

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
AUGUST 17, 2010

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Charlotte Hubbell at 10:05 a.m. on Tuesday, August 17, 2010 at DNR Air Quality Building, Windsor Heights, Iowa.

COMMISSIONERS PRESENT

Lorna Puntillo, Secretary
Gene Ver Steeg
Charlotte Hubbell, Chair
David Petty
Susan Heathcote
Paul Johnson
John Glenn
Dee Bruemmer – arrived at 12:50

COMMISSIONERS ABSENT

Marty Stimson, Vice Chair

ADOPTION OF AGENDA

Items 4 & 5 are being deferred until after 2:00 PM today.

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

APPROVED AS AMENDED

APPROVAL OF MINUTES

Susan Heathcote asked that we postpone approval of the July minutes until next month in order to review and listen to the discussion on the animal feeding operations rule.

Motion was made by Susan Heathcote to defer approval of the July EPC minutes until next month. Seconded by Charlotte Hubbell. Motion carried unanimously.

APPROVED AS AMENDED

DIRECTORS REMARKS

Director Leopold swore in new commissioner John Glenn.

Director Leopold commented on the following:

- The Department has thoroughly responded to the Auditor's findings. Even after reviewing the 16 findings, I still believe that neither the environment nor public health was in jeopardy.
- EPA Regional Administrator, DNR representatives and the Department of Agriculture will be going on a joint tour of a few dairy operations and open feedlots in NW Iowa.
- The Governor has established a Lake Delhi Task Force to analyze what happened, lessons learned and how to proceed from here.

INFORMATIONAL ONLY

NOTICE OF INTENDED ACTION - AMENDMENTS TO UNDERGROUND STORAGE TANK RULES - CHAPTER 135

Elaine Douskey, Program Supervisor – Underground Storage Tank Section presented the following item.

The Iowa Legislature passed legislation (2010 Iowa Acts, House File 2531) that made changes in review procedures and acceptance of reports from certified groundwater professionals on investigation and cleanup of petroleum contamination from underground storage tanks.

A groundwater professional's site investigation, classification, and corrective design reports must be accepted unless within 90 days of receipt the Iowa Department of Natural Resources (IDNR) identifies material information in the report that is inaccurate or incomplete. From July 1, 2010, through June 30, 2011, the department has 120 days rather than 90 days.

The proposed rule changes amend existing rules to include the changes in review procedures and acceptance of reports from certified groundwater professionals on investigation and cleanup of petroleum contamination from underground storage tanks.

Three public hearings have been scheduled in November in Denison, Coralville and Des Moines.

Lorna Puntillo noted the situation where a site still has free product recovery requirements, but the risk classification is “no action required” - it could present some confusion to a responsible party. She asked if the terminology in rule, ‘no action required’, could be changed. Because the term is from statute, it would be difficult to do.

Elaine Douskey noted the proposed rule better clarifies a “No Further Action” (NFA) certificate will not be issued until the free product activities are completed, and that DNR response letters give clear instructions. Elaine agreed to provide to EPC members a copy of the standard letter sent to owners when the risk classification is ‘no action required’, but free product remains at the site. Elaine will also send the template for the NFA certificate.

Paul Johnson asked whether the Groundwater Hazard Statement (that are required to be completed at the time of a property sale) must indicate whether the property is a LUST site, particularly if the site has achieved “No Further Action” status. DNR was unsure if it did, and agreed to follow-up. (The Groundwater Hazard Statement must note when a hazardous waste is present at the site. As such, when contamination above the numerical standards in Chapter 135 remains at the site, it needs to be disclosed).

INFORMATION

Charlotte Hubbell asked about the status of the Plume Study.

Elaine indicated that DNR is working with the UST Fund to get the study under way. A draft RFP to contract with a researcher/environmental firm is under review. Public Water Supplies that would be eligible for the study are those that fall outside of the 'area of concern' using the newly calibrated risk model. The new RBCA model was released earlier this year, but few reports have been submitted using the new model. There is a short list of some public water supply wells which may be included in the study based on their vulnerability / historic impact from petroleum contamination.

PUBLIC PARTICIPATION

MARIAN RIGGS GELB, Executive director of the Iowa Environmental Council submitted the following comments. Thank you for the opportunity to speak with you this morning about something that is not on your agenda today, but which should become a serious topic of discussion for you and the DNR in the very near future.

I am referring to the headline from August 12th, in which it was reported that eight beef feedlots in Northwestern Iowa face enforcement actions as EPA emphasizes compliance with the Clean Water Act. Iowans should be deeply concerned about this issue as it affirms that harmful pollutants from concentrated animal feeding operations are being discharged into our rivers and streams. And unfortunately, this most recent eight is just more in a trend of approximately 24 enforcement actions by the EPA in Iowa since the beginning of the year.

It is a fair question to ask, where is the DNR on these actions? Isn't the DNR responsible for enforcing the CWA in Iowa? Why does it take the EPA coming into our state to bring these violations to light? The answer to these questions is more complicated, however, than just pointing the finger at DNR and shaming them for not doing their job.

The DNR's budget has been cut dramatically and as a result, enforcement has suffered significantly. The Iowa Legislature must share the onus as it has not demonstrated the political will or internal fortitude to support the Department in their responsibilities to enforce the laws of our nation. Agriculture is sacred in Iowa and we have historically ignored the impact that it has on our environment and the health of our citizens in favor of protecting what I will call business as usual. In some respect, it takes the heat off of the DNR and the legislature by having the EPA come into the state to enforce the CWA. But that is not how we should operate in Iowa.

The fact of the matter is that we are in a time of transition from the perspective of the EPA and Iowa needs to move from a reactive position to a proactive position in terms of how it is exercising its responsibility to enforce the CWA.

The EPA has focused on the large CAFO's in the past, and Iowa revised our rules to be consistent with federal guidelines. Now the EPA is turning its attention to the medium sized CAFO's in the state and where they are focusing is no surprise - 16 of the 24 violations that the

EPA has cited this year discharge into impaired waters. They recognize there is a problem in those watersheds and they are attempting to find out where the pollution is coming from and stop it. That’s a good thing, but it needs to be done in a manner that acknowledges that many producers in this medium-sized range have been operating under the assumption that they are in compliance. An assumption often based on information from the DNR.

In fairness to those producers who are trying to do the right thing and making investments in their operations, only to find out later, from the EPA, that they are not really in compliance, Iowa needs to step up and create clear and concise guidelines for these producers to follow. This proactive education and rulemaking needs to start immediately so that producers can make accurate and informed decisions about their operations and what they need to do to comply with the CWA. It is time for the DNR to develop guidelines that are consistent with federal law and create a reasonable schedule of compliance for these producers to meet the requirements of the CWA, and it is time for Iowa legislators to support the DNR in these efforts by ensuring it has the resources necessary to do its job.

NATALIE SNYDERS, ICCI member referenced an article in the Des Moines Register – EPA tells eight northwest Iowa feedlots to stop discharges, get permits.

This tells us that Iowa is not in perfect condition in Iowa. Where was the DNR on this enforcement action? Business as usual will not work anymore. We need to step it up.

BOB & CAROL HAFNER, from Yorktown Iowa commented on the nuisance of their neighbor’s outdoor wood burner and the health problems that it is causing them. We are concerned and feel like we’re stuck. The DNR just sent us a letter stating that they will not address this issue because of budget constraints.

Charlotte Hubbell asked the DNR for an update.

WALLY TAYLOR, with the Iowa Chapter of the Sierra Club commented on the EPA’s enforcement action against the open feedlots. I’ve been in contact with EPA region VII office about operations with too many discharges. DNR has done nothing. We need to do more. There is a rulemaking package underway to comply with the 2008 CAFO rule. The deadline is December of this year, two years later. We’ve been told that DNR will miss the deadline. No one seems to care. We’re very disappointed. It’s important that we have good solid rules that the department will enforce. Example: the partially roofed definition for operations. NRCS is telling operators to put a vent hole in their roof and then they would be an open feedlot.

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

IDPH/DNR PARTNERSHIP ON HEALTH CONCERNS

Ken Sharp, Environmental Health Director with the Iowa Department of Public Health (IDPH) shared about the collaboration of health issues between IDPH and DNR.

- Flood related matters (private water wells and septic issues)

- Updates on the emergency response plan
- Public water supply contamination – getting information out to citizens
- Air Quality health standards
- Toxins in schools (modeling)
- Beach monitoring
- Blue/Green algae at beaches (report illnesses related to these toxins)
- Fish consumption advisories
- Guidance and recommendations to DN Ron hydrogen sulfide levels and other containments that do not currently have a national standard.
- LEAD invasion

Currently we are working on an Environmental Health tracking database network. This will allow the public to get data on environmental toxicins. Educating the public is something we feel that we need to be proactive on.

We also have two epidemiologists on staff at IDPH.

Charlotte Hubbell asked if there was any data available on coal ash.

Ken Sharp said that they have not been engaged at all on coal ash related matters.

INFORMATION

PROPOSED RULE – AMENDMENTS TO WASTEWATER RULES TO INCLUDE PESTICIDE DISCHARGES, INCLUDING CHAPTERS 60, 64, AND 66

Courtney Csweckro, in the Water Quality Bureau presented the following item.

A summary of the draft amendments to Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 64, “Wastewater Construction and Operation Permits,” and Chapter 66, “Pesticide Application to Waters” was presented to the Commission for Notice of Intended Action. The new rules will allow for the use of a new General Permit (No. 7) to authorize discharge of biological pesticides and chemical pesticide residues to waters of the United States, as required by U.S. Sixth Circuit Court of Appeals in a decision on January 7, 2009. This decision vacated U.S. EPA’s final rule exempting pesticides applied in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the Clean Water Act (CWA) permitting requirements. The states and EPA have until April 9, 2011 to issue final general NPDES permits for pesticide applications.

Coverage under the draft NPDES Pesticides General Permit (No. 7) will be required for the application of 1) biological pesticides and 2) chemical pesticides which leave a residue that result in a discharge to Waters of the United States. Applicable pesticide applications include those for control of aquatic nuisance insects, weeds, algae, and bacteria or fish parasites, aquatic nuisance animals, and forest canopy pests. Irrigation return flows and agricultural runoff are not covered

under the PGP as they are specifically exempted from the CWA. The draft permit requires all operators to implement Best Management Practices (BMPs) to minimize discharges resulting from pesticide applications. The BMPs include following label instructions, conducting regular equipment maintenance, and visually monitoring application sites when possible. Larger applicators will have additional requirements, including the submittal of annual activity reports to IDNR and the preparation of management plans.

The following is a summary of the proposed amendments to Chapter 60:

- Add the new Notice of Intent, Notice of Termination, and Annual Reporting forms for the new General Permit No. 7.

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

- Exempt discharges of biological pesticides and chemical pesticide residues that do not reach the waters of the United States from the requirement to obtain a DNR operating permit.
- Require the issuance of a General Permit No. 7 for specific pesticide discharges that reach waters of the United States.
- Exempt pesticide discharges which do not meet the thresholds established in General Permit No. 7 from the requirement to submit a Notice of Intent.
- Establish effective and expiration dates for General Permit No. 7.
- Exempt General Permit No. 7 from the collection of permitting fees.
- Other changes as needed to accommodate the issuance of General Permit No. 7.

The following is a summary of the proposed amendments to Chapter 66:

- Revise Chapter 66 to comply with the requirements noted in Chapter 64 and in General Permit No. 7. Add references Chapter 64 and General Permit No. 7.
- Remove the existing requirements, the denial conditions, and the special conditions for the previous aquatic pesticides general permit. All of these requirements and conditions are included in the draft of General Permit No. 7.

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

Motion was made by Gene VerSteege to approve the rule as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

Wayne Gieselman said that EPA and DNR have been working together to set up enforcement actions of animal feeding operations because the DNR doesn't have the needed resources to do so. EPA has stepped up and conducted fly overs on some of the larger operations but do understand that this has been a joint effort between the DNR and EPA.

Director Leopold announced his resignation as the Director of the Department of Natural Resources.

Brian Hutchins gave the background behind the Haffner's request regarding the outdoor wood burner. In regards to the Department's involvement, we very limited in what kind of authority we have on regulating outdoor burners and their placement.

Paul Johnson is concerned that the Department may have conflicting air quality standards for different types of outdoor burning (open pile burning, wood burning, etc.)

Commissioners went on to ask more questions of the Department on what they could do, however the Commission was unable to provide any kind of solution.

REFERRALS TO THE ATTORNEY GENERAL – LANE BACHMAN

Kelli Book, attorney with the Department's Legal Service stated the following.

Cindy Martens, senior environmental specialist from the field office in Spencer is here today.

The Department is requesting that Lane Bachman be referred to the Attorney General's Office because of his failure to submit an updated manure management plan and compliance fee in 2010 and his failure to comply with Administrative Order No. 2009-AFO-31 and Administrative Order No. 2006-AFO-14.

The manure management plan and updates are crucial aspects of the DNR's animal feeding operation program. The plan and updates ensure that an animal feeding operation has adequate production land available so that the manure can be properly applied to crop land at an agronomic rate in order to prevent over application of manure. Additionally, a portion of the animal feeding operation budget for the Department is established based on the payment of the annual compliance fees.

Mr. Bachman was required to submit his 2010 MMP update and fees by April 1, 2010. On June 4, 2009, DNR Field Office 3 sent him a reminder letter. This letter mentioned that it would be the final reminder because the DNR would no longer be sending reminder notices. On April 12, 2010 he was issued a Notice of Violation letter and the letter told him to avoid further enforcement the MMP must be submitted by May 1, 2010. On May 27, 2010, the field office sent a Notice of Referral to Mr. Bachman. In July of this year, Ms. Martens contacted Mr. Bachman. He indicated that he still had animals in the buildings and was aware that he needed to submit the MMP update and fees. To date Mr. Bachman has not submitted the 2010 MMP update and fees.

In addition to this year's MMP update, Mr. Bachman failed to submit the 2009 MMP update and fees for his facility. He was sent a reminder of the 2009 MMP update in February 2009. In April 2009 he was issued a Notice of Violation letter and in May 2009 he was referred for further enforcement. In August 2009, Administrative Order No. 2009-AFO-31 was issued to Mr. Bachman for failing to submit the 2009 MMP update and fees. The order required him to submit the MMP and fees and pay an administrative penalty of \$4,500.00. Mr. Bachman failed to submit any of the information and failed to pay the penalty. In March 2010, DNR referred the unpaid penalty and compliance fee to the Department of Revenue.

In addition to the failure to submit the 2010 and 2009 MMP updates, Mr. Bachman has a previous administrative order. Administrative Order No. 2006-AFO-14 was issued to Mr. Bachman in August 2006 for failing to submit his 2006 MMP update and fees. The order required him to submit the MMP update and compliance fees and pay an administrative penalty in the about of \$3,500.00. Mr. Bachman failed to submit any of the information and failed to pay the penalty. In February 2007, the Department referred the penalty and compliance fees to the Department of Revenue and Finance.

This is Mr. Bachman's third enforcement action for the same violation in a period of five years. Based on Mr. Bachman's continued failure to submit the MMP updates and fees for his facility as well as his failure to comply with the administrative orders, the DNR is requesting this matter be referred to the Attorney General's Office.

Motion was made by David Petty to refer Lane Bachman to the Attorney General. Seconded by Paul Johnson. Motion carried unanimously.

REFERRED

REFERRALS TO THE ATTORNEY GENERAL - HAVERHALS FARMS, INC.

Carrie Schneobaum, Attorney for the Department of Natural Resources presented the following case.

Haverhals Farms, Inc. and Peter Haverhals (collectively referred to as Mr. Haverhals) own and operate a permitted open feedlot animal operation located in the SW ¼ of the SW ¼ Section 6 T95N, R46W, Center Township, in Sioux County Iowa. This operation has a capacity of 3,500 head of beef cattle and 5,750,000 gallons of settled effluent in 3 basins. A construction permit was issued to this facility on August 19, 2005, and on December 27, 2005, National Pollution Discharge Elimination (NPDES) permit No. 2-84-00-0-42 was issued. A NPDES permit was issued for this facility because it exceeded the 1,000 combined animal units. The NPDES permit outlines the requirements for the facility to have an authorized discharge.

Mr. Haverhals pumped approximately 950,000 gallons of liquid manure into his field resulting in a documented discharge of an unknown quantity of manure to a water of the state between March 25, 2010, and March 29, 2010. It is unknown when the discharge completely ceased. This discharge occurred as a result of Mr. Haverhals intentionally pumping the contents of his settled open feedlot effluent basin (SOFEB) directly onto his field. He pumped this manure for approximately 2 hours on Thursday March 25, 2010, and again for approximately 3 hours on Friday March 26, 2010. Mr. Haverhals claimed that he was using a technique called flood irrigation. This technique floods a field with liquid manure and relies on the ground to absorb it. Unfortunately, at the time Mr. Haverhals did this, the ground was already partially saturated. Therefore, all of the liquid manure was not absorbed by the ground and an unknown volume of manure flowed overland directly to a water of the state. Some of the manure that did soak into the ground which contaminated a subsurface tile line that also discharges into the same water of the state.

On March 26, 2010, Jeff Koops of Farmers Coop Society informed the Department, on Mr. Haverhals' behalf, that manure from Mr. Haverhals' SOFEB had been discharged to a water of the state. Upon receipt of this information Don Cunningham, an Environmental Specialist with the Department, went to the site to investigate. He arrived on site at approximately 6:30 pm. Immediately he observed a path of liquid manure running from the field to an unnamed tributary of Six Mile Creek. Mr. Cunningham observed 5 small berms of soil which had been constructed and were retaining pools of manure. At that time no manure was flowing into the tributary. Mr. Haverhals and Mr. Koops arrived on scene; Mr. Cunningham asked questions to determine the cause of the spill and the status of any remediation efforts. Mr. Haverhals stated that he had been agitating his SOFEB and that sometime between 1:00 pm and 4:00 pm the agitator switched from agitate to pump. This caused the discharge of an unknown quantity of manure.

After walking the stream Mr. Cunningham returned to Mr. Haverhals open lot. He informed Mr. Haverhals and Mr. Koops about the results of the field test and asked Mr. Haverhals to identify the path of manure from the basin to the tributary and point out any measure he had taken to prevent the manure from reaching the stream. Mr. Haverhals pointed out the berms that he had constructed to capture the manure and explained that he had placed a pump in the terraces to lower the level of manure and stop the flow towards the tributary. Mr. Cunningham then asked him to describe the exact events that led to the discharge. Mr. Haverhals stated that he had begun agitation at 9:00 am to break up the ice on the basin surface and left the basin while the agitator was running. He returned to the basin at 1:00 pm to check on the agitator and everything was functioning properly. At this time Mr. Haverhals stated that he needed to be honest about the events and the cause of the spill. He then admitted that he had intentionally turned on the pump at 1:00pm to flood his terraces and then left the area to grind corn stalks. Mr. Haverhals stated that this is a practice he has done several times previously during the summer months and it usually takes 3 to 4 hours to flood the terraces so he figured he had approximately that much time before he would have to return and turn the pump off. Mr. Haverhals stated that the manure did not soak into the ground as he had expected and the result was a discharge of manure toward the tributary. Mr. Haverhals neighbor called him at 4:00 pm and told him that water was running through his field, it had not yet reached the stream but it would very soon. Mr. Haverhals stated that he immediately returned to the basin, shut the pump off and proceeded to the tributary where the manure had begun to flow into the tributary at a high rate. Mr. Haverhals said he built several berms to contain the manure and he then began pumping the manure from the overflowing terraces to dry ground. The manure was contained and the flow into the tributary from the field was stopped by 4:30 pm. Mr. Haverhals then stated that he contacted Mr. Koops from Farmers Coop Society who in turn contacted the Department.

Mr. Cunningham asked Mr. Haverhals the capacity of the pump; he stated that it can fill a 7,000 gallon tank in 3 minutes. By calculating this, over a 3 hour period the initial estimated discharge of liquid manure was 420,000 gallons. Prior to leaving Mr. Cunningham encouraged Mr. Haverhals to continue any measure possible such as placing round bales in the tributary and pumping the contaminated water from behind the bales to dry land to further reduce the impact of the manure on the tributary.

March 27, 2010, Jennifer Christian, an Environmental Specialist with the Department along with Mr. Cunningham returned to Mr. Haverhals' property to investigate. At this time they discovered that approximately 30 feet downstream of the discharge entry site (A1) a tile line empties into the tributary of Six Mile Creek. The water near the tile outfall was very cloudy and

a manure odor was detected. Mr. Cunningham was able to conclude that the effluent from the tile outfall caused the discoloration of the stream.

At approximately 10:35 am Mr. Cunningham and Ms. Christian went to Mr. Haverhals' SOFEB. The liquid level in the basin had dropped significantly; this was evidenced by the high water mark observed around the inner berm. Mr. Cunningham noted two flow paths of manure and an additional area of manure saturated soil, located between the basin and the animal pen.

Next, Mr. Cunningham and Ms. Christian went to Mr. Haverhals' residence to discuss the two manure flow paths that had been identified. Mr. Haverhals explained that his solid settling tile was plugged so the settled effluent from one pen had overflowed and drained to the north east SOFEB. Mr. Haverhals stated that there were two flow paths because he had run the pump for approximately 2 hours on Thursday to flood his east terrace and then he had run the pump for 3 hours on Friday to flood his west terraces. Mr. Cunningham informed Mr. Haverhals that by adding the discharge from Thursday to Friday's total discharge was approximately 700,000 gallons. Mr. Haverhals stated that he had run the pump at a lower rate than when he fills tanks for application. Because of this, he thought the discharged amount would be less than 700,000 gallons. After returning to his office, Mr. Cunningham determined that the amount of manure discharged was approximately 950,000 gallons. He came to this calculation by estimating the drop in the level of the manure basin and the capacity of the pump.

Mr. Cunningham then instructed Mr. Haverhals to monitor his tile outfall, clean out the solid settling tile that was plugged, and pump the remaining manure from the terraces so that the manure would not continue to drain to the subsurface tile line.

On March 29, 2010, Mr. Cunningham contacted Mr. Haverhals to check the status of the clean-up efforts. Mr. Haverhals stated that he had pumped and land applied the manure from his terraces and the manure pooled behind his berms. However, he stated that the discharge from his field's tile outfall was still cloudy.

On March 31, 2010, Mr. Cunningham contacted Mr. Haverhals to check the status of the clean-up efforts. Mr. Haverhals stated that he had begun to clean out his solid settling tile to prevent another over flow from the north east SOFEB. Additionally, he told Mr. Cunningham that he had removed the bales that he previously placed in the stream to act as filter and had filled and leveled the berm dugouts that he had created on Friday.

Because the Department has documented several instances of water quality violations, we strongly request that Haverhal Farms and Peter Haverhal be referred to the Attorney General for further action.

Motion was made by Susan Heathcote to refer Haverhals Farms, Inc. and Peter Haverhals to the Attorney General. Seconded by Lorna Puntillo. Motion carried unanimously.

REFERRED

IOWA'S RIVERS AND STREAMS: USAGE SURVEYS AND ECONOMIC ANALYSIS

For the complete copy of the presentation, please visit <http://www.iowadnr.gov/epc/archive/10aug17h.pdf>

INFORMATION

CONTRACT AMENDMENT WITH THE CENTER FOR AGRICULTURAL AND RURAL DEVELOPMENT, IOWA STATE UNIVERSITY, FOR THE IOWA RIVER AND RIVER CORRIDORS RECREATION SURVEY, PHASE II

Steve Hopkins, Coordinator of the Nonpoint Source Program in the Watershed Improvement Section presented the following item.

Recommendations:

Commission approval is requested for a contract amendment with the Center for Agricultural and Rural Development (CARD), Iowa State University, for Phase II of the Iowa River and River Corridors Recreation Survey. This contract amendment shall not exceed \$40,000.

Funding Source:

This contract amendment will be funded through EPA Section 319 grant funds.

Background:

The following contract amendment is presented for approval:

Iowa River and River Corridors Recreation Survey, Phase II (ISU, CARD)	\$40,000
Total	\$40,000

Purpose:

The parties propose to enter into this contract amendment for the purpose of completing Phase II of the Iowa River and River Corridors Recreation Survey to provide data for the Iowa Department of Natural Resources on Iowans' recreational usage of Iowa Rivers.

Contractor Selection Process:

This project was chosen using a grant proposal application and committee review process.

Project Summary

<u>Project Name:</u>	Iowa Rivers and River Corridors Recreation Survey, Phase II
<u>Amount:</u>	\$40,000
<u>Time Frame:</u>	September 15, 2010 – August 31, 2011

Statement of Purpose

The purpose of the research will be to provide the Iowa Department of Natural Resources (DNR) with continuing information and detailed analysis of the usage and characteristics of the recreational resources provided by Iowa's rivers and streams. The work proposed here represents the second phase of research begun with a major data collection over the period of fall 2009 through spring of 2010. The data collection process is now complete, and over 4100 surveys have been returned.

In phase 2 of this effort, the principal investigators will work closely with a graduate student in the Department of Economics at Iowa State University to 1) thoroughly analyze the collected data to understand how different types of households use the rivers and streams in the state, 2) to develop models of the relationship between usage and the characteristics of the rivers, the cost of access and other factors to better understand the key drivers of river decision making, 3) to compare the findings from this study to other data collected on recreational use of rivers and streams, and 4) to make this information available in use friendly format to the DNR and the general public.

Background and Evaluation of Need for this Program

As Iowa continues to grapple with the pressures of balancing federal water quality requirements, tight conservation budgets, citizen concern for environmental preservation and restoration, and economic viability of rural areas, there is an increasing need to understand the value that Iowans place on their rivers and streams in the state. This research program is intended to fill some of these gaps in knowledge and to support decisions concerning how conservation expenditures could be used most cost effectively to improve the outdoor recreation experience of Iowan's visiting these resources.

A random population survey of Iowans was deployed beginning in 2009 to collect information on the number of visits the surveyed households made to rivers and streams in the state. In addition to funding from the DNR (in phase 1 of this project), the data collection effort was augmented with funds from the U.S. Environmental Protection Agency which allowed a total of 10,000 surveys to be sent to Iowa households. The augmented funding also allowed the principal investigators to collect additional information and to fund a non-response telephone survey to better understand the representativeness of the mail survey responses of the entire Iowa population. Finally, a series of questions concerning the activities they undertake on those visits and what specific features of the river or stream prompted their visits was also collected in the survey. The principal investigators worked closely with the DNR in survey design and the study plan in order to collect information to provide an effective baseline of use of these natural resources statewide.

As part of the phase 1 agreement, primary summary statistics from the survey will be provided to DNR, including (among other items) trip frequencies by river segment, the activities engaged in at each segment, and those river features deemed as most desirable by the survey respondents. This information will give DNR valuable insights into the popularity of individual sites and how Iowans use each of the sites. However, summary data, as such, does not isolate the specific factors that determine river and stream usage (e.g., water quality, proximity to population

centers, etc.), nor does it provide the basis for predicting the impact that environmental programs might have on usage or the value that Iowans place in changing river or stream conditions. This requires more careful modeling of choices made by the individuals in the survey sample. In order to provide this information, phase 2 of this project will focus on the analysis of the data and insights from the study that DNR can use to better understand usage of these resources, key drivers, and the willingness to pay of Iowans for improved quality of these resources.

Description of Work and Services

By the time this project begins, final checking of the data will be completed. Thus, the phase 2 work can begin immediately and will be comprised of the following tasks.

Task 1: Develop a clear understanding of the role of distance, river and stream characteristics, and other factors in Iowans' decisions concerning the location and avidity of use. While the raw data provides us with a plethora of information concerning the use and identified preferable features of rivers and streams, to evaluate the importance of these features on choices, we need to identify the distances traveled by survey respondents to visit the stream and river segments identified. This can be accomplished by GIS and specially designed software. Once complete, we will be able to produce frequency distributions relating the number of trips to distance and segment attributes. Part of this task will be to work with DNR to acquire the most up to date information on stream and river characteristics and amenities that might be of interest to Iowans. This data discussion and acquisition process has already begun, but additional work will be required before a complete data set can be constructed for analysis.

Task 2: Estimate the willingness to pay to maintain and improve Iowans recreational experience in rivers and streams. Following logically from the first task, the travel data and segment characteristics will be used to formally model the decision of Iowans to visit stream segments, conditional on the distance that must be travelled, segment attributes and other variables. Once completed, the recreation model can be used to estimate the willingness to pay to improve segment characteristics, avoid deterioration in the existing level of characteristics (such as would be appropriate in "nondegradation" discussions) and to predict changes in visitation rates and patterns that would result from changes in segment characteristics.

Task 3: Analyze and compare the Iowa Rivers and River Corridors survey with other data sources. The summary data from the 2009 Iowa Rivers and River Corridor Survey will be compared with other data sources concerning the use and characteristics of river and stream recreational use. Examples include the Iowa SCORP (Statewide Comprehensive Outdoor Recreation Plan), various angler surveys, data collected from Iowa Welcome Centers, as well as national recreation surveys. Recommendations from DNR will be welcome in this effort. Since the various sources of data represent different populations of interest (for example, some are focused on the users of the resource regardless of their state of residence, others represent all users in a specific region of the state etc.) and were collected for different reasons, the main point is to look for similarities and differences in the findings and to tease out, when possible, reasons for these differences. Only once a thorough analysis and comparison is made can we be confident that all lessons from the different data sources can be understood and applied to the management of these resources.

Task 4: Work with the web staff and communications specialist at CARD to make the information from Tasks 1 – 3 accessible to lay audiences and stakeholders. In addition to writing a report for DNR summarizing the information from these tasks, we will develop a web site to provide use friendly summaries of the information and to provide an easy and quick approach for users to access information concerning the various river segments. The Iowa Lakes Valuation site (<http://www.card.iastate.edu/lakes/>) will serve as a guide.

Task 5: Understand the relationship between the usage of Iowa's rivers and streams and its primary lakes and use this information to further understand the value of improvements in lakes vis-a-vis rivers. Due to the additional funding received from the U.S. EPA, we were able to collect information from a subset of the sample on their usage of both rivers and streams, and lakes. A total of 2500 households were sent surveys collecting information on both types of recreational use. Modeling and data analysis will be undertaken to examine the substitution and complementarily patterns between these resources.

Task 6: Begin to evaluate the economic impact of the usage of Iowa's rivers and streams on communities near access points. While the focus of neither phase 1 nor phase 2 of this research effort is on economic impact, the usage data collected and analyzed can provide important initial information on the likely economic impact. Using expenditure data from other states, we will provide some preliminary estimates of these impacts. We will work closely with Dan Otto, also an economist and ISU, to develop these estimates and provide explanation of their meaning and use.

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

APPROVED AS PRESENTED

CONTRACT IDALS DIVISION OF SOIL CONSERVATION FOR WATERSHED IMPROVEMENT PROJECTS

Steve Hopkins, Coordinator of the Nonpoint Source Program in the Watershed Improvement Section presented the following item.

Recommendations:

Commission approval is requested for a contract with the Iowa Department of Agriculture and Land Stewardship Division of Soil Conservation (IDALS DSC) for the Silver Lake Watershed Project and a contract amendment with IDALS DSC to implement watershed improvement practices through the Iowa Great Lakes Targeted Watershed Project. The total amount of these two contracts shall not exceed \$358,876.

Funding Source:

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

Background:

The following contract and contract amendment are presented for approval:

Silver Lake (Dickinson County) Watershed project (IDALS DSC)	\$153,483
Iowa Great Lakes Watershed Project (IDALS DSC)	\$205,393
Total	\$358,876

Purpose:

The parties propose to enter into these contracts for the purpose of implementing agricultural and urban watershed educational efforts and watershed improvement practices for the projects selected.

Contractor Selection Process:

These projects were chosen using a grant proposal application and committee review process.

Project Summaries

Project Name: Silver Lake (Dickinson County) Watershed Project
 Amount: \$153,483
 Time Frame: September 1, 2010 – June 30, 2015

This is a new project sponsored by the Dickinson County Soil and Water Conservation District. The Silver Lake watershed is an area of about 17,025 acres located in northwest Iowa. Currently the Iowa Department of Natural Resources manages Silver Lake as a recreational lake used for boating, fishing and direct contact. Recently, recreational use of Silver Lake has declined in recent years; from a high of 64,500 in 2003 to only 31,000 in 2005. In March 2009 a TMDL was completed for turbidity due to poor water clarity. Although poor water clarity in Silver Lake is frequently caused by inorganic suspended solids, high levels of phosphorus and algal blooms also contribute to water quality problems.

The goal of the Silver Lake Water Quality project is to reduce the amount of sediment and phosphorus reaching the lake. The practices that would provide the most benefit per dollar expended and would have the greatest chance of success in the Silver Lake Watershed include: Grassed Waterways, Grade Stabilization Structures, Sediment Basins, Wetland Restorations, Modified Terraces, Conservation Cover, Filter Strip, Nutrient and Pesticide Management, and Residue Management.

Project Name: Iowa Great Lakes Watershed Project
 Amount: \$205,393.
 Time Frame: March 10, 2010 – June 30, 2015

This project is also sponsored by the Dickinson County Soil and Water Conservation District. The Iowa Great Lakes watershed is an area of about 88,167 acres (140 square miles) located in northwest Iowa and southwest Minnesota. Approximately 76 percent of the watershed lies within Dickinson County, Iowa and the remainder within Jackson County, Minnesota.

This contract amendment provides additional Section 319 funds to the contractor for the purpose of implementing agricultural and urban best management practices in the Iowa Great Lakes Watershed.

As part of a phased approach, project implementation will include an intensive information and education program, construction of erosion control practices, and sediment control on construction sites targeted by the Iowa Great Lakes WMP. These proposed practices will manage sediment runoff and nutrient runoff on agricultural and urban areas. Sediment control “structures” such as waterways, wetlands, modified terraces, grade stabilization structures, sediment basins, and rain gardens are proposed and will be combined with nutrient and pesticide management and reduced tillage to reduce non-point source pollution.

A reduction of 15% of the sediment and phosphorus delivered to a water body will be looked at as a success in this short-term project focused primarily at education within the project area which is also, for the most part, the top 25% sediment load producing sub-watersheds. In addition, four urban areas have been identified as part of this project as needing immediate assistance. A combination of urban and agricultural conservation practices and education of landowners will be used to achieve these results on both the urban and the agricultural arenas.

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

APPROVED AS PRESENTED

WATER SUPPLY: WATER USE & ALLOCATION ANNUAL PERMIT FEE

Dennis Alt with the Water Quality Bureau presented the following item.

The Commission is asked to review the Water Use and Allocation Program budget and SFY 2011 annual permit fee, in anticipation of approving the annual fee at its September meeting. The proposed annual permit fee is \$135.00 per permit for SFY 2011.

Background

Water use permits are required of any person or entity using 25,000 gallons of water in a single day during the year, and are issued for a period of up to 10 years. Appropriations from the General Fund have always been used to fund the issuance of the water use permits and related costs. During the 2008 legislative session, the legislature authorized the department to collect up to an additional \$500,000 in fees each fiscal year. Iowa Code §455B.265(6) requires the fees to be based on the Department’s “reasonable cost of reviewing applications, issuing permits, ensuring compliance with the terms of the permits, and resolving water interference complaints.” There are two types of fees in the Water Use and Allocation Program: an application fee and an annual permit fee. This request is for the determination of the annual fee for SFY 2011.

The annual fee rule, adopted in 2009, is summarized below (IAC 567-50.4(2) “b”):

- Each year, the Commission will be asked to set the annual fee based on the budgeted expenses for that year minus the amount of any unused funds from the previous year and any general fund appropriations.
- The department will review the annual permit fee each year and adjust the fee as necessary to cover all reasonable costs required to develop and administer the water use permitting program.
- The annual fee shall be based on the number of active permits.
- Each permit holder shall pay the same annual fee.
- The fee will not be prorated and is nonrefundable.
- The department shall request Commission approval of the amount of the annual fee no later than September 30 of each year.
- The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date.
- The annual fee due date is December 1st; 60 days prior is October 1st.

There is no annual fee required for either a water storage permit (permitted for the life of the structure) or a minor nonrecurring water use registration (one-year permit duration).

The annual permit fee for SFY 2010 was \$135.00, the same as what is proposed for SFY 2011.

SFY 2011 Budget

The worksheet included with this agenda brief illustrates the actual expenditures in SFY 2008 – 2010 and the budgeted amounts for SFY 2010 and 2011. The final accounting figures for SFY 2010 should be available in August. The changes to the budget in 2011 from the previous years include the following:

- Reduction in General Fund appropriation from previous years, which will be covered by the fee revenue;
- Revision of the Water Use Program's computer database (Phase I), which will improve tracking permits and addresses; enabling access to the database from the Internet (i.e., web-based application); and developing electronic payment feature;
- Tasks associated with the new fees, including mailing the annual fee statement, collection of the appropriate application and annual fees, revision of forms;
- Staffing to conduct more thorough review of the permits and associated data; and
- Enforcement of the state water use program rules.

Fee Analysis

On July 27, 2010, the water use database contained 3,084 active water use permits. We are assuming compression of 10 permits, since most of the compression was already included in the 2009 analysis, and using the target budget figure of \$415,000.

Amount needed for the budget divided by the number of water use and allocation permits:

$$\$415,000 / 3,074 \text{ permits} = \$135.00$$

This same information was presented to the Water Use Stakeholder group on August 4, 2010. Based on the fee analysis, the annual water use permit fee for SFY 2011 should be \$135.00.

INFORMATION

STATE OF IOWA PUBLIC DRINKING WATER PROGRAM - 2009 ANNUAL COMPLIANCE REPORT

Diana Moles with the Water Quality Bureau presented the following report.

The Department submitted the *State of Iowa Public Drinking Water Program 2009 Annual Compliance Report* to the Environmental Protection Commission for information purposes.

The Safe Drinking Water Act (SDWA) Amendments of 1996 require the Department to issue an annual report of the SDWA violations in the state. This report fulfills the reporting requirement in Iowa for the 2009 calendar year. It was prepared by the Department's Water Supply Engineering & Operations Sections in the Water Quality Bureau of the Environmental Services Division.

Development of the report was accomplished through the use of the state water supply database. It was provided to EPA prior to the deadline. An electronic copy has also been provided to the

Governor, legislative officials, and members of the SDWA Advisory Group. The report contains a summary of the program, description of the requirements that systems must meet, the year's violation statistics, and the list of every system and health-based standard or major monitoring or reporting violation incurred during the year.

Report highlights:

- Both the number of health-based standards violations and the number of public water supply systems with violations were very similar to 2006 through 2008 levels, which in 2009 were 351 violations at 185 systems serving 236,041 people. Over the past 10 years, the percentage of Iowa's approximately 2,000 public water supply systems that are not in compliance with all health-based standards ranges from 7.7% to 10.1%. The three standards that were violated most frequently in 2009 were coliform bacteria, nitrate nitrogen, and disinfection byproducts (total trihalomethanes and haloacetic acids), which account for 80.9% of the violations.
- The number of systems with an acute fecal coliform or *E. coli* bacteria maximum contaminant level violation dropped from 2008 levels, with 9 systems having a total of 12 violations.
- In 2009, we did see a continued trend a reduced number of nitrate maximum contaminant level violations: 14 systems with 30 acute nitrate violations.
- In 2009, there was slight increase from 2008 in both the number of major monitoring and reporting violations and the number of systems with such violations. There were 81.8% of systems in compliance with all major monitoring and reporting violations in 2009 with 784 violations at 361 systems serving 226,386 people.
- There were 8 systems that received a violation for failure to obtain a certified operator during the year.
- There were 3 community systems that failed to prepare and distribute their annual consumer confidence report in 2009, which translates to a 99.7% compliance rate for Iowa's community systems with the consumer confidence report rule.

The electronic report is available at: www.iowadnr.gov/water/drinking/reports.html.

INFORMATION

MONTHLY REPORTS

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

The following monthly reports have been posted on the DNR website under the appropriate meeting month: <http://www.iowadnr.gov/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

INFORMATION

GENERAL DISCUSSION

Wayne Gieselman made the following comments:

- The Department has been hiring some of the positions that were left vacant from retirees.
- The final CAFO rule will be back before the Commission in February. If approved, the rule will become effective April 12, 2011, which will be four months behind the deadline. EPA has been informed of our progress.
- The Governor has asked the Corp of Engineers to review Iowa reservoirs' operation manuals. (Rathbun, Coralville, Saylorville and Red Rock)
- The September EPC meeting will be held in Council Bluffs at the Hitchcock Nature Center.
- Jon Tack, DNR Attorney, gave a water quality update on the status of the Use Attainability Analysis.

INFORMATION

ADJOURNMENT

<i>Motion was made by Susan Heathcote to adjourn the meeting. Seconded by Dee Bruemmer. Motion carried unanimously.</i>

With no further business to come before the Environmental Protection Commission, Chairperson Charlotte Hubbell adjourned the meeting at 4:32 p.m., Tuesday, August 17, 2010.

Patricia L. Boddy, Interim Director

Charlotte Hubbell, Chair

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