

# Summary

## Environmental Protection Commission

Tuesday, May 19, 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

### Agenda topics

- 1 Approval of Agenda
- 2 Approval of Minutes
- 3 Director's Remarks
- 4 Election of Officers  
Chair – Charlotte Hubbell  
Vice-Chair – Marty Stimson  
Secretary – Carrie LaSeur
- 5 **Clean Water and Drinking Water State Revolving Fund** – Supplemental Intended Use Plans for the American Recovery and Reinvestment Act of 2009 Carried (Decision)
- 6 **Contracts** – University of Iowa Hygienic Laboratory – Laboratory and Analytical Services (FY2010 Ambient Biological, FY2010 TMDL, FY2010 Ambient Streams, FY2010-2012 EPA 319 Projects) Carried (Decision)
- 7 **Contract** – Structure, Inc. – Mobile Education Trailer – Transportation and Support Services Carried (Decision)
- 8 **Final Rule** – Chapter 134 – Underground Storage Tank Licensing and Certification Programs Postponed till June (Decision)
- 9 **Notice of Intended Action** – Chapter 135 and Chapter 134 –Amendments to Underground Storage Tank Rules (Operator Training and Conflict of Interest) Carried (Decision)
- 10 **Contract** – University of Iowa – Water Assessment Services Staff Support Carried (Decision)
- 11 **Notice of Intended Action** – Chapter 61 Water Quality Standards- Chloride, Sulfate and Total Dissolved Solids Carried (Decision)
- 12 **Proposed Rule** – Chapter 64 – Wastewater Construction and Operation Permits to include Well Construction and Well Service Wastewater Discharges (Information)
- 13 **Air Quality** - Title V Fee for SFY 2010 Carried (Decision)

14	<b>Contract</b> - Department of Economic Development for Small Business Assistance Program: Small Business Environmental Assistance Liaison	Carried (Decision)
15	<b>Contract</b> - University of Northern Iowa for Small Business Assistance Program: Iowa Air Emissions Assistance Program (IAEAP)	Carried (Decision)
16	<b>Notice of Intended Action</b> - Chapters 20, 22, 23, 25, 28 and 33: Air Quality Program Rules - Updates, Revisions, and Additions	Carried (Decision)
17	<b>Contract</b> – University of Iowa Hygienic Laboratory – Environmental Monitoring and Laboratory Services	Carried (Decision)
18	<b>Notice of Intended Action</b> – Chapter 65 – Confinement Feeding Operation Applications for Construction Permits; Demand for Hearing Procedures	(Information)
19	Monthly Reports	(Information)
20	General Discussion	
21	Items for Next Month’s Meeting <ul style="list-style-type: none"> <li>• June 16<sup>th</sup> – Urbandale</li> <li>• July 21<sup>st</sup> – Urbandale</li> </ul>	

For details on the EPC meeting schedule, visit [www.iowadnr.com/epc/index.html](http://www.iowadnr.com/epc/index.html).

**MINUTES**  
**OF THE**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**MEETING**  
**MAY 19, 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 Vice Chairperson Charlotte Hubbell at 10:05 a.m. on May 19, 2009 in the Ingram Office Building, Urbandale, Iowa.

**COMMISSIONERS PRESENT**

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

**ADOPTION OF AGENDA**

Move up Item 10 – Contract with the University of Iowa – Water Assessment Services Staff Support to after item 6 – Contracts with the University of Hygienic Lab for laboratory and analytical services.

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

**APPROVED AS AMENDED**

**APPROVAL OF MINUTES**

Susan Heathcote noted paragraph duplication on pages 15-18.

Lisa Nissen noted and will make the changes.

*Motion was made by Marty Stimson to approve the minutes as amended. Seconded by Susan Heathcote. Motion carried unanimously.*

**APPROVED AS AMENDED**

**SWEAR-IN OF NEW COMMISSIONERS**

Director Richard Leopold swore in new commissioners Carrie La Suer and Dale Cochran.

**DIRECTORS REMARKS**

Richard Leopold said that the Governor is anticipated to sign the manure bill, which deals with application of manure on frozen, or snow covered ground and manure stockpiling related to dry bedded facilities. I compliment the professionalism of our staff while handling this rulemaking.

The Department received a 15% across the board budget cut as well as many other departments. This cut is very devastating for the Environmental Services Division because a lot of the federal delegated programs require a state match. We have instituted a hiring freeze with currently 51 vacancies. You will probably notice fewer services from our field offices. Fewer responses to AFO/CAFO calls and open burning and illegal dumping.

The Environment First fund came through as status quo funding.

There has also been a lot of attention on the Combined Sewer Overflows (CSO) and Sanitary Sewer Overflows (SSO). Most of these communities will be taken care of within our federal stimulus clean water funds or within another program.

There were license fee increases for hunting and fishing for out of state residents. This was not a Department initiative but we do support this. It's currently in standings and we are urging the Governor to sign. If this passes, we will not need to come back next year and ask for out-of-state license increases.

The Department also has a Twitter account with currently 300 individuals signed up to receive messages. This is a great way to gateway the public into our website. We are also looking into setting up a Face book page for the Department.

The Waxman & Marque bill (the American Clean Energy and Security Act) is flying through Congress. This contains a carbon constrained future and cap and trade. I have been involved a lot with what we would like this bill to address. There is some money available for mitigation advancements and a little bit of monies for natural resources adaptation.

Paul Johnson said that many farmers attended the manure bill hearings. A number of farmers indicated that they would like more education from the Department, not just regulation. They feel like they are trying their best. What about an article in the Iowa Outdoor magazine or the Farm Bureau Spokesman?

Richard Leopold agreed. Any communication strategies to disseminate this issue further we will consider.

<b>INFORMATIONAL ONLY</b>
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**Election of Officers**

**Chair**

Gene Ver Steeg nominated David Petty.  
Carrie La Suer nominated Charlotte Hubbell.

*Motion was made by Susan Heathcote to cease nominations. Seconded by Dale Cochran.*

Secret ballot revealed five votes for Charlotte Hubbell and three votes for David Petty.

**CHARLOTTE HUBBELL, CHAIR**

**Vice-Chair**

Susan Heathcote nominated Marty Stimson.

*Motion was made by Paul Johnson to cease nominations. Seconded by David Petty.*

**MARTY STIMSON, VICE-CHAIR**

**Secretary**

Susan Heathcote nominated Carrie La Suer.

*Motion was made by Marty Stimson to cease nominations. Seconded by Paul Johnson.*

**CARRIE LA SUER, SECRETARY**

**Public Participation**

**ARLOENE YUNGCLAS**, from Goldfield stated her concerns regarding the proposed chicken confinement going in one mile south of her house. We are not against livestock production but our objection is that an operation costing millions will be allowed to be built next to us and call itself a farm so it can qualify for reduced property taxes and have minimal environmental regulations. The manure produced at this site is equivalent to the waste of a city with 70,000 people. The master matrix is a very flawed process in that it does not address air quality issues and land devaluation. The DNR has offered no help in addressing the environmental issues. We beg you to change this process.

**JIM YUNGCLAS**, from Goldfield stated his concerns regarding the proposed 1.4 million Iowa Cage Free chicken factory nearby his residence. Large operations continue to grow in Iowa. One can only wonder what is going to happen in the agriculture sector. What is the Department of Economic Development and Department of Agriculture doing in the name of building our economy? This is nothing more than greed. Just because something is economically feasible doesn't mean it's right. We want you to talk to our government. What is going on is not sustainable or right.

**DOUG MAXSON**, from Goldfield very close to the proposed Iowa Cage Free site. Without strict rules that are fairly enforced we will have some very serious health risks. Iowa Cage Free appears to be a marketing scheme. It's not a range free farm it's a large cage. The manure from these 1.4 million chickens is a concern. The manure is dropped on a conveyor belt and dried by a fan. The high volume of contaminated air will be breathed by nearby citizens. I encourage you to look closely at providing air quality monitors near this factory. If this wasn't a farm you would have it shut down. There are also serious run off concerns due to the proximity near the river and our personal wells. We ask that you share your testing results with us. We want to take precautions to limit our exposure to these toxins.

**GREG KRAFT**, from Goldfield and near the Iowa Cage Free factory. This farm is owned under various corporate entities. Why should it be allowed to emit harmful particles into the air and collect on our garden produce? Whose responsibility is it to see that we are protected from the pathogenic manure dust? Why doesn't this factory need to pay property taxes or comply with the regulations? Who tests the water to see if it's safe? I assure you that the DNR is no help to citizens like us.

David Petty asked what he meant when he said that they don't need to pay property taxes.

Greg Kraft said that since they are an agricultural operation they are taxed differently based on the entity that they are.

**RAMONA KRAFT**, lives ½ mile from Iowa Cage Free in Goldfield. My family has its own garden for fresh produce and canning. Last June, the local co-op sprayed the corn fields by us when there was a gusty wind. A few days later we noticed our garden had chemical drift on all of our garden and fruit trees. We were informed that we could not eat any of the produce from

our garden for the rest of the year. The co-op said that they would make this right with us but they have chosen to delay.

Our Easter weekend was filled with manure odor from the spreading. We could not sleep that night. Early Sunday morning, tractors and semi trucks flooded our road. So much for the Easter egg hunt or any outdoor activities. We have lived at our home for 20 years and we don't want to move nor do our children. We are concerned with our children's health. Even if we wanted to move, no one would want to buy it in the current situation. We feel nothing is being done to help us and protect the environment.

Charlotte Hubbell said she was moved by her presentation and suggested she share her comments with the legislature.

**BARBARA KALBACH**, a nurse from northeast Iowa asked about the proposal to decrease public input when there is a CAFO situation brought before you on appeal. When will we have the chance to share with you our concerns?

I would also like to protest the budget cuts to environmental services. This leaves us with only 13 field officers to supervise the 5,500 permitted CAFOs in Iowa and all of the non-permitted operations.

In the meantime, I submit to you that we can decrease the number of people purchasing fishing licenses, because people don't like to fish in polluted water. Maybe we should require filter strips on every stream and river. Manure spills continue and keep happening over and over again.

Charlotte Hubbell clarified the proposed procedures regarding public comment during the time of a CAFO appeal.

**MARTIN BRASTER**, representing Rathbun Regional Water Association stated that they support the drinking water SRF Intended Use Plan (IUP) as presented. We consider the IUP to be supportive of the goals and requirements in the Reinvestment and Recovery Act of 2009. We know firsthand all of the effort that went into this process. We also believe the IUP proposed use of loan forgiveness to award considerable funds will greatly benefit the end users, our customers of the infrastructure that will be constructed. Again, we support the IUP and hope that you would approve the plan that is before you today.

**GREG SINDT**, representing Bolton and Menk, an engineering consulting firm. We support the DNR staff recommendations on Item 11 – Notice of Intended Action – Chapter 61 – Water Quality Standards – Chloride, Sulfate and Total Dissolved Solids. The DNR staff has taken a very good technical approach to these rules. It's some of the best work done by the DNR staff in years. Our members work cooperatively with the DNR. Thanks to Connie Dou for her work on this.

**JENENE KUMBIER**, a nurse from Maxwell said that she is a neighbor to a CAFO. I was raised on a chicken farm in Nebraska and we had USDA inspectors come in to check the eggs. We need to have regulators coming in on a regular basis to check these operations out. There is an

overuse of antibiotics in swine. I have talked to the legislature, DNR and my congressman and I think it will take an act of God to stop this industry.

She mentioned that she had pictures of manure being spread on frozen ground and how it flooded the farmer's field.

**WALLY TAYLOR**, from the Sierra Club made comments on the hearing procedures for CAFO appeals. I believe that there are some changes needed but even further than what was proposed. I would suggest that all of the appeals be contested case proceedings. County board of supervisors are reluctant ..... I think a contested case hearing before an Administrative Law Judge (ALJ) would be a better way to get the information you need and would deal with Mr. Petty's concerns about some of the information not being accurate evidence. The ALJ would have the expertise and ability to cross reference documents and then the transcripts would be submitted to the EPC for the final decision. It would also give the neighbors the ability to intervene which they don't have the chance to now except during public comment but DNR is saying that you cannot consider it.

**NEILA SEAMAN**, Director of Iowa Chapter of the Sierra Club, addressed the CAFO hearing procedures. We are concerned that the proposed rules block out any opportunity for you to consider the public comments on a proposed CAFO construction permit. The public is allowed to comment during a hearing at the county level, *if* there is a hearing and *if* the residents know about it. However, as Wally stated the County supervisors are reluctant participants in this process. A hearing usually results from citizen pressure. The public feel like they are unable to have a voice. The supervisors sometimes feel like they are inexperienced and unknowledgeable when dealing with livestock rules. I get calls all the time from citizens about new CAFO constructions in their county. I heard Mr. Petty's concerns about having to discern what evidence is considered legal and I understand the apprehension. We would suggest that all appeal hearings be contested case proceedings before an Administrative Law Judge for a decision before the case comes to the EPC. Those most affected by these CAFOs would be eliminated from this proposed process. Please consider adding language that will include the voices of those impacted by the additional confinement operations.

**CHRIS GRUENHAGEN**, representing the Iowa Farm Bureau submitted the following comments regarding Item 5 – Clean Water and Drinking Water State Revolving Fund:

While the proposed projects are likely deserving of selection, we would like the Commission to take notice that nonpoint source projects for agriculture were not a priority for these funds despite being eligible. Our members overwhelming adopted policy last fall to "support additional funding for soil conservation and water quality." This is a priority of our membership and board.

We thank the department for their past commitment to nonpoint source projects in the SRF program. However, the commitment does not meet the demand or need for cost share to put agricultural soil and water conservation projects back in place from the 2008 floods or to make additional progress. Some farmers have spent their own resources to repair last year's damage, but many need assistance. IDALS has estimated the need for flood recovery at \$40 million.

The American Recovery and Reinvestment Act (ARRA) of 2009 included at least \$53 million to the Clean Water State Revolving Loan Funds. More may be received as other states fail to fully utilize their allocation. 20% of these funds are required to be spent on Green Projects in accordance with EPA guidance. EPA guidance for the expenditure of these funds requires construction to begin or a construction contract awarded by February 17, 2010.

Projects eligible for assistance under ARRA include “public or privately owned projects that implement State Nonpoint Source Management Plans established under section 319 of the Clean Water Act.” (inter alia see p. 29 EPA guidance). The list of qualifying projects is extensive and includes hydromodification to establish or restore riparian buffers, floodplains, wetlands and other natural features, wetland restoration and constructed wetlands.

Agriculture has made significant progress in recent years in protecting Iowa’s soil and water resources. In the past year, DNR reported progress through 42 projects installed during FY2008. These projects reduced sediment by at least 18,860 tons per year, reduced phosphorus by at least 24,585 tons and nitrogen by 27, 992 pounds per year.

In 2007, nearly 1,350 landowners installed practices such as terraces, waterways and water and sediment basins protecting more than 20,000 acres with cost share assistance. Demand for Iowa cost share exceeds funds available by more than \$3 million. Should funding be available, Iowa could leverage anywhere from \$25 million to \$100 million in additional water quality projects in any given year.

While much progress has been made, these types of projects should be duplicated and expanded through voluntary partnerships to continue making progress on sediment and nutrients in our waters. Given the recommendations for Agenda Item 5, we ask that future priority be give to opportunities for agricultural nonpoint source projects (1) with new federal stimulus monies returned by other states; (2) with additional SRF capitalized funds as these loans are paid back, and (3) with outreach to 319 and cost share program applicants that these programs are available. Additionally, we would request that the Water Resources Coordinating Council be consulted to ensure consistent state priorities.

**MARIAN GELB**, Executive Director of the Iowa Environmental Council stated their support for the Department’s Clean Water and Drinking Water State Revolving Fund and the Intended Use Plan. This will create jobs and assist communities affected by the recession while addressing the critical infrastructure of drinking water.

Under the SRF loans portion of projects – we are concerned with the proposed pilot project for Green Reserves List – District #65 in Pocahontas County. The Council has been following the development of this initiative and we are supportive of the concept to reduce nitrogen and phosphorus from farmers’ tile drains. However, we have questions on the details of implementation. Specifically, we would like to see this project utilized even multi-disciplinary, involving the expertise from multiple agencies and not just IDALS but perhaps DNR and

wildlife and environmental groups as well. This would enhance the conservation and water quality benefits of the project. We believe the project should be monitored for several years and the data received should be made available to the public. The Council does not believe that public monies should support the installation for upgrading a drainage tile system.

We are thrilled to see the water quality standards happening, however we are concerned with the proposed rules entirely eliminating the current site specific approach to protecting for other general uses in the water, including intermittent streams. We would hope that the DNR would include general use protection in addition to aquatic life.

**CRAIG MALIN**, City Administrator from Davenport expressed their support for agenda item #5 – Clean Water and Drinking Water SRF – Intended Use Plan. The City submitted comments and we thank the DNR staff for the consideration and addition of our comments. We look forward to our working relationship with the DNR and Governor’s office regarding I-JOBs opportunities.

**SONIA SKIDMORE**, from ICCI commented on the proposed CAFO appeal procedures. I would like to suggest that you allow yourself to consider as much information as possible in your decision making process. It’s always a good thing. You can always decide whether it’s valid or not but cutting yourself short will not do you any good or the environment.

It’s very disappointing that the DNR has to take a huge cut in the animal feeding operations unit. The field offices are already under staffed. We need to make it a priority to get more enforcement.

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

Des Moines Water Works (DMWW) comments today are in regard to the Drainage District 65, pilot project in Pocahontas County. The Iowa Department of Agriculture and Land Stewardship (IDALS) is proposing numerous wetland projects in the “Iowa Plan – Wetland and Drainage Integrated-Landscape Systems for Agricultural Production and Environmental Stewardship.” The project for Pocahontas County is one of these wetlands.

DMWW would like to support wetland projects for mitigation nutrients, but as you see in comment document contained in the Intended Use Plan (IUP), we have several concerns in regards to this project. We support the concepts of natural wetland restoration, constructed wetlands, and subsurface bioreactors to sequester and consumer nutrients from farmed fields. This project may have the potential to do that. We believe, however, that many questions and concerns regarding this concept remains unstudied and unanswered. We believe this project merits further examination before any public funding is awarded.

Many state and federal programs funding watershed projects have required all new projects to be part of a comprehensive watershed plan. We are not aware that this project is included in a watershed plan or that it proposes to include comprehensive planning as part of the project. The success of watershed plans has been directly related to the comprehensive planning process at the beginning of the project.

DMWW has experienced a couple of things that give us pause for concern. One is that in setting future meetings with IDALS to discuss the questions raised, we were informed that we could only include those members of our staff who have technical or scientific expertise and that no one from the outside should be invited. Since we do not claim to have expansive wetland expertise, it is evident we are looking to others to compliment our level of expertise and believe we have the prerogative to include our advisors in these meetings. Second, in response to a request for the ability to review wetland monitoring data collected by Iowa State University, we were informed that it was not available due to the Freedom of Information, Section 1619 of the 2008 Farm Bill which prohibits the release of information regarding wetland determinations.

DMWW is recommending that this pilot project receive additional scrutiny before it is funded, that specific monitoring and reporting requirements be outlined and agreed to, and if needed the agency, landowner, and any other partner waive their freedom of information rights under the provisions of the 2008 Farm Bill. It is very difficult for us to support even a pilot project, which is not part of a comprehensive watershed plan and that the measureable outcomes of t project cannot be made public.

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

## **CLEAN WATER AND DRINKING WATER STATE REVOLVING FUND – SUPPLEMENTAL INTENDED USE PLANS FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

Patti Cale-Finnegan, in the Water Quality Bureau and Lori Beary from the Iowa Finance Authority presented a PowerPoint presentation on the following item.

For a complete copy of the presentation, please visit:  
<http://www.iowadnr.gov/epc/archive/09may19h.pdf>

Commission approval is requested for the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Supplemental Intended Use Plans (IUPs) for the American Recovery and Reinvestment Act (ARRA) of 2009. ARRA's goals include creating jobs, assisting communities impacted by the recession, and investing in infrastructure and environmental protection.

Iowa's SRF programs since 1989 have committed more than \$1 billion for wastewater and sewer upgrades, drinking water systems, stormwater quality, 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 financial management, loan approval, and disbursements.

The SRF programs were chosen by Congress as a vehicle for allocating some of the funds for environmental protection. Iowa's ARRA allocation is:

- CWSRF: \$53,040,000
- DWSRF: \$24,293,000

The ARRA includes several new requirements for the stimulus funds:

- Fifty percent of the above amounts must be used for loan forgiveness, which is the equivalent of grant funding.
- Twenty percent of the above amounts must be used for green projects, which include water and energy efficiency, green infrastructure, and environmentally innovative efforts, as defined by the U.S. Environmental Protection Agency.
- Davis-Bacon prevailing wage rates must be determined, paid, and monitored.
- All iron, steel, and manufactured goods must be produced in the United States, unless a waiver can be granted based on non-availability. At the time of writing, guidance on complying with the Buy American requirement had not been issued, delaying bidding for some of Iowa's projects.

The Intended Use Plans lay out Iowa's strategies for meeting the goals and complying with the requirements of ARRA. The strategies include:

- Defining and applying disadvantaged criteria to target stimulus funds to those communities most impacted by economic stress;
- Determining which projects are "shovel-ready" in order to get money out into the economy as quickly as possible; and

- Identifying and incentivizing eligible green projects in order to promote new technologies and practices.

A public hearing was held April 16, 2009 to receive comments on the proposed IUPs. Oral comments from eight people were received at the hearing. Sixteen written comments were received before the end of the public comment period on April 23, 2009. The comments are summarized and addressed in the attached responsiveness summary. No changes to the general approaches or methodologies for allocating funds were made as a result of the public comments.

Patti Cale-Finneagan asked that you support the proposed ag drainage project #65 as a pilot project. We really want to explore innovative nitrate removal options. When evaluating projects to receive funding, we had to look at eligibility and “shovel readiness”. We are on a very tight deadline when allocating these funds.

Charlotte Hubbell asked Patti to go over the drainage district #65 project concerns and if the outcomes will be made public.

Patti Cale-Finneagan said that she has not had time to look into all of the concerns but the results from every project that we fund will be made publicly available.

David Petty asked why you wouldn't want to fund the drainage district #65 project? It appears to be a good plan.

Richard Leopold said that DNR has had some concerns with how the Iowa Plan has come together. Some partners have been much more transparent and willing to cooperate with other players. We're very happy about the nitrate reductions that these plans propose but it's probably not going to be a “cookie cutter plan”. The drainage of wetlands does have environmental and conservation value. It's not a complete thumbs up. We have constructive input and concerns. We have traditionally been transparent with every dollar spent and if there is a project that requires confidentiality and we have monies mixed into that, we need to explore what that looks like. I don't mind spending our money to build wetlands and reducing nitrates. I do have a problem draining farm fields. There are issues that need to be sorted out first. We really want to see this project work.

Paul Johnson asked about the \$10 million dollars from the legislature in 2000 to deal with small wetland projects. I believe this ended up with the Department of Agriculture but I haven't seen any results from this money.

Richard Leopold said that this money went to the CREP wetland program. There are a few really good wetlands out there as a result, but we're not doing it fast enough.

*Motion was made by David Petty to approve the Clean Water and Drinking Water State Revolving Fund – Supplemental Intended Use Plans for the American Recovery and Reinvestment Act of 2009 as presented. Seconded by Susan Heathcote. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**CONTRACTS – UNIVERSITY OF IOWA HYGIENIC LABORATORY – LABORATORY AND ANALYTICAL SERVICES (FY2010 AMBIENT BIOLOGICAL, FY2010 TMDL, FY2010 AMBIENT STREAMS, FY2010-2012 EPA 319 PROJECTS)**

Eric O’Brien, Section Supervisor of the Iowa Geological and Water Survey presented the following item.

**Recommendations**

Commission approval is requested for four contracts with University of Iowa Hygienic Laboratory of Iowa City, Iowa.

<b><u>Contract</u></b>	<b><i>Begin Date</i></b>	<b><i>End Date</i></b>	<b><i>Cost</i></b>
FY2010 Ambient Biological	July 1, 2009	September, 2010	\$198,096.58
FY2010 Ambient Streams	June 1, 2009	June 30, 2010	\$647,701.34
FY2010 TMDL Monitoring	June 1, 2009	June 30, 2010	\$191,124.43
FY2010-2012 EPA 319 Project Monitoring	June 1, 2009	June 30, 2012	\$213,040.00

DNR shall have the option to renew these contracts as long as this contract and any extensions do not exceed a six-year period.

**Funding Source:**

This contract will be funded through:

FY2010 Ambient Biological

State of Iowa Environment First Infrastructure Funds; EPA Supplemental 106 funds

FY2010 Ambient Streams

State of Iowa Environment First Infrastructure Funds

FY2010 TMDL

EPA Grant Funds for TMDL Development

FY2010-2012 EPA 319 Projects

EPA Section 319 Grant Funds

Contracting Authority is the Code of Iowa 455B.103.

**Background:**

FY2010 Ambient Biological

Since 2001, the Department of Natural Resources has conducted biological assessments of Iowa streams to determine the ecological status and health of these water bodies. The protocol consists of sampling water quality, fish, benthic macro invertebrates and habitat during the summer low-flow index period (July through October).

FY2010 Ambient Streams

Since 2000, the Department of Natural Resources has conducted testing on 75 rivers and streams monthly throughout the state to determine status and trends in surface water quality. Testing

consists of basic water chemistry (pH, temperature, and dissolved oxygen), nutrients, inorganic chemicals and stream flow.

#### FY2010 TMDL

The Total Maximum Daily Load program is a provision of the Clean Water Act that sets limits on the amount of various pollutants that can be delivered to water bodies and still meet water quality standards. TMDL development relies on water quality monitoring data to calibrate and run models. This monitoring is more intensive (both in terms of spatial coverage and temporal coverage) than is typical with the ambient water monitoring. Intensive data collection is necessary to determine where pollution sources are originating in the watershed and to successfully calibrate TMDL models for accurate prediction of load reductions.

#### FY2010 EPA 319 Projects

The Environmental Protection Agency provides funding for watershed improvement projects in the form of Clean Water Act Section 319 grants. To measure the success of these projects, EPA is now requiring the DNR to monitor the water quality to document changes in water quality. Beginning with Federal Fiscal Year 2007, new watershed projects are working with the DNR to develop monitoring plans and collect samples for testing by UHL.

#### **Purpose:**

The parties propose to enter into this Contract for the purpose of retaining the Contractor to provide: sample collection and laboratory analysis services for the ambient biological, ambient stream monitoring program, the Total Maximum Daily Load program, and the EPA Section 319 watershed improvement program.

#### **Contractor Selection Process:**

University of Iowa Hygienic Laboratory (UHL) was chosen based on the Code of Iowa (455B.103) which directs the DNR to contract with public agencies of the state. UHL was chosen for this project because of UHL's sample collection and analysis expertise.

Carrie LaSuer asked how the river and stream assessment sites were chosen.

Tom Wilton said that there was an established team of researchers that followed criteria from EPA.

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

**APPROVED AS PRESENTED**

**CONTRACT – UNIVERSITY OF IOWA – WATER ASSESSMENT SERVICES STAFF SUPPORT**

Eric O'Brien of the Iowa Geological and Water Survey presented the following item.

The Department requests Commission approval of a contract extension from June 30, 2009 to December 31, 2009, in the amount of \$124,706 with the University of Iowa for 2 projects, Use Assessment/Use Attainability Analysis and Aquatic Ecosystem Monitoring. This brings the total contract budget to \$337,791 from \$213,085.

The University of Iowa's responsibility in this contract is to provide 4 full time staff. These staff will be under the direct supervision of DNR supervisors. The DNR is responsible for assigning tasks and ensuring that the project objectives are met.

**Funding Source:** There are 2 funding sources for this contract. Clean Water SRF non program income will be used to cover Project 1 UA/UAs and EPA Federal Grant #66.605 will be used to cover Project 2, Aquatic Ecosystem Monitoring. DNR supervisors will track the staff time spent on each project.

**Purpose:** UA/UAA: The first project is to continue to complete Use Assessment/Use Attainability Analysis (UA/UAA) work. The UA/UAA project first began in 2006 with a directive from the legislature to complete UA/UAA's for streams that receive an NPDES discharge before an NPDES permit could be renewed. The work that remains to be completed includes analyzing the field data, determining if a follow-up field visit is warranted, performing data entry and refinement and quality assurance checks, contacting public land managers and county conservation boards per established protocols, and determining the stream use designation recommendation for each stream assessment.

Aquatic Ecosystem Monitoring: For the second project, completion of sampling activities for the U.S. EPA's National Rivers and Streams Assessment (NRSA) project is the primary objective. Staff will obtain field environmental data from Iowa's aquatic resources (e.g., rivers, streams, lakes, wetlands) in support of federal and state monitoring projects. Stream sampling variables include: algal biomass and composition, benthic macro invertebrate and fish assemblages, fish tissue contaminants, physical habitat, sediment enzymes, and water chemistry. Sampling will be conducted at approximately 46 random sample sites across Iowa ranging in size from small perennial creeks to large interior rivers. Approximately 5-10 reference sites will also be sampled to provide comparative data from least disturbed stream habitats. Specific sampling locations will be determined following desktop and field reconnaissance.

Susan Heathcote asked whether we can assess a fee against a new facility that is requesting a permit on a stream that hasn't been designated and presumably needs a UAA assessment, Is there a way to charge them for our time in conducting the UAA? Ed Tormey referred to Iowa Code sections 455B.196 and 455B.197 regarding the NPDES permit fund. The fee amounts are specifically listed in the statute.

*Motion was made by Gene Ver Steeg to approve the contract as presented. Seconded by Marty Stimson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**CONTRACT – STRUCTURE, INC. – MOBILE EDUCATION TRAILER –  
TRANSPORTATION AND SUPPORT SERVICES**

Tom Anderson, Environmental Specialist Senior of Financial and Business Assistance Section presented the following item.

**Recommendation:**

The Department requests Commission approval of a contract with Structure, Inc. to provide transportation and several related services identified in the attached Statement of Work as they relate to the Land Quality Bureau's Mobile Education Trailer. The contract, not to exceed \$40,000 will run from July 1, 2009 to June 30, 2010 with an option to renew for one (1) additional year, at the discretion of the Department.

The mobile education trailer travels to all parts of the state on a reservation basis. Schools and County fairs account for the majority of reservations, but the trailer is also reserved for several special events and by numerous businesses. The majority of reservations fall between the months of April and September of each year.

In 2008, the education trailer was reserved for 24 events, including the state fair, for over 80 use days, excluding travel days. As of April 1<sup>st</sup>, the education trailer has been reserved for 69 days of use, excluding transportation days in 2009.

**Funding Source:**

Transportation, maintenance and trailer updates will be funded through the Household Hazardous Materials Program of the Groundwater Protection Fund.

**Background:**

Iowa Code Chapters 455B.484 and 455F.2 state that Department policy is to provide education to Iowans in the areas of solid waste, household hazardous waste, etc. In partnership with Department stakeholders it was agreed that providing a mobile education trailer would be a cost effective means of providing public awareness and education, as well as assisting environmental educators and school teachers with an alternative and complimentary approach to their activities.

For the past several years, transportation and related services had been provided free of charge by Mid America Recycling. Due to the increase in fuel prices and other economic pressures, the Department was notified that this service could no longer be provided. The Department then issued a Request for Proposals to solicit a new service provider.

**Purpose:**

The purpose of this contract is to secure transportation of the mobile education trailer to various locations throughout Iowa and to provide the related services outlined in the attachment. Citizen awareness and education of solid waste, including hazardous waste issues, is the first step toward environmental stewardship.

**Selection Process:**

Structure, Inc. was the sole responder to the Request for Proposals issued by the Department and considered to be a responsible bidder. The proposal bid price was determined to be fair and reasonable.

**Scope of Work:**

The **Scope of Work** was distributed to each Commissioner.

Based on the proposal evaluation and numerous discussions with the principals of Structure, Inc., we recommend that the contract, not to exceed \$40,000, be awarded to **Structure, Inc.**

Carrie LaSuer asked if we looked at partnering with solid waste agencies for funding.

Tom Anderson said that we have talked about that but because of the timing and the need to expedite this project, we were unable to fully research other partners.

*Motion was made by Carrie LaSuer to approve the contract as presented. Seconded by Susan Heathcote. Motion carried unanimously.*

**APPROVED AS PRESENTED**

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

Elaine Douskey, UST Program Supervisor 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.
  - There has been a lot of discussion on what a suspected release means and the Department has decided that a suspected release were up to the owners/operators to report to us.
- 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.

Charlotte Hubbell said that suspected releases should be reported because it's hard to see an actual release so if there is a suspected release I believe we should follow up on that. We are having a difficult time with enforcement because of the lack of field staff. I would like to see a requirement that they report a suspected release and then a third party go out and confirm.

Elaine Douskey said that Chapter 135 addresses suspected releases and there are some exceptions. Owners are still required to report suspected releases except under the very specific conditions where they can actually document equipment malfunction.

Susan Heathcote asked how the new required documentation will benefit the DNR, if the DNR isn't requiring submittal of the documentation.

Elaine Douskey said that it helps after the fact when we are dealing with an actual release. We are in a transition stage within this program and we do have room for improvements.

Charlotte Hubbell said that she would like to see the rules state that documentation of suspected releases be submitted back to the Department with results of the reporting.

*Motion was made by Susan Heathcote to defer decision until next month. In the meantime, let's plan for the groundwater professionals to state their concerns and answer questions at the next month's meeting. Seconded by Marty Stimson.*

**DEFERRED**

**NOTICE OF INTENDED ACTION – CHAPTER 135 AND CHAPTER 134 – AMENDMENTS TO UNDERGROUND STORAGE TANK RULES**

Elaine Douskey of the Underground Storage Tank Section presented the following item.

The Department is presenting the proposed additions to Chapters 135 and 134 to implement the EPA's Operating Training and UST Inspections guidelines, part of the Federal Energy Policy Act of 2005, and as authorized per legislation passed in 2007 (SF 499/HF792) (Iowa Act). Also included are amendments on piping in-line catastrophic leak detection at unstaffed facilities and using certified groundwater professionals for soil and groundwater sampling when permanently closing underground storage tanks and piping.

The rules outline three classes of operators that must be trained and designated at all underground storage tank (UST) facilities: Class A, Class B, and Class C. In brief, Class A operators have primary responsibility to operate and maintain the UST system; Class B operators actually implement applicable UST regulatory requirements and standards in the field; and the Class C operator is an employee at the UST site (e.g., cashier) and is the first line of response to events indicating emergency conditions. These rules contain specific job duties, training requirements, and training deadlines applicable to each operator class.

Additions to Chapter 134 include conflict of interest provisions contained in the EPA guidelines applicable to compliance inspectors. Compliance inspections cannot be conducted by licensed inspectors who are employees of the UST owner or operator. The change is required to continue receiving federal funding and EPA state program approval.

The rule change for piping leak detection at un-staffed facilities requires in-line leak detection to shut off the submersible pump and stop product flow to the dispenser. In-line leak detection is for catastrophic leaks in pressurized product lines. They are generally designed to alert the on-site operator of the catastrophic release by slowing down product flow or activating an alarm so the submersible pump can be immediately shut down. When facilities are not staffed, there is no one for an alarm to notify so the system can be shut down.

The amendments also require that the soil and groundwater investigations required when UST systems are permanently closed by removal or filling in place be conducted by a groundwater professional certified by the Department under chapter 567 IAC 134, Part A. The amendment allows the Department the discretion to exempt this requirement at its discretion.

Three public hearings will be held across the state in early July.

*Motion was made by Susan Heathcote to approve the NOIA – Chapter 135 and 134 as presented. Seconded by Dale Cochran.*

Elaine Douskey said that EPA does not require third party inspections.

*Motion carried unanimously.*

**APPROVED AS PRESENTED**

**NOTICE OF INTENDED ACTION – CHAPTER 61 WATER QUALITY STANDARDS- CHLORIDE, SULFATE AND TOTAL DISSOLVED SOLIDS**

Adam Schnieders with the Water Quality Bureau presented the following item.

**Background:** In 2004, the DNR moved forward with a proposed chloride standard. Concerns were raised that the proposed chloride standard was not scientifically defensible for use in Iowa. The result was that a chloride standard was not approved and an interim strategy using Total Dissolved Solids as an indicator regarding water quality was put in place while the Department worked through the issues surrounding the chloride standard.

Recently the research and analysis related to toxicity of total dissolved solids, chloride and sulfate has been completed by the Department in conjunction with the Environmental Protection Agency. The purpose was to update and develop criteria for these parameters to better protect aquatic life based on new scientific information.

The DNR worked with the U.S. Environmental Protection Agency to ensure that the research compiled met certain scientific standards. Gaps were identified in the research and resulted in new toxicity tests being performed in 2008 and 2009.

The work being performed by the Iowa DNR will more than likely result in a new federal EPA national criteria for chloride. Many states are anxious to see what happens here.

With the availability of new research and toxicity data, the information is now available to propose numeric criteria for chloride and sulfate to better protect river, stream and lake aquatic life uses and remove the current interim approach for total dissolved solids criteria.

***Proposed chloride criteria***

To calculate the applicable acute and chronic criteria for chloride, use the equations below. Statewide default values for hardness and sulfate will be used unless site specific data is available.

***Acute Chloride Criteria Equation***

$$287.8(\text{Hardness})^{0.205797}(\text{Sulfate})^{-0.07452} = \text{Acute Criteria Value (mg/L)}$$

***Chronic Chloride Criteria Equation***

$$177.87(\text{Hardness})^{0.205797}(\text{Sulfate})^{-0.07452} = \text{Chronic Criteria Value (mg/L)}$$

***Proposed Sulfate Criteria***

Chloride	Cl <sup>-</sup> < 5 mg/L	5 ≤ Cl <sup>-</sup> < 25	25 ≤ Cl <sup>-</sup> ≤ 500
Hardness mg/L as CaCO <sub>3</sub>			
H < 100 mg/L	500	500	500
100 ≤ H ≤ 500	500	[-57.478 + 5.79 (hardness) + 54.163 (chloride)] * 0.65	[1276.7 + 5.508 (hardness) - 1.457 (chloride)] * 0.65
H > 500	500	2,000	2,000

***Statewide Background Values***

The following statewide background values were determined by analyzing DNR ambient water monitoring data from 2000 to 2007:

Hardness: 200 mg/L as CaCO<sub>3</sub>

Sulfate: 63 mg/L

Chloride: 34 mg/L

***Total Dissolved Solids***

The current interim approach for total dissolved solids levels through Whole Effluent Toxicity Testing will be replaced by the proposed numerical criteria for chloride and sulfate.

This revision is based on scientific review that demonstrates individual ions cause toxicity to aquatic life. This review revealed that in Iowa, chloride and sulfate are the specific ions of concern. As a result, ion criteria for chloride and sulfate are better indicators than integrative parameters such as TDS, conductivity and salinity for water quality protection.

Adam Schienders said that the purpose of this rulemaking is to establish water quality criteria for chloride and sulfate, aquatic life and designated uses. With the new data and research, we are now able to better protect rivers and aquatic life uses. There are limitations that you should be aware of. Based on what the fiscal impact statement includes, it's expected that the proposed criteria will affect about 250-550 NPDES regulated facilities with a wastewater discharge. It will be difficult to comply with some of the permit limits. Next question is how will these facilities come into compliance? We have looked into common treatment methods. It's still very difficult to treat for chloride outside of reverse osmosis. I believe most facilities are considering mechanical treatment as a viable option at this time. General use waters are much better defined now. They truly are intermittent waters. We also have guideline values for livestock watering.

Currently, we have seven public hearings scheduled across the state.

We respectfully ask that you approve this notice of intended action.

Marty Stimson asked about the timeline for compliance.

Adam Schnieders said that the compliance schedule is issued with each permit. Typically it's up to five years but could be longer.

*Motion was made by Susan Heathcote to approve the Notice of Intended Action – Chapter 61 – Water Quality Standards as presented. Seconded by Paul Johnson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

## **Proposed Rule – Chapter 64 – Wastewater Construction and Operation Permits to include Well Construction and Well Service Wastewater Discharges**

Russ Tell with the Water Quality Bureau presented the following item.

The Commission is asked to review the draft 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 (BMPs), require the monitoring of the wastewater effluent to determine compliance of the BMPs, and take enforcement action against any permittee or co-permittee who fail to establish or maintain the required BMPs or meet the water quality standards.

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 the issuance of a 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 any 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 6 public hearings to obtain additional public comment.

Susan Heathcote asked for a summary of concerns from stakeholders to be included with the NOIA presented in June.

Paul Johnson asked if geothermal well drillers are licensed/permitted. Russ indicated that yes they are certified drillers.

Carrie La Suer asked if the rule could apply to drilling for methane. Russ said it did not apply because this rules package addresses only water wells and the methane drilling would be in another set of rules. The rules focus on private and public water supply and geothermal wells along with observation wells that are associated with each.

<b>INFORMATION</b>
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**AIR QUALITY - TITLE V FEE FOR SFY 2010**

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

The Commission is asked to approve the attached Title V Operating Permit budget establishing the annual Title V fee at \$52.00 per ton of air pollution emitted from Title V Operating Permit subject sources. This is a \$13.00 per ton increase from the current fiscal year to accommodate personnel and program increases, and reflects a full utilization of the prior year's fund balance.

The Air Quality Bureau has been working each year since the program's inception to develop a budget that more accurately reflects the amount of funding required to implement the Title V program. In past years, the budget was planned with approximately a one percent reserve; however, the balance forward funds have accumulated each year to an amount greater than 1%. The balance forward amount at the end of SFY 2008 was \$812,941. The Bureau implemented measures in SFY 2009 to reduce the amount carried over into SFY 2010. The measures include adjustments to the projected balance forward funds that account for normal staff turnover and the resulting vacancies that occur during a typical state fiscal year. At the March EPC meeting, the Bureau projected approximately \$100,000 balance carried forward at the end of SFY 2009. Due to changes described below, the amount balanced carried forward over to SFY 2010 has been revised to approximately \$220,000.

**Program Background**

A Title V operating permit is required for those facilities with potential emissions that exceed the major stationary source thresholds. A major stationary source is a facility that has the potential to emit 100 tons per year (tpy) or more of any air pollutant; or the potential to emit 10 tpy or more of any individual hazardous air pollutant; or the potential to emit 25 tpy or more of any combination of hazardous air pollutants. Currently Iowa has approximately 274 major stationary sources, also referred to as Title V facilities. Examples of Title V facilities include electric utilities, grain processors, cement plants, and manufacturing operations.

The Title V fee is based on the first 4,000 tons of each regulated air pollutant emitted each year from each major stationary source in the state. Regulated pollutants include: particulate matter less than 10 micrometers in diameter (PM<sub>10</sub>) and particulate matter less than 2.5 micrometers in diameter (PM<sub>2.5</sub>), sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC), lead (Pb), and hazardous air pollutants (HAP). The fee is used to support the development and administration of activities associated with major sources subject to the Title V Operating Permit Program.

**Air Quality Funding Sources and Cost Centers** - The Air Quality Bureau budget is divided by funding into three areas: Title V Program, EPA Performance Partnership Grant (PPG), and other state or federal air quality grants. Expenditures are divided between multiple expenditure (cost center) accounts and a variety of funding sources as listed in Table 1. The attached spreadsheet consolidates the cost centers into the three areas to reflect the total program.

**TABLE 1. SUMMARY OF COST CENTERS AND FUNDING SOURCES**

Program Area	Expenditures (Cost Center)	Funding Source*
<b>Air Title V includes:</b>		
	1430	TV Fees
Legal Services		
Title V Information & Education	1556	TV Fees
IT Support	3520	TV Fees
Title V Operating Permit Program	7230	TV Fees
Title V Field Program	7421	TV Fees
<b>Air Quality PPG Program includes:</b>		
Air Quality central office base program	7220	CAA 105 & GF
Air Quality field office base program	7419	CAA 105 & GF
<b>Other Air Quality grants include:</b>		
PM 2.5 Monitoring network	7240	CAA 103
Iowa Climate Change Advisory Council (ICCAC) Support	7250	Env. First
Ambient Air Monitoring	17HA	Env. First
Diesel Emission Reduction Grant	7260	Federal Grant
American Reinvestment and Recovery Act (ARRA) Grant	7270	Federal Stimulus Grant

\* TV Fees – Title V fees

CAA 105 – Clean Air Act section 105 grant with a state match required

CAA 103 – Clean Air Act section 103 grant with no state match required

Env. First – Funding under the state Environment First Fund

GF – Legislatively appropriated General Funds or other state funds

Clean Air Act (CAA) section 105 money is awarded to the department through a Performance Partnership Grant (PPG) with the EPA. The PPG is the financial component of the Performance Partnership Agreement (PPA). The department negotiates the PPG on an annual cycle while the PPA is negotiated on a two-year cycle. The PPA contains the mutually agreed upon goals that the EPA and DNR will work together to achieve during the two year agreement period. For air quality, the tasks that must be accomplished to achieve the agreed upon goals are contained in the 105 work plan, which is an attachment to the PPA. As indicated in the chart below, CAA section 105 funds require state matching dollars whereas CAA section 103 funds do not. No Title V money is included in the PPG.

**Lead Ambient Air Monitoring Implementation** – The ambient air monitoring program continues to prepare for the recently revised Lead national ambient air quality standard (NAAQS). The Bureau must establish a new Lead monitoring network to meet the revised requirements. Additional equipment will be needed for laboratory analysis.

**Changes in Emissions Projections** – Each budget cycle typically uses the prior year's tonnage as the planning estimate. The Title V tonnage for SFY 2009 was 224,000 tons. Given the scope of the natural disasters in 2008, the Bureau reduced the estimate by 8,300 tons to 215,700 tons for the March EPC meeting. The reported tons (200,000 tons) used to calculate the SFY 2010 budget came in even lower than the projection used for the March EPC meeting due to a combination of the 2008 floods and the economic down turn. This is 24,000 tons (over 10%)

lower than the prior year. The reduced tons created a deficit of over \$816,000 from the draft budget proposed at the March EPC meeting.

Significant reductions were made to accommodate the reduced revenue projection. A proposed FTE for IT support was removed from the budget. The Bureau had budgeted contingencies into the Title V budget for the Lead monitoring implementation and the PM2.5 ambient air monitoring program in case federal and/or state funding was not received. While EPA and the Iowa General Assembly did not provide funding for the Lead NAAQS, EPA did continue funding the CAA 103 grant which supports PM2.5 ambient air monitoring and analysis. The majority of lab analysis expenses budgeted for SFY 2009 will be carried forward into SFY 2010. Lab analysis costs were removed from the SFY 2010 budget and adjustments were made to account for normal staff turnover and the resulting vacancies that occur during a typical state fiscal year.

### **Title V Budget Changes**

1. Personnel and indirect costs: As the personnel costs have not been finalized, the Bureau is using an estimate of 5 percent increase for all FTE positions that are not capped. The indirect costs are estimated to increase from 13.76 percent to 14.03 percent in SFY 2010.
2. Professional Services: Professional services costs will decrease overall by almost \$90,000 due primarily to the removal of the contingency funds for the lab analysis costs as discussed above. The professional agreements listed below are still under negotiation and will be finalized at the June EPC meeting. The current agreement estimates, based on negotiations to date, are included in the attached budget.
  - The Linn and Polk County Local Air Quality Programs have estimated increased personnel costs and program costs. The Linn County program cost increase is higher than the Polk County program cost increase due primarily to the addition of 0.5 FTE to allow for review of Prevention of Significant Deterioration (PSD) permits in Linn County and website enhancements.
  - The UHL agreement reflects an estimated decrease in the Title V portion due to EPA's continued funding of the 103 grant. The agreement has an overall increase associated with personnel costs and additional program cost increases related to the implementation of the Lead NAAQS.

Total Title V Fund expenditures are proposed to be increased from the current SFY 2009 budget levels by 5.6% or \$578,000 in the SFY 2010 budget. The carry forward amount has been reduced 65%. The fee is proposed to increase by 33% or \$13.00, from \$39.00 per ton to \$52.00 per ton.

Carrie La Suer inquired if the PSD program is being evaluated for its fee structure. Catharine Fitzsimmons responded by highlighting past stakeholder meetings for assessing a fee for construction permits. Currently industry is proposing a fee structure on construction permits.

*Motion was made by Carrie La Suer to approve the Air Quality - Title V Fee for SFY 2010 as presented. Seconded by Marty Stimson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**CONTRACT - DEPARTMENT OF ECONOMIC DEVELOPMENT FOR SMALL BUSINESS ASSISTANCE PROGRAM: SMALL BUSINESS ENVIRONMENTAL ASSISTANCE LIAISON**

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

**Recommendations:**

Commission approval is requested for a two year-service contract with the Iowa Department of Economic Development (DED) of Des Moines, IA. The contract will begin on July 1, 2009 and terminate on June 30, 2011. The total amount of this contract shall not exceed **\$129,284**; SFY 2010 not to exceed \$63,870, SFY 2011 not to exceed \$65,414. 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 \$103,642), Pollution Prevention funds (not to exceed \$12,000), and Brownfield funds (not to exceed \$13,642). The statutory authority for the DNR to enter into this contract is under Section 507 of the Clean Air Act and 455B.133(8)(a).

**Background:**

The Small Business Assistance Program, which is mandated by Section 507 of the Clean Air Act, provides technical and non-technical assistance to small businesses. This contract establishes the requirements of Iowa's non-technical assistance program; also referred to as the Small Business Environmental Liaison (Liaison).

**Purpose:**

The parties propose to enter into this Contract for the purpose of creating a Small Business Environmental Liaison Program that will help to ensure a) small businesses receive assistance (through education and outreach) to come into compliance with applicable environmental regulations, and b) the requirements of Section 507 of the Clean Air Act for a small business ombudsman for small business stationary sources is being met.

**Contractor Selection Process:**

DED was chosen for this project because it has been demonstrated through the current and previous intergovernmental agreements that the Liaison has been very effective in assisting both the DNR and small businesses with outreach and other assistance as needed. It was also specified in the 1992 Iowa State Implementation Plan (SIP) with EPA that the Liaison would be housed at a state agency other than DNR. At that time it was deemed that DED would fulfill the role of Iowa's small business non-technical assistance provider.

The DNR is allowed to contract with DED without using a competitive selection process pursuant to state law.

Marty Stimson asked for clarification on DED's role with the department. Christina shared DED's role in assisting businesses with non-regulatory and regulatory compliance. Jan Loyson provided her thoughts on why businesses contact DED to ask questions and obtain guidance. DED's main role is education and assistance for small businesses.

Paul Johnson asked if the program has had an audit or review. Christina shared the results of the kaizen/mapping event held approximately 3 years ago.

*Motion was made by Dale Cochran to approve the contract as presented. Seconded by Gene VerSteeg. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**CONTRACT - UNIVERSITY OF NORTHERN IOWA FOR SMALL BUSINESS ASSISTANCE PROGRAM: IOWA AIR EMISSIONS ASSISTANCE PROGRAM (IAEAP)**

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

**Recommendations:**

Commission approval is requested for a one year-service contract with the University of Northern Iowa of Cedar Falls, IA. The contract will begin on July 1, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$573,000. This contract is an Iowa Code Chapter 28E agreement.

**Funding Source:**

This contract will be funded through cost reimbursable payments funded solely by Title V program fees. The statutory authority for the DNR to enter into this contract is under Section 507 of the Clean Air Act and 455B.133(8)(a).

**Background:**

The Small Business Assistance Program, which is mandated by Section 507 of the Clean Air Act, provides technical and non-technical assistance to small businesses. This contract establishes the requirements of Iowa's technical assistance program.

**Purpose:**

The parties propose to enter into this Contract for the purpose of retaining UNI to sustain a small business assistance program pursuant to Section 507 of the Clean Air Act Amendments of 1990 and to outline the activities and projects related to providing various aspects of technical assistance to Iowa's small businesses. Particular emphasis is placed on assisting small businesses with air permitting requirements, emission estimations, and determination of regulatory status and compliance requirements.

**Contractor Selection Process:**

University of Northern Iowa was chosen for this project because it has been demonstrated through the current and previous intergovernmental agreements that IAEAP is an effective assistance provider to Iowa's small businesses. It is also specified in the 1992 Iowa State Implementation Plan (SIP) with EPA that the University of Northern Iowa will be the small business technical assistance provider.

The DNR is allowed to contract with the University of Northern Iowa without using a competitive selection process pursuant to state law.

Dan Nickey shared the proactive approach he and his team (6 FTEs) take with workshops and newsletters, and education through the Iowa Waste Reduction Center.

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

**APPROVED AS PRESENTED**

**NOTICE OF INTENDED ACTION - CHAPTERS 20, 22, 23, 25, 28 AND 33:  
AIR QUALITY PROGRAM RULES - UPDATES, REVISIONS, AND ADDITIONS**

Jim McGraw with the Air Quality Bureau presented the following item.

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 20 "Scope of Title – Definitions-Forms-Rules of Practice," Chapter 22 "Controlling Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25 "Measurement of Emissions," Chapter 28 "Ambient Air Quality Standards," and Chapter 33 "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality," of 567 Iowa Administrative Code.

This rulemaking was presented to the Commission for information in March. The primary purpose of the rule changes is to update state air quality rules for new federal requirements, including adoption of new National Ambient Air Quality Standards (NAAQS) and adoption of two new federal air toxics standards. The rule changes also include amendments to state air construction permitting requirements and stack testing requirements. Additional amendments to other rules and changes to federal regulations also are being adopted.

This rulemaking includes adoption of two new standards under the National Emission Standards for Hazardous Air Pollutant (NESHAP) program. This program requires new and existing facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards for air toxics. The new NESHAP being adopted are described in the summary for Item 16.

Because of the potential impacts to small businesses and to some previously unregulated facilities, the Department is developing NESHAP implementation strategies in conjunction with the rulemaking. The strategies include cooperative efforts with University of Northern Iowa – Iowa Air Emissions Assistance Program (UNI), Iowa Department of Economic Development (IDED), and the Linn and Polk County local air quality programs to provide outreach, education and compliance assistance to stakeholders. The Department's outreach efforts began in 2008 and are continuing during the rulemaking process. It is hoped that adoption of the NESHAP in conjunction with the Department's outreach efforts will result in reductions in air toxics while minimizing the regulatory burden to small businesses and other affected facilities.

The specific items included in the adopted rules are summarized below. More detail is included in the preamble of the attached Notice.

- Item 1 and Item 19 adopt a revision to the definition of "volatile organic compound" or "VOC." EPA removed two chemicals from the list of VOC compounds.
- Items 2, 4, 5, 7, 8, 9, 10, 11, 12 and 13 amend the zip code for the Department's Air Quality Bureau offices. A new zip code will take effect on July 1, 2009.

- Item 3 adds a new construction permit exemption for some non-road diesel fuel engines used to conduct periodic testing and maintenance at natural gas pipelines. The Department has conducted an air quality of assessment of these projects and determined that an exemption from construction permitting is appropriate.
- Item 6 amends the rules for facilities qualifying for the permit by rule for paint booths (PBR) to include new certification requirements regarding the NESHAP for metal fabrication and finishing. This amendment is similar to an amendment adopted earlier in 2009 for the NESHAP for miscellaneous surface coating. As with the earlier amendment, the Department is modifying the required PBR notification form to include questions that will assist the owner or operator with the NESHAP requirements. These changes will help ensure that owners and operators are aware of the NESHAP requirements and realize that all spray applications must be in compliance with or otherwise exempt from the NESHAP by the applicable compliance dates (see also Item 16).
- Item 8, in addition to updating the Air Quality Bureau zip code as explained above, also amends the provisions for applying for a Title V Operating Permit. Facility owners and operators submitting electronic Title V applications will no longer required to also submit hard copy applications to EPA Region VII. The Department has given EPA access to the Department's database so that EPA may review electronic copies of Title V applications.
- Item 14 adopts EPA amendments to the New Source Performance Standards (NSPS):
  - EPA amended the NSPS for electric utility steam generating units and industrial-commercial-institutional steam generating units. The amendments add compliance alternatives and eliminate the opacity standard for certain types of units.
  - EPA amended the NSPS General Conditions for alternative work practices for equipment leak detection and repair.
  - EPA amended the NSPS for stationary combustion turbines. The amendments revise the SO<sub>2</sub> limits for combustion turbines that burn biogas (e.g. landfill gas and digester gas) to account for the lower heating value of biogas relative to distillate oil. *NOTE: This is a new addition from what was presented for information in March.*
- Item 15 adopts recent EPA amendments to the NESHAP program. EPA amended the NESHAP General Conditions for alternative work practices for equipment leak detection and repair. The new NESHAP being adopted are explained in Item 16.
- Item 16 adopts two new federal NESHAP for area sources. Area sources, sometimes called minor sources, have potential emissions of less than 10 tons per year of any single air toxic and less than 25 tons per year of any combination of air toxics:
  - Plating and Polishing  
This NESHAP affects area sources engaged in specific plating and polishing activities that use or emit cadmium, chromium, lead, manganese, and nickel. Owners and operators must implement management practices and must comply with equipment standards to reduce air toxics. EPA determined that most facilities are already implementing these practices and standards. EPA estimates that the average, on-going costs for each facility for recordkeeping and reporting will be \$1100 per year for the first three years and will be \$713 for each year thereafter. The Department estimates that 100 facilities may be subject to this NESHAP. Owners and operators will have until July 2010 to comply with the NESHAP.

- Metal Fabrication and Finishing

This NESHAP affects area sources in which the primary activity at the facility falls under one of the designated metal fabrication and finishing categories, and that use or emit cadmium, chromium, lead, manganese, and nickel. Owner and operators must implement management practices to reduce air toxics. EPA determined that most facilities are already implementing these practices, and that the average, on-going costs for each facility for monitoring, recordkeeping and reporting will be \$569 per year. Facilities with spray painting operations may have additional equipment and training costs. The Department estimates that between 60 and 100 facilities may be subject to the NESHAP. Owners and operators of existing facilities will have until July 2011 to comply with the NESHAP requirements.

- Item 17 amends the Department's current rules regarding stack testing notifications, pre-test meetings, and test protocols. The amendments provide clarity and allow more flexibility.
- Item 18 adopts the new NAAQS for ozone and lead. EPA recently strengthened the NAAQS for ozone and lead to more adequately protect public health and welfare.

If the Commission approves this Notice of Intended Action, a public hearing will be held on Monday, July 20, 2009, at 1 p.m. at the Department's Air Quality Bureau offices. The public comment period for the proposed rules will close on July 21, 2009.

An administrative rule fiscal impact statement was included.

*Motion was made by Gene VerSteege to approve the NOIA – Chapter 20,22,23,25,28, and 33 as presented. Seconded by Paul Johnson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**CONTRACT – UNIVERSITY OF IOWA HYGIENIC LABORATORY – ENVIRONMENTAL MONITORING AND LABORATORY SERVICES**

Barb Lynch with the Field Services Bureau presented the following item.

The Department requests Commission approval of a contract in the amount of \$242,559 with the University of Iowa Hygienic Lab with the intent of aiding the Director of the Iowa Department of Natural Resources in determining the quality of the environment of the State of Iowa by providing field and laboratory services in support of environmental control programs and summarizing and reporting environmental quality data.

The contract scope of work includes:

- Water Quality Monitoring: Influent and effluent composite samples; fish kill monitoring; emergency response; fish tissue monitoring, and storm water runoff.
- Water Supply Support: Drinking water and public water supply monitoring.
- Provide one Corrective Action Specialist position to the UST Section within the DNR who will assist in facilitating meetings with affected parties and coordinating remediation activities at leaking underground storage tanks (LUST) sites.

The University Hygienic Laboratory (UHL) is the State of Iowa's Environmental and Public Health Laboratory. The Department has several contracts with the laboratory to provide analytical and field services.

This contract is federally funded through the U.S. EPA Performance Partnership Grant and the LUST Trust Corrective Action grant provided to the state for program management.

Susan Heathcote asked what type of action is taken with a spill into a waterway that has no aquatic life to kill. Barb shared the role of her team in responding and dealing with spills. In northwest Iowa, the water quality is improving to host aquatic life.

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

**APPROVED AS PRESENTED**

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

Randy Clark with 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.

As background for the subrules in question, Randy reviewed portions of Iowa Code §459.304 "Construction permit application procedure – county participation – comments – master matrix" to lay out the county's role to provide public notice and accept public comments. The county has 30 days to submit comments urging the Department to approve or disapprove an application. The county must participate in the master matrix to bring a demand for hearing to EPC. The applicant may also contest the county's decision by appealing to the EPC but, in addition, may elect to have a contested case before an administrative law judge (ALJ).

In response to a demand for hearing the commission has 35 days to decide whether to affirm the Department's preliminary decision on a construction permit application, modify it or reverse it. If the EPC decides to handle demands for hearing as contested cases Iowa Code §17A.11 provides the agency the discretion to refer the demand to an ALJ. However, it is unlikely that we would meet the 35 day requirement if an ALJ was used. Carrie La Suer suggested the commission could limit the concerns from all parties by allowing the cases to go through an ALJ.

Charlotte Hubbell set out a few questions that need additional research. Questions referenced the use of an ALJ, if Iowa Code §459.304(8)(b)(1) is constitutional, and the role of public participation in these hearings.

Potential stakeholder meetings may be scheduled in the near future.

<b>INFORMATION</b>
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## **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:

### **Floodplain Process Event**

The DNR is hosting a floodplain mapping event to develop processes and goals associated with the legislative appropriation of \$2 million. Members from the Corps of Engineers, county engineers, FEMA, and other are involved to assist.

### **Spill Report Clarification**

The manure spill report has additional information on the report that have historically not been noted. Starting January 20<sup>th</sup>, EPA required a new reporting of livestock facilities for air emissions. The 1413 air emissions releases are not manure spills.

Commissioners discussed with Barb Lynch additional information to be included on the reports for the type and amount of spills.

### **Environmental Services FY 10 Budget (July 2009-June 2010)**

The Environmental Services Division (ESD) listens to and educates the public about environmental issues, provides technical compliance assistance to individuals, governmental bodies and industries, and regulates related activities that may impact the Environment. The Division also provides critical basic scientific data and information that is used by DNR, other state agencies, local governments, other non-governmental groups, and individuals to make regulatory, land use, and policy decisions.

The department's priorities in developing the SFY 2010 budget are 1) Assuring employees are protected as our greatest asset and 2) Fully funding the federal matched programs. In these programs, each General Fund dollar is used to leverage 3 to 4 federal dollars. Because of this

leverage relationship, the 15% general fund cut to the division of \$1,194,100 had the potential of costing an additional \$2,622,370 in federal matching money.

Through this plan, the ESD has avoided this critical loss of federal revenue and has also been able to absorb the reduction without temporary (furloughs) or permanent layoffs. This was managed by holding vacant positions open and making dramatic reductions in travel, training, supplies, equipment, and contract expenditures.

### **Impacts of FY 10 Budget to the Iowa DNR Environmental Services Division:**

- New Flood Plain Program
  - Funding for mapping, engineering & permitting, local program oversight & assistance, dam permitting, compliance, and disaster response.
  - Staff previously funded by storm water fees are now funded by the new flood plain program.
- Current vacant positions may be frozen leaving the distribution of highest priority tasks among the current staff, with some tasks to no longer be done.
  - Increased processing time for applications/permits.
  - Reduced site visits for inspections, enforcement, and assistance.
  - Current vacant positions are frozen resulting in the distribution of highest priority tasks among the current staff, with some tasks to no longer be done.
- Department wide reduction in travel, equipment, supplies, and other non-personnel expenses.
  - Employees will work with older equipment, tools, and resources to perform their jobs.
  - Reduced attendance at conferences, workshops, and events as leaders in the State of Iowa for environmental awareness.
- Reduction of professional and routine services contracts.
  - Collection of minimum required basic earth, water and mapping science data.
  - Reduction of contract workers.
- Reduction of Livestock Feeding Program activities.
  - Minimal inspections of confinement animal feeding operations.
  - Reduced technical assistance, MMP oversight, onsite inspections, and enforcement to confinement operations.
  - Response to these sites only when a fish kill and/or similar environmental insults occur.
  - Cease sending letters to producers for due date of annual MMP and 4-year P index.
- Prioritize air and land quality inspections.
  - Begin using funding to inspect facilities with air and land permits. Cease responding to open burning and dumping complaints.

### **Educational/Informative Presentations**

The commission desires to have information presentations from AFO/CAFO operators and producers. Gene Ver Steeg recommended the Iowa Coalition of Farmers. Paul Johnson recommended working with ISU Extension. Carrie La Suer recommended a friend with a 1300 head hog facility.

Charlotte Hubbell wishes to host a presentation in June on coal ash.

Paul Johnson recommended constructed wetlands.

Susan Heathcote recommended hosting a separate day for presentations and educational/informative events. Gene, Paul, David, and Susan will work on recommendations to present to the commission.

**Resolution on Passenger Rail**

WHEREAS, it is the statutory duty of the Iowa Environmental Protection Commission to oversee Iowa’s environmental protection efforts;

WHEREAS, passenger trains can and must provide an increasingly vital role in our transportation system, offering citizens a fuel-efficient and environmentally-friendly mode of transportation; and

WHEREAS, modern high speed rail can significantly reduce Iowa’s carbon footprint;

WHEREAS, the improvement of passenger rail alternatives will boost Iowa’s economy by providing Iowans cost-effective links to vital centers of commerce throughout the Midwest region; and

WHEREAS, Iowans, until the past few decades, were able easily and conveniently to access passenger train service from many communities in our State to places throughout the nation; and

WHEREAS, under federal leadership, and with the support of members of Iowa’s Congressional delegation, America is set to experience a new era of passenger rail transportation; and

WHEREAS, the Culver-Judge Administration and the Iowa General Assembly last month allocated funds to support the expansion of passenger rail transportation in Iowa for the first time in the state’s modern history; and

WHEREAS, the Environmental Protection Commission applauds these efforts by Iowans to expand passenger rail in the state and wishes to encourage such development in the most environmentally advantageous mode possible;

Now, therefore, we the members of the Environmental Protection Commission of the State of Iowa declare our support for a new passenger rail line from Chicago to Iowa City and Des Moines and Chicago to Dubuque, and hereby encourage all citizens of the state and their elected leaders to take all reasonable steps to participate in this new era of passenger rail transportation.

*Motion was made by Paul Johnson to approve the resolution as presented. Seconded by Marty Stimson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**NEXT MEETING DATES**

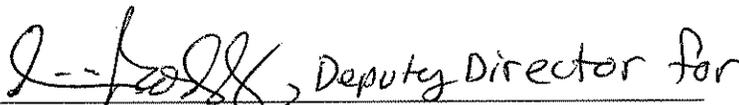
June 16, 2009 – Urbandale

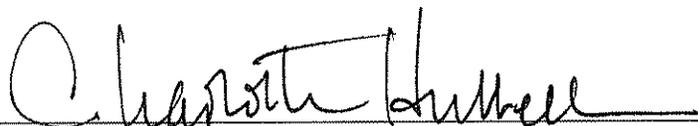
July 21, 2009 – Urbandale

**ADJOURNMENT**

*Motion was made by Paul Johnson. Seconded by Marty Stimson. Motion carried unanimously.*

With no further business to come before the Environmental Protection Commission, Chairperson Charlotte Hubbell adjourned the meeting at 5:50 p.m., Tuesday, May 19, 2009.

  
Richard A. Leopold, Director

  
Charlotte Hubbell, Chair

**Public Comment to the Environmental Protection Commission**  
**Iowa Farm Bureau Federation**

*May 19, 2009*

My name is Chris Gruenhagen, representing the Iowa Farm Bureau Federation in my comment today. I would like to make a comment regarding Agenda Item 5. While the proposed projects are likely deserving of selection, we would like the Commission to take notice that nonpoint source projects for agriculture were not a priority for these funds despite being eligible. Our members overwhelming adopted policy last fall to “support additional funding for soil conservation and water quality.” This is a priority of our membership and our board.

We thank the department for their past commitment to nonpoint source projects in the SRF program. However, the commitment does not meet the demand or need for cost share to put agricultural soil and water conservation projects back in place from the 2008 floods or to make additional progress. Some farmers have spent their own resources to repair last year’s damage, but many need assistance. IDALS has estimated the need for flood recovery at \$40 million.

The American Recovery and Reinvestment Act (ARRA) of 2009 included at least \$53 million to the Clean Water State Revolving Loan Funds. More may be received as other states fail to fully utilize their allocation. 20% of these funds are required to be spent on Green Projects in accordance with EPA guidance. EPA guidance for the expenditure of these funds requires construction to begin or a construction contract awarded by February 17, 2010.

Projects eligible for assistance under ARRA include “**public or privately owned projects that implement State Nonpoint Source Management Plans established under section 319 of the Clean Water Act.**” (inter alia see p. 29 EPA Guidance) The list of qualifying projects is extensive and includes hydromodification to establish or restore riparian buffers, floodplains, wetlands and other natural features, wetland restoration and constructed wetlands.

Agriculture has made significant progress in recent years in protecting Iowa’s soil and water resources. In the past year, DNR reported progress through 42 projects installed during FY2008. These projects reduced sediment by at least 18,860 tons per year, reduced phosphorus by at least 24,585 tons and nitrogen by 27,992 pounds per year.

In 2007, nearly 1,350 landowners installed practices such as terraces, waterways and water and sediment basins protecting more than 20,000 acres with cost share assistance. Demand for Iowa cost share exceeds funds available by more than \$3 million. Should funding be available, Iowa could leverage anywhere from \$25 million to \$100 million in additional water quality projects in any given year.

While much progress has been made, these types of projects should be duplicated and expanded through voluntary partnerships to continue making progress on sediment and nutrients in our waters. Given the recommendations for Agenda Item 5, we ask that future priority be given to opportunities for agricultural nonpoint source projects (1) with new federal stimulus moneys returned by other states; (2) with additional SRF capitalized funds as these loans are paid back, and (3) with outreach to 319 and cost share program applicants that these programs are available. Additionally, we would request that the Water Resources Coordinating Council be consulted to ensure consistent state priorities.

DATE: May 19, 2009  
TO: Environmental Protection Commission  
FROM: Linda Kinman, Des Moines Water Works  
SUBJECT: Clean Water and Drinking Water State Revolving Loan Fund  
Intended Use Plan for the American Recovery and Reinvestment Act of 2009  
**Project for Pocahontas County**

Des Moines Water Works (DMWW) comments today are in regard to the Drainage District 65, pilot project in Pocahontas County. The Iowa Department of Agriculture and Land Stewardship (IDALS) is proposing numerous wetland projects in the “Iowa Plan – Wetland and Drainage Integrated-Landscape Systems for Agricultural Production and Environmental Stewardship.” The project for Pocahontas County is one of these wetlands.

DMWW would like to support wetland projects for mitigating nutrients, but as you see in our comment document contained in the Intended Use Plan (IUP), we have several concerns with regard to this project. We support the concepts of natural wetland restoration, constructed wetlands, and subsurface bioreactors to sequester and consume nutrients from farmed fields. This project may have the potential to do that. We believe, however, that many questions and concerns regarding this concept remain unstudied and unanswered. We believe this project merits further examination before any public funding is awarded.

Many state and federal programs funding watershed projects have required all new projects to be part of a comprehensive watershed plan. We are not aware that this project is included in a watershed plan or that it proposes to include comprehensive planning as part of the project. The success of watershed plans has been directly related to the comprehensive planning process at the beginning of the project.

DMWW has experienced a couple of things that give us pause for concern. One is that in setting future meetings with IDALS to discuss the questions raised, we were informed that we could only include those members of our staff who have technical or scientific expertise and that no one from the outside should be invited. Since we do not claim to have expansive wetland expertise, it is evident we are looking to others to compliment our level of expertise and believe we have the prerogative to include our advisors in these meetings. Second, in response to a request for the ability to review wetland monitoring data collected by Iowa State University, we were informed that it was not available due to the Freedom of Information, Section 1619 (Copy Attached) of the 2008 Farm Bill which prohibits the release of information regarding wetland determinations.

DMWW is recommending that this pilot project receive additional scrutiny before it is funded, that specific monitoring and reporting requirements be outlined and agreed to, and if needed the agency, landowner, and any other partner waive their freedom of information rights under the provisions of the 2008 Farm Bill. It is very difficult for us to support even a pilot project, which is not part of a comprehensive watershed plan and that the measurable outcomes of the project cannot be made public.

**Section 1619 of the Farm Bill prohibits the Secretary of Agriculture and its employees from disclosing certain information that has been provided by agricultural landowners and producers to participate in the U.S. Department of Agriculture's (USDA) programs, except as necessary for delivering technical assistance.**

**Explanation.** Section 1619 of the Farm Bill prohibits the release of information that falls into certain categories. Information that has been provided to USDA by an agricultural producer or owner of agricultural land concerning the operation, practices, or the land itself in order to participate in USDA programs is not to be disclosed by any USDA employee. Geospatial information is also prohibited from disclosure when it has been maintained by the Secretary and concerns the land which an agricultural producer or owner has provided information to participate in a USDA program.

Information that has been provided to NRCS by an agricultural producer to participate in an NRCS program includes information directly provided to an NRCS employee, or information developed by the Agency based on information obtained from the property of the producer. An example of documents that may be withheld under Section 1619 include, but are not limited to, conservation plans, wetland determinations, Highly Erodible Land Determinations, acreage amounts, assistance notes, National Resources Inventory point data, flood damage surveys, and program contract information (see Attachment A).

Geospatial information includes maps, surveys, and charts. Aerial photographs may be considered geospatial information only if they contain data identifying characteristics of the agricultural land.

Section 1619 provides a limited release of information that would be otherwise protected as previously noted. Provided that USDA determines information will not be subsequently discussed, the Secretary is authorized to disclose information that has been provided by an agricultural producer or owner to a person, Federal, State, local, or tribal agency working in cooperation with USDA when technical or financial assistance is being provided to the agricultural operation or when responding to a disease or pest threat to an agricultural operation. Providing technical and financial assistance includes evaluation of programs, conservation practices, and outreach for USDA programs (see Attachment B).

Additionally, Section 1619 provides that the prohibition on disclosure is not applicable to the disclosure of payment information, which includes the names and addresses of recipients of payments, under any USDA program. Furthermore, Section 1619 does not apply to information that has been transformed into a statistical or aggregate form that protects the name of an agricultural producer or owner or protects the site of gathering data. Consent of the producer or owner of the agricultural operation may be given as an additional exception to the prohibition on disclosure. Consent of the producer or owner of the agricultural operation must be provided in writing and include the name of the participant, which information is to be released, to whom the data is to be released, and the length of time the data is to be available for release. Consent, however, may not be given as a condition to participate in or receiving any benefit under a program administered by USDA.

Sharing of routine information as necessary for the implementation of conservation programs with partners will be permitted through a Memorandum of Understanding (MOU). Guidance for the MOU is being provided in a separate National Bulletin. Until the MOU is developed, individual employees will certify their compliance with Section 1619 using Attachment C.

All State Admin. Officers processing FOIA requests that fall under Section 1619 should withhold or redact information pursuant to Exemption 3 of FOIA. Exemption 3 permits NRCS to withhold information which is specifically prohibited from disclosure by another Federal statute. Each FOIA request must continue to be reviewed individually on a case-by-case basis. Responsive records, even if withheld or redacted, must be maintained with the FOIA request in an official file within the office processing the request. See Attachment D as an example of a response letter using Exemption 3.

If you are unsure as to whether an information request is covered by Section 1619, you are advised to hold the request and immediately contact Mary Alston, National FOIA Officer, and forward a copy of the request. Please assure the requester that their request is being processed in a timely manner. Should State, county, center, or National Headquarters offices receive requests for electronic information, they should send the requester a letter acknowledging receipt and directing the request to the National FOIA Officer. The request itself with a copy of the acknowledgement letter should be forwarded to the NHQ FOIA Office as soon as possible.

**Contact.** If you have questions, please contact Frank Wilcox, SC FOIA Officer, at (803) 253-3975 or [frank.wilcox@sc.usda.gov](mailto:frank.wilcox@sc.usda.gov).

DATE: April 22, 2009  
TO: Patti Cale-Finnegan  
FROM: Linda Kinman  
SUBJECT: State Revolving Loan Fund  
Supplemental Intended Use Plan-American Recovery and Reinvestment Act of 2009

Thank you for the opportunity to comment on the Supplemental Intended Use Plan. The close to \$77 million dollars in funding for drinking and waste water infrastructure projects in Iowa will not only stimulate the economy, but it will provide greater protection of public health. We compliment the Department of Natural Resources and the Iowa Finance Authority in doing an exemplary job in getting the information out, setting the criteria for projects, and awarding funds. The stimulus funding will in turn free up funds for projects in the future that may not currently be eligible due the shovel ready criteria.

However, we have concerns, as expressed at the April 16<sup>th</sup>, public hearing, with the project in Pocahontas County-Drainage District 65. This project appears to be part of the "Iowa Plan," recommendation from the Iowa Department of Agriculture and Land Stewardship (IDALS). Our concerns are twofold. One, lands within the confines of an established drainage district in Iowa has taxing authority, which means that land in the district can be assessed for the construction, maintenance, and repair of drainage district facilities. Drainage districts are beyond their life expectancy and some in disrepair.

A drainage district is not a unit of government, but a group of landowners joined together for the sole purpose of making land more productive. There are more than 3,000 districts in Iowa. Awarding SRF funding for this type of program, in lieu of taxing the land it benefits, is setting a precedent that could potentially put funds available for drinking and waste water infrastructure in Iowa at risk.

Second, Des Moines Water Works (DMWW) is excited to see interest in mitigating water quantity and quality concerns in the Raccoon and Des Moines River watersheds, and we support the concepts of natural wetland restoration, constructed wetlands, and subsurface bioreactors to sequester and consume nutrients from farmed fields. While this program may have the potential to do that, we believe, there are many questions and concerns regarding this concept that remain unstudied and unanswered. These include:

- There is very little, if any, peer-reviewed data demonstrating that this design and size concept will reduce nutrient loads to streams such as the Raccoon and Des Moines Rivers.
- Much peer-reviewed and published data demonstrates that the constructed drainage that has occurred over the past century is at least partly responsible for the elevated nutrient concentrations and increased discharge to Iowa streams.
- No data has been generated that demonstrates that this program will reduce base flows or the magnitude of flood events. Historically, many of Iowa's largest floods have occurred in the last two decades. Enhancement of drainage without sufficient storage or sequestration of water may only worsen this problem. It is unclear as to what effect enhanced drainage will have on base flow and peak flow events in a watershed like the Raccoon or Des Moines River.
- The program could potentially eliminate or reduce incentives to restore farmed wetlands through other Farm Bill programs, possibly negating any habitat gains seen through the construction of wetlands.
- The constructed wetlands will not be natural systems, in that they will receive extremely high-nutrient water. How will this effect the intended reintroduction of native species? Is any information available that would quantify the benefits to habitat or native species?
- Because of the unnaturally-high nutrient content of the water in the wetlands, will they become potential reservoirs of cyanobacteria and other harmful algae blooms detrimental to drinking water treatment? Might regional rain events flush cyanobacteria-laden water into the Des Moines and Raccoon Rivers, rendering them untreatable for drinking water uses?

- Will surface intakes be installed in the upland depressions, potentially increasing loads of nutrients, sediment, and pathogenic organisms from manure to the constructed wetlands and subsequently into the main stem rivers? Is there any connectivity of the upland depressions to groundwater recharge, and quality?
- Wetlands are often designed to allow peak flows to pass so they do not become silted in. If designed to allow peak flows to pass, they will not allow nitrate reduction, and have the potential to cause increased nitrate loads.
- How quickly will the constructed wetland silt in, especially if surface intakes are installed in the upland depressions?
- Nitrous oxide (and methane) emissions will increase in constructed wetlands, especially those receiving high concentrations of NO<sub>3</sub>. Will the increase be sufficiently offset by decreases of nitrous oxide emissions from the soils that receive the increased drainage?

While we continue to have concerns, DMWW believes this program merits further examination. We suggest the following steps be taken:

- Limit installation to a few pilot studies that will generate peer-reviewed data and publications that will quantify downstream benefits, before they are constructed across the state carte-blanche.
- Engage the U.S. Environmental Protection Agency to evaluate one or more of the pilot studies with an Environmental Impact Statement or Study.
- Will wetlands comply with swamp-buster rules?
- Will wetlands be accessible to the public?
- Engage other agencies and entities in developing design and implementation plan to gain input and buy in i.e.:
  - U.S. Department of Agriculture-Natural Resources Conservation Service
  - U.S. Geological Survey
  - Corp of Engineers
  - Department of Natural Resources – Watersheds – Fisheries – etc.
  - Expertise from the State Universities
  - Drinking Water Utilities
  - Agricultural Groups and/or producers
  - Habitat and Environmental Groups
  - Any other relevant stakeholders
- Develop or enhance plans for construction of CREP type wetlands. Although the creation of these has been extremely slow in Iowa, we believe these wetlands appear to more closely resemble natural systems, have large potential downstream water quality benefits, and provide habitat for native species.
- If the Iowa Plan is to move forward, it needs to have a more multi-disciplinary approach. At least on the surface, it appears to be primarily a re-engineering of the existing drainage systems with the hope that nutrient sequestration and habitat formation will be tangential benefits.
- Who is the public who benefits, and what are the public benefits resulting from this project?

In essence, if drainage renovation permits were inextricably tied to a wetland installation project that would adequately delay the flow of water, at least 72 hours from a 100 year rainfall event, show a marked reduction in nitrates, sediment, and phosphorus from the drained land, DMWW would be more inclined to support the program. We are continuing to discuss these issues with IDALS, pursuing the science and design of these potential wetland projects to ensure their benefits in the Raccoon and Des Moines River Watersheds, but recommend that this project be removed from the current Intended Use Plan, until such time additional information and confirmation of potential benefits of the structure are better identified and additional dialogue with all stakeholders regarding the appropriate use of State Revolving Loan Funds for these projects.



Linda Kinman  
Research/Regulatory Coordinator

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Phone 515-283-8706 Fax 515-283-2610  
[kinman@dmww.com](mailto:kinman@dmww.com) [www.dmww.com](http://www.dmww.com)

## Fiscal Year 2010 Planned DNR Watershed Monitoring and Assessment Activities

<u>Project</u>	<u>Activities</u>	<u>Contractor</u>	<u>Cost</u>	<u>Funding source</u>	<u>Anticipated EPC Date</u>
Ambient Streams -Water Quality	Chemical, nutrients, flow	UHL	\$647,700	Environment First	5/19/2009
Ambient Streams - Biological	Fish, benthics, habitat	UHL	\$198,100	EPA 106/Environment First	5/19/2009
Ambient Lakes	Chemical, biological	ISU	\$217,000	Environment First	Approved 4/21/09
Beaches	Bacteria, cyanobacteria, toxins	Internal	\$50,000	CDC/Environment First	N/A
IOWATER	Trainings, equipment, snapshots, Project AWARE	Internal	\$140,000	Environment First	N/A
Wetland Monitoring	Chemical, biological, physical	Internal/UHL	\$23,000	EPA Wetland Grants	N/A
Big Rivers	Similar to Ambient Streams, comprehensive sampling at major river outlets of state	USGS	\$270,000	Environment First	7/16/2009
Gaging	Gaging and flow prediction at river sites across the state	USGS	\$270,000	Flood Plains/Environment First	7/16/2009
TMDL Monitoring	Collection of water quality data to calibrate and run models	UHL	\$191,124	EPA 319	5/19/2009
319 Project Monitoring	Monitoring to develop the priorities for 319 project implementation and project effectiveness monitoring	UHL	\$213,040	EPA 319	5/19/2009

July  
Meetings

## FY2010 TMDL Monitoring

**7.3 Budget.** The budget for this Contract shall be as follows:

Task		Amount of compensation allotted to Task (Variable Payment)
Task 1:	Lower Pine Lake Sampling and Analysis	Not to exceed \$10,222.77
Task 2:	Lake Keomah Sampling and Analysis	Not to exceed \$12,850.27
Task 3:	Lake Hannen Sampling and Analysis	Not to exceed \$9,339.60
Task 4:	Roberts Creek Sampling and Analysis	Not to exceed \$4,052.38
Task 5:	Dick Creek Sampling and Analysis	Not to exceed \$28,436.82
Task 6:	Walnut Creek Sampling and Analysis	Not to exceed \$34,136.33
Task 7:	Brush Creek Sampling and Analysis	Not to exceed \$2,707.97
Task 8:	Willow Creek Sampling and Analysis	Not to exceed \$3,760.85
Task 9:	White Pine Creek Sampling and Analysis	Not to exceed \$2,688.34
Task 10:	Marrowbone Creek Sampling and Analysis	Not to exceed \$2,242.50
Task 11:	Long Dick Creek Sampling and Analysis	Not to exceed \$2,164.34
Task 12:	Yellow River Sampling and Analysis	Not to exceed \$53,614.90
Task 13:	QA/QC Procedures	--
Task 14:	Data Transfer	--
	Miscellaneous supplies	Not to exceed \$5,000 (\$4,000 for streams; \$1,000 lakes)
	Shipping	Not to exceed \$2,750 (\$2500 for streams; \$250 for lakes)
	Maintenance and Repair	Not to exceed \$3,000
Sub-totals		Not to exceed \$176,967.07
Facilities and Administrative Costs @ 8%		\$14,157.37
<b>Total</b>		<b>Not to exceed: \$191,124.44</b>

## FY2010-2012 EPA 319 Project Monitoring

7.3 **Budget.** The budget for this Contract shall be as follows:

Task	Amount of compensation allotted to Task (Variable Payment)
Task 1: Lake Hendricks Water Analysis	Not to exceed \$25,000
Task 2: Tetes Des Morts Water Analysis	Not to exceed \$25,000
Task 3: Tetes Des Morts Biological Sample and Analysis	Not to exceed \$10,000
Task 4: Williamson Pond Water Analysis	Not to exceed \$25,000
Task 5: Lake Geode Water Analysis	Not to exceed \$25,000
Task 6: Dry Run Creek Water Analysis	Not to exceed \$25,000
Task 7: Dry Run Creek Biological Sample and Analysis	Not to exceed \$10,000
Task 8: Muchakinock Water Analysis	Not to exceed \$20,000
Task 9: Muchakinock Biological Sample and Analysis	Not to exceed \$10,000
Task 10: East Branch Iowa River Water Analysis	Not to exceed \$15,000
Task 11: East Branch Iowa River Biological Sample and Analysis	Not to exceed \$7,259
Task 12: Quality Assurance/Quality Control	--
Task 13: Data Transfer	--
Sub-totals	Not to exceed \$197,259
Facilities and Administrative Costs @ 8%	\$15,781
<b>Total</b>	<b>Not to exceed: \$213,040</b>

**F. Total Dissolved Solids:** Total Dissolved Solids (TDS) numerical criteria will be determined by applying a site specific approach for the protection of Iowa's surface waters and their specified uses. The site specific approach would first consider a guideline value of 1000 mg/l (TDS) as a threshold in stream level at which negative impacts to the uses of the receiving stream may begin to occur. (Note, for some unusual situations where sensitive in stream uses occur or where uses are sensitive to the ion composition of the TDS, a more restrictive guideline value may be warranted.) Sources of TDS potentially elevating a receiving stream above 1000 mg/l (TDS) would be required, upon application for a discharge permit or permit renewal, to clearly demonstrate that their discharge will not result in toxicity to the receiving stream.

The following represents the site specific requirements to demonstrate compliance with the narrative criteria and defined uses noted in the Water Quality Standards.

1. **Passage of a Whole Effluent Toxicity Test**— Each source discharging TDS that may potentially elevate a receiving stream above 1000 mg/l (TDS) will be required to complete and pass an acute or an acute and chronic Whole Effluent Toxicity (WET) test with the results submitted to the Department with the application for discharge permit or permit renewal. The WET test shall be conducted using EPA approved test procedures.
- For dischargers directly entering a Class B designated water body, acute and chronic WET tests will be conducted using a mixed combination of effluent and receiving stream water. For the acute WET test, the mixed combinations will be in the proportion of the effluent flow to 2.5 % of the natural one-day, ten-year low flow (1Q10) or protected flow or the results of a site-specific zone of initial dilution stream study. For the chronic WET test, the mixed combinations will be in the proportion of the effluent flow to 25 % of the natural seven-day, ten-year low flow (7Q10) or protected flow or the results of a site-specific mixing zone stream study.

- For dischargers directly entering a water body classified only as a General Water of the state, an acute WET test will be conducted using 100% of the effluent flow.
2. Submit a chemical analysis of the WET test water for selected cations and anions, including Calcium, Magnesium, Potassium, Sodium, Chloride, Sulfate and Iron. Also to be included is the Total Dissolved Solids contained in the test sample. The concentration for specific ions will be evaluated to determine if exceedances occur to defined uses. Potential threshold levels where impacts to uses may occur are noted in the following Table.
  3. The protection of the defined uses requires application of the ion guidelines as 'end-of-pipe' limits in general waters. In designated waters, the guideline values would be met at the boundary of the mixing zone.

Recommended Water Quality Guidelines  
for  
Protecting Defined Uses

Ions	Recommended Guidelines Values* (mg/l)
Calcium	1000
Chloride	1500
Magnesium	800
Sodium	800
Sulfate	<del>1000</del> 2000
Nitrate+Nitrite-N	100

\* Based on the guidelines for livestock watering.

## Iowa Department of Natural Resources

The Environmental Services Division (ESD) listens to and educates the public about environmental issues, provides technical compliance assistance to individuals, governmental bodies and industries, and regulates related activities that may impact the Environment. The Division also provides critical basic scientific data and information that is used by DNR, other state agencies, local governments, other non-governmental groups, and individuals to make regulatory, land use, and policy decisions.

The department's priorities in developing the SFY 2010 budget are 1) Assuring employees are protected as our greatest asset and 2) Fully funding the federal matched programs. In these programs, each General Fund dollar is used to leverage 3 to 4 federal dollars. Because of this leverage relationship, the 15% general fund cut to the division of \$1,194,100 had the potential of costing an additional \$2,622,370 in federal matching money.

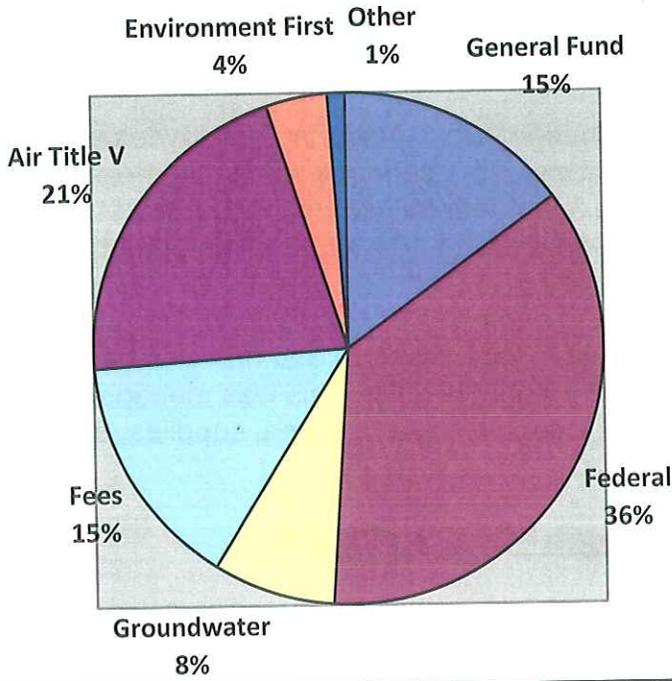
Through this plan, the ESD has avoided this critical loss of federal revenue and has also been able to absorb the reduction without temporary (furloughs) or permanent layoffs. This was managed by holding vacant positions open and making dramatic reductions in travel, training, supplies, equipment, and contract expenditures.

### Impacts of FY 10 Budget to the Iowa DNR Environmental Services Division:

- New Flood Plain Program
  - Funding for mapping, engineering & permitting, local program oversight & assistance, dam permitting, compliance, and disaster response.
  - Staff previously funded by storm water fees are now funded by the new flood plain program.
- Current vacant positions may be frozen leaving the distribution of highest priority tasks among the current staff, with some tasks to no longer be done.
  - Increased processing time for applications/permits.
  - Reduced site visits for inspections, enforcement, and assistance.
  - Current vacant positions are frozen resulting in the distribution of highest priority tasks among the current staff, with some tasks to no longer be done.
- Department wide reduction in travel, equipment, supplies, and other non-personnel expenses.
  - Employees will work with older equipment, tools, and resources to perform their jobs.
  - Reduced attendance at conferences, workshops, and events as leaders in the State of Iowa for environmental awareness.
- Reduction of professional and routine services contracts.
  - Collection of minimum required basic earth, water and mapping science data.
  - Reduction of contract workers.
- Reduction of Livestock Feeding Program activities.
  - Minimal inspections of confinement animal feeding operations.
  - Reduced technical assistance, MMP oversight, onsite inspections, and enforcement to confinement operations.
  - Response to these sites only when a fish kill and/or similar environmental insults occur.
  - Cease sending letters to producers for due date of annual MMP and 4-year P index.
- Prioritize air and land quality inspections.
  - Begin using funding to inspect facilities with air and land permits. Cease responding to open burning and dumping complaints.

# Iowa Department of Natural Resources

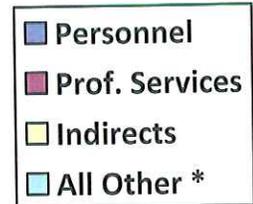
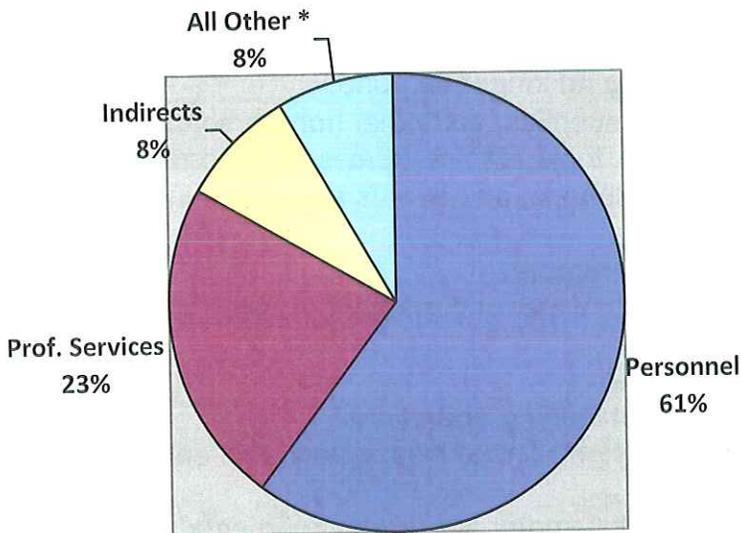
## ESD FY 09 Revenue \$50,918,134



FY 10 General Fund  
Reduction = \$1,194,100



## ESD FY 09 Spending Plan



\* Vehicles, computers, training, supplies, maintenance, printing & binding, uniforms, postage, phones & internet, rent/leases, utilities, travel, and equipment.

DES MOINES – The Iowa Environmental Protection Commission at its monthly meeting today passed a resolution in support of expanded passenger rail service to several of Iowa’s largest cities, citing the many environmental benefits.

Greenhouse gas emissions and fuel use per passenger mile are far lower for rail, especially high speed rail, versus other common forms of transportation. British government data estimates that emissions per passenger mile for rail are 45% that of cars and trucks, and 27% that of air travel on short haul routes like Des Moines - Chicago. Electric rail can potentially operate with zero carbon emissions if powered by renewable energy, and increase the market for Iowa-manufactured renewable energy. Where occupancy is high, passenger rail also significantly reduces other forms of air pollution produced by transportation and diminishes traffic congestion.

Iowa currently is served by two passenger trains – the California Zephyr and Southwest Chief – both of which serve southern Iowa. In recent years many Iowans have worked to bring passenger rail service back to other portions of the state, with current proposals to bring service to Dubuque, the Quad Cities and Iowa City and longer term plans to bring service to other communities such as Des Moines and West Des Moines.

Governor Culver’s I-JOBS Initiative includes \$3 million for expanded passenger rail service in the state. In the 2009 session, the Iowa legislature enacted Senate File 151, which eased regulations to help expand passenger rail in Iowa. In addition, the Iowa Department of Transportation will be competing for federal passenger rail funds under the American Recovery and Reinvestment Act of 2009. All of these steps position Iowa to work with Illinois and Amtrak to bring new passenger rail lines to the state that connect more Iowa communities with Chicago.

Below is the text of the EPC resolution in support of expanded Iowa passenger rail service:

**WHEREAS, it is the statutory duty of the Iowa Environmental Protection Commission to oversee Iowa’s environmental protection efforts;**

**WHEREAS, passenger trains can and must provide an increasingly vital role in our transportation system, offering citizens a fuel-efficient and environmentally-friendly mode of transportation; and**

**WHEREAS, modern high speed rail can significantly reduce Iowa’s carbon footprint;**

**WHEREAS, the improvement of passenger rail alternatives will boost Iowa’s economy by providing Iowans cost-effective links to vital centers of commerce throughout the Midwest region; and**

**WHEREAS, Iowans, until the past few decades, were able easily and conveniently to access passenger train service from many communities in our State to places throughout the nation; and**

**WHEREAS, under federal leadership, and with the support of members of Iowa's Congressional delegation, America is set to experience a new era of passenger rail transportation; and**

**WHEREAS, the Culver-Judge Administration and the Iowa General Assembly last month allocated funds to support the expansion of passenger rail transportation in Iowa for the first time in the state's modern history; and**

**WHEREAS, the Environmental Protection Commission applauds these efforts by Iowans to expand passenger rail in the state and wishes to encourage such development in the most environmentally advantageous mode possible;**

**Now, therefore, we the members of the Environmental Protection Commission of the State of Iowa declare our support for a new passenger rail line from Chicago to Iowa City and Des Moines and Chicago to Dubuque, and hereby encourage all citizens of the state and their elected leaders to take all reasonable steps to participate in this new era of passenger rail transportation.**

# State Revolving Fund Plan for Use of Federal Stimulus Funds

Patti Cale-Finnegan, Department of Natural Resources

Lori Beary, Iowa Finance Authority



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\*

## State Revolving Fund

The SRF is one of Iowa's  
primary sources of  
financing for drinking  
water and wastewater  
infrastructure projects



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# State Revolving Fund

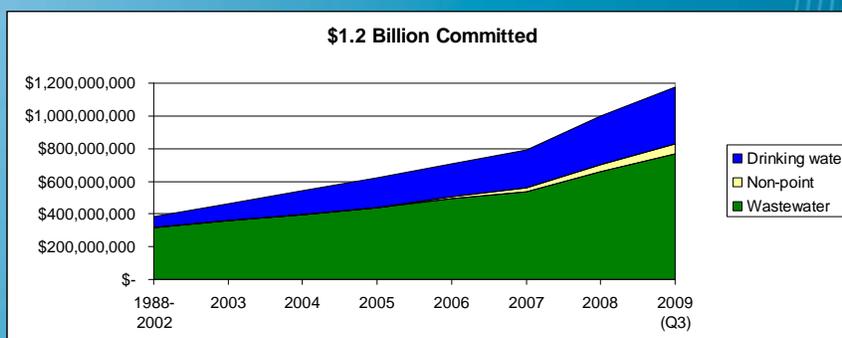
Jointly administered by  
the Iowa Department of  
Natural Resources and  
the Iowa Finance  
Authority



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# Growth of SRF



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# Revolving Loan Fund



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# Drinking Water SRF

- Loans for:
  - Improvements to public water supply systems
  - Consolidations and connections
  - Source water protection
- DWSRF set-asides fund technical assistance, capacity development, state drinking water program, SWP



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# Clean Water SRF

- Loans for:
  - Publicly owned wastewater treatment facilities
  - Sewer system rehabilitation
  - New systems for unsewered communities
  - Stormwater management for water quality



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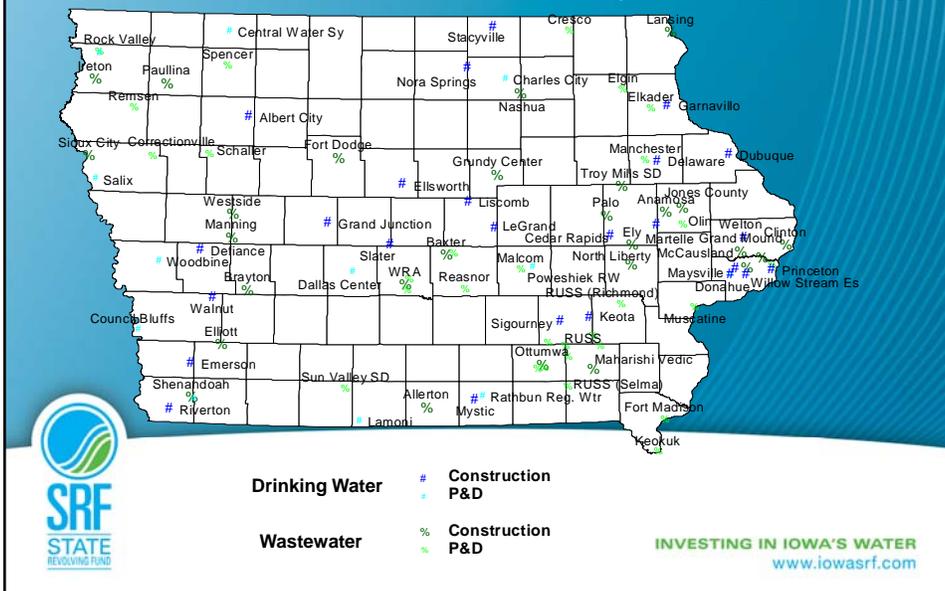
# Types of Loans

- Planning & design
- Construction
- Source water protection
- Nonpoint source/watershed protection



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# SRF Infrastructure Projects (FY08)



# Nonpoint Source Loans

- Soil erosion, manure management, septic systems, brownfields, landfill closure, lake restoration, habitat preservation
- Loan amounts range from \$5,000 to millions



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# Nonpoint Source Loans

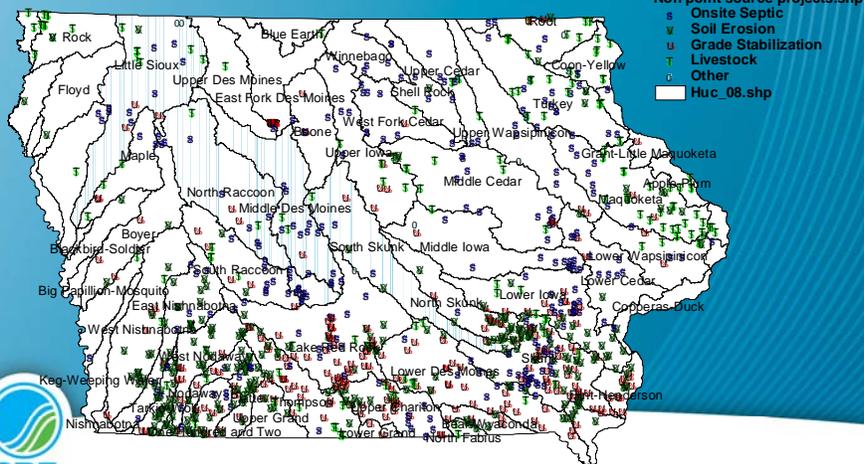
- Use a linked deposit approach for private borrowers
- Hundreds of participating lenders
- Must use non-federal “recycled” funds



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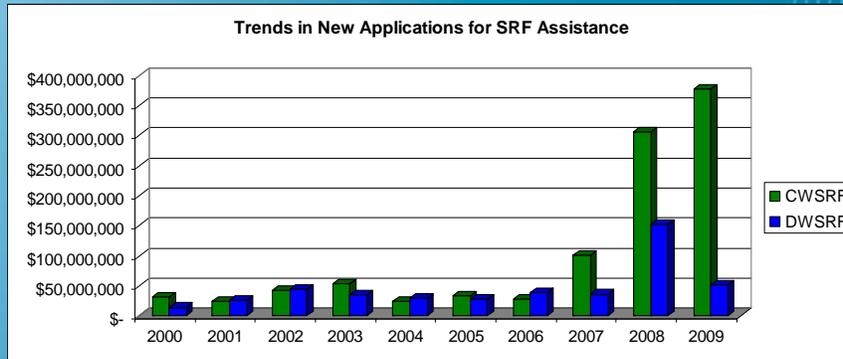
# SRF Nonpoint Projects



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# Growth of SRF



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# SRF and ARRA

- American Recovery and Reinvestment Act of 2009



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## SRF and ARRA

- Primary Objectives:
  - “To preserve and create jobs and promote economic recovery”
  - “To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits”
  - “To assist those most impacted by the recession”
  - “To stabilize state and local government budgets”
  - “To provide investments need to increase economic efficiency by spurring technological advances in science and health”



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## SRF and ARRA

- Congress chose the State Revolving Fund to administer funds for drinking water and water quality projects
- As an existing program, can move quickly to start getting funds out working in the economy



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## SRF and ARRA

- Iowa's Allocations:
  - Clean Water SRF: \$53 million
  - Drinking Water SRF: \$24 million
  - No state match required



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## SRF and ARRA

- Iowa's Proposed Strategies:
  - Determine which projects are “shovel-ready”
  - Define and apply disadvantaged criteria to target assistance to neediest communities
  - Identify and incentivize green and environmentally innovative projects

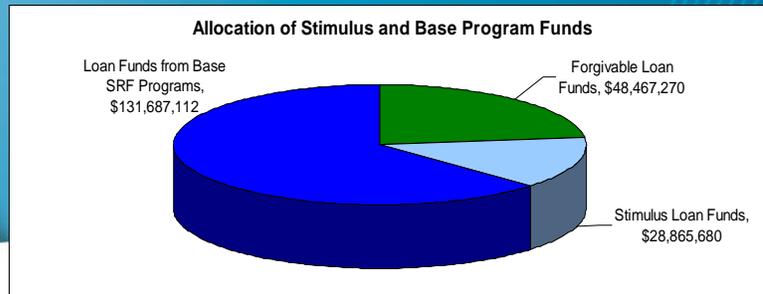


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# SRF and ARRA

- Iowa's Proposed Strategies:
  - Supplement with "base" SRF funds to get a total of \$209 million worth of work done

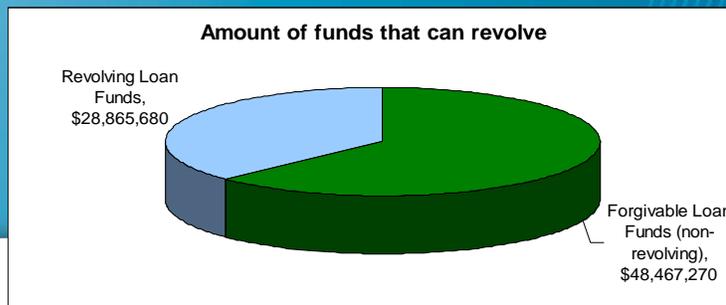


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# SRF and ARRA

- Iowa's Proposed Strategies:
  - Keep a portion of the stimulus funds to forever revolve in the SRF loan funds



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## SRF and ARRA

- Projects must be “shovel-ready”
  - Must have construction permits as needed
  - Must have environmental review completed
  - Must go to bid using SRF and special stimulus front-end requirements



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## SRF and ARRA

- Projects must be “shovel-ready”
  - Reviewed all current SRF projects, consulted with applicants
  - Determined status and timeline for construction permits, environmental review, and loan execution
  - 52 CWSRF and 24 DWSRF projects could be shovel-ready by September 2009



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## SRF and ARRA

- Applicants must be “disadvantaged”
  - Median Household Income (MHI) as % of statewide average
  - Water or sewer rates as % of MHI
  - System debt
  - Unemployment levels



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## SRF and ARRA

- Applicants must be “disadvantaged”
  - Highest scoring CWSRF project: Elkader
    - Rates: \$92/month
    - Rates as percent of MHI: 3.38%
    - Per capita debt: \$5,703
    - Unemployment rate: 8.7%



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## SRF and ARRA

- Applicants must be “disadvantaged”
  - Lowest scoring CWSRF projects: Little Rock, Sioux Rapids, Dubuque
    - Rates: \$25 - \$29/month
    - Rates as percent of MHI: .95 – 1%
    - Per capita debt: \$269 - \$680
    - Unemployment rate: 4 – 6.5%



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## SRF and ARRA

- CWSRF priority list
  - 40 projects
  - Loan forgiveness from 20% to 40% of SRF loan amount
  - Loan forgiveness amount = \$28 Million
  - Total loan amount = \$99 Million



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## SRF and ARRA



- DWSRF priority list
  - 20 projects
  - Loan forgiveness from 30% to 50% of SRF loan amount
  - Loan forgiveness amount = \$13 Million
  - Total loan amount = \$63 Million



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## SRF and ARRA

- 20% of funds for “green” projects
  - Water efficiency
  - Energy efficiency
  - Green infrastructure
  - Environmentally innovative



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## SRF and ARRA

- Green application process yielded 120 applications totaling \$123 Million
- 50 projects proposed for funding
- Water meters, fine bubble aeration, rain gardens, nitrate removal wetland, porous paving, high efficiency pumps, decentralized wastewater, etc.



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## SRF and ARRA

- Additional requirements:
  - Davis-Bacon prevailing wages
  - Buy American
    - 100% of iron, steel, and manufactured good must be U.S.-made...
    - Unless they are not readily available. Then applicant can request a waiver from EPA



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## SRF and ARRA

- Reporting requirements:
  - Weekly project updates to EPA
  - Transportation and Infrastructure Committee
  - Office of Management and Budget
  - State coordination



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## SRF and ARRA

- Timelines and deadlines
  - ARRA passed February 17
  - EPA guidance issued March 2
  - Application deadline for green projects – March 27
  - Publication of draft IUPs –April 3
  - Public hearing – April 16
  - Public comment period closed – April 23



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## SRF and ARRA

- Timelines and deadlines
  - Presented to EPC May 19
  - EPA goal of having half of funds committed – June 17
  - Amended IUPs if needed – September
  - **All funds must be committed to projects (under contract or under construction) – February 17, 2010**



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## SRF and ARRA

- Public comments:
  - Concerns from communities that did not meet the disadvantaged criteria
  - Issues raised about funding ag drainage as part of a nitrate removal system
  - Concerns about not using enough of the funds for nonpoint source efforts



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# SRF and ARRA

- Balancing multiple objectives:
  - Get money out quickly
  - Be transparent and accountable
  - Implement new and additional processes and requirements
  - Fund innovative projects



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