

**MINUTES**  
**OF THE**  
**NATURAL RESOURCES COMMISSION**  
**MEETING**  
**FEBRUARY 10, 2011**

**HELD AT:**

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**HENRY WALLACE STATE OFFICE BUILDING**  
**502 EAST 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 Chairperson, Gregory Drees on February 10, 2011 at 9:31 a.m. He then 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

**COMMISSIONERS ABSENT**

- None

**1. APPROVAL OF AGENDA**

**CONSENT AGENDA (\*INDICATES PROPOSED CONSENT AGENDA ITEM)**

- \*6 – Gull Point SP, Dickinson County – Dump Station Relocation and Sewer Replacement
- \*7.1 – Big Creek State Park Sanitary Sewer System Improvements Design
- \*7.2 – Geode State Park Wastewater Treatment Facility Plan
- \*7.3 – Lake Darling State Park Wastewater Treatment Facility NPDES Permit
- ~~\*9.6 – Upper Maquoketa River – Delaware Co. – Everett~~
- \*9.7 – Upper Maquoketa River – Delaware Co. – Hettinger
- \*9.8 – South Bear Creek – Winneshiek Co. – Bidne
- ~~\*9.9 – Upper Maquoketa River – Clayton Co. – Eastern Iowa Lutheran Bible Camp Association~~
- \*10 – Upper Iowa River WMA – Winneshiek Co.
- \*14 – Tree Removal and Tree Planting Shimek State Forest
- \*17 – Contract with P&N Corporation for Flight Services for Waterfowl Surveys

**Motion** – Commissioner Rettig requested item 9.9 be removed from the consent agenda and Commissioner Garst requested item be removed from the consent agenda.

**Seconded** – Commissioner Kircher

**Decision** – Approved as Amended

**APPROVED AS AMENDED**

**2. APPROVAL OF MINUTES FROM JANUARY 13, 2011**

**Motion** – Commissioner Underwood

**Seconded** – Commissioner Francisco

**Amendments** – Commissioner Rettig requested item#5 be changed to reflect the contract requirement of the Asset Manager; which is to make monthly visits to the resort not 6 as the minutes currently reflect. Deputy Director Boddy requested under the Director/Deputy Director remarks (pg.5) the bullet ‘Association of Fish and Wildlife Agencies (AFWA) Executive Committee Meeting’ the minutes reflect that she was the lone vote against supporting EPA’s petition to deny the ban lead in ammunition and sinkers.

**Decision** – Approved as Amended

**APPROVED AS AMENDED**

**3. DIRECTOR & DEPUTY DIRECTOR REMARKS**

- Director Lande
  - Was recently updated on a process improvement event at the hygienic lab in Iowa City on the process of collecting water samples.
- Deputy Director Boddy
  - Governor’s Budget –
    - 39% cut to the DNR General Funds
    - DNR General Fund appropriation – \$12,641,688 (\$15,600,710 current year appropriation – however, number does not reflect in-year cuts)
    - Lakes Restoration & Water Quality – \$8,600,000, status quo program level
    - State Park Infrastructure – \$5,000,000, same as last year
    - REAP – \$11,500,000 (current year \$15,000,000)
    - Parks Ops and Maintenance – \$2,910,000 (current year \$2,470,000)
    - Fish and Game Trust Fund – status quo; no salary adjustment in the operations cap
  - Public Access Program – Public notice time has been extended for an additional 20 days.
  - NRC Meeting Minutes – Time it takes to summarize, only required to record the motions/decision
  - EAB update – Recently sent commissioners the February edition of the Community Forestry Connection newsletter.
  - HCR Award – ACPA Sustainable Practices Recognition Award for outstanding collaboration & leadership in sustainable, low-impact construction using concrete pavement at Honey Creek Resort, Iowa’s first destination resort at a state park.
  - Proposed April 21<sup>st</sup> joint meeting between NRC and Iowa Economic Development (IDED) Vision Iowa Board to discuss options for the resort bond payment.

**INFORMATIONAL ONLY**

**4. PUBLIC PARTICIPATION**

- None

**INFORMATIONAL ONLY**

## 5. HONEY CREEK RESORT STATE PARK – MONTHLY UPDATE & CONSTRUCTION APPROVAL

- The Natural Resource Commission is requested to approve a two change orders for the construction of the interpretive/activity center.
  1. \$24,900 to replace damaged skylight window, patching and replacing of some external siding, securing the house to the foundation, removing and replacing damage drywall and flooring
  2. \$5,300 to remove Oriented Strand Board (OSB) from the walls

**Motion** – Commissioner Kircher

**Seconded** – Commissioner Francisco

**Discussion** – Commissioner Rettig asked if the project would be going over the budgeted \$350,000. Deputy Director Boddy explained they are worried that the total cost may slightly exceed the budgeted amount but should not go over \$400,000.

**Decision** – Approved by Unanimous Vote

### APPROVED AS PRESENTED

- Geoff Baekey, Capital Hotel Management, Andy Woodrick, HCR General Manager, and Linda Caird, Central Group Management reviewed with the commission:
  - December Actual Vs. Flash
  - HCR Financial Performance
  - Strategic Initiatives/Progress
  - Operating Metrics
  - STR Market Data
  - Guest Satisfaction
  - Golf Update
  - Sales and Marketing Update
  - 90-Day Forecast

### INFORMATIONAL ONLY

#### CLOSED SESSION 1

**Motion (1)** - Commissioner Drees motioned to enter into closed session at 10:58am to review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for the Department's possession or continued receipt of federal funds. (Iowa Code 21.5(1)(a)).

**Seconded** - Commissioner Kircher

**Decision** – Approved by Unanimous Vote

**Motion (2)** – Commissioner Drees motioned to return from closed session at 11:48

**Seconded** – Commissioner Garst

**Decision** – Approved by Unanimous Vote

CLOSED SESSION 2

**Motion (1)** - Commissioner Drees moved to enter into closed session at 11:58am to discuss strategy with counsel for the Department on a matter that is presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the Department in that litigation. (Iowa Code 21.5(1)(c)).

**Seconded** – Commissioner Kircher

**Decision** – Approved by Unanimous Vote

**Motion (2)** – Commissioner Kircher motioned to return from closed session at 12:14p.m.

**Seconded** – Commissioner Francisco

**Decision** – Approved by Unanimous Vote

**\*6. CONSTRUCTION PROJECTS:**

**GULL POINT SP, DICKINSON COUNTY – DUMP STATION RELOCATION AND SEWER REPLACEMENT**

The scope of this project involves demolition of the existing RV dump station and construction of a new station at a location closer to the park entrance. Work will also include installing a new 6” sewer line to replace a failing line in a separate location within the park.

Gull Point State Park is located along the west shore of West Lake Okoboji. The park currently contains a very old RV dump station that is dilapidated and in an inconvenient location for its users. Park staff has made the decision to relocate the facility along the park’s main entrance road where it will better serve today’s larger RV’s. The contractor will service the new location with water and sewer along with construction of a new concrete access road off of the main park road. The sewer replacement portion of this project runs between the existing dump station location and the lodge/law enforcement building area. The existing line has a “sag” and no longer drains properly. The new line will run somewhat parallel to the existing line staying away from the park road and connecting into an alternate manhole that currently serves the park. The plans have been reviewed by the Iowa Great Lake Sanitary District, and all permitting will be included in the construction costs.

This project was designed and will be inspected by Jeff Felts, PE, DNR District Inspector. DNR estimate is \$78,250. Funding source is I-Jobs 2. (Capital Link 208) 6 sets of plans were issued and 4 bids were received.

Valley Contracting	Estherville, IA	\$53,269.50
Schoon Construction Inc.	Cherokee, IA	\$69,928.60
Berg Construction & Landscaping	Spirit Lake, IA	\$74,582.54
Beck Excavating Inc.	Spirit Lake, IA	\$85,987.00

**APPROVED BY GENERAL CONSENSUS**

**7. PROFESSIONAL SERVICES CONTRACT – DELIVERY ORDER APPROVAL:****\*7.1 BIG CREEK STATE PARK SANITARY SEWER SYSTEM IMPROVEMENTS DESIGN**

The Department has negotiated a delivery order under a master contract with Stanley Consultants Inc. to assist and design Big Creek’s sanitary sewer system repair/rehabilitation program to get rid of excessive Infiltration/Inflow of clear water in the collection system.

The Big Creek State Park sewer collection system consists of 7,700 linear feet of gravity sewer. Approximately 4,750 linear feet is 8” VCP and 2,950 linear feet is 6” VCP. The collection system also has 31 manholes located on these pipes.

Stanley Consultants performed a study on the collection system, under a previous contract, and identified defects that contribute to clear water entering the gravity sewer system on the east side of Big Creek State Park. Repair/rehabilitation can include pipe lining, point repair or replacement, manhole adjustment, ring replacement, barrel section lining and/or grouting joints.

Under the scope of this Delivery Order Stanley Consultants Inc. will prepare drawings for the required repair based on field inspection and televising report, prepare plans and specifications for securing a contractor for the work and provide technical support to IDNR during construction.

Compensation for the services provided under this Delivery Order will not exceed \$12,614 and has been described in detail in Exhibit A of the Delivery Order. The funding source is I-Jobs (Capital Link # 211).

**APPROVED BY GENERAL CONSENSUS**

**\*7.2 GEODE STATE PARK WASTEWATER TREATMENT FACILITY PLAN**

The Department has negotiated a Delivery Order under a master contract with Stanley Consultants Inc. to assist Iowa DNR in preparing a Facility Plan report including an anti-degradation alternative analysis.

The Geode State park currently has a single cell non-discharging lagoon. Wastewater is pumped out and hauled away and is being used as a temporary measure. The original treatment system consisted of two septic systems with leach fields. Neither system worked as the soils did not have adequate infiltration capacity and will be abandoned.

The plan to upgrade Geode wastewater system will be carried out in a two phased approach. This Delivery Order will cover the first phase. In the first phase Stanley Consultants will prepare a comprehensive facility plan study. The study will compare different alternates that are not only feasible and practical but would also meet the park needs and would be acceptable to IDNR Environmental Services Division for permitting. As a part of this facility plan Stanley Consultants will also conduct an anti-degradation alternative analysis in accordance with “Iowa Anti-degradation Implementation Procedure” and make recommendations for a treatment system

that has the least impact on the environment along with probable costs for the evaluated alternatives.

Compensation for the services provided under this Delivery Order will not exceed \$15,000 and has been described in detail in the Delivery Order contract. The funding source is REAP OS Acquisition & Development (Capital Link # 192).

**APPROVED BY GENERAL CONSENSUS**

**\*7.3 LAKE DARLING STATE PARK WASTEWATER TREATMENT FACILITY NPDES PERMIT**

The Lake Darling State Park currently has a re-circulating sand filter system to treat the wastewater generated within the park. Effluent from the treatment system discharges to a ditch which carries the effluent to the Honey Creek below the dam. The treatment facility does not have a NPDES permit.

The project involves review of the project files for information on basis of design, site plan and process flow schematic. Once the basic information is collected a site map of the treatment facility and sewer lines will be prepared and an NPDES application will be submitted. Stanley Consultants will assist IDNR in filling of the application and securing a discharge permit for the facility.

Compensation for the services provided under this Deliver Order (DO) will not exceed \$1,865 and has been described in detail in the Delivery Order. The Department has negotiated this delivery order under a master contract with Stanley Consultants Inc. Funding will be by REAP Land Management (Capital Link # 156).

**APPROVED BY GENERAL CONSENSUS**

**8. 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
12/30/10	11-05-04-07	Appanoose	Rathbun Fish Hatchery	Replace roofs on three buildings	\$30,000.00	\$28,842.22
						<b>\$32,800.00</b>
						<b>\$33,125.00</b>
						<b>\$41,332.00</b>
12/30/10	11-05-04-11	Appanoose	Honey Creek Resort State Park	Beach construction	\$38,000.00	\$24,967.15
						<b>\$31,500.00</b>
						<b>\$32,382.50</b>
						<b>\$32,600.00</b>
						<b>\$46,197.50</b>
1/13/11	11-05-59-03	Lucas	Chariton Research Center	Steel roof and doors on steel shed	\$10,000.00	\$9,957.82
						<b>\$11,618.42</b>
						<b>\$13,870.00</b>
						<b>\$16,400.00</b>

1/20/11	11-02-08-06	Boone	Ledges State Park Lower Road	Silt/Debris removal	\$40,000.00	\$15,000.00
						\$21,500.00
						\$24,500.00
						\$38,000.00
						\$38,701.00
1/20/11	11-02-08-08	Boone	Ledges State Park Lower Road	Debris removal/culvert cleaning	\$25,000.00	\$18,102.07
						\$19,780.00
						\$28,622.00
						\$32,105.50
						\$34,160.00

**INFORMATIONAL ONLY**

**\*9. LAND ACQUISITION PROJECTS**

**9.1 O.S. WING WILDLIFE MANAGEMENT AREA – FREMONT CO. – DUCKS LANDING, INC.**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located one-half mile west of Hamburg adjacent to the east side of Interstate 29, and 3.5 miles east of the Missouri River. The 502-acre tract is offered by Ducks Landing, Inc. for the appraised price of \$427,000.00. The land is encumbered by a Wetland Reserve Program easement.

Licensed appraiser, Gary Thien of Thien Farm Management, Inc., Council Bluffs, Iowa submitted the appraisal. The purchase agreement was negotiated by Jerry Gibson.

The subject tract has approximately 502 acres of recreational land encumbered by a WRP easement. Restoration of the tract has provided 42 acres of native prairie planting; 450 acres of marsh/wetlands; and 10 acres of open water. Aggressive water level management will provide excellent wetland habitat. Primary access to the tract is just east of the intersection of Interstate 29 and Iowa Highway 333. Additional access can be found on the west side of the property at the south end next to the Burlington Northern Railroad. It is also accessed via 260th Street on the north side of the tract.

Acquisition funding will be 50% Ducks Unlimited-Missouri River NAWCA (\$213,500), and 50% Wildlife Habitat Stamp (\$213,500). The subject tract will remain on property tax rolls. Incidental closing costs will be the responsibility of the Department.

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

**APPROVED BY GENERAL CONSENSUS**

## 9.2 WATERMAN CREEK PRAIRIE WMA – CHEROKEE CO. – INHF

The Natural Resource Commission is requested to approve the acquisition of a tract of land located 14 miles northeast of Cherokee. This 143.87-acre parcel is offered by the Iowa Natural Heritage Foundation for the bargain sale price of \$221,250.00. The property was appraised in March 2010 for \$302,200.00, and was approved for a REAP Public/Private cost share. The grant award amount is \$221,250.00. The property was acquired by the Iowa Natural Heritage Foundation for \$291,500.00.

Licensed appraiser, Greg Tritle, of Vander Werff and Associates, Inc., Sanborn, Iowa submitted the appraisal. The purchase agreement was negotiated by Jerry Gibson.

The subject property consists of 138.14 acres of pasture, and 5.73 acres of road right-of-way. Access to the subject tract is from 430th Street and V Avenue. The landowners utilized federal LIP funding to remove the invasive cedar trees on this 143 acres of pasture which has never been plowed according to local knowledge. The area manager estimates that just over 100 acres can easily be restored to native prairie using only prescribed fire.

The Waterman Prairie Complex was a designated REAP priority area to preserve some of the most diverse the highest quality prairie remaining in the State of Iowa. The tract will be managed by the Wildlife Bureau.

Acquisition funding will be REAP Public/Private cost share. Incidental closing costs will be the responsibility of the Department. Real estate acquired by the DNR with REAP funding is eligible (counties are required to submit property tax billing to be paid) to remain on county property tax rolls.

<p><b>Motion</b> – Commissioner Kircher  <b>Seconded</b> – Commissioner Rettig  <b>Decision</b> – Approved by Unanimous Vote</p>
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<p><b>APPROVED AS PRESENTED</b></p>
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## 9.3 PICKEREL LAKE WMA – BUENA VISTA CO. – INHF

The Natural Resource Commission is requested to approve the acquisition of a tract of land located 11.5 miles east of Sioux Rapids. This 160-acre parcel is offered by the Iowa Natural Heritage Foundation for the appraised price of \$182,000.00 with a reservation of 2011 agricultural rights. The tract was encumbered by a Wetlands Reserve Program easement on October 22, 2010 which allows for the tract to be cropped in 2011.

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

The subject tract contains 156.61 acre of cropland encumbered by a WRPE, and 3.39 acres of road right-of-way (240th Avenue and 430th Street). There are eight restored wetlands that will

provide excellent habitat for waterfowl. Acquisition and management of the subject tract will remove much of the nutrient load entering Pickerel Lake. The Wildlife Bureau will manage the land in compliance with the Wetland Reserve Program easement specifications.

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

<p><b>Motion</b> – Commissioner Rettig  <b>Seconded</b> – Commissioner Underwood  <b>Decision</b> – Approved by Unanimous Vote</p>
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<p><b>APPROVED AS PRESENTED</b></p>
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#### **9.4 TABLE MARSH WMA – WOODBURY CO. – HELMING**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located 20 miles southeast of Sioux City. This 68.41-acre parcel is offered by Ellen and Robert Helming for the appraised price of \$65,000.00. The NRCS acquired a WRP easement from the sellers on October 27, 2010.

Licensed appraiser, Greg Tritle of Vander Werff and Associates, Sanborn, Iowa submitted the appraisal. The purchase agreement was negotiated by Jerry Gibson.

The subject property is located three miles east and one mile north of Hornick, Iowa. The subject tract contains 66.2 acres of CRP land and 2.21 acres of cropland that have been encumbered by a WRPE. After development there will be 48 acres of native prairie plantings; and approximately 20 acres of marsh/wetlands. There are no buildings. There is excellent public access from existing DNR land on the south boundary, and Hancock Avenue on the Southeast corner. The Wildlife Bureau will manage the land in compliance with the Wetland Reserve Program easement specifications.

Acquisition funding will be 50% from Ducks Unlimited NAWCA (\$32,500), and 50% from Wildlife Habitat Stamp (\$32,500). Incidental closing costs and minor surveying will be the responsibility of the Department. The property will remain on the Woodbury County property tax rolls.

<p><b>Motion</b> – Commissioner Kircher  <b>Seconded</b> – Commissioner Francisco  <b>Decision</b> – Approved by Unanimous Vote</p>
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<p><b>APPROVED AS PRESENTED</b></p>
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**9.5 STONE STATE PARK – WOODBURY CO. – INHF**

The Natural Resource Commission is requested to approve the acquisition of a tract of land located adjacent to Stone State Park. This 70-acre parcel is offered by the Iowa Natural Heritage Foundation for \$179,000. The appraised value is \$238,000. The below market value sale represents the INHF’s match contribution associated the REAP Private/Public grant award.

Licensed appraiser, Robert Rosno, Sioux City, Iowa submitted the appraisal.

The property is a mix of open grassland and upland timber. Topography ranges from gently to very steep sloping. There is no designated tillable land on the property. The property is located in a mixed-use area that included recreational land, rural acreages and residential subdivision development.

The subject property is located within the Plymouth South Special Landscape Area (SLA), one of twelve SLAs designated by the National Park Service as worthy of protection. The INHF parcel is located in the Loess Hills and lies adjacent to Stone State park. Like much of the land in the Loess Hills, this property comprises a mix of grass land, shrub and remnant prairie communities along the high ridges and steep ravines.

The DNR Parks Bureau will incorporate into and manage the property as an addition to Stone State Park.

Acquisition funding will be a REAP Private/Public grant. Incidental closing costs will be the responsibility of the Department. The property will remain on the Woodbury County property tax rolls.

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

**APPROVED AS PRESENTED**

**9.6 UPPER MAQUOKETA RIVER – DELAWARE CO. – EVERETT**

The Natural Resource Commission’s approval is requested to purchase a permanent easement for angler access; fish stocking and sampling by Iowa DNR; and fish habitat & water quality improvement. Rena Everett has agreed to sell a permanent easement encumbering 0.9 acres for \$2,250.00.

Jerry Gibson negotiated the option for easement for \$2500.00 per acre.

The proposed easement will be a 75 ft. strip of land along each side of the centerline of the Upper Maquoketa River that runs southeast through Backbone State Park. The 150-ft. easement corridor is approximately 260 feet long for a total of 0.9 acres. This segment will connect the Linderwell easement on the north to the proposed Hettinger easement on the south. The

proposed easement is approximately 0.2 miles northeast of Backbone State Park and provides for a quality “walk-in” Brown Trout fishery.

This easement will be monitored by the Fisheries Bureau.

I-JOBS funding will be used to acquire the easements. No survey or fencing costs are anticipated. Incidental closing costs will be the responsibility of the Department.

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

**APPROVED AS PRESENTED**

**\*9.7 UPPER MAQUOKETA RIVER – DELAWARE CO. – HETTINGER**

The Natural Resource Commission’s approval is requested to purchase a permanent easement for angler access; fish stocking by Iowa DNR; fish habitat improvement; and water quality/stream bank improvement. Dwayne and Melanie Hettinger have agreed to sell a permanent easement encumbering 3.2 acres for \$8,000.00.

Jerry Gibson negotiated the option for easement for \$2500.00 per acre.

The proposed easement will be a 75 ft. strip of land along each side of the centerline of the Upper Maquoketa River that runs southeast through Backbone State Park. The 150-ft. easement corridor is approximately 915 feet long for a total of 3.2 acres. This segment will connect the Everett easement on the north to Backbone State Park on the south. The easement provides a quality “walk-in” Brown Trout fishery. Easement restrictions include; buildings; tillage and harvesting of agricultural crops; livestock feedlots; commercial/industrial development; removal of topsoil; sand, gravel; rock excavation/mining/drilling; motor-powered vehicles except as required for DNR land management and stream bank improvement; introduction of non-native species; and herbicide/pesticide application except when applied under a conservation plan.

This easement will be monitored by the Fisheries Bureau.

I-JOBS funding will be used to acquire the easements. No survey or fencing costs are anticipated. Incidental closing costs will be the responsibility of the Department.

**APPROVED BY GENERAL CONSENSUS**

**\*9.8 SOUTH BEAR CREEK – WINNESHIEK CO. – BIDNE**

The Natural Resource Commission's approval is requested to purchase a permanent easement for angler access; fish stocking and sampling by Iowa DNR; and fish habitat & water quality improvement. Kevin and Doreen Bidne have agreed to sell a permanent easement encumbering 3.3 acres for \$8,250.00.

Jerry Gibson negotiated the option for easement for \$2500.00 per acre.

The proposed easement will be a 75 ft. strip of land along each side of the centerline of South Bear Creek that runs through Highlandville. The 150-ft. easement corridor is approximately 958 feet long for a total of 3.3 acres. This segment has public access on the north and east sides, and is approximately 13 miles northeast of Decorah. The easement will prohibit any type of building construction; tilling/harvesting agricultural crops; livestock; herbicide/pesticide application except when applied under a conservation plan; and dumping of waste material.

This easement will be monitored by the Fisheries Bureau.

I-JOBS funding will be used to acquire the easements. No survey or fencing costs are anticipated. Incidental closing costs will be the responsibility of the Department.

**APPROVED BY GENERAL CONSENSUS**

**9.9 UPPER MAQUOKETA RIVER – CLAYTON CO. – EASTERN IOWA LUTHERAN BIBLE CAMP ASSOCIATION**

The Natural Resource Commission's approval is requested to purchase a permanent easement for angler access; fish stocking by Iowa DNR; fish habitat improvement; and water quality/stream bank improvement. The Eastern Iowa Lutheran Bible Camp Association has agreed to sell a permanent easement encumbering 40.5 acres for \$101,250.00.

Jerry Gibson negotiated the option for easement.

The subject tract borders Joy Springs County Park in the southwest corner of Clayton County approximately 3 miles west of Strawberry Point. The river is stocked with "put and grow" brown trout, and a moderate population currently exists within the proposed easement area. The easement would greatly enhance trout management opportunities, and expand public fishing opportunities. Parking and foot access currently exists on the north and south boundaries of the tract. The proposed easement consists of a 75 ft. strip of land along each side of the centerline of the Upper Maquoketa River. It starts at the southern boundary of Joy Springs County Park, and runs 2¼ miles west through a timbered area. Easement restriction include; buildings; tillage and harvesting of agricultural crops; livestock feedlots; commercial/industrial development; removal of native vegetation except as provided by a forestry management plan; removal of topsoil, sand, gravel, rock excavation/mining/drilling; introduction of non-native species; herbicide/pesticide application except when applied under a conservation plan. Grantors have reserved the right to; have and maintain pedestrian bridges and river crossings at current locations and to cross the river at existing locations with motor-powered vehicles; expel disorderly anglers who violate the

spirit of the easement, and/or pose a threat to the safety of campers and retreat participants; stipulate easement hours to be 30 minutes before sunrise to 30 minutes after sunset; require anglers to register their name and address prior to entering and crossing the easement area. Facilities for registration will be provided by Grantor.

This easement will be monitored by the Fisheries Bureau.

I-JOBS funding will be used to acquire the easements. No survey or fencing costs are anticipated. Incidental closing costs will be the responsibility of the Department.

**Motion (1)** – Commissioner Kircher

**Seconded** – Commissioner Schemmel

**Discussion** – Commissioner Rettig addressed concerns that she believes the agreement as written allows the Grantors to violate the Iowa Civil Rights Laws. She suggested that the agreement be worded in such a way that the church may not prohibit angler access based on the Civil Rights Code of Iowa. Jerry Gibson explained that the agreement was not intended to discriminate against individuals but was only an effort to protect participants (children) of the youth camp. Tamara Mullen, DNR attorney stated that Commissioner Rettig had a valid concern and would work with the Land and Waters bureau to revise the language and negotiate further clarify the language intent.

**Motion (2)** – Commissioner Kircher amended her original motion to be the language in reference to Civil Rights issues are reviewed/changed to address to concerns of the commission.

**Seconded** – Commissioner Schemmel

**Decision** – Approved as Amended

**APPROVED AS AMENDED**

## **9.10 KELLERTON BIRD CONSERVATION AREA, RINGGOLD COUNTY – SICKELS**

The Natural Resource Commission's approval is requested to purchase a tract of land located in Ringgold County adjacent to state-owned and managed Kellerton Bird Conservation Area (BCA). Larry and Linda Sickels offer this 83-acre tract for the appraised price of \$158,000. The sellers will retain the cropping rights for the 2011 crop year.

Gary Thien, Licensed Appraiser of Council Bluffs, Iowa, submitted the appraisal. Rick Hansen negotiated the purchase agreement.

This property is located one mile west of Kellerton in east central Ringgold County. The moderately sloping to steep tract contains 31.6 acres of grassland enrolled in the Conservation Reserve Program (CRP), 18.1 acres of hay land, 17.3 acres of timber, ditches, former railroad right of way, and 4 ponds, and 16 acres of cropland. The sellers will retain the final CRP payments as may be earned through September 30, 2012. The average Corn Suitability Rating of the farm is 45. There is a small pole livestock shed (14 by 36) that the seller will retain the right to salvage. Kellerton BCA borders along the southwest side of the tract. Access is provided by Highway 2 along the north boundary.

This tract will provide a wintering area for the prairie chicken, fishing opportunities at the ponds, and enhanced outdoor recreation. This acquisition will increase the Kellerton Bird Conservation Area to over 1,000 acres.

Acquisition funding will be \$79,000 from Wildlife Habitat Stamp, and \$79,000 from State Wildlife Grant (federal). The tract will remain on the property tax rolls. No survey or fencing costs is anticipated. Incidental closing costs will be the responsibility of the Department.

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

**APPROVED AS PRESENTED**

**\*10. LAND MANAGEMENT PROJECTS**

**UPPER IOWA RIVER WMA – WINNESHIEK CO.**

The Natural Resource Commission is requested to approve issuance of a permanent easement, to Winneshiek County, IA, for additional right-of-way needed for a bridge replacement project near Bluffton, Iowa. The easement will consist of 1.276 acres of additional right-of-way.

In exchange for the easement the county has agreed construct a canoe access, a staging area, and an access turn around. They have also agreed to re-construct a 100’x50’ parking lot with posts or boulders to keep vehicles from driving on the wildlife management area.

**APPROVED BY GENERAL CONSENSUS**

**~~11. FIVE ISLAND LAKE ACCESS – PALO ALTO CO. – BOUNDARY ENCROACHMENT~~**

**Item removed from the agenda at request of Mr. Rick Reed’s (landowner) who was not able to attend the meeting. The item will be postponed until the March 10, 2011 NRC meeting to be held in Des Moines at the Wallace State Office Building.**

**INFORMATIONAL ONLY**

**12. CONTRACT WITH CITY OF CARTER LAKE FOR CONSTRUCTION OF A RECHARGE WELL SYSTEM**

Natural Resource Commission approval is requested for an amendment to an existing 28E Agreement with the City of Carter Lake, Pottawattamie County, to develop a well on City of Omaha property that will connect to an existing infrastructure of pipes that lead to Carter Lake. The resulting well water will be used to maintain Carter Lake at a full pool range not to exceed 970.3 Feet MSL (+/- .5ft.). The funds for this project were provided by the Iowa Legislature

during the 82<sup>nd</sup> General Assembly legislative session and allows up to \$500,000 be available for this project.

The legislation identifies that the funding is for: “the construction and installation of an angled well, pumps, and piping to connect the existing infrastructure from the new well to connect the existing infrastructure from the new well to a lake located in a county with a population between 87,500 and 88,000.

The state of Nebraska’s Department of Environmental Quality tested the well water and it meets their water quality standards. In addition, the city of Omaha and state of Nebraska have met their match requirements for the project. This auxiliary water supply source will also be a component of a joint lake restoration project that underway by the states of Iowa and Nebraska and the cities of Omaha and Carter Lake.

The City of Carter Lake will supervise the project, obtain the required permits and provide the Department with billing and documentation not to exceed \$500,000.00 for Iowa’s portion of this project. The original 28E Agreement not to exceed amount of \$400,000 was based on a preliminary (June, 2008) cost estimate for the Recharge Well System of \$378,480.00. The final cost estimate for the Recharge Well System, based on actual design, is \$485,801.00.

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

**APPROVED AS PRESENTED**

### **13. CONTRACT WITH SALEM ASSOCIATES FOR APPLICATION MAINTENANCE AND ENHANCEMENT CONTRACT**

#### **Recommendations:**

Commission approval is requested for an amendment to the one year-service contract with Salem Associates of Des Moines, IA. The contract will begin on March 5, 2011 and terminate on March 4, 2012. The annual contract amount is for \$400,000. The DNR will not renew this contract at the end of the term as the contract is at the end of the allowed extensions and we anticipate the Department of Administrative Services will offer a Master Contract for the acquisition of IT staffing services.

#### **Funding Source:**

This contract will be funded through various program area EPA grants or other funds. The additional hours requested for this project will primarily be used by the Water Quality Bureau and none of these projects use general fund money. One specific project is funded through the State Drinking Water Revolving Loan Fund through the federal SRF capitalization grant.

**Background:**

The Department issued a bid in 2008 to put in place a contract and process for application design and development services for the maintenance and enhancement of over 100 different applications. This contract allows the Department to have the appropriate support resources available on an “as needed” basis and guarantees better oversight of this work with input from ITB. This contract was renewed by commission in February 2010 for an additional year.

The Department shall pay Salem Associates at a rate not to exceed \$85 per hour, with most services anticipated to be billed at \$75 per hour for not more than 5,000 hours. Program bureaus will be responsible for paying for the services from their own budgets.

The Department requests the Commission to approve the contract renewal with Salem Associates to provide application maintenance and enhancement support to the Department’s Information Technology Bureau (ITB).

**Purpose:**

The parties propose to enter into this Contract for the purpose of retaining the Contractor to provide information technology services.

**Contractor Selection Process:**

An RFP was issued in the fall of 2008 for IT staff augmentation. Five companies responded the RFP. After review of the resumes by a team of three DNR staff, two companies were selected for interviews. ITB then selected Salem & Associates, Inc. as the vendor with the highest score.

**Motion** – Commissioner Garst

**Seconded** – Commissioner Francisco

**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**\*14. TREE REMOVAL AND TREE PLANTING SHIMEK STATE FOREST**

The Natural Resources Commission is asked to approve a contract for the removal and replanting of 46 acres of trees at Shimek State Forest in Lee County.

The contractor will conduct a tree removal and tree planting project at the Shimek State Forest, Croton Unit. This project consists of felling and piling cedar, honey locust, and other undesirable tree species and replanting 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 Shimek State Forest, focused on replacing 109 acres of diseased, dying and overstocked pine and red cedar stands 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:

Company	Location	Amount of Bid
Southern Iowa Tie and Timber Products	Unionville, IA	\$29,900.00
Forestry Consulting Services	Cedar Rapids, IA	\$54,400.00

The Commission is requested to approve a contract with the low bidder, Southern Iowa Tie and Timber Products for \$29,900.00

<b>APPROVED BY GENERAL CONSENSUS</b>
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## **15. WILDLIFE HABITAT PROMOTION WITH LOCAL ENTITIES PROGRAM GRANT REVIEW**

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

Natural Resource Commission approval is requested for the wildlife habitat grant recommendations. The Wildlife Habitat Promotion with Local Entities Program Grant Review Committee met on January 13, 2011, to review a total of 8 county conservation board projects requesting \$1,128,125.00 in Habitat Funds. A total of \$450,000.00 was available for this grant review.

The committee recommends fully funding the top two (2) ranked projects and the remaining funds of \$130,875.00, along with any undistributed funds from previous grant cycles, to the next ranked projects. Undistributed funds may be available from cost savings on other projects and/or previous funds declined by county conservation boards. If the next ranked project declines the remaining funding, the Department requests authority to offer those funds to the next highest scored project.

Rank by Score	County	Project	Acres	Grant Request	Grant Awarded	Total Project Cost
1	Plymouth	Lloyd Addition	156.45	\$210,125.00	\$210,125.00	\$404,000.00
2	Chickasaw	Troyna Acquisition	189	\$109,000.00	\$109,000.00	\$411,000.00
3	Mitchell	Rock Creek	160	\$323,000.00	\$130,875.00	\$520,000.00
4	Linn	Matsell Bridge Area	129	\$220,000.00		\$501,350.00
5	Pocahontas	Lundberg WRP	110	\$60,000.00		\$121,000.00
6	Pocahontas	Hefty Wildlife Area	40	\$33,000.00		\$44,077.00
7	Dickinson	Zimmer Annex	80	\$75,000.00		\$150,000.00
8	Howard	Minear Wildlife Area	66	\$98,000.00		\$198,000.00

There were no unsuccessful grant applicants for funding at this time.

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

**APPROVED AS PRESENTED**

## **16. CONTRACT WITH TEXAS VETERINARY MEDICAL DIAGNOSTIC LABORATORY**

The Department requests Commission approval for a 1 year-service contract with Texas Veterinary Medical Diagnostic Laboratory. The contract provides a certified lab to test tissue samples (retropharyngeal lymph nodes or obex) from white-tailed deer collected for Chronic Wasting Disease (CWD) surveillance. The contract will begin on March 1, 2011 and terminate on December 31, 2011. The total amount of this contract shall not exceed \$72,000. The DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period. This contract will be funded through a federal USDA CWD grant and the Fish and Game Trust Fund.

Testing wild deer for CWD is a critical part of the Iowa Department of Natural Resources surveillance and response plan. Over 32,000 wild deer have been tested since 2002 and CWD has not been detected in Iowa. Previous testing was done at the National Veterinary Services Laboratory in Ames, Iowa but the lab was not able to handle Iowa's samples this year due to budget issues and other work.

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

**APPROVED AS PRESENTED**

## **\*17. CONTRACT WITH P&N CORPORATION FOR FLIGHT SERVICES FOR WATERFOWL SURVEYS**

The Department requests Commission approval for a 1 year renewal of an existing service contract with P&N Corporation of Marion, Iowa. The contract renewal period will begin on April 1, 2011 and terminate on March 31, 2012. The total amount of this contract amendment shall not exceed \$46,750. Pursuant to the terms of this contract, DNR has the option to renew this contract as long as this contract and any extensions do not exceed a six-year period. This contract will be funded through Fish and Game Trust Fund.

The Canada goose population is monitored annually via a statewide aerial survey. Population status is used to determine appropriate hunting regulations each year. Federal regulations also require the Canada goose population be monitored annually to use lethal control methods in Iowa. As part of the Prairie Pothole Joint Venture Evaluation Program in MN, SD, ND, MT, and IA, waterfowl surveys have been conducted annually since 1993 in north Iowa to assess population responses to the PPJV habitat restoration and management initiatives. This survey is a multi-state

cooperative waterfowl population monitoring program and data is used to develop biologically sound wildlife management and harvest programs.

P&N Corporation was chosen using the competitive selection process. P&N Corporation was chosen for this project because it had the highest overall score in the selection evaluation process. The Enstrom F28 helicopters they use have one of the best FAA safety records in N. Am. The triple-bladed rotor, powered by a turbocharged engine, gives these helicopters more power and control than similar sized helicopters with 2 blades. P&N Corporation pilots also have extensive experience flying low-level surveys as they fly power line surveys across the Midwest and have flown the North Iowa Waterfowl Survey since 2002 and the Statewide Canada Goose Survey since 2005. They use GPS navigational systems so they can fly directly to survey locations and determine the most efficient survey and refueling routes. P&N Corporation pilots repair and rebuild helicopters, so they are intimately familiar with the mechanics of the helicopters they fly.

**APPROVED BY GENERAL CONSENSUS**

## **18. COMMERCIAL CONCESSION CONTRACTS – VARIOUS PARKS**

The Department requests Commission approval for three concession contracts at various state parks.

### **Viking Lake State Park – Deborah A. Hummel dba Deb’s Lake View Restaurant and Concession**

Commission approval is requested for a concession contract with Deborah A. Hummel dba Deb’s Lake View Restaurant and Concession of Council Bluffs, Iowa. Notice of concession availability was published in the Des Moines Register Sunday Business Opportunities section on October 10, 2010. A notice was also published in the papers in the following local area: Atlantic, Corning, Glenwood, Red Oak, Villisca and the Omaha World Herald. Individual notices were sent to current park concessionaires. The RFP was posted on the Department’s website. One bid was received.

Deborah Hummel dba as Deb’s Lake View Restaurant and Concessions proposes a five-year contract offering the following services:

1. Snack-food service (pop, candy chips, ice cream, etc.)
2. Seasonal full service restaurant
3. Limited catering service
4. Vending machines
5. Convenience store items
6. Boat and motor rental
7. Bait and tackle sales
8. Firewood sales
9. Souvenirs
10. Boat slip rental
11. Hunting/fishing license sales
12. Various sports equipment rental

The proposed fee to be paid to the State is 5% of gross receipts for each year for the concession operation. The contract will run through February 10, 2016.

Ms. Hummel has 20 years experience in the food service industry in various positions including assistant manager. Ms. Hummel also has six years of experience in other business areas including supervisory experience, accounting, and collections.

**Backbone State Park – Contract Renewal – Kelly Peterman dba Backbone Concessions**

Commission approval is requested for the renewal of the Backbone State Park concession contract to Kelly Peterman of Strawberry Point, Iowa.

Staff received the request for early renewal of the concession contract at Backbone State Park near Dundee in Delaware County, Iowa as permitted under Chapter 571 - 14 of the Administrative Code. Notice of intent to renew was published in the statewide edition of the Des Moines Register on December 30, 2010 and in the Manchester Press and Strawberry Point Journal on January 5, 2011. No comments were received regarding the renewal request. The following is the current contract provisions and proposed stipulations for the renewal.

The operation is a full service concession offering snack-type food service, vending machines, souvenirs, convenience store items, bait sales, boat and motor rentals, firewood sales, video games in boat house, catering, TV/VCR/DVD rentals and movies for cabin renters, fishing license sales, cabins and beach lodge operation.

The concessionaire will pay the following fees to the State for the concession operation:

- 2012 – 2015 – 6% of gross receipts each year for the concession operation excluding the cabins and lodge operation
- 2012 – 2015 – 52% of cabin rental fees each year
- 2012 – 2015 – 50% of beach lodge rental fees each year

This renewal will extend the concession contract through December 31, 2015.

**Lake Manawa State Park – Contract Renewal – Nancy Hoden dba M & M Services**

Commission approval is requested for the renewal of the Lake Manawa State Park concession contract to Nancy Hoden of Council Bluffs, Iowa.

Staff received the request for renewal of the concession contract at Lake Manawa State Park in Council Bluffs in Pottawattamie County as permitted under Chapter 571 - 14 of the Administrative Code. Notice of intent to renew was published in the statewide edition of the Des Moines Register on December 30, 2010 and in Council Bluffs Nonpareil on January 5, 2011. No comments were received regarding the renewal request. The following is the current contract provisions and proposed stipulations for the renewal.

The operation is a full service concession offering snack-type food service, vending machines, souvenirs, fee admission beach (lifeguarded beach), catering, convenience store items, bait sales, boat and motor rentals, bicycle rental and firewood sales.

The concessionaire will pay the following fees to the State for the concession operation:  
2012 – 2016 -- \$2,600 each year

This renewal will extend the concession contract through December 31, 2016.

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

**APPROVED AS PRESENTED**

## **19. SPECIAL EVENTS – NOTICE OF INTENDED ACTION**

### **19.1 NOTICE OF INTENDED ACTION – CHAPTER 61 “STATE PARKS AND RECREATION AREAS”**

The Departments requests Commission approval for publication of a Notice of Intended Action to amend Chapter 61 “State Parks and Recreation Areas”. The proposed amendment rescinds the subrule regarding special events in state parks and recreation areas. The rules will be updated and merged with other department rules governing special events found in 571—Chapter 44 “Special Events.”

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

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, “State Parks and Recreation Areas,” Iowa Administrative Code.

The proposed amendment rescinds the subrule regarding special events. These rules will be updated and merged with other Department rules governing special events found in 571—Chapter 44, “Special Events.”

Any interested person may make written suggestions or comments on the proposed amendment on or before March 30, 2011. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 E. Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034. Comments may be sent by fax to (515)281-6794 or by E-mail to [Sherry.Arntzen@dnr.iowa.gov](mailto:Sherry.Arntzen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on March 30, 2011, at 2 p.m. in the Fifth Floor East and West Conference Rooms in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons 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 to discuss further.

The following amendment is proposed.

Rescind subrule 61.7(16).

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

**APPROVED AS PRESENTED**

**19.2 NOTICE OF INTENDED ACTION – CHAPTER 65 “FIREWORKS DISPLAYS— STATE PARKS AND RECREATION AREAS”**

The Departments requests Commission approval for publication of a Notice of Intended Action to rescind Chapter 65 “Fireworks Displays--State Parks and Recreation Areas”. The rules will be updated and merged with other department rules that govern special events found in 571— Chapter 44 “Special Events.”

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

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 65 “Fireworks Displays—State Parks and Recreation Areas”.

The proposed amendment rescinds Chapter 65. The rules will be updated and merged with other department rules governing special events found in 571--Chapter 44 “Special Events.”

Any interested person may make written suggestions or comments on the proposed amendment on or before March 30, 2011. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034. Comments may be sent by fax to (515)281-6794 or by E-mail to [Sherry.Arntzen@dnr.iowa.gov](mailto:Sherry.Arntzen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on March 30, 2011 at 2:00 p.m. in the Fifth Floor East and West Conference Rooms in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons 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 a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to discuss further.

The following amendment is proposed.

Rescind **571—Chapter 65.**

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

**APPROVED AS PRESENTED**

### **19.3 CHAPTER 88, “FISHING TOURNAMENTS” – NOTICE OF INTENDED ACTION**

The Department requests Commission approval of this Notice of Intended Action to rescind Chapter 88, “Fishing Tournaments.”

Chapter 88 states the requirements and processes to permit fishing tournaments. This Chapter requires applicants to submit all applications through the Department’s centralized special events application system. The special application system is also used for allowable activities described in 571 I.A.C. Chapters 44, 61 and 65.

This rulemaking will rescind Chapter 88 so that it and Chapters 44, 61 and 65 can be consolidated into a new Chapter 44. Consolidating these chapters will allow the Department a less confusing and a more efficient way to administer special events.

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

Pursuant to the authority of Iowa Code section 462A.16 and 481A.38, the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 88, “Fishing Tournaments,” Iowa Administrative Code.

The proposed amendment rescinds Chapter 88. The rules will be updated and merged with other Department rules governing special events found in 571--Chapter 44, “Special Events.”

Any interested person may make written suggestions or comments on the proposed amendment on or before March 30, 2011. Such written material should be directed to Jeff Kopaska, Fisheries Bureau, Department of Natural Resources, 1436 255<sup>th</sup> Street, Boone Wildlife Research Station, Boone, Iowa 50036. Comments may be sent by fax to (515)432-2835 or by E-mail to [Jeff.Kopaska@dnr.iowa.gov](mailto:Jeff.Kopaska@dnr.iowa.gov). Persons who wish to convey their views orally should contact Jeff Kopaska at (515)432-2823, X109.

There will be a public hearing on March 30, 2011, at 2 p.m. in the Fifth Floor East and West Conference Rooms in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons 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 a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to discuss further.

The following amendment is proposed.

Rescind 571—Chapter 88.

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

**APPROVED AS PRESENTED**

**19.4 CHAPTER 44, “SPECIAL EVENTS AND FIREWORKS” – NOTICE OF INTENDED ACTION**

The Commission is requested to approve this Notice of Intended Action to amend Chapter 44, “Special Events and Fireworks.”

At the present time, the statutory requirements regarding rules for snowmobile and all-terrain vehicle special events are not met; the previous version of 571 I.A.C. Chapter 44 only contained special event permit requirements for boating. Moreover, there are three other chapters in the Iowa Administrative Code related to special events in state parks and recreational areas, fishing tournaments, and firework displays.

This rulemaking is consolidating all of these chapters into the new Chapter 44, and is also making other necessary updates, changes, and additions to the application process, permit conditions, fees, insurance requirements, etc., necessary to utilize the new online centralized special event application system.

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

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority in Iowa Code sections 455A.5(6)(a), the Natural Resources Commission hereby gives Notice of Intended Action to amend Chapter 44, “Special Events” Iowa Administrative Code.

Currently, the statutory requirements regarding rules for snowmobile and all-terrain vehicle (ATV) special events are not addressed; the existing Chapter 44 contains only special event permit requirements for boating. Therefore, the Natural Resource Commission is amending Chapter 44 to establish special event permit requirements for ATVs and snowmobiles, while also including the special event rules for parks and recreation areas, forestry, fishing tournaments, dog trials, and firework displays found elsewhere in the administrative code into the newly comprehensive Chapter 44. The proposed amendments also address the Department's new centralized special events application system and establish fees to operate and maintain the system.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 30, 2011. Such written comments should be directed to Jeff Kopaska, Boone Wildlife Research Station, 1436 255<sup>th</sup> Street, Boone, IA 50036; or E-mail [jeff.kopaska@dnr.iowa.gov](mailto:jeff.kopaska@dnr.iowa.gov). Persons who wish to convey their views orally should contact Jeff Kopaska at (515)432-2823, ext 109.

There will be a public hearing on March 30, 2011 at 2:00 p.m. in the Fifth Floor East and West Conference Rooms in the Wallace State Office Building, 902 E 9<sup>th</sup> Street, Des Moines, at which time persons may present their views orally or in writing. At a hearing, persons will be asked to give their names and addresses for the record and confine their remarks to the subject amendments. Any person who intends to attend the hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to discuss further

These amendments are intended to implement Iowa Code sections 321G.16, 321I.17, 461A.3, 461A.4, 461A.42, 461A.47, 461A.57, 462A.16, 481A.22, and 481A.38.

The following amendments are proposed.

**ITEM 1:** Rescind Chapter 44 and adopt the following **new** Chapter in lieu thereof:

#### **SPECIAL EVENTS AND FIREWORKS**

571—44.1(**321G,321I,461A,462A,481A**) **Scope.** The purpose of this chapter is to provide rules on the issuance of special event and firework permits held on public land, waters, and ice of the state.

DIVISION 1  
SPECIAL EVENTS

**571—44.2(321G,321I,461A,462A,481A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

*“Accredited postsecondary institution or program”* means an institution or program listed on the U.S. Department of Education’s database of accredited postsecondary institutions of programs.

*“Administrative processing fee”* means the fee collected for the processing of each special event application that is submitted.

*“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 to submit applications for special events as 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 -- or when applicable, private --- land, water, and ice.

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

*“Field and retriever meet or trial”* means an event held on either private or public land where the skill of dogs is demonstrated in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal. For purposes of this rule, “Field and retriever meet or trial” is included in the definition of *“special events”* unless distinguished.

*“Fishing tournament”* means any organized fishing event, except for Department-sponsored fishing events held for educational purposes, involving any of the following: (1) six or more boats or 12 or more participants, except for waters of the Mississippi River, where the number of boats shall be 20 or more and the number of participants shall be 40 or more; (2) an entry fee is charged; (3) prizes or other inducements are awarded. For purposes of this rule, “Fishing tournament” is included in the definition of *“special events”* unless distinguished.

*“Friends Group”* means 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, the Iowa state park system, or both.

*“Off-road motorcycle”* or *“ORM”* 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”* or *“OHV”* 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.

*“Public land”* means land under the jurisdiction of the natural resource commission.

*“Public water”* means water and ice under the jurisdiction of the natural resource commission.

*“Sailing school”* means an organization that provides basic and advanced sailing instruction by U.S. Sailing-certified instructors, and is affiliated with a yacht club, accredited postsecondary institution or program, a private or public primary or secondary school, scouting organization, or religious institution.

"*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, demonstration, or other planned event that is conducted on public land, waters, or ice, according to a prearranged schedule and in which general public interest is manifested through any of the following: charging an admission fee, awarding prizes, promoting competition among participants, by soliciting attendance through advertising or invitation, or which due to its nature, size, or length, adversely impacts the use of the area by the public.

"*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.

**571—44.3(321G,321I,461,462A,481A) Permit required.** A permit issued by the department is required in order to conduct a special event on any public lands, waters, or ice. A permit is also required for field and retriever meets or trials held on private lands.

**571—44.4(321G,321I,461A,462A,481A) Permit conditions.** The department may impose conditions not specifically covered herein as deemed necessary to protect the resource or to ensure public safety. Such conditions shall be included in the permit issued by the department.

44.4(1) *Use of Concessionaire.* If the state park or recreation area where a special event is being held has a concessionaire, the sale of food or drinks shall be governed pursuant to 571—Chapter 14. If a concessionaire chooses not to provide these services during the event, the event sponsor may bring in other concession operations as approved by the department.

44.4(2) *Special Permit Conditions for Fishing Tournaments.* In addition to conditions deemed necessary by rule 571--44.4, the department may include some of the following permit conditions for fishing tournaments:

- a. release of live fish
- b. fish measured to length and release from boat.
- c. multiple weight-ins when water temperatures exceed 70°F.
- d. aerated live wells.
- e. designated release areas
- f. designated release persons.

**571—44.5(321G,321I,461A,462A,481A) Application procedures.** The following procedures shall be used when applying for a special event permit:

44.5(1) Applications shall be made and submitted through the department's centralized special events application system.

44.5(2) Applications shall be submitted at least 30 days prior to the first day of the special event.

- a. *Events for Current year.* Applications may be submitted anytime during the calendar year in which the event is to begin consistent with this subrule.
- b. *Events for Following year.* Applications for an event that will start in a subsequent calendar year may not be submitted until September 1 of the current year.

44.5(3) 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 or to protect the resource.

44.5(4) All events of the same type being held at the same location within a nine day period may be submitted on one application form, and will be processed as a single application

44.5(5) Submission of an application does not guarantee issuance of a permit.

44.5(6) Permits are non-transferable.

**571—44.6(321G,321I,462A) Alternate Dates for Snowmobile, Boating, All-Terrain Vehicle, Off-Highway Vehicle, and Off-road Motorcycle Special Events.** An applicant may submit and the department may approve both a primary and alternate date for snowmobile, boating, ATV, ORM, and OHV special events. However, if both a primary and alternate date is approved, the primary date shall be used unless circumstances beyond the control of the applicant prevent it. If the 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,461A,462A,481A) 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. This requirement shall not apply to events sponsored by a Friends Group. The department reserves the right to waive this requirement on a case-by-case basis.

**571—44.8(321G,321I,461A,462A,481A) Fees.** The administrative fee for processing each special event application is \$25. In the case of field and retriever meets and trials, the fee for processing each special event application is \$2. The fees are nonrefundable.

44.8(1) *Exception to fees.* The Department shall waive the administrative fee for processing special event applications for sailing schools; accredited postsecondary institutions and programs; private and public primary and secondary schools; all Department-approved watercraft education courses, ATV education courses, and snowmobile education courses; fishing clinics; Friends Groups; and Department-sponsored youth fishing days.

**571--44.9(321G,461A) 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:

44.9(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.

44.9(2) *Owner information.* The full name, street address, and city of the structure's owner shall be displayed legibly in a color contrasting to the background on all sides of the structure in block letters at least four inches in height.

44.9(3) *Accessibility.* Structures shall not be locked when in use.

44.9(4) *Reflectors.* 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 into special events shall not be required to be registered as stated in Iowa Code sections 462A.4 and 462A.5, but shall comply with the following:

44.10(1) *Vessel and participant list.* Sponsors of the special event shall maintain a list containing:

a. the names and addresses of all persons participating in the event.

b. a description of each vessel in the event, each of which shall be labeled with an identifying number or letter at least 4" high and in a contrasting color to the vessel in a prominent spot on the exterior of the vessel, other than on the bow.

**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. This rule does not apply to fishing tournaments.

**571--44.12(321G,321I,461A,462A,481A) Other code provisions and permits.** The applicant for a permit is responsible for ensuring full compliance with regulations of Iowa Code chapters 321G, 321I, 461A, 462A, and 481A, and any other Iowa Code chapters and rules promulgated under those chapters that may be applicable for these events. An applicant is also 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,461A,462A,481A) Authority to cancel or stop an event.** At any time that a peace officer or any department personnel determines that a permit is not being complied with, or that safety concerns warrant canceling or stopping the event, the peace officer or department personnel has the authority to do so.

**571--44.14(321G,321I,461A,462A,481A) Nonexclusive use of area.** Issuance of a 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 states otherwise.

## DIVISION 2 FIREWORKS DISPLAYS

**571—44.15(461A) Entities eligible for permits.** Permits shall be issued only to qualified entities, such as political subdivisions of the state of Iowa, and to community or civic organizations, such as chambers of commerce, junior chambers of commerce (Jaycees), rotary clubs, and Elks Lodges and similar fraternal benefit associations or societies. Permits shall not be issued to individuals. Permits are not transferable to another entity and do not relieve the sponsoring entity from obtaining any other permits required by the state or its political subdivisions.

**571—44.16(461A) Permit conditions.** The department may impose special conditions not specifically covered herein for any fireworks display special event as deemed necessary to protect the resource or ensure public safety. Special conditions shall be included in the permit that the applicant or sponsoring organization receives if the event is approved.

**571—44.17(461A) Application procedures.** The following procedures shall be used when applying for a permit:

**44.17(1)** Applications shall be made and submitted through the department's centralized special events application system.

**44.17(2)** Applications shall be submitted at least 30 days prior to the first day of the fireworks display.

a. *Events for Current year.* Applications may be submitted anytime during the calendar year in which the display is to begin consistent with this subrule.

b. *Events for Following year.* Applications for a display that will start in a subsequent calendar year may not be submitted until September 1 of the current year.

**44.17(3)** The number of special events or firework displays at any one public land, water or ice location during a given day may be restricted if deemed necessary to avoid congestion with the public or competing events and to protect the resource.

**44.17(4)** The applicant shall certify in the application that the fireworks display shall be conducted by a competent operator. The location of the display shall be determined by the department representative in charge of the area.

**44.17(5)** Submission of an application does not guarantee issuance of a permit by the department.

**571—44.18(461A) Fireworks display procedures.**

**44.18(1)** The sponsoring entity shall take adequate safety precautions to ensure that persons not actively involved in conducting the display remain a safe distance from the firing area and any areas containing set pieces.

**44.18(2)** The department representative in charge of the area in which the display is conducted or any state peace officer may halt any display when the character, location, weather, or firing of the display makes it hazardous to property or dangerous to any person.

**44.18(3)** Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the operator or the sponsoring entity in a manner that is safe for the particular type of firework.

**44.18(4)** The sponsoring entity shall make arrangements for firefighting equipment and emergency medical services to be on the scene at all times during the firing of the display.

**44.18(5)** The sponsoring entity is totally responsible for cleanup of the fireworks display site at the conclusion of the display.

**571—44.19(461A) Fees.** A nonrefundable administrative fee of \$25 shall be charged for processing each fireworks display application.

**571—44.20(461A) Insurance.** The sponsoring entity for a fireworks display shall provide proof of liability insurance naming the applicant and the department as an additional insured in the sum of not less than \$1 million. The department may, at its discretion, require a greater amount. Insurance information shall be available at the time the application is submitted.

**571—44.21(461A) Concessions.** If the state park or recreation area has a concessionaire on site, sales of food and other items during the display shall be governed pursuant to 571—Chapter 14. If a concessionaire chooses not to provide services during the event, the sponsoring entity may then bring in other concession operations as approved by the department.

These rules are intended to implement Iowa Code sections 321G.16, 321I.17, 461A.3, 461A.4, 461A.42, 461A.47, 461A.57, 462A.16, 481A.22, and 481A.38.

**Motion** – Commissioner Kircher  
**Seconded** – Commissioner Francisco  
**Decision** – Approved – 6 Aye & 1 Nay (Rettig)

**APPROVED AS PRESENTED**

**20. AGREEMENT (28E) WITH WHITEROCK CONSERVANCY - AMENDMENTS**

The Department requests Commission approval of amendments to the 28E Agreement between the Department and Whiterock Conservancy (originally approved May 2010), through which Department shall now also funnel federal Recreational Trail Grant dollars to Whiterock Conservancy on behalf of the Iowa Department of Transportation. The original 28E Agreement covered the distributed of federal Transportation Enhancement Grant dollars.

Both grants require the recipient to partner with a public agency.

The amendments address the addition of the Recreational Trail Grant dollars (\$474,000) and Whiterock Conservancy's \$83,000 cash match.

These grant dollars are being used by Whiterock Conservancy to refurbish and enhance 22 miles of backcountry biking, hiking, and horseback riding trails.

**Commissioner Garst recused herself from the meeting due to conflict of interest.**

**Motion** – Commissioner Kircher

**Seconded** – Commissioner Underwood

**Decision** – Approved by Unanimous Vote

**APPROVED AS PRESENTED**

**GENERAL DISCUSSION**

- Commissioner Drees
  - None
- Commissioner Francisco
  - Kudos to IA Chapters of Fish/Wildlife
- Commissioner Garst
  - Walk Safe route
  - Open Spaces Initiatives
- Commissioner Kircher
  - None
- Commissioner Schemmel
  - Private Lands pilot program
- Commissioner Underwood
  - State Parks Design meeting
    - Design elements reviewed (color, size, etc.)
    - Next meeting will be April 1<sup>st</sup>
    - Coalition for Iowa’s Woodland & Trees at Capitol – IA Nursery and Tree’s Forever
- Commissioner Rettig
  - Senate File 11 – Thanked the department on working with Johnson County on this

**ITEMS FOR FUTURE MEETINGS:**

- Presentations Requested:
  - Conservation Easements Kaizen results
  - Coalition of Trees
  - Turtles

**UPCOMING NRC MEETING DATES:**

- 3/10/11 – 9:30am, Henry Wallace State Office Building, Des Moines
- 4/13/11 – 12:00pm, Appanoose County, Honey Creek State Park Resort and surrounding area tour
- 4/14/11 – 8:30am, NRC Meeting to be held at Honey Creek State Park Resort in Appanoose County

**ADJOURNMENT**

*Motion was made by Commissioner Kircher to adjourn the meeting. Seconded by Commissioner Francisco. Approved by Unanimous Vote. With no further business to come before the Natural Resource Commission, Chairperson Gregory Drees adjourned the meeting on February 10, 2011 at 2:56 p.m.*

**APPROVED – MEETING ADJOURNED**

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