

**MINUTES**  
**OF THE**  
**NATURAL RESOURCES COMMISSION**  
**MEETING**

**WEDNESDAY, APRIL 13, 2011**

**HELD AT:**

**HONEY CREEK RESORT STATE PARK**  
**12633 RESORT DRIVE**  
**MORAVIA, IA 52571**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by the NRC Chairperson, Gregory Drees on Wednesday, April 13, 2011 at 10:03 a.m. He then welcomed the public to the meeting and reviewed the public speaking forum guidelines for the three separate public comment periods

### COMMISSIONERS PRESENT

Gregory Drees, Chairperson  
Richard (Kim) Francisco, Secretary  
Elizabeth Garst  
Tammi Kircher, Vice-Chairperson  
Dennis Schemmel  
Margo Underwood  
Janelle Rettig

### COMMISSIONERS ABSENT

None

### 1. APPROVAL OF AGENDA WITH PROPOSED CONSENT AGENDA ITEMS (INDICATED BY \* ON AGENDA ITEM TITLES)

- \*10.1 - Red Haw State Park, Lucas County – Lift Station Replacement
- \*13.1 - Management Agreement – Nashua-Cedar River Access – Chickasaw County Conservation Board
- \*13.2 - Management Agreement – Chickasaw Mill – Chickasaw County Conservation Board
- \*13.3 - Management Agreement – McMahan River Access WMA – Greene County Conservation Board
- \*13.4 - Management Agreement – Shidepoke Access – Van Buren County Conservation Board
- \*15 - Wastewater Treatment Revolving Loan Fund Interest Reduction – State Parks
- \*16 - Final Rule – Chapter 14 “Concessions”
- ~~\*18 – Tree Thinning, Removal and Tree Planting Stephens State Forest~~
- \*21 - Donations

**Motion** – Commissioner Kircher

**Seconded** – Commissioner Francisco

**Discussion** – Commissioner Underwood requested item #18 be removed from the consent agenda and handled as normal.

**Decision** – Approved by Unanimous Vote

APPROVED AS AMENDED

**2. APPROVE MINUTES FROM MARCH 10, 2011 NRC PUBLIC MEETING**

**Motion** – Commissioner Francisco  
**Seconded** – Commissioner Underwood  
**Discussion** – Commissioner Garst asked that on page 38 item#20 be edited to state “Her intent in the motion amendment is to prevent people from shooting over property lines or the roadway.”  
**Decision** – Approved by Unanimous Vote

**APPROVED AS AMENDED**

**3. GENERAL PUBLIC PARTICIPATION**

<u>Name</u>	<u>Representing</u>	<u>Subject</u>
• Randy McPferren	IBA Citizen	Chapter 51 Lead/Doves
• Jeff Greiner	Fishing and Aquaculture Association	Turtle regulations
• Stu Maas	MVWA	Various / Including Doves
• Mike Sells	Iowa Trappers Association	Chapter 51 / Lead Proposal
• Laura Zaug	Citizen/Self	Lead

**4. CHAPTER 22, WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM**

The Department requests Commission approval of Chapter 22, which is being amended to add the new wildlife habitat and public access program. Public comments were accepted over a 74-day period and two public hearings were held. More than 600 comments were received.

A large percent of those that commented had a fundamental misunderstanding of the program, primarily on funding. Many comments were concerned their taxes would be raised to pay for this program, which is not true; many others were concerned that other programs would be under funded or eliminated (such as preschool) to pay for this program, which is also not true. The program is entirely funded from a federal grant appropriated for this purpose, and the match to the federal grant is from state wildlife habitat fees, a portion of which is dedicated for public access program development by the Iowa Code. In other words, no additional tax revenue is required to fund this program, and these dollars cannot be used – and importantly, were not being used already – for any other government activity or program.

Other comments opposed the program from fear that the Department had the authority to COMPEL participation. This is completely inaccurate as the program is *entirely voluntary*, so only those landowners who accept the terms of the program will be participants.

For obvious reasons, the Department is not making any substantive changes to the rule based upon these types of comments.

The comments that understood the program but opposed it expressed concerns that the DNR cannot actively or effectively manage existing public lands so the DNR doesn’t need and cannot handle the management of even MORE land; felt there is sufficient wildlife habitat in the state already, so programs aimed at creating more are unnecessary; are concerned about irresponsible

hunters being on private land; and feared liability for the landowners. The Department has addressed all of these concerns and comments in more detail in the preamble.

The comments in favor of the rule praised the program for creating more access opportunities for a state with an extremely low percentage of public land; felt increasing wildlife habitat is beneficial for both game and non-game species; felt habitat development is also positive for soil and water conservation generally; praised the access programs in surrounding states and are excited to see one in Iowa; felt the program is fiscally responsible as it does not impact the State's General Fund; and felt the program could provide economic development opportunities in the state by further increasing hunting and recreational opportunities.

## **NATURAL RESOURCE COMMISSION[571]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 456A.19 and 483A.3B(3)"c"(1), the Natural Resource Commission hereby amends Chapter 22, "Wildlife Habitat on Private Lands Promotion Program," Iowa Administrative Code.

The amendments designate the procedures used by the Department to develop a three-year pilot program whereby the Department shall create, manage, and enhance wildlife habitat on private land in exchange for allowing public access for hunting. Funding is through a Voluntary Public Access and Habitat Incentive Program Grant awarded to the Department by the U.S. Department of Agriculture, as well as from wildlife habitat fees that are designated by the Iowa Code for the development of public hunting opportunities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 12, 2011, as **ARC 9325B**. The Department held a public hearing on February 3, 2011, in the Wallace State Office Building in Des Moines. The Department extended the comment period and scheduled a second public hearing for March 29, 2011, also in the Wallace State Office Building, via an Amended Notice of Intended Action published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9423B**. Combined, the comment period for this rule was 74 days.

The Department received a total of 622 comments. Unfortunately, many of these comments were based on a fundamental misunderstanding of the rules and program. Therefore, these comments cannot be substantively used by the Department in the rule's final version. However, the majority of the comments were insightful. Many comments were in favor of the rule, but slightly more had criticisms, suggested improvements, or were entirely against it.

Clearly, 304 comments had a fundamental misunderstanding of the program, its funding, and purpose. Many of those commenting were angry that their taxes would be raised to pay for this program, which is an unwarranted concern. Several were angry that other programs would be under-funded or eliminated (such as preschool) to pay for this program, which is entirely inaccurate. Still more did not want to see the Department's Trust Fund depleted to pay for this program. Importantly, the program is entirely funded from a federal grant appropriated by Congress to the U.S. Department of Agriculture for this very purpose, and Iowa's match to the federal grant is from state wildlife habitat fees, a portion of which is dedicated for public access program development by the state legislature. See Iowa Code § 483A.3B(3) (allocating moneys to "increase opportunities for recreational hunting on private lands," and stating that such a program shall be establish "by rule" and must include "eligibility requirements for the program and procedures for applications for and approval of projects funded under the program.") In other words, no additional tax revenue is required to fund this program, and these federal grant dollars and state match dollars cannot be used – and importantly, were not being used already – for any other government activity or program. By law, they are designated for wildlife development/public access programs *only*. Additionally, several comments expressed anger that the Department was "forcing" or "compelling" this program on private landowners. This is entirely inaccurate as well. This program is, and always has been, strictly voluntary. Only those landowners who accept the terms of the program will choose to be participants. Finally, some comments contained suggested changes to the landowner/tenant deer license system, which was not part of this rule and therefore not a topic open for discussion.

The 141 comments in favor of the rule praised the program for creating more access opportunities for Iowa, who has one of the country's lowest percentages of public land; felt increasing wildlife habitat is beneficial for both game and non-game species; felt habitat development is also positive for soil and water conservation generally; praised the access programs in surrounding states and stated they are excited to see one in Iowa; felt the program is fiscally responsible as it does not impact the State's General Fund; and felt the program could provide economic development opportunities in the state by further increasing hunting and recreational opportunities.

The 177 negative comments expressed concern over the following topics, and the Department shall respond to each in turn:

1. How do you protect landowners from irresponsible hunters?

RESPONSE: The Department completed a survey before initiating this program that showed only 10 percent of Iowa landowners would be willing to participate in an access program. The Department proceeded with the program even with this low interest as the amount of money available would only fund approximately 3,700 acres of habitat improvement. In other words, the program could not support extremely high interest regardless. Related, this program is strictly voluntary, so only individuals who are willing to accept any and all kinds of hunters on their property will enroll. Finally, the boundaries of the areas open to public hunting will be

clearly marked using the Department's Wildlife Bureau's policy on marking public Wildlife Management Areas, and will be patrolled by Conservation Officers in the same manner. The Conservation Officers will enforce state laws and hunting regulations on these privately-owned access areas just like they do on public lands.

2. The Department can't manage existing public land so they don't need even more land to manage.

RESPONSE: First, Department employees continually strive to restore and manage public wildlife lands to native communities (prairie, wetlands or forests) in order to benefit the wildlife and provide recreational opportunities in a more effective and efficient manner. These native communities are those that existed on the landscape previous to settlement. In addition, we collaborate with neighbors, County Conservation Boards, the Army Corps of Engineers, the U.S. Fish and Wildlife Service and other partners to increase work efficiencies and obtain additional funding sources. Secondly, the Department carefully considered its ability to create and manage an access program before applying for the federal grant. The grant allowed states to apply for up to \$2 million a year for three years, yet the Department applied for only \$500,000 a year for three years to ensure the workload this program created could be handled by existing staff. Accordingly, the Department believes the program will be properly managed and successful for those who choose to participate in it.

3. Iowa doesn't need any more wildlife habitat.

RESPONSE: The Department has an Iowa Wildlife Action Plan (IWAP) that was congressionally mandated and published in 2005. This long-range conservation strategy outlines conservation strategies to protect Iowa's wildlife resources for the next 25 years. As required by congress, the IWAP includes a section that evaluates the status of Iowa's wildlife and their habitats. One of the conservation actions identified by the public during the development of this plan was the need to protect, restore, and enhance large areas of wildlife habitat.

4. The rule does not address liability for landowners; why should they take the risk?

RESPONSE: Landowners enrolled in this access program have very broad liability protection pursuant to Iowa Code chapter 461C. This protection has existed for many years and applies to individuals who choose to open up their private land for free (without charge) public recreation. Thus, no NEW liability protection had to be identified or created to protect participants in this program. Under this chapter, "recreational purpose" is defined to include hunting, trapping, and nature study. Iowa Code § 461C.2(5). Significantly, the owner has "no duty of care to keep the premises safe for entry or use by others for recreational purposes . . . or to give any warning of a dangerous condition, use, structure, or activity . . ." Iowa Code § 461C.3. The only way an individual enrolled in this access program (or otherwise allowing public use of their property for recreation) would face liability is if they willfully or maliciously failed to guard or warn against a dangerous condition, or if the landowners charged a fee. See

Iowa Code § 461C.6. Thus, enrolled landowners are assuming very little risk but are getting a lot of benefit in the form of wildlife habitat development that will still exist on their property after the access agreement has expired.

5. Landowners should be able to say who is on their property for any reason, particularly hunting.

RESPONSE: This program is entirely voluntary. Only landowners who are comfortable with unknown hunters being on their property will choose to participate.

6. There are already federal, state, and other programs that provide funding to landowners for wildlife habitat, so this program is duplicative.

RESPONSE: There are other federal Farm Bill-related programs that focus on wildlife habitat, but this is the only program that provides an incentive (habitat development and management) in exchange for public access for hunters during the appropriate seasons. Therefore the Department feels this is a very unique program in Iowa.

7. The Department did not provide enough information on contract terms and enrollment ranking criteria.

RESPONSE: The Department did not provide this information during the initial comment period, which is why the Department chose to extend the comment period and have a second public hearing so that these documents could be disseminated and commented on by stakeholders. The Department welcomed the feedback it received on the contract and application form from the Iowa Farm Bureau. Changes have already been made to those documents in response. The current version of both the contract and the application form are available on the Department's website at [http://www.iowadnr.gov/wildlife/privatelands/mgt\\_access.html](http://www.iowadnr.gov/wildlife/privatelands/mgt_access.html) and the contract is being incorporated by reference into the final rule. No other comments on these documents were received.

8. The current system in Iowa works. Hunters may ask permission from landowners and landowners can choose to give permission or not based on their comfort level with the individual.; There is no reason to change this approach.

RESPONSE: Most of the individuals that addressed this issue in their comments identified themselves as landowners. Conversely, department surveys have shown time and time again that hunters who do not own land, or who own very little land, feel that access is a huge problem in Iowa. These individuals state they have a very hard time finding private land to hunt on. Frequently, the only way they get permission is if they live very close to the parcel and have a personal relationship with the owner, but even then it is not guaranteed. As this shows, access is a major issue in hunter recruitment and retention, and this program provides a way to address that concern. Again, the landowner's participation is strictly voluntary.

9. Hunters will damage private property. Has the Department considered who is responsible for repairing that damage?

RESPONSE: Hunters who damage private land are responsible for that damage. This is the same for damage caused by hunters on public lands. The Department understands it can be challenging to identify the responsible hunter, and regular patrols and enforcement by Conservation Officers will assist in this effort.

10. Landowners could facilitate access on their land without government involvement if the legislature would provide liability protection for landowners who charge for hunting on their property.

RESPONSE: This program does not limit an individual landowner's ability to lease hunting rights on their property. This approach limits private access to those who can afford to pay for the lease – frequently a premium dollar amount. Charging a fee for access means the landowner is not protected under Iowa Code chapter 461C. However, as the comment acknowledged this is an issue to be taken up by the legislature, not the Department. Conversely, this program creates *free* access for *all* hunters, something that is rare in Iowa as almost 99 percent of the state is privately-owned.

11. If the Department decides to keep the program, where will the funding come from to continue the program once the current grant expires?

RESPONSE: This is an excellent question, and will have to be further investigated by the Department and the state legislature. Certainly habitat fees will be available, but other funding sources will likely be needed as well. If the program is successful during its pilot stage, alternative funding sources will be pursued.

12. Hunters will assume all land is open for hunting, not just the areas agreed upon by the landowner.

RESPONSE: Many of Iowa's neighboring states have public hunting access programs (some for several years) and they have not found that there is a misunderstanding of what land is open to public access and what is not. This is aided by well-placed boundary signs which the Department shall promptly install on all enrolled parcels.

13. The number of acres being made available in the program needs to be increased.

RESPONSE: The Department intends to maximize the number of acres enrolled, but is limited to the available funds and resources. If the program is successful in its pilot stage, it is hoped that more funds will be available to increase participation later.

14. The program needs to be targeted in a small area of the state so results can be measured.

RESPONSE: Based on the Department's landowner survey, work done prior to applying for the federal grant and designing the program, only 10 percent of Iowa landowners expressed interest in enrolling. The Department decided statewide eligibility was important to maximize participation. There are still eligibility criteria, but no geographic regional requirement as this comment suggests. Finally, the Department feels enrollment will be positive even if the enrolled parcels are far apart due to the criteria-based ranking system.

15. Habitat stamp fees should be spent on obtaining and managing state-owned land; access issues would be better addressed by purchasing more public land.

RESPONSE: As stated above, a certain portion of all wildlife habitat fees are set aside for public access programs pursuant to Iowa law. These funds cannot be used for any other activity or program.

16. The DNR should open up ALL public land to hunting instead of implementing this program.

RESPONSE: This is not feasible, as public land has different designations – parks, preserves, wildlife refuges, etc – and these areas, by law, are not generally open to hunting, although some exceptions apply. This is because the state must, on its very limited public land, provide many different kinds of recreation, some of which cannot occur simultaneously with hunting without presenting a safety risk to users.

17. This program does not benefit very many people of the State.

RESPONSE: The Department feels this program can actually benefit many, many citizens; landowners who choose to enroll and all of the hunters who are able to access private lands for hunting. Moreover, many outdoor recreational users benefit from increased habitat, not just hunters. Certainly with a larger budget, even more citizens could participate and benefit and it is hoped after the pilot program, that will be the case.

In response to the comments received, the following changes have been made to the rule from the Notice of Intended Action:

1. Clarifies that grant funds shall be distributed to a Department-hired contractor to complete habitat work, not directly to the landowner. However, if the landowner is properly qualified, the landowner can be hired as the contractor.
2. Incorporates by reference the Department/landowner agreement ("Iowa Management and Access Program Agreements") dated 3-31-11, available on the Department's website and at the Department's central office in Des Moines.
3. Clarifies that no fee shall be charged for public access.
4. Rewords the penalty formula for early terminations or breaches to ensure it is easy to understand.
5. References the liability protection afforded enrolled landowners pursuant to Iowa Code Chapter 461C.

These amendments implement Iowa Code sections 456A.19 and 483A.3B(3)“c”(1).  
 These amendments shall become effective June 8, 2011.  
 The following amendments are adopted.

**ITEM 1.** Amend 571—Chapter 22, title, as follows:

**WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM AND  
HABITAT AND PUBLIC ACCESS PROGRAM**

**ITEM 2.** Adopt the following **new** Part I title before rule 571—22.1(456A,483A):

Part I

**WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM**

**ITEM 3.** Amend 571—Chapter 22, implementation sentence, as follows:

~~These~~ The rules in Part I are intended to implement Iowa Code ~~sections~~ section 483A.3 and section 456A.16 as amended by 2010 Iowa Acts, Senate File 2088, section 226.

**ITEM 4.** Adopt the following **new** Part II title after rule 571—22.9(456A,483A):

Part II

**HABITAT AND PUBLIC ACCESS PROGRAM**

**ITEM 5.** Adopt the following **new** rules 571—22.10(456A,483A) to 571—22.15(456A,483A):

**571—22.10(456A,483A) Purpose and authority.** These rules set forth the procedures to open private lands to public hunting, while providing grant funds to create, manage, and enhance wildlife habitat. Pursuant to Iowa Code section 456A.19, all funds deposited into the state fish and game protection fund shall be expended solely in carrying on the activities of the fish and wildlife division. The department assesses a wildlife habitat fee in conjunction with each resident and nonresident hunting license sold in Iowa, and this fee is deposited into the state fish and game protection fund. At least one dollar from every wildlife habitat fee is required to be spent in a manner that increases landowner participation in federally funded conservation programs that encourage opportunities for recreational hunting on private land.

**571—22.11(456A,483A) Definitions.** For the purpose of this part:

“*Commission*” means the natural resource commission.

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

“*Program*” means the habitat and public access program.

**571—22.12(456A,483A) Eligibility.** In order to be eligible for this program, an applicant shall:

1. Own at least 40 acres of private land in Iowa;
2. Have land that already contains wildlife habitat or be willing to develop wildlife habitat;
3. Enter into an agreement with the department; and
4. Allow public access hunting without charge.

**571—22.13(456A,483A) Application procedures.** Applications will be accepted only from those eligible pursuant to rule 571—22.12(456A,483A).

**22.13(1) Applications.** Applications must be submitted on forms furnished by the department. Applications and agreements must be received by June 1 to provide adequate time for signage on the property and to ensure that the public is aware the area is open to public hunting. However, at the department's discretion and dependent upon the availability of funds, the application period may be extended. Landowners will be notified in writing within 30 days of submission of an application whether they have been accepted into the program.

**22.13(2) Availability of funds.** Funds available for this program are provided through a Voluntary Public Access and Habitat Incentive Program Grant awarded to the department by the U.S. Department of Agriculture as well as from wildlife habitat fees.

*a.* Funds available for assisting landowners shall be in the department's budget in accordance with legislative appropriations. Funds will be made available during a fiscal year of July 1 to June 30.

*b.* To maximize the amount of wildlife habitat actually established, the department may accept contributions from any governmental agency or private conservation group to support habitat practices designed to implement the habitat and public access program. Department funds may also be used to match other funding sources or incentive programs.

**22.13(3) Project review and selection.**

*a.* Projects will be reviewed by the site's regional department wildlife biologist, who, based on the ranking criteria listed in paragraph 22.13(3) "b," will recommend that the commission enter into an agreement with successful applicants.

*b.* Projects will be selected based on the ranked scoring criteria in the application, which prioritize sites with the greatest chance of benefitting wildlife populations and providing adequate recreational hunting opportunities. The criteria include, but are not necessarily limited to: the site's habitat potential; site suitability; priority locations; and other relevant habitat and hunting access factors.

**571—22.14(456A,483A) Agreements.** The commission shall enter into "Iowa Management and Access Program Agreements," version 3-31-11 that is located on the department's website at [http://www.iowadnr.gov/wildlife/privatelands/mgt\\_access.html](http://www.iowadnr.gov/wildlife/privatelands/mgt_access.html) as well as through the department's central office, and incorporated by reference herein, with approved landowners to carry out the purposes of this program.

**22.14(1)** Agreement forms shall be provided by the department. The agreement shall explicitly state the terms of the agreement including, but not limited to: the location and size of the habitat improvement; the location and size of the area open for public access hunting; habitat improvement practices to be completed, including the standards by which the practices shall be accomplished; schedule for completion and length of time the site shall be open for public recreational hunting; and the reimbursement rate for breaches or early terminations of the agreement as outlined in rule 571—22.15(456A,483A).

**22.14(2) Grant funds.** Habitat development money is only available if an agreement has been signed by both parties. No funds shall be paid directly to the landowner, but rather shall go to a habitat development contractor hired by the department.

**22.14(3)** Agreements may be amended by mutual agreement of both parties.

**22.14(4)** Enrolled lands are subject to game management area hunting rules as contained in 571—Chapter 51.

**22.14(5)** Nothing in this program or in the agreement alters or waives the liability protection afforded to private landowners opening their lands up to public recreation under Iowa Code chapter 461C. Access given pursuant to a signed agreement shall not constitute a “charge” as defined in Iowa Code section 461C.2.

**571—22.15(456A,483A) Cost reimbursement.** Whenever a landowner has been found to be in violation of an agreement as specified in Part II of this chapter, or terminates the agreement early, the landowner shall reimburse the state a prorated amount of the value of wildlife habitat improvement work completed on the property divided by the entire agreement period times the unfulfilled years of the agreement, e.g., (Total Dollars ÷ Total years) x Unfulfilled Years = prorated amount owed. Additionally, the landowner may be assessed early termination penalties that the department may be required to pay a contractor performing the wildlife habitat improvement work on the property.

The rules in Part II are intended to implement Iowa Code sections 456A.19 and 483A.3B(3)“c”(1).

**Tamara Mullen, DNR Attorney explained after discussion the below Proposed Amendments for CHAPTER 22:**

**22.12 Eligibility.** In order to be eligible for this program, an applicant shall:

1. Have land in Iowa that already contains wildlife habitat or be willing to allow development of wildlife habitat;
2. Enter into an agreement with the department; and
3. Allow public access for hunting on at least 40 acres.

**22.14(2) Grant funds.** Habitat development money is only available if an agreement has been signed by both parties. No funds shall be paid directly to the landowner, but rather shall go to a habitat development contractor hired by the department. This is not a cost share program; the department is solely responsible for all habitat development cost.

**22.14(4)** Enrolled lands are subject to game management area hunting rules as contained in 571—Chapter 51. Access and boundary signs shall be placed and maintained on enrolled lands by the department, including “No Hunting in Standing Crop” signs at the landowner’s discretion.

**22.14(5)** Nothing in this program or the agreement alters or waives the liability protection afforded to private landowners opening their lands up to the public recreation under Iowa Code chapter 461C. Access given pursuant to a signed agreement shall not constitute a “charge” as defined in Iowa Code section 461C.2. As stipulated in Iowa Code section 461C.4, landowners who participate in this program do not, by opening up their lands to public recreation, do any of the following:

- a. Extend any assurance that the premises are safe for any purpose;

b. Confer upon such person the legal status of an invitee or licensee to whom the duty of care is owed;

c. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

**CONTRACT AGREEMENT**

Replace Section 4.2, Task 1 with the following: Post and maintain signs designating the Property as a public access hunting area. Post and maintain signs designating access and boundaries, including signs stipulating “No Hunting in Standing Crops” at the landowner’s discretion.

Add the following to the first sentence of Section 4.2, Task 2: Make, or cause to be made, the following wildlife habitat improvements on the Improved Property, without any financial contribution from the Landowner: (describe....)

Add the following to section 6.9: As stipulated in Iowa Code section 461C.4, landowners who participate in this program do not, by opening up their lands to public recreation, do any of the following:

1. Extend any assurance that the premises are safe for any purpose;
2. Confer upon such person the legal status of an invitee or licensee to whom the duty of care is owed;
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

**Motion** – Commissioner Garst motioned to approve the item with the proposed amendments to 22.12, 22.14(2), 22.14(4), and 22.14(5) as described by Tamara Mullen, DNR Attorney.

**Seconded** – Commissioner Schemmel

**Discussion** – Commissioner Rettig expressed support of the program and disappointment that Farm Bureau had misinterpreted the intent of the program, she commented that this is the exact type of programs the state should be embracing. Commissioner Underwood also stated support of the program and commended department for the creative program and fostering of private/public partnerships. Commissioner Francsico asked what would happen if funding was cut at the federal level. Dale Garner, Wildlife Bureau Chief explained that this is only a three year pilot program based and federally funded, if program is successful the department would be seeking funding from the Iowa legislature to continue the program. Kelly Smith explained if the federal funding would be cut now the pilot program would most likely have to be discontinued.

**Decision** – Approved by Unanimous Vote

**APPROVED AS AMENDED**

**5. PUBLIC PARTICIPATION ON CHAPTER 22**

<u>Name</u>	<u>Representing</u>	<u>Subject</u>
➤ Jim Wooley	IA Chapter of Pheasants Forever	Public Access
➤ Eric Lindstrum	Ducks Unlimited, Inc.	Hunter Access

## **6. CHAPTER 97, COMMON SNIPE, VIRGINIA RAIL AND SORA, WOODCOCK AND RUFFED GROUSE HUNTING SEASONS (WILL ADD MOURNING DOVE)**

The Commission is requested to approve this Notice to amend Chapter 97, “Common snipe, Virginia rail and sora, woodcock and ruffed grouse hunting seasons”, Iowa Administrative Code.

These rules stipulate the regulations for hunting Common snipe, Virginia rail and sora, woodcock and ruffed grouse and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. The proposed amendment adds mourning doves to the species covered by this Chapter and sets the season dates, bag and possession limits, shooting hours and areas open to hunting for mourning doves.

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 97, “Common Snipe, Virginia Rail and Sora, Woodcock and Ruffed Grouse Hunting Seasons,” Iowa Administrative Code.

The proposed amendment adds mourning doves to the species covered by this Chapter and sets the season dates, bag and possession limits, shooting hours, and areas open to hunting mourning doves.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 24, 2011. Written comments may be directed to Willie Suchy of the Wildlife Bureau at the Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by email at [willie.suchy@dnr.iowa.gov](mailto:willie.suchy@dnr.iowa.gov); or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact Willie Suchy by phone at (515)281-8660 or by visiting the 4th floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on May 24, 2011, at 1pm in conference room 4-West on the 4th floor of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48, as amended by SF 464.

The following amendment is proposed.

**ITEM 1.** Amend Chapter 97 title as follows:

CHAPTER 97  
COMMON SNIPE, VIRGINIA RAIL AND SORA, WOODCOCK, ~~AND~~ RUFFED  
GROUSE, AND MOURNING DOVE HUNTING SEASONS

**ITEM 2.** Adopt new rule 571--97.6(481A) as follows:

571--97.6(481A) Mourning Dove season. Open season for hunting mourning doves shall begin on September 1 and continue for 70 consecutive days. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit is 15; possession limit is 30. The entire state is open.

**Motion (1)** – Commissioner Francisco

**Seconded** – Commissioner Schemmel

**Motion (2)** – Commissioner Garst motioned to approve the item with an amendment to include the requirement that hunters must use non-toxic lead shot

**Seconded** – Commissioner Rettig

**Discussion** – Commissioner Rettig stated she had been contacted by many people who think that a compromise on dove hunting would be to make dove hunting require non-toxic (lead free) shot. Commissioner Schemmel asked Commissioner Garst to clarify her intent of the amendment; would it be on private land or public lands or anywhere non-toxic shot would be required. Commissioner Garst responded she had intended it to be anywhere it would be a requirement.

**Roll Call Vote on proposed amendment:**

Commissioner Drees - Nay

Commissioner Francisco - Nay

Commissioner Garst - Aye

Commissioner Kircher - Nay

Commissioner Schemmel - Nay

Commissioner Underwood - Nay

Commissioner Rettig - Aye

**Decision** - Motion Failed 5 Nay and 2 Aye

**Motion(3)** – Commissioner Rettig motioned to propose an amendment to the NOIA to reduce the dove hunting season from 70 days to 7 days.

**Second** – Motion died for lack of second

**Motion (4)** – Commissioner Rettig motioned to propose an amendment to the NOIA to reduce the dove hunting daily bag limit to 5 with a possession limit of 10.

**Second** – Motion died for lack of second

**Discussion** – Commissioner Rettig expressed her disappointment with the Governor and Iowa Legislature for passing this bill without allowing public comment. She stated that she felt that this was not an example of an open transparent government and had actually forced the NRC, who are seven volunteers, to sustain a level of communication from the public who are frustrated either for or against and were not allowed to talk to their elected officials about this issue.

Commissioner Rettig stated that she had reviewed 385 communications, 270 were opposed a dove hunting season and 115 were in support of a dove hunting season; these individuals should

have been afforded the opportunity to speak to their elected officials on this issue. Commissioner Garst stated that she wanted to make it clear that she would be voting no only in part due to the non-toxic issue. She stated that she felt many Iowans were losing their connection with the outdoors and their environment and that doves are something that people connect with and care about. She understands that there is science to back up the proposed season but felt that this is a fundamental connector of people to their environment. The NRC represents all citizens of Iowa. She would like to see both sides of this debate pay more attention to what really matters; which is our state’s water quality and soil, if all sides cared half as much about those important issues as they do about dove hunting this state would be a much better state.

**Roll Call Vote:**

- Commissioner Drees – Aye
- Commissioner Francisco – Aye
- Commissioner Garst – Nay
- Commissioner Kircher – Aye
- Commissioner Schemmel – Aye
- Commissioner Underwood - Aye
- Commissioner Rettig - Nay

**Decision** – Approved 5-Aye and 2- Nay

**APPROVED AS PRESENTED**

**7. PUBLIC PARTICIPATION ON CHAPTER 22**

\*Commissioner Drees explained that the Iowa Legislature and the Governor of Iowa have decided and passed the setting of a Mourning Dove Season and that it is now up to the NRC to pass the management of that season.

<u>Name</u>	<u>Representing</u>	<u>Subject</u>
• Denny Baker	Central Hunters	Support of Dove Season
• Lillian Hemmen	Self	Opposed to Dove Season
• Dave Whittlesey	National Wildlife Turkey Federation	Support of Dove Season
• Mike Griffin	IA Chapter of Wildlife Society	Support of Dove Season
• Don Bonneau	Self	Support of Dove Season
• Jerry Kemperman	Self	Support of Dove Season
• Larry Stone	Self	Support of Dove Season
• Jim Wooley	IA Cons. Alliance / Pheasants Forever	Support of Dove Season
• Tommy Thompson	IA Bowhunters Association	Support of Dove Season
• Kay Nuemann	Self	Opposed tp Dpve Season due to lead issue
• Lyle Goodrich	Ducks Unlimited	Support of Dove Season

## 8. DIRECTOR AND DEPUTY DIRECTOR REMARKS

### ➤ Director Lande

- Director Lande thanked everyone in attendance for their time and comments during the public participation times. He commented that it was a tribute to the “Iowa way” to be able to be cordial to each other while still having different opinions.

### ➤ Deputy Director Boddy

- The Parks Summit was held April 9<sup>th</sup> at the Izaak Walton League in Des Moines and was co-hosted by the Iowa Parks Foundation. Fourteen friends groups were represented, 47 people were in attendance, it was a very healthy exchange of ideas and experiences.
- The department held a Kaizen on the Engineering process.
- Budget & Business Plan
  - Director Lande and Budget & Finance Bureau Chief Jennifer Nelson met with David Roederer, Department of Management about the department budget & business plan and there are a few changes to make to that plan and are in process now, hope to have complete by the end of this week. Once complete it will then go to the Governor’s office.
- Gift to Iowa's Future Recognition Day was held April 4, 2011, at the Iowa State Capitol. 33 individuals, families, businesses and organizations were honored for their efforts to permanently protect conservation land in Iowa during 2010. Governor Terry Branstad and Director Lande spoke and presented certificates. A number of legislators also attended to express their appreciation.
- Tree City USA Banquet
  - 200+ people were in attendance

<b>INFORMATIONAL ONLY</b>
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## 9. SERVICE APPRECIATION PRESENTATION FOR COMMISSIONER GARST AND COMMISSIONER KIRCHER

Director Lande and Commissioner Drees presented departing Commissioners Garst and Kircher with pictures and plaques in appreciation of their service on the Natural Resource Commission.

Commissioner Garst explained in her parting comments that she felt the following items still need to be worked on by the NRC and Department:

- The new Conservation Easement Monitoring Program is an important step, but it must now be implemented and marketed as an important tool for the Department.
- Marketing of the DNR – Natural Resources are an economic development tool for the state and as such should have some sort of functional relationship with the Division of Tourism.
- Land Management –
  - Parks - The current structure of the department does not provide very well for management of parks lands. She urged the department to continue its efforts in figuring out how to demonstrate good land management, especially where people go which is our state parks.

- Crop Lands – We should be a leader in conservation practices on state owned crop grounds.
- Oak – Numbers are down 10% in the last six years, because burning is not being utilized as a tool to regenerating oak within the state
- Continue to say Thank You to those that volunteer and donate in Iowa
- Lead – This is a critical issue and we must educate our states hunters and fishermen on the importance of ridding of environment lead.
- “Get out of things what you put into it. I’ve had a great time and learned a lot. I’ve expecially appreciated the staff, we have a great staff at the DNR and I’m proud of them, they do a great job. I’ve learned a lot from them, Thank You.”

Commissioner Kircher parting comments:

- Thanked staff for their support as she departs the NRC, their kind words have meant the world to her. She encouraged staff to continue the great work they do.

**INFORMATIONAL ONLY**

**\*10. CONSTRUCTION ITEMS**

**\*10.1 RED HAW STATE PARK, LUCAS COUNTY – LIFT STATION REPLACEMENT**

This project consists of constructing two new duplex submersible sanitary sewage pumping stations within the park area, each as a replacement for existing pumping station. The old lift stations will be demolished. The scope will include new wet wells for the lift stations, two valve vaults, new electrical panels, drain pit, and some new forcemain and gravity sewer construction to hookup the existing utilities into the proposed lift stations.

This project was designed by Stanley Consultants and will be inspected by Jason Kruse, PE, DNR District Inspector. DNR Estimate is \$262,600.00. Estimated price also includes 10% contingency (\$23,900). Funding source is I-JOBS (Capital Link # 177). 14 sets of plans were issued and 3 bids were received.

JJJ Enterprises Inc.	Lowden, IA	\$192,914.86
Proctor Mechanical Corp.	Des Moines, IA	\$236,850.00
Synergy Contracting LLC.	Bondurant, IA	\$388,500.00

DNR recommends awarding the project to the low bidder, JJJ Enterprises Inc.

**APPROVED BY CONSENT**

**10.2 HALES SLOUGH POTTHOFF WRP WMA, DICKINSON COUNTY – WETLAND RT & ENHANCEMENT**

This project is designed to enhance existing wetland elements in the Pothoff Tract of the Hales Slough Wetland Complex in Dickinson County. Work under this project includes 1,120 linear feet of 36” reinforced concrete pipe installation, excavation of a tile outlet channel, other miscellaneous pipe/tile installation, a 24” corrugated metal pipe intake, tile breaks, and seeding.

This project was designed by Dave Rohlf, PE and will be inspected by Jeff Felts, PE, DNR District Inspector. DNR Estimate is \$96,000. Funding source is Federal NRCS and Wildlife Capitals (Capital Link # 31). 8 sets of plans were issued and 5 bids were received.

Redings Gravel & Excavating	Algona, IA	\$97,383.00
Cohrs Construction Inc.	Spirit Lake, IA	\$98,800.00
Godby Land Improvements LLC	Albia, IA	\$99,867.00
Diamond Concrete & Construction Inc.	Spirit Lake, IA	\$117,358.36
Valley Contracting Inc.	Estherville, IA	\$143,591.00

**Motion** – Commissioner Underwood  
**Seconded** – Commissioner Francisco  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**11. SMALL CONSTRUCTION PROJECT CONTRACTS**

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
3/31/11	11-03-96-02	Winneshiek	Decorah Hatchery	Constructing new well	\$25,000.00	\$15,023.00
						<b>\$21,304.00</b>
						<b>\$38,185.00</b>
3/31/11	11-01-71-02	O'Brien	Austin Wildlife Management Area	Farmstead demolition	\$10,500.00	\$12,900.00
						<b>\$14,000.00</b>
						<b>\$19,200.00</b>
						<b>\$21,500.00</b>
4/7/11	11-03-96-01	Winneshiek	Decorah Hatchery	Drilling New Well, Pumps, etc	\$30,000.00	\$47,421.20
						<b>\$64,636.00</b>
4/7/11	11-03-09-01	Bremer	Aldo Leopold Wildlife Area	Replace 4 control structures	\$50,000.00	\$42,674.00
						<b>\$62,920.00</b>
						<b>\$72,011.60</b>
						<b>\$83,471.00</b>
4/14/11	11-05-77-08	Polk	Big Creek State Park	Bldg demolition	\$25,000.00	\$11,300.00
						<b>\$12,500.00</b>
						<b>\$12,950.00</b>
4/14/11	11-04-39-01	Guthrie	Lakin Slough WMA	Install Fish Barrier	\$29,500.00	\$29,873.00
						\$23,689.00
						<b>\$30,377.00</b>
						<b>\$30,838.65</b>
						<b>\$32,893.40</b>
						<b>\$35,138.10</b>
4/28/11	11-03-28-09	Delaware	Backbone State Park	Boat Ramp Access Repairs	\$45,000.00	<b>\$46,999.00</b>

**INFORMATIONAL ONLY**

**12. PROFESSIONAL SERVICES CONTRACT – DELIVERY ORDER APPROVAL**

The Department has negotiated a Delivery Order under a master contract with Stanley Consultants to assist the Iowa DNR in preparing designs for the Missouri River Wildlife Headquarters.

This project will consist of a 600 sf addition to the current wildlife office in Whiting, IA. The existing building is a rigid frame steel structure which will have upgraded electric (200amp panel), HVAC and lighting. The addition will serve as a four person office, kitchenette and storage area to accommodate the current staffing needs.

Compensation for the services provided under this Delivery Order will not exceed \$24,981.00 and has been described in detail in the Delivery Order contract. The funding source is Wildlife Non-Habitat Stamp 100% (Capital Link #42).

IDNR recommends awarding the Delivery Order to Stanley Consultants.

**Motion** – Commissioner Garst  
**Seconded** – Commissioner Rettig  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**\*13. LAND MANAGEMENT PROJECTS**

**\*13.1 MANAGEMENT AGREEMENT – NASHUA-CEDAR RIVER ACCESS – CHICKASAW COUNTY CONSERVATION BOARD**

The Natural Resource Commission’s approval is requested for the renewal of a twenty-five year management agreement between the Chickasaw County Conservation Board and the DNR.

The agreement will allow the Chickasaw County Conservation Board to manage 4.10 acres, of DNR land, lying south of the Cedar River through 2036. The County currently owns 2.46 acres adjacent to this parcel. The area is an excellent access to the Cedar River and the only one below the Nashua dam for several miles providing for wildlife habitat and fishing access points.

The county desires to continue the agreement. Staff recommends approval of the agreement.

**APPROVED BY CONSENT**

**\*13.2 MANAGEMENT AGREEMENT – CHICKASAW MILL – CHICKASAW COUNTY CONSERVATION BOARD**

The Natural Resource Commission’s approval is requested for the renewal of a twenty-five year management agreement between Chickasaw County Conservation Board and the DNR. This agreement authorizes the Chickasaw County Conservation Board to manage the Chickasaw Mill area through 2036. Chickasaw County has managed the area for 50 years.

The agreement will allow the Chickasaw County Conservation Board to manage 15.25 acres lying on both sides of the Little Cedar River. The County currently owns an additional 22.53 acres adjacent to this parcel. The area includes a shelter, primitive camping and hiking trails providing for wildlife habitat, fishing access points and other recreational opportunities.

The county desires to continue the agreement. Staff recommends approval of the agreement.

**APPROVED BY CONSENT**

**\*13.3 MANAGEMENT AGREEMENT – MCMAHON RIVER ACCESS WMA – GREENE COUNTY CONSERVATION BOARD**

The Natural Resource Commission’s approval is requested for the renewal of a twenty-five year management agreement between the Greene County Conservation Board and the DNR. This agreement authorizes the Greene County Conservation Board to manage the McMahon River Access Wildlife Area through 2036.

The agreement will allow Greene County Conservation Board to manage 35 acres with nearly two miles of the North Raccoon River running through McMahon Access. The area includes a concrete boat ramp, parking area and a lowhead fishing riffle. The construction of the fishing riffle has been successful at concentrating fish at locations easily accessible to the fisherman. The area presently provides for wildlife habitat, fishing access points and other recreational opportunities.

The county desires to continue the agreement. Staff recommends approval of the agreement.

**APPROVED BY CONSENT**

**\*13.4 MANAGEMENT AGREEMENT – SHIDEPOKE ACCESS – VAN BUREN COUNTY CONSERVATION BOARD**

The Natural Resource Commission’s approval is requested for the renewal of a twenty-five year management agreement between the Van Buren County Conservation Board and the DNR. This agreement authorizes the Van Buren County Conservation Board to manage the Shidepoke Access area through 2036.

The agreement covers 4.6 acres on the Des Moines River approximately five miles downstream from Selma, IA. The area is an excellent access to the Des Moines River and the first access in the new Van Buren County water trail. There are picnic tables, informational kiosks, water trail signs, and modern outdoor toilets. The area presently provides for wildlife habitat, fishing access points and other recreational opportunities.

The county desires to continue the agreement. Staff recommends approval of the agreement.

**APPROVED BY CONSENT**

**13.5 MANAGEMENT AGREEMENT – LAKE CORNELIA PUMPING STATION – WRIGHT COUNTY – LAKE CORNELIA IMPROVEMENT ASSOCIATION**

The Natural Resource Commission’s approval is requested for the renewal of a twenty year management agreement between the Lake Cornelia Improvement Association and the DNR. The Lake Cornelia Improvement Association has managed the pumping station for the previous 10 years.

This agreement authorizes the Lake Cornelia Improvement Association to care and maintain a 16-inch well and the necessary pumping equipment and appurtenances used as an auxiliary water supply for Lake Cornelia. The Association is responsible for all power used for pumping water and all maintenance and replacement of equipment in connection with the use of the well to maintain the water level of Lake Cornelia.

The association desires to continue the agreement. Staff recommends approval of the agreement.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Francisco  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**13.6 CHAPTER 18 LEASE – BLACK HAWK STATE PARK – SAC COUNTY – CORNBELT TELEPHONE COMPANY**

The Natural Resource Commission is requested to approve, for submission to the Iowa Executive Council for final approval, renewal of a lease with Cornbelt Telephone Company for a portion of underground land at Black Hawk State Park

The lease area consists of subsurface roadside land that is used to run cable TV line to customers adjacent to the state-owned property.

The original lease was issued in 1984. The lease fee will be \$300.00 annually for the five-year period, subject to changes by administrative rule amendments. The administrative fee is \$54.00.

Staff recommends approval of the lease.

**Motion** – Commissioner Francisco  
**Seconded** – Commissioner Underwood  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

### **13.7 28E AGREEMENT – DEPARTMENT OF CORRECTIONS – FORT DODGE CORRECTIONAL FACILITY**

The Natural Resource Commission is requested to approve a 20 year management agreement between the Department of Natural Resources (DNR) and the Department of Corrections – Fort Dodge Correctional Facility (FDCF) to provide for native seed production for use on public lands.

The purposes of the agreement are to provide work through public service opportunities for offenders in the Fort Dodge Correctional Facility; to provide labor and growing facilities for the Iowa DNR Prairie Resource Center; and to create wildlife habitat diversity on public lands. Under the agreement, the FDCF will provide land needed for native seed production; labor and daily maintenance of seed production plots and all offender supervision and security at no cost to DNR. All operations will be on property owned by the FDCF. The DNR will provide all propagated plants for production plots; all consumable project materials such as planting medium, seed and weed barrier fabric; a seed dryer; cleaning and processing of seed; a record of production, harvest and distribution of seed; and transportation of seed and plants to and from the FDCF facility. The DNR will provide equipment for soil preparation and installation of weed barrier fabric and personnel to provide guidance in the transplanting, maintenance and harvest of seed production plots. All seed will only be planted on public land.

Staff recommends approval of the agreement.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Schemmel  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

## **14. LAND ACQUISITION PROJECTS**

### **14.1 RICE LAKE WMA – WORTH CO. – COLBY PIONEER PEAT COMPANY**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located 2 miles northwest of Joice, Iowa adjacent to the Rice Lake Wildlife Management Area. The 28.76-acre parcel is being offered by the Colby Pioneer Peat Company (Marilyn Colby and Marie Colby) for the appraised price of \$35,000.00.

Licensed appraiser, Fred Greder, Benchmark Agribusiness, Inc., Mason City, Iowa provided the appraisal. Jerry Gibson negotiated the purchase agreement.

The property consists of 25.3 acres of an area previously mined for peat; and 3.46 acres of road right-of-way/waste. The residual property consists of some trees and shallow wetlands. There are no buildings. The DNR plans to restore as many shallow basins as possible which will provide excellent habitat for waterfowl and shore birds. This is Part 2 of the Colby Pioneer Peat acquisition. The first tract was acquired in 2010.

Acquisition funding will be NAWCA-Prairie Lakes III (100%). Incidental closing costs are the responsibility of the Department.

Staff recommends approval of the land acquisition.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Schemmel  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**14.2 CAYLER PRAIRIE WMA – DICKINSON CO. – GOULD**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located in Dickinson County. This approximately 174.7-acre tract is offered by Gary and Donna Gould for the appraised price of \$299,800. The property is enrolled in the Emergency Watershed Program, and approximately 152.5 acres will be encumbered by a permanent EWP easement.

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

The property is located 2.5 miles west of Wahpeton and West Okoboji Lake, and is bisected by the east/west 180th Street which provides excellent public access. The Little Sioux River provides the west boundary on the north parcel, and bisects (north to south) the south parcel. Acquisition of the subject tract will protect over one mile of the Little Sioux River. Development by the NRCS will include 41.3 acres of wetland/marsh; 95 acres of native prairie seeding; 10.7 acres of restorable wetlands; 10 acres of cropland; 15.2 acres of pasture; and 2.5 acres of road right-of-way. Sellers have reserved agricultural rights for 2011. Sellers will retain ownership of an old gravel pit on the north parcel. There are no buildings.

The Wildlife Bureau will manage the property to provide additional habitat for migratory and non-game wildlife species; protect threatened and endangered species located on the property; improve water quality through natural filtration; and provide public access for outdoor recreation (possible canoe access). T & E species identified are Poweshiek Skipperling, Regal Fritillary, Arogos Skipper, and Weed Shinner. Estimated survey costs are \$1,800.

Acquisition funding will be TNC-NAWCA (\$267,200) and Wildlife Habitat Stamp (\$32,600). The property will remain on the Dickinson Co. property tax rolls.

Staff recommends approval of the land acquisition.

**Motion** – Commissioner Underwood  
**Seconded** – Commissioner Francisco  
**Discussion** – Commissioner Rettig reiterated her concern that she felt that there is already too much land owned in Dickinson county and that all 98 other counties in Iowa would like the opportunity to obtain a portion of the state’s natural resource funding. She would like to see the department focus on other parts of the state. Commissioner Underwood commented about the threatened & endangered species, and this acquisition would make this track of land a little more protected. Travis Baker agreed, and explained that this specific funding is utilized to target areas needing protection of its threatened or endangered species.  
**Decision** – Approved 6 – Aye and 1 – Nay (Rettig)

**APPROVED AS PRESENTED**

**14.3 WOOD DUCK MARSH WMA – WINNEBAGO Co. – JOHNSON**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located about one mile southwest of Lake Mills. The Walter J. Johnson Trust is offering the 54.66-acre tract for the appraised amount of \$47,000.00.

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 54.11 acres of land that will be encumbered by a WRP easement; and 0.55 of an acre access lane. The restored tract will contain 3.3 acres of grassland, 10 acres of restored wetlands, and approximately 40.8 acres of land seeded to native prairie species. The tract will provide excellent habitat for nesting waterfowl and upland game. This east boundary of this tract is adjacent to state-owned, Wood Duck Marsh. There are no buildings.

Acquisition funding will be 100% State Habitat Stamp – NAWCA match. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Schemmel  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**14.4 TURTLE BEND WMA – LOUISA CO. – URQUIZA/CARBAJAL**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located a mile and a half east of Wapello. This 16.7-acre parcel is offered by Felipe Urquiza and Maria C. Carbajal for \$13,000.00. The tract is encumbered by an Emergency Watershed Program easement.

Jerry Gibson negotiated the option in compliance with Title 49 CFR Part 24 which allows the negotiator to negotiate without an appraisal from a value of \$10,000 to \$25,000 with the landowners waiving an appraisal.

The subject tract contains 13 acres encumbered by a EWP easement, and 3.7 acres of road right-of-way (County Road X99 & 83rd Street). There are 4 acres of marsh/wetlands; 8 acres of newly seeded prairie; and one acre of timber on the property. Ornate box turtles have been documented on adjacent tracts of land. The Wildlife Bureau will manage the land in compliance with the EWP easement specifications as part of the larger wetland complex.

Acquisition funding will be 100% IJOBS. Additional surveying is estimated to cost \$1,500.00. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

**Motion** – Commissioner Francisco  
**Seconded** – Commissioner Rettig  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**\*15. WASTEWATER TREATMENT REVOLVING LOAN FUND INTEREST REDUCTION – STATE PARKS**

The Natural Resource Commission on October 12, 2000 approved a resolution authorizing the Director to enter into a State Revolving Fund loan agreement through the Iowa Finance Authority in the principal amount of \$1,568,000 for the purpose of defraying the costs of construction of wastewater treatment improvements in certain state park facilities. A loan was issued on December 19, 2000 and funded such improvements at Backbone, Big Creek, Lake Ahquabi, Lake Anita, Lake Wapello, Ledges, Prairie Rose, and Viking Lake state parks. The interest rate on this loan is 4.3% payable over 20 years.

The Iowa Finance Authority has offered a reduction in the interest rate to the current loan rate of 3% over the remaining life of the loan for savings to the Department of \$85,254. The Natural Resource Commission is requested to authorize the Director to execute an amendment to the loan agreement to reflect the interest rate reduction.

**APPROVED BY CONSENT**

**\*16. FINAL RULE – CHAPTER 14 “CONCESSIONS”**

The Department requests Commission approval for amendments to Chapter 14 “Concessions”. Notice of Intended Action was approved by the Commission on January 13, 2011.

The amendments:

1. Update date the definition of concession operations by removing the reference to firewood sales. Update the definition of friends groups to include those groups whose purpose may be to promote and enhance the Iowa state park system.
2. Rescind the rule regarding advertising and adopt a new rule that establishes the new process to advertise for new concession operations and the process to renew concession contracts.
3. Rescind the rule regarding the bid process and adopt a new rule that establishes the new process for bidding new concession operations, placement of vending machines, selling of firewood only, and concession operations run by friends groups.
4. Rescind the rule regarding selection of the concessionaire and adopt a new rule that establishes the criteria which will be used to evaluate concession proposals.
5. Establish a new provision that allows the department to have other vendors provide certain concession services if the service is not under contract with the current concessionaire and the current concessionaire declines to provide the service.
6. Clarify when a temporary letter of authorization is necessary if commission approval is required by statute.
7. Update language to reflect “park staff” instead of “park ranger” since there are other classifications of permanent park staff that may be involved with concession operations.

Notice of Intended Action was published in the Iowa Administrative Code Bulletin on as ARC 9363B on February 9, 2011. A public hearing was held on March 1, 2011 at the Wallace State Office Building in Des Moines, Iowa. No written or oral comments were received.

One change was made to subrule 14.2(1) paragraph “a” requiring the department to advertise in newspapers designated by the county to be used for official publications. The language was changed to require the department to advertise in at least one newspaper designated by the county to be used for official publications. The change is in response to comments made by one of the natural resource commissioners regarding the cost of advertising in multiple newspapers designated by a county for official publications. The change does not prohibit the department from advertising in additional newspapers in that county if the department feels it would be a benefit to the department and potential bidders.

**APPROVED BY CONSENT**

## **17. FRIENDS GROUP FIREWOOD AND SOUVENIR CONCESSION CONTRACTS – VARIOUS PARKS**

The Department requests Commission approval of firewood contracts to three state park/recreation area friends groups and a firewood and souvenirs contracts to one state park friends group.

Friends groups are currently defined in 571 I.A.C. 14.1 as “an organization incorporated under Iowa Code chapter 504A as a not-for-profit group which has been formed solely for the purpose of promoting and enhancing a particular state park or recreation area.” These groups are not subject to Chapter 14’s bidding procedures.

Pursuant to 571 I.A.C. 14.3(2)“f”, persons selling only firewood may do so with a letter/permit from the director provided the park or recreation area has no other concessionaire, or provided the concessionaire has declined the opportunity to sell firewood.

Pursuant to 571 I.A.C. 14.3(3), friends groups may offer souvenirs, books, photos, and other memorabilia for sale in a state park by requesting that a letter/permit be issued by the director. All proceeds from the sale of merchandise by the friends group must be spent on repair, replacement, or enhancement of facilities within the park.

### **Firewood Concession Contract – Lacey-Keosauqua State Park – Friends of Lacey-Keosauqua State Park**

Commission approval is requested for a one-year firewood contract with the Friends of Lacey-Keosauqua State Park. The contract will terminate on April 14, 2012. All proceeds from the sale of firewood by the friends group will be spent on repair, replacement or enhancement of facilities within the park.

### **Firewood Concession Contract – Pleasant Creek State Recreation Area – Friends of Pleasant Creek State Recreation Area, Inc.**

Commission approval is requested for a one-year firewood contract with Friends of Pleasant Creek State Recreation Area, Inc. The contract will terminate on April 14, 2012. All proceeds from the sale of firewood by the friends group will be spent on repair, replacement, or enhancement of facilities within the recreation area.

### **Firewood Concession Contract – Walnut Woods State Park – Friends of Walnut Woods State Park**

Commission approval is requested for a one-year firewood contract with Friends of Walnut Woods State Park. The contract will terminate on April 14, 2012. All proceeds from the sale of firewood by the friends group will be spent on repair, replacement, or enhancement of facilities within the park.

**Firewood and Souvenir Concession Contract – Prairie Rose State Park – Friends of Prairie Rose State Park, Inc.**

Commission approval is requested for a one-year firewood and souvenir contract with Friends of Prairie Rose State Park, Inc. The contract will terminate on April 14, 2012. All proceeds from the sale of firewood by the friends group will be spent on repair, replacement, or enhancement of facilities within the park.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Underwood  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**18. TREE THINNING, REMOVAL AND TREE PLANTING STEPHENS STATE FOREST**

The Natural Resources Commission is asked to approve a contract for pine thinning, pine removal and replanting at Stephens State Forest in Lucas and Clarke Counties.

The contractor will conduct 26 acres of pine thinning and remove the thinned trees. In addition, the contractor will completely remove 16 acres of diseased pine trees and replant the area with a mix of native hardwood species including mixed oak, cherry, hickory, and walnut.

This contract is part of a hazardous fuel reduction project at Stephens State Forest, focused on managing 135 acres of diseased, dying and overstocked pine through thinning and conversion to fire resistant native hardwoods. This project is funded by the USDA Forest Service through a Federal Hazard Mitigation Grant.

The following bids were received for the project:

<b>Company</b>	<b>Location</b>	<b>Amount of Bid</b>
Ivan Yoder	Boneparte, IA	\$28,000.00
Complete Tree Care & Landscaping LLC	Memphis, MO	\$39,732.00
Premier Forest Products Inc	Oregon, IL	\$44,000.00

The Commission is requested to approve a contract with the low bidder, Ivan Yoder for \$28,000.00

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Francisco  
**Discussion** – Commissioner Underwood asked if this particular pest was also becoming a problem in other state forest tracks. Diane Ford explained that she knew it did go beyond the state forest lines with a non native species but was unsure to what extent the problem was, she advised she would consult with Paul Tauke the Forestry Bureau Chief and get the information out to the commission upon her return to the Des Moines office.  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**19. CONTRACT AGREEMENT WITH THE CITY OF DUBUQUE**

Approval is requested for the Department of Natural Resources to enter into a contract agreement with the City of Dubuque (City) for the City to receive a \$3,037,802 Tier 2 Boating Infrastructure Grant (BIG). The Tier 2 program is a nationwide competitive grant program that is administered by the U.S. Fish & Wildlife Service. This program gives the DNR authority, as the grantee, to transfer grant funding to a third party.

The BIG program purpose is to provide funding to construct, renovate and maintain tie-up facilities and associated features for transient boats. A transient boat is a vessel 26 feet or more in length that does not moor at any one place for more than 10 days. The City of Dubuque’s project proposal is to construct 56 transient boat slips with associated bath, laundry, shop, fuel, pump out facilities and navigational aids.

Commission approval will only make the federal grant money available to the City of Dubuque. The City is responsible for project design, construction, oversight and a 26% local match.

In 2007 Commission gave approval for this grant funding at a Mississippi River main channel location. However the contract agreement was allowed to lapse in 2008 after the City found the main channel site unsuitable for transient slip and associated facility construction. Planning efforts (economic, environmental, public acceptance and design) since then has found the Port of Dubuque (Ice Harbor) site to be feasible and the City is ready to let a construction contract based on Commission approval.

We recommend that the Department enter into a contract agreement with the City of Dubuque.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Garst  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**20. 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 and Federal Coast Guard.

Grant applications have been reviewed and prioritized by a review committee who met on April March 22, 2011, to review a total of 8 projects requesting \$101,570.07 in Marine Fuel Tax/US Coast Guard funds according to rules provided for in Iowa Administrative Code chapter 571 - 30. A total of \$100,000.00 was available for distribution.

The committee recommends fully funding the top 7 ranked projects for a total of \$95,045.07. 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 the next highest scored project until it exhausts the funds available.

Rank By Score	Applicant	Project Description	MFT Grant Request	Local Match	Total Project Cost	MFT Grant Awarded
1	Green CCB	Eureka Bridge Boat Ramp	\$31,141.50	\$10,380.50	\$41,522.00	\$31,141.50
2	Cedar Falls Park Division	Washington Park Boat Ramp	\$17,994.00	\$5,998.00	\$23,992.00	\$17,994.00
3	Montgomery CCB	Stennett River Bridge Boat Ramp	\$16,121.25	\$5,373.75	\$21,495.00	\$16,121.25
4	Osceola Parks and Recreation	West Lake Marina (Phase I) Docks	\$14,557.50	\$4,852.50	\$19,410.00	\$14,557.50
5	Black Hawk CCB	Casey Lake Boat Ramp	\$1,961.82	\$1,154.00	\$3,115.82	\$1,961.82
6	Jackson CCB	South Sabula Lake Park Docks	\$6,634.50	\$2,211.50	\$8,846.00	\$6,634.50
7	Jackson CCB	Spruce Creek Park Docks	\$6,634.50	\$2,211.50	\$8,846.00	\$6,634.50
8	Winneshiek CCB	Freeport Canoe Access Parking Lot	\$6,525.00	\$2,175.00	\$8,700.00	
	<b>TOTALS</b>		<b>101,570.07</b>	<b>34,356.75</b>	<b>135,926.82</b>	<b>95,045.07</b>

**Motion** – Commissioner Rettig  
**Seconded** – Commissioner Underwood  
**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**\*21. DONATIONS**

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

Donation to:	Amount	Description	Donation Provided by:
Princeton Gun Range	\$30.00	Two target stands.	Denny Benes, K&K Hardware
Improvement in Lake Macbride State Park	\$50.00	Funds for use at Lake Macbride State Park.	Dogan and Ann Dincer
Fish and Game Trust Fund	\$200.00	Support for the Fish and Game Trust Fund.	Mr. and Mrs. Tom VanDuzee
Fish and Game Trust Fund	\$500.00	Funds toward the purchase of land for the Fogle Lake Wildlife Area in Ringgold County.	Zach Gunsolley, Diagonal Lions Club
Fish and Game Trust Fund	\$700.00	Funds toward the purchase of land for the Fogle Lake Wildlife Area in Ringgold County.	City of Diagonal – Fogle Lake Youth Archery Club
Fish and Game Trust Fund	\$1,000.00	Funds toward the purchase of land for the Fogle Lake Wildlife Area in Ringgold County.	Ringgold Outdoor Alliance

Fish and Game Trust Fund	\$2,500.00	Funds toward the purchase of land for the Fogle Lake Wildlife Area in Ringgold County.	Whitetails Unlimited - Creston Chapter
Fish and Game Trust Fund	\$3,000.00	Funds toward the purchase of land for the Fogle Lake Wildlife Area in Ringgold County.	Pheasants Forever - Ringgold Chapter
Fish and Game Trust Fund	\$7,300.00	Funds toward the purchase of land for the Fogle Lake Wildlife Area in Ringgold County.	City of Diagonal – Fogle Park Board

**APPROVED BY CONSENT**

**GENERAL DISCUSSION**

- Non-toxic Wildlife Management Areas
  - After last month’s discussion and approval of the NOIA of Chapter 51, Game Management Areas in which the proposed amendment will add wildlife areas to the list of areas where nontoxic shot is required for shotgun shooting, except turkey and deer hunting, for the purpose of reducing the exposure of waterfowl, shorebirds, and other water birds to lead shot in wetlands under the jurisdiction of the Department of Natural Resources. Both NRC Chairperson Drees and DNR Wildlife staff recieved an abundance of questions requesting clarification of this amendment, would it include such items as fishing tackle and waterfowl decoys?
    - Commissioner Garst explained that when she had made the original amendment proposal she had not thought about fishing talckle, after the meeting she discussed with Wildlife Bureau Chief Dale Garner and agreed that the commission needs to have further discussion and education on the impacts of lead in fishing tackle.
    - Commissioner Underwood suggested convening a taskforce to work with the wildlife staff to move the initiative forward.

➤ Executive Order 71

- The Commission discussed their concerns in reference to what Executive Order 71 would mean for the future authority of the NRC commission.

**Motion** – Commissioner Rettig motioned to request a formal Attorney Generals opinion on the Commissions rule making statutory obligations in relation to Executive Order 71.

**Seconded** – Commissioner Garst

**Discussion** – Tamara Mullen, DNR Attorney explained that the NRC is part of the Executive Branch, appointed by the Governor, and as such subject to Executive Orders. The Governor may repeal any rule the NRC issues even after it has been filed as a final rule. The new Executive Order 71 requires approval at the beginning of the rule making process. (17a.4(8) and 17a.4(6))

**Decision** – Approved 6 – Aye and 1 – Nay (Schemmel)

➤ Commissioner Underwood

- 2010 Iowa Community Forestry Survey Results – Commissioner Underwood highlighted the results of the survey and copies were distributed to all the Commissioners. The survey was conducted by Trees Forever to learn more about urban forestry needs in Iowa communities. The survey was completed by 265 respondents, including community volunteers and leaders, city staff, and elected officials. The survey had a response rate of 21.4% and the respondents represented 120 towns and cities across the state of Iowa. The top three concerns of the respondents in order of importance are Emerald Ash Borer, Tree Diseases, and Insect/Pest Threats.
- IDNR Lead Action Plan – Commissioner Underwood requested that a task force be formed, representing all stakeholders, to provide input to the IDNR regarding the use of non-toxic shot in Iowa's public-hunting areas. Regular task force updates would be provided to the Natural Resource Commission.

**INFORMATIONAL ONLY**

**UPCOMING NRC MEETING DATES:**

- May 11, 2011 – NRC Planning & Education Session, Des Moines, 12:00pm start time
- May 12, 2011 – Henry Wallace State Office Building, Des Moines, 8:30am start time
- June 9, 2011 – Henry Wallace State Office Building, Des Moines, 9:30am start time

**ADJOURNMENT**

*Motion was made by Commissioner Kircher to adjourn the meeting. Seconded by Commissioner Garst. Approved by Unanimous Vote. With no further business to come before the Natural Resource Commission, Chairperson Gregory Drees adjourned the meeting on April 13, 2011 at 2:52 p.m.*

**APPROVED – MEETING ADJOURNED**

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