessels entered in special events shall not be required to be registered as stated in Iowa Code sections 462A.4 and 462A.5, subject to the following regulations.

44.10(1) Vessel and participant list. Sponsors of the special event shall maintain a list of the names and addresses of all persons participating in the event and a description of each vessel in the event.

44.10(2) Vessels identified. Each vessel in the special event shall be labeled with an identifying number or letter, which shall be clearly visible and which shall be recorded with the names and addresses of vessel passengers on the list as provided for in subrule 44.10(1).

44.10(3) Exemption period. Any vessel entered into a special event may be exempted from state registration requirements for the full 24-hour period of each day covered by the permit to conduct such event and as issued under Iowa Code section 462A.16.

**571--44.11(462A) Mississippi River or Missouri River.** A department special event application is not needed for fireworks or boating events on the Mississippi River or Missouri River upon notification and proof that a United States Coast Guard (U.S.C.G.) permit has been secured. The regional U.S.C.G. office issuing permits for Mississippi and Missouri River events is located in St. Louis, Missouri.

**571--44.12(321G,321I,462A) Other code provisions and permits.** The applicant for a special event permit is responsible for ensuring full compliance with regulations of Iowa Code chapters 321G, 321I, and 462A and any other Iowa Code chapters and rules promulgated under those chapters that may be applicable for these events. Likewise, an applicant is required to acquire and comply with all applicable state and local permits issued by other state and local agencies necessary to hold the special event.

**571--44.13(321G,321I,462A) Authority to cancel or stop an event.** At any time that a conservation officer, park manager, or park ranger determines that a special event is not in compliance with the permit issued or that safety concerns warrant canceling or stopping the event, the conservation officer, park manager, or park ranger has the authority to do so.

**571--44.14(321G,321I,462A) Future special event permits.** The issuance of future permits to an applicant is contingent upon the applicant's compliance with past permits.

**571--44.15(321G,321I,462A) Nonexclusive use of area.** Issuance of a special event permit does not grant the applicant exclusive use of the land, water, or ice that is the subject of the permit unless the permit explicitly authorizes exclusive use.

**571—44.16(321G,321I,462A) Other special events.** These rules do not apply to special events that are governed exclusively by the department's parks bureau, fisheries bureau, or wildlife bureau, except to the extent that the authorization given under this chapter to use a concession in a state park fulfills the parks bureau's special event concession requirements in 571—Chapter 61.

**ITEM 5.** Adopt the following new implementation sentence in 571—Chapter 44:

These rules are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Leopold, Director

(P:44.f/mg)

**Item Amendment** - Amendment made by department to change section 44.5(3) language to read:

‘Application shall be accepted beginning January 1 of a given year for requested event dates extending to March 1 of the following year and shall not be accepted later than 30 days prior to the requested date for the event.’

**Moved** – Commissioner Francisco moved item #26 as amended

**Seconded** – Commissioner Garst

**Discussion** – Commissioner Underwood addressed concerns of non-profit organizations that have limited funds are now being required to pay a \$25 fee for every event they hold.

Jeff Kopaska explained what the \$25 fee covers. Commissioner Underwood asked about the possibility of implementing a different fee structure. Jeff Kopaska explained how a sliding fee scale would effect the maintenance and future improvements to the system.

**Roll Call Vote** –

Gregory Drees – Aye  
 Richard (Kim) Francisco – Aye  
 Elizabeth Garst – Aye  
 Tammi Kircher – Aye  
 Janelle Rettig – Nay  
 Dennis Schemmel – Aye  
 Margo Underwood – Nay

**Motion** – Carried as Amended

## 27. CHAPTER 12, CONSERVATION EDUCATION

The Natural Resource Commission’s approval is requested for the Final Notice to amend Chapter 12 “Conservation Education.”

The proposed amendments set forth curriculum and course standards for the Department’s hunter education , boating, snowmobile, all-terrain vehicle, snow groomer operation, fur harvester, and bow hunting recreational education courses and provides for certification of volunteer instructors to teach the courses. The rules in new Division II have been created to address, include and add definition to all the recreational education courses listed above. The rules in new Part I outline a consistent procedure across all recreational education courses when certifying and decertifying volunteer instructors

The Department received written and verbal comments from stakeholder groups including Iowa Off Highway Vehicle Association, Iowa Hunter Education Instructor Association, and the Iowa State Snowmobile Association.

**Moved** – Commissioner Rettig

**Seconded** – Commissioner Francisco

**Motion** – Carried by Unanimous Vote

## 28. GENERAL DISCUSSION

<b>INFORMATIONAL ONLY</b>
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- Commissioner Drees
  - Thanked fellow commissioners for their vote of confidence in him as NRC Chairperson.
- Commissioner Francisco
  - None
- Commissioner Garst
  - Asked when the ELSI 2 system would be implemented
  - Economic Impact on Rivers
  - Asked about the number of Oak Trees in Iowa
- Commissioner Kircher
  - IDNR featured in national Ducks Unlimited magazine
  - Would like to have June meeting begin at 8:30am if the commission are staying in town the evening before.
- Commissioner Rettig
  - Left meeting at 3:32pm
- Commissioner Schemmel
  - None
- Commissioner Underwood
  - Waterfowl ICN rules meeting very informative
  - Attended the Ventura Marsh Ground breaking ceremony

## 29. ITEMS FOR NEXT MEETING

<b>INFORMATIONAL ONLY</b>
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- Tour on 6/9/10 of Walnut Woods with info session on public health and lead
- Appeals Oral arguments to be heard on 6/10/10 at 11:30am
- Number of Oak trees in Iowa
- Fire Policy
- Staffing Plan – Loss of Conservation Easement

### Next Meetings:

06/10/10, Thursday-Polk County

07/22/10, Thursday-Polk County

**ADJOURNMENT**

With no further business to come before the Natural Resources Commission, Chairperson Gregory Drees adjourned the meeting at 4:06 p.m., on May 13, 2010.

<p><b>Moved</b> – Commissioner Kircher <b>Seconded</b> – Commissioner Francisco <b>Motion</b> – Carried by Unanimous Vote</p>
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