

Summary

Environmental Protection Commission

Tuesday, June 16, 2009
DNR Air Quality Building
7900 Hickman Road
Urbandale, Iowa

Minutes for EPC monthly meetings are posted to the website after Commission approval.

10:00 AM – Meeting begins

10:30 AM – Public Participation

1:00 PM – Coal Ash Presentation by Donna Wong-Gibbons

2:00 PM – Final Rule – Chapter 134 – Underground Storage Tank Licensing and Certification Programs

Agenda topics

- 1 Approval of Agenda
- 2 Approval of Minutes
- 3 Director's Remarks
- 4 **Contract** – Iowa State University Extension Service – Manure Applicator Certification Training Carried
- 5 **Final Rule** – Chapter 61 – Water Quality Standards (Stream Reclassifications via Use Assessment and Use Attainability Analyses) Tabled to July
- 6 **Contract** – Polk County Board of Supervisors for Execution of the State of Iowa Air Pollution Control Implementation Plan: Polk County Carried
- 7 **Contract** – Linn County Board of Health for Execution of the State of Iowa Air Pollution Control Implementation Plan: Linn County Carried
- 8 **Contracts** – Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship – Watershed Improvement Projects Carried
- 9 **Contract** – University Hygienic Laboratory – Services in Support of the DNR Air Quality Bureau Carried
- 10 **Contract** – Scott County for TNC Sanitary Surveys and Visits Carried
- 11 **Contract** – Black Hawk County for TNC Sanitary Surveys and Visits Carried
- 12 **Contract** – Cerro Gordo County for TNC Sanitary Surveys and Visits Carried
- 13 **Contract** – Johnson County for TNC Sanitary Surveys and Visits Carried
- 14 **Contract** – Linn County for TNC Sanitary Surveys and Visits Carried

15	Contract – University Hygienic Laboratory (UHL) – Staffing Contract	Carried
16	Contract – Center for Agriculture and Rural Development – Iowa State University for Iowa Rivers and River Corridors Recreation Survey	Carried
17	Contract – Iowa Department of Economic Development – Water Quality Advocate	Carried
18	Final Rule – New Chapter 35 – Air Emissions Reduction Assistance Program	Carried
19	Final Rule – Chapter 134 – Underground Storage Tank Licensing and Certification Programs	Carried
20	Notice of Intended Action – Chapter 64 – Wastewater Construction and Operation Permits, to include Well Construction and Well Service Wastewater Discharges	Carried
21	Contract - Regional Collection Center Establishment Grant	Carried
22	Contract – Iowa Board of Pharmacy – Pharmaceutical Collection and Disposal Pilot Program	Carried
23	Contract - Solid Waste Alternatives Program – Recommendations	Carried
24	Clean Water and Drinking Water State Revolving Loan Fund – FY 2010 Intended Use Plans	Carried
25	Contract – University of Northern Iowa, Iowa Waste Reduction Center – Iowa Waste Exchange Program technical assistance, database management and training	Carried
26	Contract – University of Iowa Hygienic Lab for Laboratory Services for Contaminated Sites Program	Carried
27	Notice of Intended Action – Chapter 65 – Confinement Feeding Operation Applications for Construction Permits; Demand for Hearing Procedures	Carried
28	Monthly Reports	(Information)
29	General Discussion	
30	Items for Next Month’s Meeting <ul style="list-style-type: none"> • July 21st – Urbandale • August 18th – Moravia 	

For details on the EPC meeting schedule, visit www.iowadnr.com/epc/index.html.

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
JUNE 16, 2009

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
URBANDALE, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Charlotte Hubbell at 10:08 a.m. on June 16, 2009 in the Ingram Office Building, Urbandale, Iowa.

COMMISSIONERS PRESENT

Charlotte Hubbell, Chair
Martin Stimson, Vice Chair
Carrie La Seur, Secretary
Dale Cochran
Susan Heathcote
Paul Johnson
David Petty
Gene Ver Steeg

ADOPTION OF AGENDA

Host all Contract agenda items first and move Items 5, 18, 19, 20, and 27 after the Contracts.

Motion was made by Susan Heathcote to approve the agenda as amended. Seconded by David Petty. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Charlotte Hubbell noted a change on page 5 under Ramona Kraft, last sentence, to read "Charlotte Hubbell said she was moved by her presentation and suggested she share her comments with the legislature."

Charlotte Hubbell noted on page 11 "confidently" should be "confidentiality."

Jerah Gallinger noted and will make the changes.

Motion was made by David Petty to approve the minutes as amended. Seconded by Dale Cochran. Motion carried unanimously.

APPROVED AS AMENDED

DIRECTORS REMARKS

Patricia L. Boddy – Deputy Director

The Department is reviewing all business practices for handling anticipated budget constraints including meal reimbursements which may affect commissioners. Additional information will be provided at the July 14th Joint EPC/NRC meeting hosted at the Wallace State Office Building in Des Moines, Iowa from 10 a.m. – 3 p.m. In addition to the Joint EPC/NRC meeting, the Department will be presenting commissioners with a draft strategic plan and draft communications plan along with legislative intent for 2010.

INFORMATIONAL ONLY

CONTRACT – POLK COUNTY BOARD OF SUPERVISORS FOR EXECUTION OF THE STATE OF IOWA AIR POLLUTION CONTROL IMPLEMENTATION PLAN: POLK COUNTY

Christina Iiams of the Air Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for a one year-service contract with the Polk County Board of Supervisors of Des Moines, IA. The contract will begin on July 1, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$783,481. This contract is an Iowa Code Chapter 28E agreement.

Funding Source:

This contract will be funded through cost reimbursable payments funded by Title V program fees (not to exceed \$592,443), 105 federal grant dollars (not to exceed \$171,038), and 103 federal grant dollars (not to exceed \$20,000). The Polk County Board of Supervisors has a funding commitment of \$236,345.00. The statutory authority for the DNR to enter into this contract is 455B.145.

Background:

The Polk County Air Quality Division will be responsible for the ongoing implementation of an air program within Polk County, as established under the requirements of this contract. The Polk County Air Quality Division has a certificate of acceptance pursuant to Iowa Code Section 455B.145, as implemented in 567 IAC Chapter 27.

Purpose:

The parties propose to enter into this Contract to ensure that Polk County meets the conditions necessary to retain a Local Program as specified in Iowa Code § 455B.145 and 567 Iowa Administrative Code (IAC) Chapter 27 and to specify the extent and manner of cooperation between the two agencies in conducting programs for the abatement, control, and prevention of air pollution within Polk County. Particular emphasis is placed on the collection and assessment of information regarding air quality, the permitting of sources of air emissions, the enforcement of emission limits, and the attainment and maintenance of ambient air quality standards.

Contractor Selection Process:

The DNR is allowed to contract with the Polk County Board of Supervisors without using a competitive selection process pursuant to state law.

The DNR has chosen to continue to contract with the Polk County Board of Supervisors for this project because 1) Successful implementation of an air program has been demonstrated by the continued attainment of air quality standards in Polk County, 2) Sources appreciate the local access they have available to them, and 3) Polk County had a local program in place prior to the DNR’s delegation from EPA for an air program; this included already having ordinances and enforcement in place.

Motion was made by David Petty to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – LINN COUNTY BOARD OF HEALTH FOR EXECUTION OF THE STATE OF IOWA AIR POLLUTION CONTROL IMPLEMENTATION PLAN: LINN COUNTY

Christina Iiams of the Air Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for a one year-service contract with the Linn County Board of Health of Cedar Rapids, IA. The contract will begin on July 1, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$833,534. This contract is an Iowa Code Chapter 28E agreement.

Funding Source:

This contract will be funded through cost reimbursable payments funded by Title V program fees (not to exceed \$689,382), 105 federal grant dollars (not to exceed \$126,652), and 103 federal grant dollars (not to exceed \$17,500). The Polk County Board of Supervisors has a funding commitment of \$214,185.00. The statutory authority for the DNR to enter into this contract is 455B.145.

Background:

The Linn County Air Quality Division will be responsible for the ongoing implementation of an air program within Linn County, as established under the requirements of this contract. The Linn County Air Quality Division has a certificate of acceptance pursuant to Iowa Code Section 455B.145, as implemented in 567 IAC Chapter 27.

Purpose:

The parties propose to enter into this Contract to ensure that Linn County meets the conditions necessary to retain a Local Program as specified in Iowa Code § 455B.145 and 567 Iowa Administrative Code (IAC) Chapter 27 and to specify the extent and manner of cooperation between the two agencies in conducting programs for the abatement, control, and prevention of air pollution within Linn County. Particular emphasis is placed on the collection and assessment of information regarding air quality, the permitting of sources of air emissions, the enforcement of emission limits, and the attainment and maintenance of ambient air quality standards.

Contractor Selection Process:

The DNR is allowed to contract with the Linn County Board of Health without using a competitive selection process pursuant to state law.

The DNR has chosen to continue to contract with the Linn County Board of Health for this project because 1) Successful implementation of an air program has been demonstrated by the continued attainment of air quality standards in Linn County, 2) Sources appreciate the local access they have available to them, and 3) Linn County had a local program in place prior to the DNR’s delegation from EPA for an air program; this included already having ordinances and enforcement in place.

Paul Johnson asked if the county enforces all federal and state laws and if they go above and beyond. Christina responded that counties do enforce both federal and state laws along with county ordinances.

Motion was made by Marty Stimson to approve the contract as presented. Seconded by Carrie La Seur. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACTS – DIVISION OF SOIL CONSERVATION, IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP – WATERSHED IMPROVEMENT PROJECTS

Steve Hopkins of the Water Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for two multiple-year service contracts with the Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship. The contracts will begin on June 17, 2009. The total amount of these contracts shall not exceed \$344,212.

Funding Source:

These contracts will be funded through FFY 2008 EPA Section 319 grant funds.

Background:

The following project contracts are presented for approval:

Dry Run Creek Sub-Watershed Retrofit Project	2 years	\$245,782	
Lake Hendricks Watershed Project	2.5 years		\$98,430
Total			\$344,212

Purpose:

The parties propose to enter into these contracts for the purpose of retaining the Contractor to implement watershed improvement activities for the projects selected.

Motion was made by Eugene VerSteeg to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – 2010 UHL SERVICES IN SUPPORT OF THE DNR AIR QUALITY BUREAU

Sean Fitzsimmons of the Air Quality Bureau presented the following item.

Recommendation:

The department requests Commission approval for a one year-service contract in the amount of \$2,212,811 with the University of Iowa Hygienic Laboratory (UHL) of Iowa City, Iowa. The contract begins on July 1, 2009 and ends on June 30, 2010.

Funding Sources:

Funding for this contract consists of federal 105 grant funds (\$246,613), federal 103 grant funds (\$379,084), air contaminant funds (\$1,262,114), and State “Environment First” Infrastructure funds (\$325,000).

Background:

Under Iowa Code section 455B.103, the department has responsibility for conducting ambient air monitoring in the State of Iowa. For over thirty years, the department has contracted with UHL to perform this essential service. UHL currently operates most of the ambient air monitoring sites in Iowa. It also provides analytical and technical support for ambient air monitoring activities throughout Iowa. It weighs and determines the ionic composition of particulate samples and performs analysis of air samples for many toxic compounds found in urban air. UHL also provides analysis of asbestos samples gathered by DNR inspectors. The UHL quality assurance group conducts annual audits of UHL ambient air monitoring activities as well as those of the Local Programs. This contract provides for a continuation of these services.

Purpose:

The parties propose to enter into this contract for the purpose of retaining UHL to perform ambient air monitoring and related services in support of the department’s Air Quality Bureau.

Consulting Firm Selection Process:

Competitive bidding was not required for this contract in accordance with Iowa Code section 455B.103, which directs the department to contract with public agencies of Iowa to perform environmental services when it lacks the capacity to perform them on its own. Iowa Code section 263.7 establishes environmental investigations as an essential duty of UHL, and UHL has considerable experience and expertise in this area.

Charlotte Hubbell inquired how many monitoring sites are outlined in the contract and Susan Heathcote asked if there were new locations. Sean responded there are approximately 40 monitoring sites total and provided a detailed list of each new monitoring site.

Carrie La Seur inquired if the monitoring equipment was available in mobile facilities. Sean provided information that none of the sites are mobile.

Motion was made by Susan Heathcote to approve the contract as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – IOWA STATE UNIVERSITY EXTENSION SERVICE – MANURE APPLICATOR CERTIFICATION TRAINING

Gene Tinker of the Water Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for a one year-service contract with Iowa State University Extension Service of Ames, Iowa. The contract will begin on July 1, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$186,060. DNR shall have the option to renew this contract long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through fees collected from the Manure Applicator Certification Program.

Background:

Iowa Code §§459.314A and 459.315 require persons who apply, handle, transport and store manure to be properly certified as a Commercial Manure Service, Commercial Manure Service Representative or a Confinement Site Manure Applicator.

Purpose:

The parties propose to enter into this Contract for the purpose of retaining the Contractor to develop manure certification training and testing materials for commercial manure applicators and confinement site manure applicators. Topics covered in the training materials will include: certification and manure management requirements of Iowa law and DNR rules; proper procedures for the storage, handling and land application of manure; the potential impacts of manure on surface and groundwater; the development of safety and emergency action plans; and sources of additional technical and educational assistance.

Contractor Selection Process:

Iowa State University was chosen using the University Selection process. Iowa State University was chosen for this project because they have been selected due to Iowa law and they have the resources to assist in training the applicators.

Motion was made by David Petty to approve the contract as presented. Seconded by Dale Cochran. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

MARIAN GELB, Executive Director of the Iowa Environmental Council submitted the following comments:

On behalf of the Iowa Environmental Council would like to provide comments concerning the second batch of UAAs.

First, I would like to recognize and acknowledge the huge investment of time and effort that the DNR has put into gathering the information on these water bodies. It is a big undertaking and I think we all know that this is still a work in progress. I would also like to express our appreciation to the Department for allowing the public to provide input up front, thus making the process smoother and more efficient.

However, The Council continues to have concerns with the Department's determination on the attainable uses of many streams and the seasonality in which the data was gathered, which can have an impact when determining attainable uses.

On May 20, 2009 the Council submitted written comments to the Department outlining our concerns with the determination process. After reviewing the Department's recommendations, it appears that our concerns are not being addressed and we feel there is still a need to highlight specific streams in which primary contact recreation is attainable either due to the depth of the stream or because the stream is canoe-able.

People canoeing a stream have access to the entire stream, including areas where the banks are steep and access from land may not be achievable. These streams have the potential to have deep pools or swimming holds that are only accessible to those canoeing or tubing. I appreciate that canoeing is not considered a primary contact activity, however, I think we could also agree that people who canoe often swim and float as part of their outing, and these are primary contact activities.

There are several streams in this batch of UAA's that would support these attainable uses for primary contact recreation, but the DNR has proposed to downgrade their level of protection. These include:

Hartgrave Creek in Butler and Franklin Counties, in which an employee with the Franklin County Conservation Board has observed canoeing and kayaking; and an employee with the Butler County Conservation Board mentioned kayaking in the South Fork Park area, especially when flows are elevated and also stated tubing between bridges in the park area may also be taking place;

Mosquito Creek from Pottawattamie to Shelby County, in which many road crossings have protective structures which have created pools deep enough to support swimming;

The West Branch of the Floyd River in Plymouth and Sioux Counties, in which public comments stated that swimming and children's play takes place on the river near the

towns of Maurice and Sioux Center. Additionally, a homemade raft was observed by DNR staff near the town of Middleburg;

The lower part of the Platte River in Taylor and Ringgold County, had measured depths able to support primary contact recreation but the stream was estimated to be elevated 10-12 inches due to rainfall events and, after taking into account the elevated flows, the DNR found that the river was not capable of supporting primary contact recreation.

It is my experience that canoers will assess conditions before paddling a stream, and the avid ones know when the conditions are right for paddling. These conditions obviously vary with rainfall and the season. We noted that when the DNR did their site visits, many of the stream depths were adjusted in the field reports to simulate base flow conditions. We feel this practice does not accurately represent the actual attainable use of the stream, when there are times within the recreational season that primary contact recreation can and does occur.

Given that we have not heard back from the EPA relative to protocols used and determinations proposed with the first batch of UAA's, it is difficult to know if the procedures that the Department is using to assess these streams are acceptable to EPA. In our opinion it would be most prudent and provide for the most efficient use of limited DNR staff time, to wait until the EPA has responded to the first batch before we approve a second batch that may not be following acceptable protocol. It is our hope that our concerns can be discussed and that mutually acceptable protocol can be determined. We look forward to continuing to work with the DNR to accomplish this goal.

LINDA KINMAN, from Des Moines Water Works submitted the following comments:

The proposed amendments to Chapter 65, by the Environmental Protection Commission (EPC) appear to restrict public input and manipulate outcomes by withholding relative scientific and non-scientific information. The public should have the right to present controversial issues of public importance and to do so in a respectful environment, and in a manner that is open, honest, and equitable. Ultimately, Commissioners must make decisions that require the use of judgment. Science will improve the chances that judgment's are sound, but they can never replace the need to actually draw conclusions by assessing risks and opportunities; costs and benefits; current vs. future impacts. Comments to specific rule changes are:

65.10 (9) a. (4) *Hearing and Decision by the Commission - Hearing before the Commission*

"... No further briefs or document shall be permitted except upon request of the commission."

65.10 (9) a. (5) 3 *Hearing and Decision by the Commission - Hearing before the Commission*

"Oral participation before the Commission will be limited... to presentations by representatives from the county board of supervisors, the applicant, and the department."

COMMENTS: The proposed rules only allow the county where a facility is being sited to comment and/or make an oral presentation to the Commission. This eliminates anyone

downstream of the county where the facility is sited from commenting or presenting evidence pro or con. Drinking water utilities such as the Cedar Rapids Water Department, Des Moines Water Works, or Rathbun Regional Water Association, and others will be unable to provide comments, make an oral presentation, or defend protection of their source water used for drinking water. Source water that is in some cases already designated as impaired; and is becoming more challenging and costly to treat; and which could degrade to a level that potentially threatens the public health of many Iowans. All discussions regarding water quality and quantity issues in Iowa are moving toward holistic watershed based solutions; however the direction of this rulemaking, by only allowing the county where a facility is sited, does not appear to support this more holistic approach.

Drinking water utilities will not be allowed to provide credible water monitoring data which could support or oppose the sitting. For example, DMWW and Agriculture's Clean Water Alliance (ACWA) partnership has made the Raccoon River one of the most, if not the most monitored river in Iowa. The data generated provides a scientific view of water quality conditions and trends, but this data will be excluded from consideration based on the process outlined in the proposed rulemaking.

We understand there is concern with regard to the credibility of evidence presented during public comments; but we believe Commissioners could require that all evidence be submitted prior to the EPC meeting in which the hearing is requested. The request could require the name and organization of the entity providing the information, the original source of the information and its relevance to the case. This will allow the Department, county, or applicant the opportunity to respond to the evidence. If the information is found to be false, the person and/or organization should expect some type of consequence.

As long as the Department is not assessing potential impacts of a facility on water resources designated as a drinking water source, it is up to the utilities and citizens of Iowa to do so. I understand the emotions and passions of some presenters, but without the public participation we are ignoring the right to a democratic process in which all sides are heard. Our customers are relying on us to protect their source of drinking water. It is imperative that we not be locked out of the process. We look forward to working with Commissioners on this process and appreciate the opportunity to share our concerns.

JACK CLARK, from the Iowa Utility Association submitted the following comments:

Good morning. I am Jack Clark, Vice President of the Iowa Utility Association, a trade association representing investor-owned electric and natural gas utilities with facilities in Iowa.

Our members include the electric generating and distribution companies of Alliant Energy and MidAmerican Energy. Both of those companies have a long history of working with the DNR staff to develop approved beneficial uses of coal combustion by-products and permitted sites for the storage of coal combustion by-products.

Iowa's regulatory compliance framework for beneficial uses of coal combustion by-products exceeds that of most other states. The DNR's efforts in development of

reasonable rules based on sound scientific fact are impressive. Those efforts have provided important approved beneficial uses for coal combustion by-products significantly reducing the amount of material that otherwise may have ultimately ended up in Iowa's landfills.

We support the Department's position set forth in a March 19, 2009, letter from the DNR to the EPA regarding the classification of all coal combustion by-products as solid waste as defined under RCRA and encourages prudent beneficial uses of coal combustion by-products in our state.

We see on the Agenda that the Commissioners will receive a Coal Ash Presentation by Ms. Donna Wong-Gibbons of the environmental group, Plains Justice. We would encourage you to solicit comments from the DNR staff regarding their high quality program, current regulations and proposed federal rulemaking by EPA. We would also encourage you to invite presentation from other segments of our community so as to ensure a fair and balanced discussion of factual information.

Thank you for your consideration of these comments.

NEILA SEAMAN, Director of Iowa Chapter of the Sierra Club

The DNR originally proposed downgrading 119 stream segments with less protection for primary contact recreation, including swimming, wading, canoeing, kayaking and children's play.

We did send out an action alert asking our members and supporters to comment on this rule package. DNR will tell you this afternoon that it received 252 comments, of which 207 were form letters. Granted, some of our 209 respondents did click-send without commenting on a stream segment. Others wrote comments that were not specific to a stream segment. Others did write about specific streams, but may not have been specific to the particular segment in question.

Encouraging comments on specific stream segments was a very tricky task. Most people who recreate on rivers and streams are not paying that close of attention to the segments, but the recurring theme in all of our respondents' messages was the same: "We want Iowa's waters protected to the highest standard."

The best analogy I can provide for how tricky this rulemaking was to comment is by using a road analogy. Let's say for example that I want to drive across Keokuk County from What Cheer to Harper. At the intersection of Highway 21 and County road G29, I head east. G29 is full of ruts and potholes with no shoulders from 160th Avenue to 208th Avenue and dangerous to drive. But, as long as I stay in my car and drive slowly I will be safe. Once I get to Highway 149 headed south, the road is perfectly resurfaced and a breeze to drive for the 4 to 5 miles I'm on it. At 200th Street, I turn east. The road has again changed to ruts and potholes with no shoulders between 240th Avenue and 270th Avenue then smooth again the rest of the way into Harper. Unless I'm paying close

attention or I know that the stretches of G29 and 200th Street will be unsafe to drive, I am at risk.

If I call the county and report the bad road conditions am I going to tell them the exact locations? Doubtful. I will tell them G29 and 200th Street between What Cheer and Harper. Would the county avoid repairing or maintaining the road because a law enforcement officer had never noticed any traffic on the road? I hope not.

This is the same situation with trying to comment on specific stream segments.

Some of the messages sent to DNR that were considered form letters included comments like the one from Iowa City: "I am concerned that downgrading these streams may result in greater chance of people contracting water-borne diseases." Or this one from Bettendorf: "Considering the risk of potentially fatal bacteria being released by companies, industries, and agriculture, it is unnecessarily risky and terribly unwise to reduce the level of protection at this time. We want all of our rivers and streams fully protected." And this one from West Des Moines: "It was not long ago that we almost lost a grandchild who contracted E-coli as a result of playing on vacation at one of Iowa's streams."

Tom Brady, a celebrated football quarterback and the 2007 NFL's most valuable player, flipped a kayak in the Charles River earlier this month and had to be rescued. Accidents happen even to professional athletes. I by no means fall anywhere near the category of athlete and most Iowans' don't either. But if they flip a kayak or a canoe, they want to be sure they won't get sick.

We strongly encourage you to reconsider DNR's recommendations to downgrade our streams from the A1 protection they all deserve.

-----End of Public Participation-----

CONTRACTS –TNC SANITARY SURVEYS AND VISITS

Chuck Corell with the Water Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for a three (3) year-service contracts with the below County Health Departments of Iowa. The contracts will begin on July 1, 2009 and terminate on June 30, 2012. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

County Health Department – Not to Exceed

Scott County - \$20,250.00
Black Hawk County - \$61,425.00
Cerro Gordo County - \$125,550.00
Johnson County - \$30,375.00
Linn County - \$41,175.00

We have successfully used this arrangement with several counties for six (6) years. Because county personnel are already visiting many of these facilities annually for other regulatory purposes, it provides a mechanism for more frequent visits at a significantly decreased cost when compared to using department staff. The current contract with this county expires June 30, 2009. Approval of this agenda item and the attached contract will allow this effective program to continue.

Funding Source:

This contract will be funded through Local and Other Authorized Use Set-aside of the Drinking Water State Revolving Loan Fund, providing capacity development and technical assistance to public water supplies.

Purpose:

The parties propose to enter into this Contract for the purpose of delegating part of the Department's regulatory authority with respect to public water supply systems, as detailed in the IAC Drinking Water Chapters, and to specify the extent and manner of cooperation between the two agencies in conducting programs for the evaluation and regulation of transient noncommunity (TNC) public water supplies.

Susan Heathcote commends the county and Department for working out an arrangement that saves resources and spends monies efficiently.

Motion was made by Susan Heathcote to approve all five contracts as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – UNIVERSITY HYGIENIC LAB (UHL) – STAFFING CONTRACT

Tim Hall with the Iowa Geological and Water Survey Bureau presented the following item.

Recommendation:

The Department requests Commission approval of a contract in an amount not to exceed \$216,000 with the University of Iowa Hygienic Laboratory for DNR staff support in 2009.

Funding Source:

Funding for this contract comes from the Environment First Infrastructure funds and REAP funds.

Purpose:

The purpose of this contract is to provide professional staff support to two programs within the Department of Natural Resources. Two positions will be located in the Geographic Information Section to provide on-going support for activities related to watershed planning and assessment required under the legislatively mandated watershed initiative program. One staff position will be located in the Conservation and Recreation Division to assist with REAP assemblies, the HUSH program, and the Nature Store.

Scope of Work:

Geographic Information Section:	Not to exceed \$150,000
Communication Bureau:	Not to exceed \$50,000
Facilities and Administrative costs:	Not to exceed \$16,000
Total	Not to exceed \$216,000

5.1.2 Geographic Information Section. The UHL shall provide two full time staff persons in Iowa City to work with Department staff. These individuals shall be responsible for the development of Geographic Information System (GIS) databases and the analytical assessment of GIS databases under the direction of the Supervisor of the Geographic Information Section. The UHL also shall provide administrative mechanisms to facilitate travel, staff development and training.

5.1.3 Communication Bureau. The UHL shall provide one full time staff position in Des Moines to work with the Department staff on the Resource Enhancement and Protection Program (REAP) (50%), the Help Us Stop Hunger Program (HUSH) (25%), the Nature Store (20%), and related (5%) programs. The individual shall work under the direction of the Department REAP coordinator and shall be responsible for planning, coordinating, implementing, and evaluating REAP assemblies. The individual also shall assist with communications regarding the HUSH program and assisting with the Nature Store. The UHL also shall provide administrative mechanisms to facilitate travel, staff development and training. The Contractor also shall provide administrative mechanisms to facilitate travel, staff development and training.

Motion was made by Susan Heathcote to approve the contract as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – CENTER FOR AGRICULTURE AND RURAL DEVELOPMENT – IOWA STATE UNIVERSITY FOR IOWA RIVERS AND RIVER CORRIDORS RECREATION SURVEY

Bernie Hoyer with the Water Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for a two year-service contract with Center for Agriculture and Rural Development, ISU (Joe Herriges) of Ames, IA. Approval from the NRC was received on June 11th. The contract will begin on June 17, 2009 and terminate on December 31, 2010. The total amount of this contract shall not exceed \$120,000. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through authority provided in 455B.103, and USEPA Sect. 319 CWA NPS Grant C9007404-11; 456A.11 Water Trails & Lowhead Dam Public Hazard Statewide Plan; 455A.10 & 456A.17 State Fish & Game Protection Fund; and cooperation with Iowa Department of Economic Development Tourism.

Background:

The Center for Agriculture and Rural Development is an Iowa State University center devoted to economic issues of rural Iowa. Since 2000, it has conducted economic studies with DNR and the USEPA on the economic value of Iowa lakes. This helped Iowa begin DNR's Lake Restoration Program. Their research results and our collaboration with CARD researchers also allowed CARD to document the benefits of natural resource to Iowa development in relation to sustainable funding. The current contract will begin to develop economic data to document the economic benefits of our Iowa rivers.

Purpose:

The parties propose to enter into this Contract for the purpose of retaining the Contractor to provide data on the recreational use of Iowa's rivers. The contractor will conduct a population weighted survey to identify and quantify the recreational uses of Iowa's rivers and the associated immediate river corridors so that economic benefits of these uses may be calculated. The DNR intends to utilize the information gathered and analyzed in through this contract to prioritize rivers and river reaches for restoration, protection, and river trail development. In addition, the information will be used to help local communities understand the benefits and potential benefits they may receive from encouraging local river restoration, protection and development activities.

Susan Heathcote shared concern on the methods of sampling the public and expressed the Department's need to cast the widest search possible.

Carrie La Seur encouraged the sampling to differentiate between sustenance and recreation.

Motion was made by David Petty to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – IOWA DEPARTMENT OF ECONOMIC DEVELOPMENT – WATER QUALITY ADVOCATE

Wayne Gieselman with the Environmental Services Division presented the following item.

Recommendations:

Commission approval is requested for renewal of a one year-service contract with the Iowa Department of Economic Development for the Water Quality Advocate position. The contract will begin on July 1, 2009, and terminate on June 30, 2010. The total amount of this contract shall not exceed \$50,000. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through State Revolving Loan non-program funds.

Background:

This agreement is entered into for the purpose of creating an Advocate to provide assistance to communities and businesses regarding water quality issues including wastewater, storm water, funding opportunities, unsewered communities and entities requiring a National Pollutant Discharge Elimination System (NPDES) permit.

Purpose:

The focus of the Water Quality Advocate will be to assist small communities and businesses with understanding water quality issues and complying with their wastewater requirements, including the NPDES program. The Advocate also will assist unsewered communities in addressing their wastewater needs. The Advocate is to work with, be a point of contact for and provide education and outreach to communities, businesses, associations and the DNR regarding any water quality issues, including wastewater, storm water, funding opportunities and unsewered communities.

Wayne shared with the Commission that the Department's contribution towards this contract was decreased by \$25,000 while the Department of Economic Development has increased their portion by \$25,000.

Carrie La Seur inquired how this position will be involved with the federal stimulus monies. Wayne shared that this position will be assisting with the weekly requirement for reporting and tracking of the use of stimulus monies. This position will also be assisting smaller towns with their rural water systems.

Motion was made by Dale Cochran to approve the contract as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT - REGIONAL COLLECTION CENTER ESTABLISHMENT GRANT

Tom Anderson with the Land Quality Bureau presented the following item.

Recommendation:

The Department received three (3) applications requesting \$232,000 in financial assistance through the Regional Collection Center Establishment Grant Program. After reviewing the applications and subsequent requested information, each applicant project is recommended for implementation in the total amount of \$232,000.

The total number of counties offering hazardous materials education and disposal to households and conditionally exempt small quantity business generators through the Regional Collection Center program will increase to eighty-eighty (88) counties statewide.

Funding Source:

These competitive grant contracts will be funded pursuant to the Waste Volume Reduction/Recycling Fund (455D.15), the Groundwater Protection Fund (455E.11) and the Household Hazardous Waste Fund (455F.8).

Background:

Iowa code requires the Department to establish facilities for the proper management and disposal of Household Hazardous Materials for both urban and rural counties. Regional Collection Centers are permanent facilities that provide hazardous waste management education and on-going access to proper disposal of hazardous materials generated by conditionally exempt small quantity generator (CESQG) businesses, urban and rural households, and farming operations. Household hazardous materials (HHMs) possess any or all of the following characteristics: toxic, corrosive, flammable or reactive.

A total of 1,971,322 pounds of waste was accepted, processed, recycled and disposed of through the RCC Program in 2008. These materials represent some of the most toxic materials in the solid waste stream and are being prevented from entering Iowa's landfills.

Purpose:

Four counties will be provided hazardous materials education and new and expanded opportunities for on-going proper disposal of hazardous materials generated in the household, farm and small business.

Motion was made by Carrie La Seur to approve the contract as presented. Seconded by Dale Cochran. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – IOWA BOARD OF PHARMACY – PHARMACEUTICAL COLLECTION AND DISPOSAL PILOT PROGRAM

Tom Anderson with the Land Quality Bureau presented the following item.

Recommendation:

The Department requests Commission approval of a contract in the amount of \$165,000 with the Iowa Board of Pharmacy for nine (9) months to accomplish the following:

The Iowa Board of Pharmacy will partner with the Iowa Pharmacy Association to promote and implement a statewide pharmaceutical collection and disposal pilot program.

Collection of unwanted pharmaceuticals from Iowa households and nursing homes shall take place at participating pharmacies.

Destruction of collected pharmaceuticals shall be conducted by:

Sharps Environmental Services, Inc.

1544 NE Loop

Carthage, Texas 75633

Funding Source:

This project will be funded through the Solid Waste Alternatives Program.

Background:

Senate File 467 as signed into law by Governor Culver established a pilot program for the collection and disposal of unwanted pharmaceuticals. Specific legislation stated:

Of the moneys allocated under section 455E.11, subsection 2, paragraph "a", subparagraph 6(1), subparagraph subdivision (c), the department of natural resources shall award up to \$165,000 to the board of pharmacy to implement and administer a pharmaceutical collection and disposal pilot program. The program shall provide for the management and disposal of unused, excess, and expired pharmaceuticals. The board of pharmacy may cooperate with the Iowa pharmacy association in implementing and administering the program. The board may consult with the department and sanitary landfill operators in implementing and administering the program.

Purpose:

The purpose of this contract is for the Iowa Board of Pharmacy to establish a pilot program for the collection and disposal of unwanted pharmaceuticals from households and nursing homes. It is anticipated that the pilot program may lead to a statewide on-going program.

Paul Johnson asked if this contract is similar to a previous contract with Colorado or Utah. Tom expressed that it is the same contract but at the time the contract was not staffed by Metro Waste and thus cancelled.

Marty Stimson asked for the estimate to dispose pharmaceuticals and was concerned with this pilot program if the actual costs are greater. Tom shared that the number of facilities participating will be limited to the budget. Marty also asked if the waste needs to be transported to Texas. Tom shared that the location is approved for pharmaceutical incineration.

Motion was made by Dale Cochran to approve the contract as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT - SOLID WASTE ALTERNATIVES PROGRAM – RECOMMENDATIONS

Tom Anderson with the Land Quality Bureau presented the following item.

The Department received 23 proposals, requesting \$3,329,655 in financial assistance, for consideration during the April 2009 round of funding. Nine (9) projects were selected for funding or additional consideration. If approved they will receive \$852,310 in a combination of forgivable, zero-interest, and three-percent loans.

The table below summarizes the final recommendations, nine projects with a total recommendation of \$852,310.

Recommended By Applicant Type	# Awards	Award Amount	Forgivable Loan Portion
Local Government	4	\$420,620	\$76,320
Private For Profit	4	\$411,690	\$62,690
Private Not For Profit	1	\$20,000	\$20,000
RECOMMENDED BY PROJECT TYPE			
	# Awards	AWARD AMOUNT	Forgivable Loan Portion
Best Practices	7	\$463,310	\$119,010
Market Development	1	\$369,000	\$20,000
Education	1	\$20,000	\$20,000
TYPE OF AWARD			
	# Awards	Award Amount	Forgivable Loan Portion
Forgivable loan only	7	\$119,010	\$119,010
Forgivable, 0%, and 3%	2	\$733,300	\$40,000

David Petty shared his concern with increased metro disposal restrictions that may cause people to drive to the country to dump their waste. Tom shared some of the surveillance projects occurring at dumping “hot spots.”

Charlotte Hubbell ask for the Department to explore the option for upfront fee for disposal and the encouragement to obtain your fee back when disposed of properly like the tire and battery program.

Motion was made by David Petty to approve the contract as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – UNIVERSITY OF NORTHERN IOWA, IOWA WASTE REDUCTION CENTER – IOWA WASTE EXCHANGE PROGRAM TECHNICAL ASSISTANCE, DATABASE MANAGEMENT AND TRAINING

Brian Tormey with the Land Quality Bureau presented the following item.

Recommendation:

The Department requests Commission approval of a contract in the amount of \$30,000 with the University of Northern Iowa, Iowa Waste Reduction Center for one year. The contract is for the University to provide technical assistance, database management and training for the Iowa Waste Exchange program.

Funding Source:

This project will be funded through the Groundwater Protection Fund, Solid Waste Account where monies are received from the tonnage fee imposed under section 455B.310.

Background:

Iowa code 455 E.11.2(2)(c) Groundwater Protection Fund, requires the following:

The Department shall expend not more than thirty thousand dollars of the moneys appropriated under this subparagraph subdivision to contract with the by-products and waste serve service at the University of Northern Iowa to provide training and other technical services to grantees under the program.

Purpose:

The purpose of this contract is to provide technical assistance, database management and training to the Iowa Waste Exchange program and it's Representatives.

Motion was made by David Petty to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – UNIVERSITY OF IOWA HYGIENIC LAB FOR LABORATORY SERVICES FOR CONTAMINATED SITES PROGRAM

Brian Tormey with the Land Quality Bureau presented the following item.

Recommendations:

Commission approval is requested for a one year-service contract with University of Iowa Hygienic Lab. The contract will begin on July 1, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$54,000. DNR shall have the option to renew this contract long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through EPA CERCLA, EPA Brownfields, and state Hazardous Waste Remedial Funds. No general fund monies are used.

Background:

Under various state and federal programs the Contaminated Sites Section of IDNR conducts investigations of environmental contamination. This process involves the collection of samples of unknown chemicals or environmental media potentially contaminated by chemicals. In order to positively identify and quantify the concentration of those chemicals it is necessary to have them analyzed by a qualified laboratory.

Purpose:

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

Motion was made by Susan Heathcote to approve the contract as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

Dr. Wong-Gibbons of Plains Justice presented a PowerPoint presentation on coal ash combustion waste (CCW).

For a complete copy of the presentation, please visit: <http://www.iowadnr.gov/epc/index.html>

FINAL RULE - CHAPTER 134 – UNDERGROUND STORAGE TANK LICENSING AND CERTIFICATION PROGRAMS

Elaine Douskey of the Land Quality Bureau presented the following item.

The Department presents these rules for adoption and filing by the Commission. The Notice of Intended Action was published as ARC 7620B in the March 11, 2009 issue of the Iowa Administrative Bulletin.

In summary these rules outline the duties and training requirements for professionals who are licensed by the DNR to conduct UST work in Iowa. The key changes are: required licensing of those people who remove tanks; soil and groundwater sampling at UST closures be conducted by a certified groundwater professional; required insurance liability coverage of \$1,000,000; required inspections at UST installations; increase in licensing fee to \$200 biennially; expanded reciprocity criteria for training and exams; adds duty for UST professionals to report confirmed releases; adds cathodic protection tester training requirements; and conflict of interest provisions.

The Department held three public hearings and received four comments. Three of the comments discussed industry's concern over costs and liability stemming from the new duty to report, and one commenter opposed the requirement that removers must be certified groundwater professionals to conduct tank closure sampling. As a result of discussions with stakeholders and the public comments, the Department made the following changes to the Notice of Intended Action.

- The duty to report rule had been changed so that UST professionals report suspected and confirmed releases on a Department form to the UST owner and operator with recommendations on further actions the owner and operator should take. The UST professional is not required to directly report suspected releases to the Department. The UST professional is required to report confirmed releases by sending a copy of the reporting form within seven days to the Department.
- The Department has chosen to adopt the rule that allows licensed UST removers to conduct the soil and groundwater sampling required as part of an UST closure investigation if they are a certified groundwater professional under 567--Chapter 134, Part A, or if they contract with a certified groundwater professional. The Department feels this is a necessary to ensure reliable soil and groundwater testing occurs as part of the closure process.

PATRICK ROUNDS, from PMMIC, shared with the Commission his concern of their intent to shift the burden to the professionals of the industry. Contractors would be placed in a conflict of interest with their clients. These contractors/professionals are unable to "confirm" a suspected release and that only a scientific laboratory can confirm the suspected release. Patrick was comfortable with the language to report confirmed releases but not the language for suspected releases.

DARREN BINNING, from Seneca Companies submitted the following comments:

Seneca Companies has approximately 11 Iowa Certified Groundwater Professions and completes over 300 UST/LUST related projects on an annual basis. We appreciate the invitation to present more comments regarding the impact of the proposed changes.

The Iowa DNR and industry agreed that, "suspected releases", should only be reported to the owner/operator as currently specified in rule. Once notified of a suspected release,

the owner/operator reviews their leak detection records and other reconcilable data and acts accordingly. If a reportable release has occurred, DNR is notified. Treating a “suspected releases” as a confirmed release negates the owner’s opportunity to personally assess his/her site conditions and equipment.

A “suspected release” is not defined by law or administrative rules. If a “suspected release” is required to be reported to the IDNR, the site of the “suspected release” is typically assigned a LUST number which instigates a Tier I/Tier II assessment or site check to determine if a release has really occurred. Site checks and Tier 1 or Tier 2 assessments costs can be as much as \$10,000 and insurance does not cover assessment costs. UST professionals who determine a site has a “suspected release” could later be sued by the owner/operator if the release is not confirmed.

In addition to the cost of investigating a “suspected release”, the negative image associated with a LUST number, confirmed or not, diminishes the seller’s ability to transfer the property at fair market value. A LUST number, in and of itself, deems the land less valuable even if there was never a confirmed release.

For the reasons stated above, Seneca respectfully requests that the proposed rules refrain from requiring “suspected releases” to be reported to the IDNR in the same manner as confirmed releases. Instead, we prefer that the owner/operator retain the responsibility, as required by law, to maintain environmental compliance records, perform the leak detection, practice good house keeping measures, and report a confirmed release as currently required by law.

Barb Lynch of the IDNR clarified petroleum spills in the monthly reporting are from a variety of sources including above ground tanks, vehicle accidents, etc. and not just underground storage tanks.

Elaine shared the two-year review of 89 reported confirmed releases with 46% reported in closure reports, approximately 2 weeks later than reporting requirement of 24 hours. Additionally 30% releases reported by site investigations arrived at the Department in reports compared to the required 24 hours. Overall, 10% of the confirmed releases were reported in the 24 hour required reporting time. Pat Rounds expressed a different viewpoint for each of the categories of the two-year report.

AL HILLGREN, from Seneca Companies shared that his company holds 30% of the state licensed installers. Al participated in all the stakeholder meetings with Elaine and her team on this rulemaking. Al feels confident with the language for confirmed releases but does have concern for language addressing suspected releases.

JEFF HOVE, from PMCI agrees with all the comments of the presenters before him. He feels placing the professionals in a watchdog or policeman situation is not good. His concern of adding the responsibility of suspected releases to the professionals places them in a position to be

sued. This rulemaking has involved the Department, stakeholders, and industry to present to you an agreed-upon rules package.

ANITA MAHER, from AMC Consulting feels confident with the language for confirmed releases but does have concern for language addressing suspected releases.

TOM DRAUR, from Baker Lamar expressed that his clients shared with him that they would sue and/or withhold fees for services for reporting suspected releases that do not develop into confirmed releases.

JOHN WHEELER, from Des Moines Airport shared his concern for reporting suspected release that are based on mechanical instruments. The onsite professional is most aware of the operating equipment and the “quirks” of the device. Each time the device flashes or makes a noise would be considered a suspected release even when the equipment is falsely indicating concern.

Motion was made by Paul Johnson to approve Final Rule - Chapter 134 – Underground Storage Tank Licensing and Certification Programs as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE – NEW CHAPTER 35 – AIR EMISSIONS REDUCTION ASSISTANCE PROGRAM

Wendy Rains of the Air Quality Bureau presented the following item.

The Department is requesting that the Commission adopt a new Chapter 35 to create a financial assistance program for air quality purposes. This is the final portion of the “double barrel” rulemaking presented at the March meeting.

The federal American Recovery and Reinvestment Act of 2009 (ARRA) appropriated \$300 million dollars to reduce diesel emissions across the country. The State of Iowa received approximately \$1.73 million dollars. The ARRA funds will be distributed to eligible applicants through grants. The ARRA program addresses diesel vehicles and equipment currently used for on-road applications, like buses and heavy duty diesel trucks, and non-road applications, like construction, agriculture, or mining. Eligible projects include engine idling reduction and retrofit technologies, engine replacement, vehicle replacement, and clean diesel emerging technologies. Guidelines for the financial assistance program and application forms are posted at <http://www.iowadnr.gov/air/RIDE/index.html>.

Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on April 8, 2009 as ARC 7678B. The Filed without Notice portion was also published on April 8, 2009 as ARC 7679B and was effective on May 13, 2009.

A public hearing was held on May 11, 2009. The Department did not receive any oral or written comments at the public hearing. The Department did not receive any written comments before the public comment period closed on May 12, 2009.

If the Commission approves the final rules, the final rules will be published in the Iowa Administrative Bulletin on July 15, 2009 and will become effective on August 19, 2009

Motion was made by Susan Heathcote to approve the Final Rule – New Chapter 35 – Air Emissions Reduction Assistance Program as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION – CHAPTER 64 – WASTEWATER CONSTRUCTION AND OPERATION PERMITS, TO INCLUDE WELL CONSTRUCTION AND WELL SERVICE WASTEWATER DISCHARGES

Chuck Corell of the Water Quality Bureau presented the following item.

The Commission is asked to approve the Notice of Intended Action to initiate rulemaking to amend Chapter 64, “Wastewater Construction and Operation Permits.” These proposed rules will amend Chapter 64 to meet the requirements in Iowa Code 455B.198, adopted in 2008. The new rules will allow for the use of a new General Permit to authorize discharge of wastewater generated during well construction and related well service activities. Through the use of best management practices (BMP’s), the new General Permit will require compliance with general water quality criteria and the monitoring of the wastewater effluent to determine sufficiency of the BMP’s. The new General Permit will authorize the Department to take enforcement action against any permittee or co-permittee who fails to establish or maintain the required BMP’s or meet the general water quality criteria.

The following is a summary of the proposed amendments to Chapter 64:

- Exempt the requirement for a DNR operating permit for water well construction and well services-related discharge that does not reach the waters of the United States.
- Require compliance with General Permit #6 for any water well construction and well services-related discharge that reach waters of the United States.
- Exempt water well construction and well services-related discharges which are authorized by General Permit #6 from the requirement of submitting a Notice of Intent.
- Add the ability of the department to suspend or revoke authorization of General Permit #6 if the well construction and well services-related wastewater is not managed in a manner consistent with General Permit #6.
- Establish effective and expiration dates for the General Permit #6.
- Exempt General Permit #6 from the collection of permitting fees.

Stakeholders participated in the development of these proposed rules. The department also plans to hold six public hearings to obtain additional public comment.

Charlotte Hubbell submitted a letter from Charles Becker to be added to public comment as no further objection for this rulemaking. Charles Becker did identify two areas of improvements and Chuck responded that he would add the information to the public comment.

Motion was made by Carrie La Seur to approve the Notice of Intended Action – Chapter 64 – Wastewater Construction and Operation Permits, to include Well Construction and Well Service Wastewater Discharges as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

CLEAN WATER AND DRINKING WATER STATE REVOLVING LOAN FUND – FY 2010 INTENDED USE PLANS

Chuck Corell with the Water Quality Bureau presented the following item.

Commission approval is requested for the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Intended Use Plans (IUPs) for FY 2010. The Iowa SRF continues to grow and expand its role as one of the primary funding sources for water quality and protection of public health. Since 1989, the Iowa SRF has committed almost \$1.2 billion for water and wastewater infrastructure and nonpoint source pollution control.

The Iowa SRF is operated through a coordinated partnership between the Department of Natural Resources (DNR) and the Iowa Finance Authority (IFA). DNR administers the environmental and permitting aspects of the programs, with IFA providing financial assistance including loan approval and disbursements.

During FY 2009, federal stimulus funds through the American Recovery and Reinvestment Act were allocated to Iowa's SRF programs. These funds are treated separately in the IUP supplement on the May 2009 Commission agenda. During the first half of FY 2010, SRF staff will work with the stimulus project applicants to ready them for funding. All stimulus funds must be committed by February 2010.

The FY 2010 IUPs for the base SRF programs include plans of action for the coming year, including goals and objectives, an analysis of current and projected financial capability, financial management strategies, the project priority lists, discussion of set-aside programs and efforts, and planned uses for administrative accounts.

The CWSRF provides low-interest loans for wastewater and storm water infrastructure improvements and nonpoint source water quality projects. Since 1989, the Iowa CWSRF has committed more than \$770 million for wastewater upgrades and \$57 million for non-point source projects. The FY 2010 IUP shows project requests totaling \$584.6 million, including \$29.5 million for non-point source projects. It is anticipated that approximately \$260 million will be disbursed during FY 2010, including the \$53 million from federal stimulus funds.

Since 2000, the DWSRF has committed \$350 million in loans to public water supplies to protect public health and improve infrastructure. The FY 2010 IUP shows funding requests and potential uses totaling \$164 million. It is anticipated that approximately \$123 million will be disbursed during FY 2010, including \$24 million in federal stimulus funds.

The Sources and Uses tables for both CWSRF and DWSRF show that funds are available or obtainable to provide anticipated disbursements. The IUPs will be updated quarterly during FY 2010.

A public meeting was held May 11, 2009 to receive comments on the proposed IUP updates. No oral comments were provided at the hearing. The written comment period closed on May 18, 2009. No written comments were received.

Motion was made by Dale Cochran to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE – CHAPTER 61 – WATER QUALITY STANDARDS (STREAM RECLASSIFICATIONS VIA USE ASSESSMENT AND USE ATTAINABILITY ANALYSES)

Chuck Corell of the Water Quality Bureau presented the following item.
(Partially considered before lunch and concluded in the afternoon)

The Commission will be asked to approve a final rule to amend the state's water quality standards (WQS). The rule amendments, if approved, would:

1. Revise and list approximately 33 river and stream segments as Class A2 Secondary Contact Recreational Use designated waters in the rule-referenced document "Surface Water Classification."
2. Revise and list approximately 83 river and stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."
3. Revise and list four stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-3) Warm Water-Type 3 designated waters in the rule-referenced document "Surface Water Classification."
4. Revise and list six river and stream segments as Class A3 Children's Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."
5. Revise and list 12 river and stream segments as Class A3 Children's Recreational Use designated waters in the rule-referenced document "Surface Water Classification."
6. Revise and list one stream segment as Class HH Human Health designated water in the rule-referenced document "Surface Water Classification."

The concept of Use Assessment and Use Attainability Analysis (UA/UAA) is being applied by the DNR as a step-by-step process to gather site-specific field data on stream features and uses. The DNR then assesses available information to determine if the "presumed" recreational and aquatic life uses are appropriate.

The DNR elected to perform a UA/UAA on any newly designated stream that receives a continuous discharge from a facility with a National Pollutant Discharge Elimination System (NPDES) permit. Prior to issuing a NPDES permit for an affected facility, the DNR must complete a UA/UAA for the receiving stream or stream network. Each use designation revision recommendation proposed in the NOIA has an associated UA/UAA that is available on the department's web site at: <http://programs.iowadnr.gov/uaa/search.aspx>

The adopted amendments have been modified from those published in the NOIA, including specific changes to 2 stream segments. The modifications were made after all comments from the public comment process were considered.

The stream descriptions provided in the preamble are designed to provide clear notice to the public and may be subject to non-substantive corrections to conform to the format used in the stream classification document. The stream classification document now being adopted by reference also contains non-substantive revisions to previously adopted stream designations to correct typographical or descriptive errors. All designations conform to the previously-approved use designations, as amended by the Commission.

The Notice of Intended Action (NOIA) was published in the Iowa Administrative Bulletin on March 11, 2009 as **ARC 7624B**. Six public hearings were held across the state throughout April 2009.

Approximately 247 persons or groups provided oral or written comments on the proposed WQS revisions. A responsiveness summary has been prepared addressing the comments received in terms of the issues involved.

Comments from stakeholder groups and other persons or organizations may be made at the Commission meeting regarding the rule changes. As discussed in the Responsiveness Summary, the Department believes that the rule changes will be protective of water quality and the uses being made of Iowa waters.

Chuck provided a summary of the UAA process including 6 public hearings, 252 written comments submitted of which 206 were a form letter email, EPC approved the protocol, and that EPA has approved 83 from batch 1.

Susan Heathcote expressed concern to approve UAA batch 2 while EPA has not provided support with batch 1. Susan recommended holding off approving batch 2 until EPA approves/disapproves batch 1. Chuck shared that his team is unable to re-do the work due to budgetary constraints.

Gene VerSteege inquired what the consequences would be to delay permit renewals. Chuck shared that the permit would sit in the backlog and pile up with the current approximately 500 permits waiting to be issued and the water quality improvements the permit would require will delay implementation of improvements to the water.

Charlotte Hubbell clarified that batch 1 received over 2000 public comments compared to 252 public comments for batch 2. Although the public comments are fewer, the concern for how depths are measured continues. Chuck shared that EPA is not concerned with how the DNR obtained measurements but rather EPA is concerned with the interpretation of the measurement results.

Charlotte asked for Adam Schnieders to review each of the streams that were expressed in the EPC verbal public comment period. Adam reviewed each of the segments and answered questions of the commission.

Motion was made by Gene VerSteege to approve the NOIA Final Rule – Chapter 61 – Water Quality Standards (Stream Reclassifications via Use Assessment and Use Attainability Analyses). Seconded by Dale Cochran.

Roll call vote went as follows: David Petty – aye; Susan Heathcote – nay; Carrie LaSeur – nay; Gene VerSteege – aye; Marty Stimson – nay; Paul Johnson – nay; Dale Cochran – aye; Charlotte Hubbell – nay. Motion fails.

FAILED

Charlotte expressed her desire for an EPA representative to be present at the July EPC meeting to discuss concerns and consistent application of water quality standards. Charlotte offered a member of the Commission to join Chuck and his team during the EPC meeting to be hosted in early July.

David Petty asked what Chuck and his team are to bring back differently for the July meeting. David continued on that the EPC approved the protocol the Department followed in obtaining their UAA data. Wayne Gieselman shared that EPA does not have a protocol. EPA may clarify and provide guidance but not necessarily change the protocol.

Jon Tack shared the Department will always and continually discuss with the EPA but the only way to obtain formal response from EPA is to submit items. EPA has 60 days to provide approval and 90 days to disapprove.

Motion was made by Marty Stimson (on the winning side of the original vote) to reconsider the motion approving the NOIA Final Rule – Chapter 61 – Water Quality Standards (Stream Reclassifications via Use Assessment and Use Attainability Analyses). Seconded by Paul Johnson. Motion carried unanimously.

RECONSIDER

Charlotte Hubbell recommended removing stream segments commissioners are concerned with, approve the segments with no concerns, and hear the “concerned” segments in July. Adam Schnieders reviewed stream segments the commissioners had questions about including Unnamed and Indian Creek.

Motion was made by David Petty to approve the NOIA Final Rule – Chapter 61 – Water Quality Standards (Stream Reclassifications via Use Assessment and Use Attainability Analyses) as amended with removing 16 segments. Seconded by Dale Cochran. Motion was withdrawn by David Petty.

Charlotte Hubbell asked for commissioners to review stream segments of their concern online and/or communicate with Chuck’s team to answer their questions. Charlotte asked the Department to send information on where and how to access information on stream segments.

Motion was made by Carrie La Sure to table the NOIA Final Rule – Chapter 61 – Water Quality Standards (Stream Reclassifications via Use Assessment and Use Attainability Analyses) until the July 2009 meeting. Seconded by Marty Stimson. Motion carried unanimously.

TABLED

CATHARINE FITZSIMMONS, of the Air Quality Bureau shared information from the recent Des Moines Register articles. Carrie LaSeur inquired about the Department’s proposals for mercury reductions. Catharine shared that there are no current changes. Current rule changes are more procedural compared to sustenance.

NOTICE OF INTENDED ACTION -CHAPTER 65 – CONFINEMENT FEEDING OPERATION APPLICATIONS FOR CONSTRUCTION PERMITS; DEMAND FOR HEARING PROCEDURES

Randy Clark of the Legal Services Bureau presented the following item.

The Commission proposes to amend subrules 65.10(7), 65.10(8) and 65.10(9) related to demand for hearing procedures regarding the Department's preliminary decisions on construction permit applications.

After discussion concerning his written suggestion, Gene VerSteege offered the following modification to the proposed rules as a replacement for the proposed 65.10(9)"a"(7).

Only the reasons and documentation submitted in the demand for hearing shall be considered by the commission as a basis for denial of the construction permit.

Motion was made by Gene VerSteege to approve the proposed amendments to the NOIA Chapter 65 – Confinement Feeding Operation Applications for Construction Permits; Demand for Hearing Procedures. Seconded by David Petty.

Roll call vote went as follows: Susan Heathcote – aye; Marty Stimson – nay; Carrie LaSeur – nay; Paul Johnson – aye; Dale Cochran – aye; David Petty – aye; Gene VerSteege – aye; Charlotte Hubbell – nay. Motion carries.

AMENDMENT APPROVED

The Commission discussed rescinding subrules 65.10(7), 65.10(8) and 65.10(9) and adopting the following new subrules in lieu thereof:

65.10(7) County board of supervisors' demand for hearing.

a. A county board of supervisors that has submitted an adopted recommendation to the department may contest the department's preliminary decision to approve or disapprove an application for permit by filing a written demand for a hearing before the commission. Due to the need for expedited scheduling, the county board of supervisors shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the board intends to file a demand for hearing. The demand for hearing shall be sent to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, and must be postmarked no later than 14 days following the board's receipt of the department's notice of preliminary decision.

b. The demand for hearing shall include a statement setting forth all of the county board of supervisors' reasons why the application for a permit should be approved or disapproved, all supporting documentation, and a further statement indicating whether an oral presentation before the commission is requested.

65.10(8) Applicant's demand for hearing. The applicant may contest the department's preliminary decision to approve or disapprove an application for permit by filing a written demand for a hearing. The applicant may elect, as part of the written demand for hearing, to have the hearing conducted before the commission pursuant to paragraph 65.10(8)"a" or before an administrative law judge pursuant to paragraph 65.10(8)"b." If no such election is made, the demand for hearing shall be considered to be a request for hearing before the commission. If both the applicant and the county board of supervisors are contesting the department's preliminary decision, the applicant may request that the commission conduct the hearing on a consolidated basis.

a. Applicant demand for hearing before the commission. Due to the need for expedited scheduling, the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to file a demand for hearing. The demand for hearing shall be sent to Director, Department of Natural Resources, Henry A Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, postmarked no later than 14 days following the board's receipt of the department's notice of preliminary decision. The demand for hearing shall include a statement setting forth all of the applicant's reasons why the application for permit should be approved or disapproved, all supporting documentation, and a further statement indicating whether an oral presentation before the commission is requested.

b. Applicant contested case appeal before an administrative law judge. The applicant may contest the department's preliminary decision to approve or disapprove an application according to the contested case procedures set forth in 561—Chapter 7; however, if the county board of supervisors has demanded a hearing pursuant to subrule 65.10(7), the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to contest the department's preliminary decision according to contested case procedures. In that event the applicant may request that the hearings be consolidated and conducted as a contested case. It is the responsibility of the applicant to communicate with the department to determine if a county demand for hearing has been filed.

65.10(9) Hearing and decision by the commission.

a. Hearing before the commission.

(1) All hearings before the commission requested pursuant to subrules 65.10(7) and 65.10(8) shall be handled as other agency action and not as a contested case.

(2) Upon receipt of a timely demand for a hearing before the commission pursuant to subrules 65.10(7) and 65.10(8), the director shall set a hearing during a regular meeting of the commission scheduled no more than 35 days from the date the director receives the first such request. However, if the next regular meeting of the commission will take place more than 35 days after receipt of the demand for hearing, the director shall schedule a special in-person meeting or an electronic meeting of the commission pursuant to Iowa Code section 21.8.

(3) No later than 5 days from the date the director receives a demand for hearing, the director shall post on the department's website the demand for hearing and associated documents, letters notifying the parties of the hearing date, and the department's complete file on the application under review. The director shall provide hard copies of these documents to

members of the commission as requested by each member. The director shall contact the applicant and the county board of supervisors and provide copies of documents they request.

(4) No later than 15 days from the date set for hearing, the applicant, the county board of supervisors and the department shall, if any chooses to do so, send, one copy of a brief and any written documents claimed to support their respective positions to the department. The director shall post the briefs and associated written documents on the department's website and provide hard copies to members of commission as requested by each member. No further briefs or documents shall be permitted except upon request and permission of the commission.

(5) The commission shall use the following hearing procedures:

1. All written material accepted by the chairperson of the commission for inclusion in the record at the hearing shall be marked as coming from the person or entity presenting the document.

2. Objections to submitted written material shall be noted for the record.

3. Oral participation before the commission will be limited to time periods specified by the chairperson of the commission and, unless otherwise determined by the commission, to presentations by representatives from the county board of supervisors, the applicant, technical consultants or experts designated by the commission and the department. Representatives of the department shall not advocate for either the county board of supervisors or the applicant but may summarize the basis for the department's preliminary decision and respond to questions by members of the commission.

4. Members of the commission, and the commission's legal counsel, may ask questions of the representatives for the applicant, the county board of supervisors, technical consultants or experts and the department. The members and counsel may also ask questions of any other person or entity appearing at the hearing. No other persons or entities may ask questions of anyone making a presentation or comment at the hearing except upon request and permission by the chairperson of the commission.

(6) The commission shall use the following hearing format:

1. Announcement by the chairperson of the commission of the permit application under review.

2. Receipt into the hearing record of the demand or demands for hearing, a copy of the department's complete file on the application under review and the briefs and written documents previously provided by the applicant and county board of supervisors pursuant to subparagraph 65.10(9)"a"(4).

3. Oral presentation, if any, by the applicant if that party timely requested the hearing. If the applicant did not timely request the hearing, then the county board of supervisors shall make the first presentation.

4. Oral presentation, if any, by the applicant or county board of supervisors, whichever party did not have the opportunity to make the first presentation.

5. Oral presentation, if any, by the department.

6. Oral presentation, if any, by technical consultants or experts designated by the commission to assist in its establishment of a record at the hearing. To the extent possible, the commission shall notify the applicant and the board prior to the hearing of the names, addresses and professional capacity of any such technical experts or consultants..

7. Discussion by the commission, motion and final decision on whether the application for permit is approved or disapproved.

(7) Only the issues submitted by the parties in the demand for hearing and responses shall be considered by the commission as a basis for its decision.

b. Decision by the commission. The decision by the commission shall be stated on the record and shall be final agency action pursuant to Iowa Code chapter 17A. If the commission reverses or modifies the department's decision, the department shall issue the appropriate permit or letter of denial to the applicant. The letter of decision shall contain the reasons for the action regarding the permit.

Motion was made by Marty Stimson to approve the as amended the Notice of Intended Action - Chapter 65 – Confinement Feeding Operation Applications for Construction Permits; Demand for Hearing Procedures as presented. Seconded by Carrie LaSeur. Motion carried unanimously.

APPROVED AS AMENDED

MONTHLY REPORTS

Wayne Gieselman, Division Administrator, Environmental Protection Division, presented the following items.

The following monthly reports are enclosed with the agenda for the Commission's information and have been posted on the DNR website under the appropriate meeting month: <http://www.iowadnr.com/epc/index.html>

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

GENERAL DISCUSSION

Wayne Gieselman gave updates on the following items:

Soil Amendments

IDALS and DNR will be meeting with Cargill on a site visit regarding soil amendments currently being applied in southwest Iowa.

Petitions for Rulemaking

The Department currently has a petition for rulemaking from Iowa Water Agencies related to CAFO locations related to water wells, TMDL impaired watershed, well water monitoring, and other requests. The Department will work closely with the group.

Flood Plain Mapping Event

The Flood Plain program hosted a mapping event to develop a process for mapping our flood plain areas. Stakeholders, industry, county, and federal representatives were in attendance.

Travel Receipt Requirement

Beginning July 1st, all travel reimbursements will require a receipt.

July 14th Joint EPC/NRC Meeting

On July 14th, both commissions will meet for their bi-yearly review at the Wallace State Office Building from 10 a.m. to 3 p.m.

Coal Ash Combustion

The Department is waiting for new rules from EPA before moving forward with state rules.

Susan Heathcote shared information of the EPC subcommittee consisting of Susan Heathcote, Paul Johnson, David Petty, and Gene VerSteege to convene a series of educational forums on the topic of air quality and odor related to livestock manure. The subcommittee will work with on scheduling speakers from educational institutions, industry, county and state government, and others.

Next Meeting Dates

July 21, 2009 – Urbandale

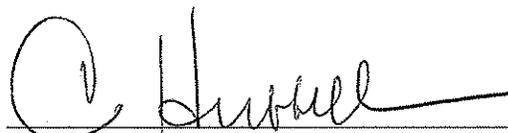
August 18th – Moravia

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Charlotte Hubbell adjourned the meeting at 6:30 p.m., Tuesday, June 16, 2009.



Richard A. Leopold, Director



Charlotte Hubbell, Chair

Environmental Protection Commission Meeting
June 16, 2009
Comments Concerning Use Attainability Analysis

On behalf of the Iowa Environmental Council I would like to provide comments concerning the second batch of UAAs.

First, I would like to recognize and acknowledge the huge investment of time and effort that the DNR has put into gathering the information on these water bodies. It is a big undertaking and I think we all know that this is still a work in progress. I would also like to express our appreciation to the Department for allowing the public to provide input up front, thus making this process smoother and more efficient.

However, The Council continues to have concerns with the Department's determination on the attainable uses of many streams and the seasonality in which the data was gathered, which can have an impact when determining attainable uses.

On May 20, 2009 the Council submitted written comments to the Department outlining our concerns with the determination process. After reviewing the Department's recommendations, it appears that our concerns are not being addressed and we feel there is still a need to highlight specific streams in which primary contact recreation is attainable either due to the depth of the stream or because the stream is canoe-able.

People canoeing a stream have access to the entire stream, including areas where the banks are steep and access from land may not be achievable. These streams have the potential to have deep pools or

swimming holes that are only accessible to those canoeing or tubing. I appreciate that canoeing is not considered a primary contact activity, however, I think we could also agree that people who canoe often swim and float as part of their outing, and these are primary contact activities.

There are several streams in this batch of UAA's that would support these attainable uses for primary contact recreation, but the DNR has proposed to downgrade their level of protection. These include:

Hartgrave Creek in Butler and Franklin Counties, in which an employee with the Franklin County Conservation Board has observed canoeing and kayaking; and an employee with the Butler County Conservation Board mentioned kayaking in the South Fork Park area, especially when flows are elevated and also stated tubing between bridges in the park area may also be taking place;

Mosquito Creek from Pottawattamie to Shelby County, in which many road crossings have protective structures which have created pools deep enough to support swimming;

The West Branch of the Floyd River in Plymouth and Sioux Counties, in which public comments stated that swimming and children's play takes place on the river near the towns of Maurice and Sioux Center. Additionally, a homemade raft was observed by DNR staff near the town of Middleburg;

The lower part of the Platte River in Taylor and Ringgold County, had measured depths able to support primary contact recreation but the stream was estimated to be elevated 10-12 inches due to rainfall events and, after taking into account the elevated flows, the DNR found that the river was not capable of supporting primary contact recreation.

It is my experience that canoers will assess conditions before paddling a stream, and the avid ones know when the conditions are right for paddling. These conditions obviously vary with rain fall and the season. We noted that when the DNR did their site visits, many of the stream depths were adjusted in the field reports to simulate base flow conditions. We feel this practice does not accurately represent the actual attainable use of the stream, when there are times within the recreational season that primary contact recreation can and does occur.

Given that we have not heard back from the EPA relative to protocols used and determinations proposed with the first batch of UAA's, it is difficult to know if the procedures that the Department is using to assess these streams are acceptable to EPA. In our opinion it would be most prudent and provide for the most efficient use of limited DNR staff time, to wait until the EPA has responded to the first batch before we approve a second batch that may not be following acceptable protocol. It is our hope that our concerns can be discussed and that mutually acceptable protocol can be determined. We look forward to continuing to work with the DNR to accomplish this goal.



**SIERRA
CLUB**
FOUNDED 1892

IOWA CHAPTER

June 16, 2009

The DNR originally proposed downgrading 119 stream segments with less protection for primary contact recreation, including swimming, wading, canoeing, kayaking and children's play.

We did send out an action alert asking our members and supporters to comment on this rule package. DNR will tell you this afternoon that it received 252 comments, of which 207 were form letters. Granted, some of our 209 respondents did click send without commenting on a stream segment. Others wrote comments that were not specific to a stream segment. Others did write about specific streams, but may not have been specific to the particular segment in question.

Encouraging comments on specific stream segments was a very tricky task. Most people who recreate on the water are not paying that close of attention to the segments, but the recurring theme in all of our respondents' messages was the same: "We want Iowa's waters protected to the highest standard."

The best analogy I can provide for how tricky this rulemaking was to comment is by using a road analogy. Let's say for example that I want to drive across Keokuk County from What Cheer to Harper. At the intersection of Highway 21 and County road G29, I head east. G29 is full of ruts and potholes with no shoulders from 160th Avenue to 208th Avenue and dangerous to drive. But, as long as I stay in my car and drive slowly I will be safe. Once I get to Highway 149 headed south, the road is perfectly resurfaced and a breeze to drive for the 4 to 5 miles I'm on it. At 200th Street, I turn east. The road has again changed to ruts and potholes with no shoulders between 240th Avenue and 270th Avenue then smooth again the rest of the way into Harper. Unless I'm paying close attention or I know that the stretches of G29 and 200th Street will be unsafe to drive, I am at risk.

If I call the county and report the bad road conditions, am I going to tell them the exact locations? Doubtful. Would the county avoid repairing or maintaining the road because a law enforcement officer had never noticed any traffic on the road? I hope not.

This is the same situation with trying to comment on specific stream segments.

Some of the messages sent to DNR that were considered form letters included comments like the one from Iowa City: "I am concerned that downgrading these streams may result in greater chance of people contracting water-borne diseases." Or this one from Bettendorf: "Considering the risk of potentially fatal bacteria being released by companies, industries, and agriculture, it is

unnecessarily risky and terribly unwise to reduce the level of protection at this time. We want all of our rivers and streams fully protected.” And this one from West Des Moines: “It was not long ago that we almost lost a grandchild who contracted E-coli as a result of playing on vacation at one of Iowa's streams.”

Even the best paddlers can come into to contact with the water in a stream. They can flip a canoe, or need to get into the water to dislodge a beached canoe, or even get into the water to push off their canoe to begin a paddle trip. If they flip a kayak or a canoe, they want to be sure they won't get sick by coming into contact with the water.

The Environmental Protection Agency is looking closely at the previous group of UAA's that was adopted by the Environmental Protection Commission. EPA has expressed valid concerns about the determination on most of those UAA's. The Environmental Protection Commission needs to look closely at this second group of UAA's in light of EPA's concerns.

We strongly encourage you to reconsider DNR's recommendations to downgrade our streams from the A1 protection they all deserve.

Neila Seaman, MPA
Director



Iowa Association of Water Agencies

June 16, 2009

Charlotte Hubbell, Chair
Environmental Protection Commission
2300 Terrace Road
Des Moines, IA 50312

Ed Tormey, Bureau Chief
IDNR-Legal Services
502 E. 9th Street
Des Moines, IA 50319

RE: Proposed amendments to Chapter 65,
Confined Feeding Operation Application for Construction Permits;
Demand for Hearing Procedures.

The proposed amendments to Chapter 65, by the Environmental Protection Commission (EPC) appear to restrict public input and manipulate outcomes by withholding relative scientific and non-scientific information. The public should have the right to present supportive or contrary opinion of public importance and to do so in a respectful environment, and in a manner that is open, honest, and equitable. Ultimately, Commissioners must make decisions that require the use of judgment. Science will improve the chances that judgment's are sound, but they can never replace the need to actually draw conclusions by assessing risks and opportunities; costs and benefits; current vs. future impacts. Comments to specific rule changes are:

65.10 (9) a. (4) *Hearing and Decision by the Commission - Hearing before the Commission*
"... No further briefs or document shall be permitted except upon request of the commission."

65.10 (9) a. (5) 3 *Hearing and Decision by the Commission - Hearing before the Commission*
"Oral participation before the Commission will be limited... to presentations by representatives from the county board of supervisors, the applicant, and the department."

COMMENTS: The proposed rules only allow the county where a facility is being sited to comment and/or make an oral presentation to the Commission. This eliminates anyone downstream of the county where the facility is sited from commenting or presenting evidence pro or con. Drinking water utilities such as the members of IAWA, and others will be unable to provide comments, make an oral presentation, or defend protection of their source water used for drinking water. Source water that is in some cases already designated as impaired; and is becoming more challenging and costly to treat; and which could degrade to a level that potentially threatens the public health of many Iowans. All discussions regarding water quality and quantity issues in Iowa are moving toward holistic watershed based solutions; however the direction of this rulemaking, by only allowing the county where a facility is sited, does not appear to support this more holistic approach.

Drinking water utilities will not be allowed to provide credible water monitoring data which could support or oppose the siting. For example, DMWW and Agriculture's Clean Water Alliance (ACWA) partnership has made the Raccoon River one of the most, if not the most monitored river in Iowa. The data generated provides a scientific view of water quality conditions and trends, but this data will be excluded from consideration based on the process outlined in the proposed rulemaking.

We understand there is concern with regard to the credibility of evidence presented during public comments; but we believe Commissioners could require that all evidence be submitted prior to the EPC meeting in which the hearing is requested. The request could require the name and organization of the entity providing the information, the original source of the information and its relevance to the case. This will allow the Department, county, or applicant the opportunity to respond to the evidence. If the

IAWA Member Utilities - Ankeny, City of - Boone, City of - Burlington Municipal Utilities - Cedar Falls Utilities - Cedar Rapids Water Department - Central Iowa Water Association - Coralville Water Department - Council Bluffs Water Works - Des Moines Water Works - Ft. Dodge Public Works - Ft. Madison Water Department - Iowa City Water Division - Iowa-American Water Company - Keokuk Municipal Water Works - Muscatine Power and Water - Newton Waterworks - Oskaloosa Municipal Water - Ottumwa Water and Hydro - Poweshiek Water Association - Rathbun Regional Water Association - Southern Iowa Rural Water Association - Spencer Municipal Utilities - Urbandale Water Department - Waterloo Water Works - West Des Moines Water Works - Xenia Rural Water

information is found to be false, the person and/or organization should expect some type of consequence.

As long as the Department is not assessing potential impacts of a facility on water resources designated as a drinking water source, it is up to the utilities and citizens of Iowa to do so. I understand the emotions and passions of some presenters, but without the public participation we are ignoring the right to a democratic process in which all sides are heard. Our customers are relying on us to protect their source of drinking water. It is imperative that we not be locked out of the process. We look forward to working with Commissioners on this process and appreciate the opportunity to share our concerns.

Respectfully,

A handwritten signature in cursive script that reads "Linda Kinman". The signature is written in black ink and is positioned above the typed name.

Linda Kinman
Executive Director-Public Policy

Comments to the Environmental Policy Commission June 16, 2009

Good morning. I am Jack Clark, Vice President of the Iowa Utility Association, a trade association representing investor-owned electric and natural gas utilities with facilities in Iowa.

Our members include the electric generating and distribution companies of Alliant Energy and MidAmerican Energy. Both of those companies have a long history of working with the DNR staff to develop approved beneficial uses of coal combustion by-products and permitted sites for the storage of coal combustion by-products.

On behalf of our members, we welcome the opportunity to participate in the discussion of beneficial uses and material management of coal combustion by-products in Iowa as the federal EPA simultaneously considers further regulatory action in this area.

Iowa's regulatory compliance framework for beneficial uses of coal combustion by-products exceeds that of most other states. The DNR's efforts in development of reasonable rules based on sound scientific fact are impressive. Those efforts have provided important approved beneficial uses for coal combustion by-products significantly reducing the amount of material that otherwise may have ultimately ended up in Iowa's landfills.

We support the Department's position set forth in a March 19, 2009 letter from the DNR to the EPA regarding the classification of all coal combustion by-products as solid waste as defined under RCRA and encourages prudent beneficial uses of coal combustion by-products in our state.

We see on the Agenda that the Commissioners will receive a Coal Ash Presentation by Ms. Donna Wong-Gibbons of the environmental group, Plains Justice. We would encourage you to solicit comments from the DNR staff regarding their high quality program, current regulations and proposed federal rulemaking by EPA. We would also encourage you to invite presentations from other segments of our community so as to ensure a fair and balanced discussion of factual information.

Thank you for your consideration of these comments.

D

June 16, 2009

RE: Comments for Amendment to Rule 567 IAC Chapter 134. UST Licensing and Certification Programs

TO: Members of the Environmental Protection Commission

Seneca Companies has approximately 11 Iowa Certified Groundwater Professionals and completes over 300 UST/LUST related projects on an annual basis. We appreciate the invitation to present more comments regarding the impact of the proposed changes.

The Iowa DNR and industry agreed that, "suspected releases", should only be reported to the owner/operator as currently specified in rule. Once notified of a suspected release, the owner/operator reviews their leak detection records and other reconcilable data and acts accordingly. If a reportable release has occurred, DNR is notified. Treating a "suspected release" as a confirmed release negates the owner's opportunity to personally assess his/her site conditions and equipment.

A "suspected release" is not defined by law or administrative rules. If a "suspected release" is required to be reported to the IDNR, the site of the "suspected release" is typically assigned a LUST number which instigates a Tier I/Tier II assessment or site check to determine if a release has really occurred. Site checks and Tier 1 or Tier 2 assessments costs can be as much as \$10,000 and insurance does not cover assessment costs. UST professionals who determine a site has a "suspected release" could later be sued by the owner/operator if the release is not confirmed.

In addition to the cost of investigating a "suspected release", the negative image associated with a LUST number, confirmed or not, diminishes the seller's ability to transfer the property at fair market value. A LUST number, in and of itself, deems the land less valuable even if there was never a confirmed release.

For the reasons stated above, Seneca respectfully requests that the proposed rules refrain from requiring "suspected releases" to be reported to the IDNR in the same manner as confirmed releases. Instead, we prefer that the owner/operator retain the responsibility, as required by law, to maintain environmental compliance records, perform the leak detection, practice good house keeping measures, and report a confirmed release as currently required by law.

Chuck Corell
#5

UAUAA Batch #2 Summary

Stream Name	Basin	Rulemaking (Y/N)	Recreational Use Designations				Aquatic Life Use Designations		
			Stream Segment Length (miles)	Current Use Designation	Recommended Use Designation	Aquatic Stream Segment Length (miles)	Current Use Designation	Recommended Use Designation	
1 Apple Creek (Linn Co.)	Iowa-Cedar	Y	1.00	A1	A2	1	B(WW-1)	B(WW-2)	
2 Ballard Creek (Story Co.)	Skunk	Y	1.45	A1	A3				
3 Ballard Creek (Story Co.)	Skunk	Y	3.30	A1	A2				
4 Barlene Creek (Lee Co.)	Des Moines	Y	6.08	A1	A2	6.08	B(WW-1)	B(WW-3)	
5 Barlene Creek (Lee Co.)	Des Moines	N	2.13	No Rec Use	No Rec Use	2.13	General Use	General Use	
6 Bear Creek (Wapello Co.)	Des Moines	N	0.56	A1	A1	0.56	B(WW-1)	B(WW-1)	
7 Bear Creek (Wapello Co.)	Des Moines	Y	2.61	A1	A2	2.61	B(WW-1)	B(WW-2)	
8 Big Bear Creek (Poweshiek/Iowa Co.)	Iowa-Cedar	Y	2.04	A1	A3				
9 Big Bear Creek (Poweshiek/Iowa Co.)	Iowa-Cedar	Y	16.17	A1	A2				
10 Black Hawk Creek (Black Hawk/Grundy Co.)	Iowa-Cedar	Y	24.50	A1	A3				
11 Black Hawk Creek (Black Hawk/Grundy Co.)	Iowa-Cedar	Y	12.00	A1	A2				
12 Blue Creek (Benton/Linn Co.)	Iowa-Cedar	Y	6.33	A1	A2	5.1	B(WW-1)	B(WW-2)	
13 Brewers Creek (Hamilton Co.)	Des Moines	Y	1.54	A1	A3	5.03	B(WW-1)	B(WW-2)	
14 Brewers Creek (Hamilton Co.)	Des Moines	Y	3.49	A1	A2		B(WW-1)	B(WW-2)	
15 Brush Creek (Marshall Co.)	Iowa-Cedar	Y	7.86	A1	A2	4.81	B(WW-1)	B(WW-2)	
16 Bulger Creek (Dallas Co.)	Des Moines	Y	2.67	A1	A2	2.67	B(WW-1)	B(WW-2)	
17 Burr Oak Creek (Jefferson Co.)	Skunk	Y	5.92	A1	A2	5.98	B(WW-1)	B(WW-2)	
18 Clear Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	1.61	A1	A2	1.61	B(WW-1)	B(WW-2)	
19 Crooked Creek (Cedar Co.)	Iowa-Cedar	N	0.11	A1	A1	0.11	B(WW-1)	B(WW-1)	
20 Crooked Creek (Cedar Co.)	Iowa-Cedar	Y	11.07	A1	A2	11.07	B(WW-1)	B(WW-2)	
21 Crow Creek (Jefferson Co.)	Skunk	Y	3.10	A1	A3	3.1	B(WW-1)	B(WW-2)	
22 Deep Creek (Plymouth Co.)	Western	Y	8.39	A1	A2				
23 Deep Creek (Plymouth Co.)	Western	N	0.69	A1	A1				
24 Deep Creek (Plymouth Co.)	Western	Y	9.42	A1	A2				
25 Drainage Ditch #13 (Hancock Co.)	Des Moines	Y	7.44	A1	A2	7.69	B(WW-1)	B(WW-2)	
26 Drainage Ditch #4 (Wright Co.)	Des Moines	Y	2.47	A1	A2	2.47	B(WW-1)	B(WW-2)	
27 Drainage Ditch #81 (Hancock Co.)	Iowa-Cedar	Y	1.80	A1	A2	1.8	B(WW-1)	B(WW-2)	
28 Dry Creek (Benton/Linn Co.)	Iowa-Cedar	Y	6.13	A1	A2		B(WW-1)	B(WW-2)	
29 Dry Creek (Linn Co.)	Iowa-Cedar	Y	1.17	A1	A3	7.3	B(WW-1)	B(WW-2)	
30 East Branch Blue Creek (Lin Co.)	Iowa-Cedar	Y	1.13	A1	A2	1.13	B(WW-1)	B(WW-2)	
31 East Nodaway River	Southern	Y	35.04	A1	A2				
32 Elk Run (Black Hawk Co.)	Iowa-Cedar	Y	2.06	A1	A3				
33 Elk Run (Black Hawk Co.)	Iowa-Cedar	Y	0.83	A1	A2				
34 Flint Creek (Des Moines Co.)	Iowa-Cedar	N	6.14	A1	A1				
35 Flint Creek (Des Moines Co.)	Iowa-Cedar	Y	15.16	A1	A2				
36 Fourmile Creek (Kossuth Co.)	Des Moines	Y	10.70	A1	A2	10.7	B(WW-1)	B(WW-2)	
37 Fourmile Creek (Union Co.)	Southern	Y	5.18	A1	A2	1.25	B(WW-1)	B(WW-2)	
38 Fudge Creek (Wapello Co.)	Des Moines	Y	1.14	A1	A2	1.14	B(WW-1)	B(WW-2)	
39 Granger Creek (Dubuque Co.)	Northeast	Y	7.10	A1	A2				
40 Hartgrave Creek (Franklin/Butler Co.)	Iowa-Cedar	Y	12.20	A1	A2				
41 Hawkeye Creek (Des Moines Co.)	Iowa-Cedar	Y	10.85	A1	A2	10.85	B(WW-1)	B(WW-2)	
42 Hawkeye-Dolbe Diversion Channel (Des Moines Co.)	Iowa-Cedar	Y	2.97	A1	A2	2.97	B(WW-1)	B(WW-2)	
43 Honey Creek (Delaware Co.)	Northeast	Y	13.70	A1	A2	4.8	B(WW-1)	B(WW-2)	
44 Indian Creek (Audobon/Shelby/Cass Co.)	Southern	Y	25.65	A1	A2	3.44	B(WW-1)	B(WW-2)	
45 Indian Creek (Linn Co.)	Iowa-Cedar	Y	17.40	A1	A3				
46 Indian Creek (Sac Co.)	Des Moines	Y	8.14	A1	A2				
47 Indian Creek (Sioux Co.)	Western	Y	15.76	A1	A2	6.33	B(WW-1)	B(WW-2)	
48 Indian Creek (Tama Co.)	Iowa-Cedar	Y	0.30	A1	A2	0.3	B(WW-1)	B(WW-2)	
49 Little Bear Creek (Poweshiek Co.)	Iowa-Cedar	Y	17.55	A1	A2				
50 Little Cedar River (Chickasaw/Floyd/Mitchell Co.)	Iowa-Cedar	N	60.80	A1	A1				
51 Little Cedar River (Mitchell Co.)	Iowa-Cedar	Y	8.04	A1	A2				
52 Little Flint Creek (Des Moines Co.)	Iowa-Cedar	Y	2.98	A1	A2	2.98	B(WW-1)	B(WW-2)	
53 Little Maquoketa River (Dubuque Co.)	Northeast	N	15.43	A1	A1				
54 Little Maquoketa River (Dubuque Co.)	Northeast	Y	13.37	A1	A2				
55 Little Walnut Creek (Appanoose Co.)	Southern	Y	18.30	A1	A2	6.67	B(WW-1)	B(WW-3)	
56 Lutes Creek (Marshall Co.)	Iowa-Cedar	Y	2.25	A1	A2	2.25	B(WW-1)	B(WW-2)	
57 Marvel Creek (Adair Co.)	Southern	Y	8.22	A1	A2	8.22	B(WW-1)	B(WW-2)	
58 Milford Creek (Dickinson Co.)	Western	Y	6.50			6.5		HH	
59 Mitchell Creek (Jefferson Co.)	Skunk	Y	6.32	A1	A2	6.32	B(WW-1)	B(WW-2)	
60 Mosquito Creek (Pottawattamie Co.)	Western	N	6.49	A1	A1				
61 Mosquito Creek (Pottawattamie Co.)	Western	Y	3.13	A1	A3				
62 Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)	Western	Y	30.70	A1	A2				
63 Mosquito Creek (Shelby Co.)	Western	N	0.08	A1	A1				
64 Mosquito Creek (Shelby Co.)	Western	Y	7.41	A1	A2	1.1	B(WW-1)	B(WW-2)	
65 Mud Creek (Benton Co.)	Iowa-Cedar	Y	0.81	A1	A2				
66 Mud Creek (Polk Co.)	Des Moines	Y	19.81	A1	A2				
67 Murray Creek (O'Brien Co.)	Western	Y	6.50	A1	A2	6.5	B(WW-1)	B(WW-2)	
68 Neola Creek (Pottawattamie Co.)	Western	Y	0.34	A1	A2	0.34	B(WW-1)	B(WW-2)	
69 North Timber Creek (Marshall Co.)	Iowa-Cedar	Y	22.05	A1	A2	8.31	B(WW-1)	B(WW-2)	
70 Orange City Slough (Sioux Co.)	Western	Y	8.40	A1	A2	8.4	B(WW-1)	B(WW-2)	
71 Otter Creek (Franklin Co.)	Iowa-Cedar	Y	7.06	A1	A2				
72 Otter Creek (Franklin Co.)	Iowa-Cedar	Y	0.52	A1	A3				
73 Otter Creek (Franklin Co.)	Iowa-Cedar	Y	4.81	A1	A2				
74 Platte River	Southern	Y	41.02	A1	A2	1.6	B(WW-1)	B(WW-2)	
75 Plum Creek (Delaware Co.)	Northeast	Y	18.38	A1	A2				
76 Plum Creek (Delaware Co.)	Northeast	Y	0.63	A1	A3				
77 Plum Creek (Delaware Co.)	Northeast	Y	31.28	A1	A2	3.75	B(WW-1)	B(WW-2)	

UAA/UA Batch #2 Summary

78	Plum Creek (Delaware Co.)	Northeast	N	0.27	No Rec Use	No Rec Use	0.27	General Use	General Use
79	Sewer Creek (Jasper Co.)	Skunk	Y	5.64	A1	A2	5.64	B(WW-1)	B(WW-2)
80	Shoal Creek (Appanoose Co.)	Southern	Y	23.14	A1	A2			
81	Sixmile Creek (Sioux Co.)	Western	Y	29.13	A1	A2	7.93	B(WW-1)	B(WW-2)
82	Snipa Creek (Marshall Co.)	Iowa-Cedar	Y	2.84	A1	A2	2.84	B(WW-1)	B(WW-2)
83	South Timber Creek (Marshall Co.)	Iowa-Cedar	Y	12.60	A1	A2			
84	Spring Creek (Franklin Co.)	Iowa-Cedar	Y	6.89	A1	A2			
85	Spring Creek (Franklin Co.)	Iowa-Cedar	Y	0.33	A1	A3			
86	Spring Creek (Franklin Co.)	Iowa-Cedar	Y	2.58	A1	A2			
87	Squaw Creek (Franklin Co.)	Iowa-Cedar	Y	9.29	A1	A2			
88	Squaw Creek (Franklin Co.)	Iowa-Cedar	Y	2.61	A1	A3			
89	Squaw Creek (Linn Co.)	Iowa-Cedar	Y	1.61	A1	A2			
90	Stony Creek (Clay Co.)	Western	Y	1.35	A1	A2			
91	Sugar Creek (Keokuk Co.)	Skunk	Y	1.70	A1	A2	1.7	B(WW-1)	B(WW-2)
92	Thompson River	Southern	Y	28.70	A1	A2			
93	Timber Creek (Marshall Co.)	Iowa-Cedar	Y	4.50	A1	A2			
94	Twelvemile Creek (Union Co.)	Southern	Y	21.25	A1	A2	11.36	B(WW-1)	B(WW-2)
95	Unnamed Creek (#1) (BP Products Ottumwa Terminal)	Des Moines	N	0.27	No Rec Use	No Rec Use	0.27	General Use	General Use
96	Unnamed Creek (#1) (City of Atkins)	Iowa-Cedar	Y	0.39	A1	A2	0.39	B(WW-1)	B(WW-2)
97	Unnamed Creek (#1) (City of Brighton)	Skunk	Y	0.16	A1	A2	0.16	B(WW-1)	B(WW-2)
98	Unnamed Creek (#1) (City of Cincinnati)	Southern	N	0.01	No Rec Use	No Rec Use	0.014	General Use	General Use
99	Unnamed Creek (#1) (City of Creston WTP)	Southern	N	0.05	No Rec Use	No Rec Use	0.05	General Use	General Use
100	Unnamed Creek (#1) (City of Elkhart)	Skunk	Y	0.41	A1	A2	0.41	B(WW-1)	B(WW-2)
101	Unnamed Creek (#1) (City of Middletown)	Iowa-Cedar	N	0.70	No Rec Use	No Rec Use	0.7	General Use	General Use
102	Unnamed Creek (#1) (City of Milo)	Des Moines	Y	2.38	A1	A2	2.38	B(WW-1)	B(WW-3)
103	Unnamed Creek (#1) (City of Thayer)	Southern	N	1.46	No Rec Use	No Rec Use	1.46	General Use	General Use
104	Unnamed Creek (#1) (HWH Company)	Iowa-Cedar	Y	0.47	A1	A2	0.47	B(WW-1)	B(WW-2)
105	Unnamed Creek (#1) (HWH Company)	Iowa-Cedar	N	0.49	No Rec Use	No Rec Use	0.49	General Use	General Use
106	Unnamed Creek (#1) (Lakewood Estates MHP)	Northeast	Y	3.10	A1	A2	3.1	B(WW-1)	B(WW-2)
107	Unnamed Creek (#1) (Little Sioux Corn Processing)	Western	Y	2.00	A1	A2	2	B(WW-1)	B(WW-2)
108	Unnamed Creek (#1) (Missouri Valley Energy - Extra)	Western	Y	0.32	A1	A2	0.32	B(WW-1)	B(WW-2)
109	Unnamed Creek (#1) (Missouri Valley Energy - Extra)	Western	N	0.02	A1	A1	0.02	B(WW-1)	B(WW-2)
110	Unnamed Creek (#1) (Missouri Valley Energy - Extra)	Western	Y	0.29	A1	A2	0.29	B(WW-1)	B(WW-2)
111	Unnamed Creek (#1) (Siouxland Energy)	Western	Y	1.40	A1	A2	1.4	B(WW-1)	B(WW-2)
112	Unnamed Creek (#1) (Southdale Addition)	Des Moines	N	0.17	No Rec Use	No Rec Use	0.17	General Use	General Use
113	Unnamed Creek (#2) (BP Products Ottumwa Terminal)	Des Moines	N	0.46	No Rec Use	No Rec Use	0.46	General Use	General Use
114	Unnamed Creek (#2) (City of Atkins)	Iowa-Cedar	Y	0.95	A1	A2	0.95	B(WW-1)	B(WW-2)
115	Unnamed Creek (#2) (City of Brighton)	Skunk	Y	2.68	A1	A2	2.68	B(WW-1)	B(WW-2)
116	Unnamed Creek (#2) (City of Cincinnati)	Southern	Y	4.06	A1	A2	4.06	B(WW-1)	B(WW-2)
117	Unnamed Creek (#2) (City of Creston WTP)	Southern	N	3.45	No Rec Use	No Rec Use	3.45	General Use	General Use
118	Unnamed Creek (#2) (City of Elkhart)	Skunk	N	1.68	No Rec Use	No Rec Use	1.68	General Use	General Use
119	Unnamed Creek (#2) (City of Elkhart)	Skunk	Y	0.89	A1	A2	0.89	B(WW-1)	B(WW-2)
120	Unnamed Creek (#2) (City of Hedrick)	Skunk	Y	1.42	A1	A2	1.42	B(WW-1)	B(WW-2)
121	Unnamed Creek (#2) (City of Middletown)	Iowa-Cedar	Y	2.30	A1	A2	2.3	B(WW-1)	B(WW-2)
122	Unnamed Creek (#2) (City of Milo)	Des Moines	Y	1.38	A1	A2	1.38	B(WW-1)	B(WW-2)
123	Unnamed Creek (#2) (IDOT Maintenance Garage Tipton)	Iowa-Cedar	N	0.10	No Rec Use	No Rec Use	0.1	General Use	General Use
124	Unnamed Creek (#2) (Little Sioux Corn Processing)	Western	N	0.38	No Rec Use	No Rec Use	0.38	General Use	General Use
125	Unnamed Creek (#2) (Missouri Valley Energy - Extra)	Western	N	0.37	No Rec Use	No Rec Use	0.37	General Use	General Use
126	Unnamed Creek (#2) (Oak Hills Subdivision)	Iowa-Cedar	Y	1.47	A1	A2	1.47	B(WW-1)	B(WW-2)
127	Unnamed Creek (#2) (Siouxland Energy)	Western	N	0.15	No Rec Use	No Rec Use	0.15	General Use	General Use
128	Unnamed Creek (#2) (Southdale Addition)	Des Moines	N	1.00	No Rec Use	No Rec Use	1	General Use	General Use
129	Unnamed Creek (#2) (West Kimberly MHP)	Northeast	N	1.02	No Rec Use	No Rec Use	1.02	General Use	General Use
130	Unnamed Creek (#2a) (Lakewood Estates MHP)	Northeast	N	0.27	No Rec Use	No Rec Use	0.27	General Use	General Use
131	Unnamed Creek (#3) (City of Milo)	Des Moines	N	0.11	No Rec Use	No Rec Use	0.11	General Use	General Use
132	Unnamed Creek (#3) (UP Electronics)	Iowa-Cedar	N	0.13	No Rec Use	No Rec Use	0.13	General Use	General Use
133	Unnamed Creek (Ajinomoto USA)	Des Moines	N	0.51	No Rec Use	No Rec Use	0.51	General Use	General Use
134	Unnamed Creek (aka Johnson's Creek)	Western	Y	0.45	A1	A2	0.45	B(WW-1)	B(WW-2)
135	Unnamed Creek (BP Products Cedar Rapids)	Iowa-Cedar	N	0.80	No Rec Use	No Rec Use	0.8	General Use	General Use
136	Unnamed Creek (Bulk Petroleum)	Iowa-Cedar	N	0.62	No Rec Use	No Rec Use	0.62	General Use	General Use
137	Unnamed Creek (Bulk Petroleum)	Iowa-Cedar	Y	0.47	A1	A2	0.47	B(WW-1)	B(WW-2)
138	Unnamed Creek (Chanland-PVS Company)	Des Moines	Y	0.41	A1	A2	0.41	B(WW-1)	B(WW-2)
139	Unnamed Creek (City of Bondurant)	Des Moines	N	0.09	No Rec Use	No Rec Use	0.09	General Use	General Use
140	Unnamed Creek (City of Carroll)	Des Moines	Y	0.71	A1	A2			
141	Unnamed Creek (City of Creston WWTP)	Southern	Y	0.28	A1	A2	0.38	B(WW-1)	B(WW-2)
142	Unnamed Creek (City of Denmark)	Skunk	N	3.27	No Rec Use	No Rec Use	3.27	General Use	General Use
143	Unnamed Creek (City of Earlville)	Northeast	Y	0.66	A1	A2	0.66	B(WW-1)	B(WW-2)
144	Unnamed Creek (City of Gilman)	Iowa-Cedar	N	0.62	No Rec Use	No Rec Use	0.62	General Use	General Use
145	Unnamed Creek (City of Greenfield)	Southern	N	0.02	No Rec Use	No Rec Use	0.02	General Use	General Use
146	Unnamed Creek (City of Hedrick)	Skunk	Y	0.49	A1	A2	0.49	B(WW-1)	B(WW-2)
147	Unnamed Creek (City of Hills)	Iowa-Cedar	Y	1.01	A1	A2	1.01	B(WW-1)	B(WW-2)
148	Unnamed Creek (City of Hospers)	Western	N	0.77	No Rec Use	No Rec Use	0.77	General Use	General Use
149	Unnamed Creek (City of Huxley)	Skunk	Y	0.54	A1	A2	0.54	B(WW-1)	B(WW-2)
150	Unnamed Creek (City of Laurel)	Iowa-Cedar	N	0.38	No Rec Use	No Rec Use	0.38	General Use	General Use
151	Unnamed Creek (City of Malvern)	Southern	Y	0.86	A1	A2	0.86	B(WW-1)	B(WW-2)
152	Unnamed Creek (City of Remsen)	Western	Y	0.42	A1	A2	0.42	B(WW-1)	B(WW-2)
153	Unnamed Creek (City of Sioux Center)	Western	Y	1.45	A1	A2	1.45	B(WW-1)	B(WW-2)
154	Unnamed Creek (City of Sully)	Skunk	Y	1.99	A1	A2	1.99	B(WW-1)	B(WW-2)
155	Unnamed Creek (Corn Belt Power)(AKA Bull Ditch)	Western	Y	1.20	A1	A2	1.2	B(WW-1)	B(WW-2)
156	Unnamed Creek (DNR Viking Lake)	Southern	Y	2.42	A1	A2	2.42	B(WW-1)	B(WW-2)
157	Unnamed Creek (DNR Viking Lake)	Southern	N	0.23	No Rec Use	No Rec Use	0.23	General Use	General Use

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158	Unnamed Creek (Echo Valley MHP #2)	Iowa-Cedar	Y	0.09	A1	A2	0.09	B(WW-1)	B(WW-2)
159	Unnamed Creek (Ecosystems Inc.)	Des Moines	Y	0.75	A1	A2	0.75	B(WW-1)	B(WW-2)
160	Unnamed Creek (Gold Key Motel)	Iowa-Cedar	N	1.01	No Rec Use	No Rec Use	1.01	General Use	General Use
161	Unnamed Creek (Hancor Inc.)	Northeast	N	0.56	No Rec Use	No Rec Use	0.56	General Use	General Use
162	Unnamed Creek (Heartland Lysine)	Des Moines	Y	0.70	A1	A2	0.7	B(WW-1)	B(WW-2)
163	Unnamed Creek (IAAP)	Skunk	Y	0.63	A1	A2	0.63	B(WW-1)	B(WW-3)
164	Unnamed Creek (IAAP)	Skunk	N	0.85	No Rec Use	No Rec Use	0.85	General Use	General Use
165	Unnamed Creek (IAMU)	Des Moines	Y	2.72	A1	A2	2.72	B(WW-1)	B(WW-2)
166	Unnamed Creek (John Deere Davenport Works)	Northeast	Y	4.20	A1	A3	4.2	B(WW-1)	B(WW-2)
167	Unnamed Creek (John Deere Engineering Center)	Iowa-Cedar	Y	0.73	A1	A2	0.73	B(WW-1)	B(WW-2)
168	Unnamed Creek (Jolly Roger Campground)	Iowa-Cedar	N	0.11	No Rec Use	No Rec Use	0.11	General Use	General Use
169	Unnamed Creek (Magellan Pipeline - Johnson Co.)	Iowa-Cedar	Y	0.60	A1	A3	0.6	B(WW-1)	B(WW-2)
170	Unnamed Creek (McCreary Community Building)	Des Moines	Y	0.58	A1	A2	0.58	B(WW-1)	B(WW-2)
171	Unnamed Creek (Murphy Farms)	Des Moines	N	0.63	No Rec Use	No Rec Use	0.63	General Use	General Use
172	Unnamed Creek (Siouxprme Packing)	Western	Y	2.90	A1	A2	2.9	B(WW-1)	B(WW-2)
173	Unnamed Creek (Stacyville COOP Creamery)	Iowa-Cedar	Y	0.04	A1	A2	0.04	B(WW-1)	B(WW-2)
174	Unnamed Creek (Tri-Center Community School)	Western	Y	0.97	A1	A2	0.97	B(WW-1)	B(WW-2)
175	Unnamed Creek (Van Diest Supply)	Des Moines	N	2.45	No Rec Use	No Rec Use	2.45	General Use	General Use
176	Unnamed Creek (Wells Dairy - North Plant)	Western	Y	0.21	A1	A3	0.21	B(WW-1)	B(WW-2)
177	Unnamed Creek (Wells Dairy Mill Plant)	Western	Y	0.02	A1	A2	0.02	B(WW-1)	B(WW-2)
178	Walnut Creek (Appanoose Co.)	Southern	N	0.33	A1	A1			
179	Walnut Creek (Jefferson Co.)	Skunk	N	1.08	A1	A1	1.08	B(WW-1)	B(WW-1)
180	Waterman Creek (O'Brien Co.)	Western	Y	1.20	A1	A2			
181	Waugh Branch (Keokuk Co.)	Skunk	Y	1.80	A1	A2	1.8	B(WW-1)	B(WW-2)
182	West Branch Blue Creek (Benton Co.)	Iowa-Cedar	Y	3.23	A1	A2	3.23	B(WW-1)	B(WW-2)
183	West Branch Floyd River	Western	Y	53.30	A1	A2	5.7	B(WW-1)	B(WW-2)
184	West Fork Cedar River	Iowa-Cedar	N	31.45	A1	A1			
185	Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	3.60	A1	A3			
186	Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	2.57	A1	A2			
187	Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	0.28	A1	A3			
188	Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	4.91	A1	A2			
		Yes	139						
		No	49						

UA/UAA Batch #2 Summary Table

	Miles	% of assessed stream miles	Segment Count
Recreational Use Mileage Breakdown			
A1 Miles	123.18	11.71%	12
A2 Miles	625.00	78.45%	120
A3 Miles	69.37	6.60%	18
No Rec Use Miles	27.59	2.82%	37
Total	1051.64		187
Aquatic Life Use Mileage Breakdown			
B(WW-1)	1.75	0.59%	3
B(WW-2)	246.09	82.67%	90
B(WW-3)	15.76	5.29%	4
General Use	27.59	9.27%	37
Total	297.69		134

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BELIN LAMSON McCORMICK ZUMBACH FLYNN
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June 8, 2009

Charles Corell
Iowa Department of Natural Resources
Wallace State Office Building
502 E. 9th Street
Des Moines, Iowa 50319-0034

Re: Well Construction and Well Service Wastewater Discharge Rule

Dear Mr. Corell:

The Iowa Water Well Association has reviewed the Department's Proposed Rule which they understand will be considered by the Iowa Environmental Protection Commission at its meeting in June. In anticipation of that meeting, the Association has asked me to provide you with its written comments regarding the Draft Proposed Rule and General Permit No. 6 for consideration by you and the Commission.

As you know, the primary concern which the Association has is with the provision of General Permit No. 6 at Part II(C) requiring full compliance with 567 I.A.C. 61.3(2). The Association believes that this is unreasonable in light of the physical process which is required when constructing and developing a well. However, the Association understands the difficulties with seeking the EPA's approval that would be necessary to modify this provision. It is, therefore, not going to raise any further objection to its inclusion. It is imperative, however, that the Department understands that if this provision is to stand, it must be uniformly enforced. Over the past two years, the Association has continually stated that one of the most important outcomes of the rule making process is that the rules must be applied uniformly to all drillers so that no one would gain a competitive advantage. The Department should take the necessary steps to ensure that the playing field is level.

The Association would like the Department and the EPC to understand that it has made tremendous strides in the last two years in reducing the wastewater discharge from well drilling activities by lowering Ntu readings from 2,500 to 250. These reductions come at substantial

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costs. As with many other environmental processes, addressing the final 10% reduction is significantly more expensive. The Association does not object to implementing those measures, so long as the Department can ensure that the same rules will be enforced against all drillers everywhere in the state.

The Association also believes that it is critical that engineers be involved with regard to public wells, and that they be required to identify the Best Management Practices in the specifications for a particular public well prior to the bid process so that all of the drillers are fully aware of the requirements and can competitively bid on the project. In that regard, the Association would ask that there be a clarification made to the first sentence of Part III. That sentence provides as follows:

A site-specific Well Water Pollution Prevention Plan ("WWPPP") shall be developed or obtained by the permittee prior to commencement of well construction or service activities; plans for public water supply wells must be developed prior to getting bids for the construction project.

The Association requests that the term "plans" found immediately after the semicolon in the sentence be replaced with the term "WWPPPs" to clarify that the WWPPP should be made available as part of the bidding process.

Finally, the second sentence of Part III states: "WWPPPs shall be prepared in accordance with good engineering practices." The Association requests that this sentence be combined with the sentence that precedes it so that the sentence reads:

A site-specific Well Water Pollution Prevention Plan ("WWPPP") shall be developed or obtained by the permittee prior to commencement of well construction or service activities; WWPPPs for public water supply wells must be developed prior to getting bids for the construction project and such WWPPPs shall be prepared in accordance with good engineering practices.

By combining the sentences it will be clear that smaller, private wells will not require an engineer to develop a WWPPP, which would be prohibitively expensive and unnecessary.

The Association appreciates the opportunity to comment on the Proposed Rule and General Permit No. 6, and its members look forward to working with the Department to be sure that wells

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can continue to be drilled in Iowa while protecting the water quality of the State of Iowa.

Sincerely,

A handwritten signature in cursive script that reads "Charles Becker".

Charles F. Becker
For the Firm

CFB/sw

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Public Health Risks of Coal Combustion Waste

What is coal combustion waste?

Coal combustion waste (CCW) refers to the by-products generated from coal for energy production. It consists primarily of coal ash, which is residue left once the coal has burned, and other substances removed during the filtration process for air pollution control.

Who regulates CCW disposal?

At present, there is no federal regulation regarding disposal or dumping of CCW in spite of a recently released report from the Environmental Protection Agency (EPA) indicating greatly elevated health risks for cancer and other conditions for people living near CCW disposal sites. Instead, states have been permitted to set their own regulations. In Iowa, regulation is handled by the Department of Natural Resources (DNR).

What is in CCW?

CCW contains many of the same components as coal, including arsenic, cadmium, lead, mercury, and other chemicals; but the levels of these chemicals is higher than in raw coal because CCW is more concentrated. Contaminants that are removed from coal exhaust by air filtration, such as nitrogen oxide and sulfur dioxide, also end up in CCW. Many of these components pose known hazards to human health.

What are some of the health risks associated with exposure to CCW components?

Some of the health risks associated with CCW components include the following:

- Cancer risks
 - Arsenic is a known carcinogen, particularly for cancers of the bladder, lung, liver, and skin.
 - Cadmium is a probable carcinogen.
- Organ and system damage
 - Cadmium exposure can cause irreversible kidney damage.
 - Lead exposure can impair fertility and cause kidney problems.
- Neurological impairment
 - Lead can cause memory loss or the inability to concentrate.
 - Mercury can affect vision, hearing, speech, and coordination.

CARCINOGEN



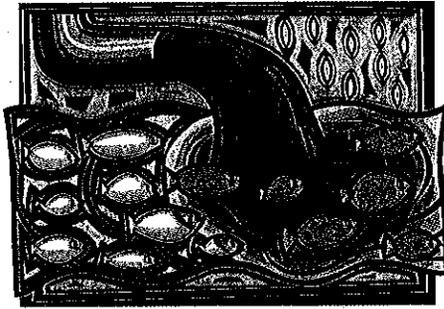
THESE ARE ONLY SOME OF THE KNOWN TOXINS CONTAINED IN CCW.

How do CCW components affect children?

Children are more vulnerable to negative effects of lead, mercury, and other components than adults. In children, lead and mercury exposure can impair behavioral and mental development. Lead and mercury can also be passed from pregnant mothers to developing fetuses, meaning children can be exposed prior to birth.

Where is CCW stored?

In Iowa and in many other states, coal ash is stored in earthen holding ponds, many of which are alongside major waterways such as rivers. Many coal ash settling ponds have limited protections against flooding or containment failure, and the resulting spilling of coal ash into rivers and streams.



How does contamination occur?

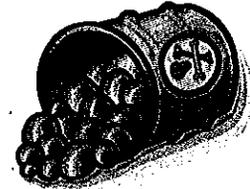
Coal ash can be dispersed by wind and inhaled or deposited on the surrounding ground. Water runoff from CCW storage ponds and facilities can contaminate surface water and enter the food chain through fish and other aquatic life. Chemicals from CCW stored in unlined ponds or mines can leach into the surrounding soil and into aquifers or groundwater. In more extreme cases, coal ash pond barriers can fail. Such an event happened in Tennessee in December 2008, resulting in more than 400 acres being covered in up to six feet of coal ash sludge.

Is there evidence that CCW contamination has occurred?

A 2007 EPA report identified contamination from CCW disposal sites at 26 of 43 sites examined, or more than 40% of those sites, and several other groups have reported similar contamination at state and local sites. Following the spill in Tennessee, independent testing of the nearby Emory River showed contaminant levels from two to 300 times higher than water quality standards. More recently, an EPA report indicated that contamination from a single site could continue for a century or more. With hundreds of active and retired disposal sites in the United States, the potential for contamination and subsequent harm to human health is significant.

Why isn't CCW more regulated?

Historically, CCW has been classified as a non-hazardous waste and has been not subject to strict regulation. Growing scientific evidence, however, shows that the potential for harm to human health from CCW is significant. As a result, more and more groups are calling on the EPA and state regulatory agencies to step in and regulate CCW in a manner appropriate for the risks it poses to human health.



How can the risks from CCW disposal be addressed?

Managing the risks from CCW must include strategies for new disposal sites as well as strategies to address contamination and clean up of existing sites. Potential new sites must include the use of appropriate liners or barriers and consideration of nearby aquifers and groundwater. Monitoring for existing sites should include soil and groundwater testing to identify the extent of contamination as well as plans for remediation.

What can we do?

As concerned citizens, we can tell EPA, DNR, our legislators, and other government officials that we are concerned about the health risks of CCW. By urging them to develop appropriate regulation, we can help provide a safer environment for ourselves, our neighbors, and our communities.

Send a letter:

Richard Leopold, Director
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319-0034

Lisa Jackson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Prepared by:
Donna Wong-Gibbons, Ph.D.
Public Health Specialist

www.plainsjustice.org

Plains Justice
100 First Street SW
Cedar Rapids, IA 52404
(319) 362-2120

Gene Versteeg
#27

Amend rule 65.10(7), paragraph "b" as follows:

b. The demand for hearing shall include a statement setting forth all of the county board of supervisor's reasons why the application for a permit should be approved or disapproved, all supporting documentation and a further statement indicating whether an oral presentation before the commission is requested. Only the reasons and documentation submitted in the demand for hearing shall be considered by the commission as a basis for denial of the construction permit.

Amend rule 65.10(9), paragraph "a", subparagraph "(4)" as follows:

(4) No later than 15 days from the date set for hearing, the applicant, ~~the county board of supervisors~~ and the department shall, if any chooses to do so, send, one copy of a brief and any written documents claimed to support their respective positions to each member of the commission and to each other. No further briefs or documents shall be permitted except up on request and permission of the commission.

EPC subcommittee on livestock issues:

The EPC subcommittee consisting of Susan Heathcote, David Petty, Paul Johnson and Gene Versteeg met twice by conference call since our last EPC meeting in May. It is the recommendation of the subcommittee that we convene a series of educational forums on the topic of air quality and odor related to livestock manure.

Topics and suggested speakers are as follows:

1. DNR staff overview of existing regulations: DNR staff
2. Summary of other state and international approaches to livestock air quality and odor control: Speake?
3. Current practices and management approaches to reduce air emissions and odor: Steve Hoff ISU
4. Management approaches from a livestock producer perspective: Aaron Putze CSIF
5. Producer and neighbor health concerns related to livestock air quality and odor: Kelley Donham U of I

The subcommittee felt that one way to cover these topics would t convene the EPC meeting at 8:00 am and use the time before our regular meeting. The following dates are subject to speaker availability and may need to be rearranged to accommodate schedules.

The following schedule should be considered for these forums:

July 21 Staff overview and other state/national approaches

Sept. 15 Steve Hoff and Aaron Putze

Nov. 17 Kelley Donham and general discussion

TBD Follow up forum with all speackers?



Ash spill from TVA Kingston Fossil Plant, Harriman, TN, December 2008
Photo by Brian Stansberry, courtesy of Wikimedia Commons

**From Power to Poison:
How coal waste puts public health at risk**

Donna Wong-Gibbons, Ph.D.
Public Health Specialist, Plains Justice



Coal Combustion Waste (CCW)

- Also referred to as coal combustion residue (CCR)
- Consists of waste material produced by the combustion process
- Some of the components of CCW include the following:
 - Fly ash, airborne residue captured by air pollution controls
 - Scrubber sludge, produced by air filtration processes
 - Bottom ash, large particulate matter that is captured by a hopper or is left in furnaces after combustion
 - Liquid chemicals leftover from preparing coal for combustion
- On average, a single 500-megawatt (MW) coal plant produces 125,000 tons of ash and 193,000 tons of scrubber sludge each year¹
- With over 5,000 MW of coal-fired power generation, Iowa power plants have the potential to generate more than 1.4 million tons of ash and 2.1 million tons of scrubber sludge annually

¹How Coal Works. Union of Concerned Scientists. http://www.uscusa.org/clean_energy/coalsyswind/brief_coal.html

CCW is poorly regulated

- Regulations governing CCW are few
- Lack of comprehensive, federal regulation
- Each individual state sets its own regulations
- In Iowa, regulation falls under the authority of the Iowa Department of Natural Resources (IDNR)
- No requirements for liners or monitoring at disposal sites
- “Beneficial use” allows for even less strict regulation

Iowa as a dumping ground

- Fewer regulations than some surrounding states
- Other states have shipped CCW to Iowa for disposal²
- CCW that is too expensive to dispose of in the states where it is generated ends up in Iowa



²Iowa Coal Combustion Waste Disposal. Plains Justice. 2007.

CCW contains known toxins

- Coal ash has higher levels of toxins than raw coal²
- Scrubber sludge is made up of contaminants removed from coal smoke because they are deemed too dangerous to be released into the air
- Some of the components found in CCW include: **arsenic**, barium, beryllium, boron, **cadmium**, calcium, chlorine, chromium, copper, **lead**, manganese, **mercury**, molybdenum, nickel, selenium, strontium, sulfur, thallium, and zinc^{2,3,4}

²Iowa Coal Combustion Waste Disposal. Plains Justice. 2007.

³Coming Clean: What EPA Knows About the Dangers of Coal Ash. Environmental Integrity Project and Earthjustice. 2009.

⁴Laid to Waste: The Dirty Secret of Combustion Waste From America's Power Plants. Citizens Coal Council, Hoosier Environmental Council, Clean Air Task Force. 2000.

2007 Priority List of Hazardous Substances, Sorted by Rank

RANK	SUBSTANCE NAME	CAS #
1	ARSENIC ←	007440-38-2
2	LEAD ←	007439-92-1
3	MERCURY ←	007439-97-6
4	VINYL CHLORIDE	000075-01-4
5	POLYCHLORINATED BIPHENYLS	001336-36-3
6	BENZENE	000071-43-2
7	CADMIUM ←	007440-43-9
8	POLYCYCLIC AROMATIC HYDROCARBONS	130498-29-2
9	BENZO(A)PYRENE	000050-32-8
10	BENZO(B)FLUORANTHENE	000205-99-2

Agency for Toxic Substances & Disease Registry
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

Health risks of CCW⁵

- Cancer

- Arsenic is a known carcinogen, particularly for cancers of the bladder, lung, liver, and skin.
- Cadmium is a known carcinogen.



- Organ and system damage

- Cadmium poisoning carries a risk of irreversible kidney damage.
- Lead poisoning can impair fertility and cause kidney problems

- Neurological impairment

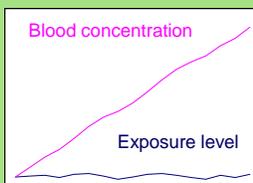
- Lead exposure can cause memory loss or inability to concentrate.
- Mercury is particularly toxic to the brain where it can affect vision, hearing, speech, and coordination.



⁵ToxFAQs for Arsenic, Cadmium, Lead, and Mercury. ATSDR. <http://www.atsdr.cdc.gov/toxfaq.html>

Health Risks of CCW⁵

- Children are at greater risk from lead and mercury exposure than adults
- Lead or mercury poisoning can lead to impaired behavioral and mental development in children
- Lead and mercury can be transmitted from pregnant mothers to developing fetuses



- Because of bioaccumulation, individuals may not be able to eliminate these toxins from their systems even at low levels of exposure

⁵ToxFAQs for Lead and Mercury. ATSDR. <http://www.atsdr.cdc.gov/toxfaq.html>

Contamination Routes



Laid to Waste: The Dirty Secret of Combustion Waste from America's Power Plants. Citizens Coal Council, Hoosier Environmental Council, Clean Air Task Force. March 2000.

Contamination Risks in Iowa

- Waterloo South Quarry Reclamation, Black Hawk County²
 - Clay lined ash disposal site, no monitoring
- Muscatine Plant #1, Muscatine³
 - Clay lined ash disposal site, leachate collection
- George Neal North, Woodbury³
 - Unlined ash disposal site, monitoring wells
- George Neal South, Woodbury³
 - Unlined ash disposal site, monitoring wells

²Iowa Coal Combustion Waste Disposal. Plains Justice. 2007.

³Coming Clean: What EPA Knows About the Dangers of Coal Ash. Environmental Integrity Project and Earthjustice. 2009.

CCW sites along waterways

- Coal ash is stored in unlined earthen holding ponds with limited protections against flooding or structural failure
- These ponds can be found alongside Iowa waterways such as the Iowa, Missouri, and Mississippi rivers
- Among the many other chemicals contained in the floodwaters that affected Iowa in 2008, CCW runoff was likely present



Contamination in Other States

- Highway 59 Ash Landfill, Waukesha, Wisconsin²
 - Contamination of drinking wells from CCW resulted in \$6.6M in abatement costs
- Chisman Creek Disposal Site, Virginia²
 - Contamination of wells near fly ash disposal sites resulted in a four-year Superfund clean up effort
- Gibson County, Indiana⁶
 - CCW in unlined sites contaminated surface and ground water, resulting in the generating facility taking responsibility and providing town residents with bottled water

²Iowa Coal Combustion Waste Disposal. Plains Justice. 2007.

⁶Comments on the U.S. Environmental Protection Agency's Coal Combustion Damage Case Assessment. Earthjustice, Clean Air Task Force et al. 2008.

TVA Spill, December 2008

- Tennessee Valley Authority's (TVA) Kingston Fossil plant
- Coal ash spill covered more than 400 acres
- Arsenic, barium, cadmium, chromium, lead, mercury, and thallium levels for the nearby Emory River have been measured at two to 300 times higher than drinking water limits



Economic Factors

- Sharp contrast in cost (TVA)
 - Estimated costs of a drainage system, synthetic liner, protective cover and dry ash collection system = \$28.1M⁷
 - Estimated costs for clean up of the spill range from \$525M to \$975M⁷
- Estimated benefits are difficult to quantify
- **Prevention is the best medicine!**

⁷No More Excuses: The Economic Case for Coal Ash Regulation. J. Scott Holladay. Policy Brief No. 3. June 2009.

Time for Reclassification

- Scientific evidence that CCW poses serious threats to human health
- Growing body of evidence that current disposal practices are not sufficient to contain these threats
 - Limited monitoring of groundwater at Iowa sites shows contamination of groundwater²
 - 2007 EPA report found that heavy metals from coal ash ponds had contaminated groundwater and wells at 26 of 63, or more than 40% of the sites examined³

²Iowa Coal Combustion Waste Disposal. Plains Justice. 2007.

³Coming Clean: What EPA Knows About the Dangers of Coal Ash. Environmental Integrity Project and Earthjustice. 2009.

Time for Action

- CCW disposal poses a threat to human health now
- Risks of contamination may continue for years or decades
- Failure to act increases the potential to see contamination risks go from bad to worse
- Iowa should not be depending on EPA or the federal government to safeguard Iowans

Addressing the Risks

- Simply covering up CCW is not sufficient
 - Sites in Iowa have been covered with a layer of soil
 - Following the TVA spill, grass seed was spread over the spill area
- Unlined sites pose a high risk of environmental contamination
- Clay liners do not provide adequate protection
- Lack of monitoring puts public health at risk

National Security Risk?⁸

- Department of Homeland Security asking that locations of coal ash sites not be identified
- 44 sites are identified by EPA as “high risk”
- “The pollution is so toxic, so dangerous, that an enemy of the United States -- or a storm or some other disrupting event -- could easily cause them to spill out and lay waste to any area nearby.”

⁸Coal Ash Spills Too Dangerous to Reveal to Public, Says DHS. Ryan Grim. The Huffington Post. June 15, 2009. available online at http://www.huffingtonpost.com/2009/06/12/coal-ash-spills-too-dange_n_214739.html

Specific Recommendations

- Mandatory monitoring of CCW disposal sites
 - Ground and surface water testing and monitoring
 - Soil and vegetation testing and monitoring
- Development of a remediation plan to address contamination that has already occurred or is likely to occur in the future
 - Financial liability
 - Strategies for clean up
- Development of regulations to address current and future disposal needs
 - Mandatory monitoring
 - Site issues: liners, placement

**This is an opportunity for Iowa to
take a leadership role in
providing safe environments for
ourselves, our neighbors, and
our communities...**

All we have to do is act.



Photo by Blaine Hansel, courtesy of Wikimedia Commons