

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
JANUARY 19, 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, January 19, 2009 at DNR Air Quality Building in Windsor Heights.

COMMISSIONERS PRESENT

Gene Ver Steeg
Charlotte Hubbell, Chair
David Petty
Susan Heathcote
Paul Johnson
Marty Stimson
Dale Cochran
Lorna Puntillo
Carrie LaSeur – by teleconference

ADOPTION OF AGENDA

Move up: Adopted and Filed – Chapter 65 – Confinement Feeding Operation Applications for Construction Permits; Demand for Hearing Procedures after the 1:00 presentation

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

APPROVED AS AMENDED

APPROVAL OF MINUTES

Postponed approval until the February meeting.

DIRECTORS REMARKS

After adding up all of the cuts, the General Fund has been cut 25% overall for the Department within the last calendar year.

The Governor's budget will come out at the end of this month.

Director addressed the Re-Organization bill and tax credit programs within the Department.

INFORMATIONAL ONLY

PUBLIC PARTICIPATION

MIKE RALSTON, President of the Iowa Association of Business and Industry submitted the following comments:

ABI represents approximately 1,400 member companies who employ 300,000 hardworking Iowans. Thank you for the opportunity to comment and for your service to the state. ABI members work hard to protect their employees and the citizens of the state by implementing safeguards to protect the environment. Currently, Iowa's employees are struggling to keep their business successful and to keep Iowans employed.

The agenda today has one action item that would be devastating to Iowa business and industry if implemented by EPA. The letter requesting the EPC to support an EPA declaration defining coal combustion byproduct as a "hazardous waste" would be costly to Iowans and would not result in increased environmental protections. ABI believes any environmental regulations should be based on sound science and regulatory guidance. The science behind declaring all of Iowa's coal combustion byproducts hazardous waste is simply non-existent and it is contrary to the state's economic interests and waste reduction goals.

ABI has previously submitted formal comments to the DNR on coal combustion byproducts and their many beneficial uses. If coal combustion byproducts are incorrectly labeled a hazardous waste, these uses would go away along with the jobs and economic and resource conservation benefits they provide. State highway departments, educational institutions and health care facilities are just a few of the public entities that would suffer economic consequences. Some Iowa businesses may be forced to close due to increased fuel, raw material and disposal costs.

Additionally, organizations such as ECOS (Environmental Council of the States) and ASTSWMO (Association of State and Territorial Solid Waste Management Officials) have submitted information CCB is not hazardous. ABI would encourage you to reference those documents when making your decision. The Iowa DNR has put regulations in place to protect Iowans and those regulations have worked. The US EPA has developed a very thorough and effective Industrial Waste Guidance which has been utilized by many states to safely regulate CCBs. ABI maintains the current DNR regulation of coal combustion byproduct for nonmedical uses where appropriate and utilizing the framework already established in the EPA Industrial Waste Management Guidance Document where gaps exist (if any), will continue to protect Iowa's most valuable resources: its citizens, its economy and its environment.

ABI and the 1,400 members it represented strongly encourages the EPC and the DNR to evaluate sound scientific evidence from Iowa sources of coal combustion byproducts, which clearly demonstrates the material is not hazardous waste. The alternative is to forgo the beneficial use of this material and to transport the commodity to other states for disposal to the detriment of Iowa's citizens and businesses.

ABI appreciates the opportunity to work with the Department and the EPC on this very important issue to all Iowans and the Iowa economy.

On behalf of the 300,000 hardworking Iowans and the industries they represent. ABI requests you take no action on the letter in question and to maintain your current prudent course. Thank you for your time and consideration of our request.

LINDA KINMAN, representing the Iowa Association of Water Agencies submitted the following comments:

The adopted and filed, Chapter 65, demand for hearing procedures, to be voted on today by the EPC is taking the protection of Iowa's water resources a step backward. At a time when people are beginning to understand the complexity of a watershed, and realizing that a watershed must be managed holistically, the EPC, if they adopt this rulemaking is reverting back to a process of decision making based on political boundaries. Someone once told me that a person has the right to do whatever he or she wants to do on their own land, but they do not have the right to send it downstream. This rule will allow each county to make their decisions without regard for the implications downstream.

Drinking water utilities such as the Cedar Rapids Water Department, Des Moines Water Works or Rathbun Regional Water Association, and others will be unable to provide comments, or make presentations using credible data and information, to support protection of source water used for drinking water by all Iowans. The Commission is aware, from earlier discussions that the Department of Natural Resources is not assessing potential impacts of siting a facility on water resources designated as a drinking water source. Therefore it is up to the drinking water utilities and citizens of Iowa to do so. Our customers, Iowa citizens, rely on us to protect their source of drinking water. It is vital that we not be locked out of the process.

In addition, we believe every citizen should have the right to present controversial issues of public importance and to do so in a respectful environment, and in a manner that is open, honest and equitable. Ultimately, Commissioners must make decisions that require using judgment. Science will improve the chances that judgments are sound, but they can never replace the need to actually draw individual conclusions by assessing societal implications, risks and opportunities, costs and benefits, and current versus future impacts on all Iowans.

Clarification of public comment process:

On the EPC agenda for June 16, 2009, item 27 Notice of Intended Action – Chapter 65 – Confinement Feeding Operation, Applications for Construction Permits; Demand for Hearing Procedures was listed as a decision item.

I made comments regarding this decision in the public participation portion of the meeting. When this same item appeared on the January 19, 2010 as adopted and filed, I reviewed the summary of comments and found that we were neither listed as providing comments nor found our comments in the summary. In asking about my comments, I found out, that since my comments were made before the decision was made to go forward with rulemaking they were not included nor considered. I have also learned that some people believe that when comments are made at the EPC meeting they are automatically included as comments for the rulemaking process, which I also understand is not correct. I believe a goal of governmental agencies is to

provide transparency in government, to allow all citizens easy access to public information and an understanding of the processes; therefore on behalf of all Iowa citizens I ask that the Department of Natural Resources (DNR) consider adding a link to their website specifically for rulemaking.

Recommendations:

1. Have a link on their homepage that accesses all rulemaking in progress regardless of what division or department.
2. Describe the rulemaking process that is easily understood and include what comments are used in this process.
3. Who and where comments are to be sent.
4. A status as to where the rulemaking is in the process.
5. And, there should be a declaration on every agenda and on the Boards and Commissions website that comments made during an EPC meeting must also be submitted to the appropriate DNR staff, if they wish to have them considered during the rulemaking process.

JOHN NORTH, representing the Iowa Association of Water Agencies submitted the following comments:

- The public's perception of the quality and safety of drinking water will be compromised even if a contaminant is present at a level below U.S. EPA's Maximum Contaminant Level (MCL) for that contaminant or is diluted so as to not be detectable.
- Any compromise of the aesthetic qualities (taste and odor) of water will affect the public's perception of its safety.
- The U.S. EPA has not established drinking water MCL and MCL Goal standards for all potential contaminants.
- The U.S. EPA has issued health advisories for numerous compounds for which there are no MCL drinking water standards.
- Health standards and risk assessments should reference all available information to include the U.S. EPA MCL Goal values and health advisory information for a particular contaminant.
- The public's general expectations are that contaminants should never be permitted to permeate or enter the public water distribution system.
- The only certain way to ensure that a contaminant will not permeate the water distribution system is to ensure that it is completely absent (or non-detectable) within some prescribed distance of the water distribution system.
- The detected intrusion of a contaminant or its presence in elevated levels near a water distribution system will necessitate ongoing monitoring.
- The presence of elevated levels of BETX and other hydrocarbons in the immediate vicinity of a water main can pose health and safety risks for workers who excavate and work on the main. There have been documented instances of explosions (gasoline) and workers being overcome by fumes (Perc). The presence of a contaminant plume will most likely entail special provisions for the protection of the workers and handling/disposal of the excavated soil.
- The AwwaRF study found that ductile iron pipe (or its gaskets) is at greater risk for permeation than previously thought. Those sites that were closed or deemed to be a No

Further Action (NFA) site due to the installation of DI pipe need to be reassessed to confirm that there is no risk to the public water system.

- A Backflow Prevention device will is unlikely to be a practical or effective method for preventing a contaminant in a buried water service line from moving back into the water distribution system. In most instances, a better alternative will be to replace the existing water service line with a solid copper pipe without any fittings.

Specific Recommendations

- Chapter 135 and other applicable regulations need to recognize that the expectation of consumers and the general public is that all reasonable precaution should be taken so as to prevent the permeation or entry of contaminants into a water distribution system. Their perception of the safety and quality of drinking water will be compromised by the mere trace presence of a contaminant. Current site or risk assessments only evaluate if there is risk to human health as defined as an actual or the potential for an exceedance of a Maximum Contaminant Level (MCL) for drinking water. The assessment criteria should be expanded to include those factors that might compromise the beneficial use or perceived safety and quality of the drinking water.
- Chapter 135 and its prescribed health standards and risk assessment procedures should reference all available health information to include US EPA MCL values, MCL Goal Values and health advisories.
- Chapter 135 and other applicable regulations need to recognize that BETX and other contaminant plumes in the immediate vicinity of a water distribution system can also pose safety and health risks to individuals who excavate and work on the water distribution system.
- The Rule Revisions need to provide for a minimum protective buffer distance between the water distribution system and any potential contaminant risk (soil or groundwater). This protective buffer distance should account for any modeled or predicted future movement of the contaminant.
- The Rule Revisions need to include requirements that a local water utility must be notified within a prescribed period of time (e.g. ten days) whenever a contaminant risk is identified within a prescribed distance of a water distribution system or service line (e.g. 200 feet).
- In the event a contaminant permeates a water service line, the most appropriate remedial action should be to replace the service line with a solid copper line without any fittings.

ROGER GROTH, from Manchester addressed the Commercial Septic Tank rules in 567 IAC 68.10(2)(c)(2)(8). I would like to request that EPC and DNR reconsider the 750 foot separation distance from a residence when land applying treated waste. This puts pumpers at a disadvantage. The separation distance before this was 200 feet which is adequate when applying treated waste.

Paul Johnson asked the DNR to follow up on this issue and whether or not variances could be issued. What about incorporating the septage?

JEFF MYROM, representing MidAmerican Energy asked the Commission to support sound science based policy and vote against the Plains Justice petition to classify coal combustion byproducts as hazardous waste. Based on the testing from the University of Iowa laboratories, MidAmerican's CCBs are safely below hazardous waste thresholds. In a letter from DNR to EPA, they concluded that if it was a hazardous waste than it would become very costly for Iowans to manage this waste. There is little scientific evidence to support this waste being hazardous. ASTSWMO (Association of State and Territorial Solid Waste Management Officials) and ECOS (Environmental Council of the States) are also against classifying coal combustion waste as hazardous.

We encourage EPC to support sound science and vote against the Plains Justice petition.

Mr. Myrom submitted a table of Scientific Evidence Supporting Non-Hazardous Waste Designation.

JIM KLOSTERBUER, representing Interstate Power and Light Company submitted the following comments:

Interstate Power and Light operated seven electric generation power plants in Iowa that produce coal ash. We would like to comment on agenda item 15 concerning the Plains Justice petition for the Iowa Environmental Protection Commission to support federal regulation of coal ash as a "hazardous waste".

Interstate Power and Light requests that the EPC vote against this petition based on the following:

1. IAC 567.108.6 specifies the technical criteria for coal ash to be beneficially used for a fill material in Iowa. Interstate Power and Light tests coal ash samples from each power plant location at two year intervals. The most recent tests were conducted in 2008; all samples fully met the criteria for continued use as a fill material in Iowa. Hence, consistent with Iowa regulations, this coal ash is a non-hazardous-waste material and should continue being treated as such.
2. The Environmental Protection Agency has studied the characteristics of coal ash for nearly 20 years and has issued determinations that the material is appropriately managed as a non-hazardous waste. Numerous state environmental regulatory agencies, including the Iowa Department of Natural Resources, have regulated ash disposal in their respective states for many years...no state has re-classified coal ash as being "hazardous waste". Thus, hundreds of scientists and engineers have studied this issue for many years; and the consensus remains that coal ash is not a hazardous waste.
3. Some of the most knowledgeable technical staff in the State of Iowa concerning this issue resides within the Iowa Department of Natural Resources. As you are aware, the IDNR has previously commented to EPA in a letter dated 19 March 2009 that coal ash can be managed appropriately as a non-hazardous waste.

Historically, the EPC and IDNR have always incorporated sound science in the development of the Iowa environmental regulatory program. The Plains Justice petition offers no additional or

new technical information that has not been previously examined by numerous technical reviewers. Hence, no new science to support coal ash being classified as a “hazardous waste” has been established; EPC should reject this petition and allow the IDNR letter to represent the State of Iowa’s position on this issue.

JACK CLARK, Vice President of the Iowa Utility Association submitted the following comments:

I do want to express appreciation for the time the Commission has devoted to reviewing issues related to the disposal of Coal Combustion Byproducts in Iowa during the past six months.

When you consider item #15 on your agenda today, the Iowa Utility Association and its members encourage you not to pass a motion supporting federal regulation of coal combustion waste as a hazardous waste.

I offer the following comments for your consideration.

IDNR stated in a letter sent to EPA on behalf of the Iowa Department of Natural Resources and its director on March 19, 2009. “The Department understands that EPA is considering options to regulate CCW as a hazardous waste under RCRA Subtitle C. This option is not supported by the historic data that has been collected from generators of CCW in Iowa which shows that CCW does not exceed RCTA Subtitle C hazardous waste characteristics. Regulation under subtitle C also has the potential to put an end to many beneficial uses for CCW.” ... “Most importantly, declaring CCW a hazardous waste creates an even greater hardship for Iowa because of the amount that is generated and the fact that there is no RCRA Subtitle C permitted disposal facilities in the state...The implications of this action are that CCW generators would be forced to ship materials to surrounding state for disposal. That could become extremely difficult to justify when there is little scientific data supporting such drastic measures.”

The position taken by Iowa’s Department of Natural Resources coincides with the positions expressed by the State and Territorial Solid Waste Management Officials, the Environmental Council of the States (ECOS) and the National Governor’s Association. All of these organizations oppose classification of coal combustion byproducts as a hazardous waste.

This morning, IUA members, Alliant Energy and MidAmerican Energy indicated that certified independent laboratories have conducted technical scientific tests established by EPA and required by the Department which demonstrate that the coal combustion byproducts produced by our power plants have never even approached the characteristics of hazardous wastes.

Iowa has strong beneficial use markets, mostly supporting the concrete and construction industries, which would disappear if coal combustion byproducts were mistakenly deemed hazardous waste, causing Iowa to lose out on large recycling opportunities that have been conserving resources for the past 30 years. This is not the best solution for the environment.

In closing, I would just restate that IUA and its members encourage you not to pass a motion supporting federal regulation of coal combustion waste as a hazardous waste. We instead

encourage you to continue discussions with the Department and the Iowa Stakeholders to find a workable approach that addresses concerns that affect Iowa and support the conservation of resources through safe beneficial uses.

Thank you for your consideration.

NALIN JOSHI, Environmental Manager at the Lafarge Davenport cement plant. The Davenport cement plant is the most modern pre-heater/pre-calciner cement plant in Iowa and our product is used all across the state from the John O'Donnell Baseball stadium and the Genesis Heart Center in Davenport, Iowa to the I-74 bridge deck in Bettendorf to a growing number of public roads, highway bridges, hospitals, schools, sidewalks and homes across Iowa. Our primary markets are Iowa, Southwestern Wisconsin and Minnesota.

The agenda today has one action item that would be devastating to Lafarge and industry if implemented by EPA. The letter from Plains Justice requesting the EPC to support EPA declaring coal combustion byproduct as a "hazardous waste" would be costly to Iowans and would not result in increased environmental protections. I urge you to reject the Plains Justice approach.

Lafarge supports regulation of coal combustion wastes, or CCWs, under federal guidelines to protect public health and the environment. However, Lafarge opposes regulation of CCWs as RCRA Subtitle C hazardous wastes and defers to the voluminous record submitted to the EPA by electric utility companies and others showing such regulation as unnecessary and inappropriate.

Lafarge's primary concern is the devastating effect a hazardous waste designation for CCWs would have on the beneficial re-use of coal combustion products, or CCPs. Lafarge is a major marketer and user of CCPs in the United States. Among Lafarge's primary CCP uses are Portland cement replacement in concrete; treatment of soils and base materials; raw feed in Portland cement manufacturing; underground mine stabilization; and as a wallboard ingredient. EPA's Subtitle C approach may exempt CCPs used in certain types of beneficial modes from designation as a hazardous waste, but such exempted materials would still carry such a "stigma" that as a practical matter, significant barriers and deterrents would be placed on their use.

Common sense and logic show how there would be significant adverse impacts from such a stigma. If EPA listed disposed CCW as a hazardous waste, potential CCP uses would be confronted with the fact that exactly the same material that they could choose to use has been officially declared a hazardous waste. With many substitute materials available that do not carry this stigma, it is obvious that customers would be highly motivated to avoid the CCP.

In the minds of the public, any combination of the words "hazardous waste", "toxic waste", or "chemical waste", conjures the sector of Love Canal, the Valley of the Drums, cancer, birth defects and worse. The public phobia regarding hazardous wastes is also manifested in many judicial decisions and prospective purchasers and users will presumably want to minimize their risks of tort liability.

Since word has spread that EPA may regulate CCW as a hazardous waste, we have been inundated with inquires from our customers and business associates, all pointing to a growing concern over using CCPs in general and a refusal to continue using CCPs if EPA were to actually classify CCWs as hazardous waste. It is clear that adverse business and economic impacts of such a classification would be severe to Lafarge and other similarly situated.

To conclude, I urge you to reject the Plains Justice approach that would be costly to Iowans and would not result in increased environmental protections.

NATALIE SNYDERS, ICCI member, addressed the Chapter 65 rulemaking regarding land application of manure on frozen or snow covered ground. (Natalie passed out a letter from EPA to DNR regarding SF 432 dated March 30, 2009) EPA states in the letter that Senate File 432's provision related to land application of manure to frozen or snow covered ground is less stringent than the federal requirements and would violate the Clean Water Act. EPA will be paying close attention to how emergency is being defined. Weakened legislation has already been introduced in the Senate Ag Committee. We ask that you use your authority to oppose this legislation if it's introduced.

DAVID GOODNER, ICCI member, said that they expect the manure on frozen ground rule to pass as is. We are opposed to any industry's proposal to expand the emergency definition to include inadequate storage. Factory farms receive EQIP funds, low interest loans and taxpayer subsidies for manure storage construction. Factory farms need to upgrade their operations to meet the environmental laws. We urge the DNR to move forward on stronger water protection rules, the Director's discretionary policy.

MARYBETH GARDAM, representing Iowa Physicians for Social Responsibility stated her support for the Plains Justice letter supporting Coal Combustion Waste as hazardous. Coal ash contains many dangerous elements including mercury. Please ask EPA to do what is right in protecting Iowans from these health dangers.

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

**NOTICE OF INTENDED ACTION – CHAPTER 61 – WATER QUALITY STANDARDS
(STREAM RECLASSIFICATIONS VIA USE ASSESSMENT AND USE ATTAINABILITY
ANALYSES – BATCH #3)**

Lori McDaniel, with the Water Quality Bureau presented the following item.

The commission will be informed of a Notice of Intended Action regarding proposed rulemaking to amend the recreational and warm water aquatic life use designations for approximately 600 river and stream segments. Attached is a list of the stream segments that will be included in the rule. Please note this is a preliminary list and changes may be made before the Notice of Intended Action is presented for approval. With the notice, we will also make available a more detailed list of the segments that includes more information about the length of the segment, the current designated uses and the recommend designated uses. The individual Use Assessment and

Use Attainability Analyses for these segments are available (or soon will be) on the department's web site at: <http://programs.iowadnr.gov/uaa/search.aspx>

Rulemaking combined with legislative action in 2006 have brought the DNR's water quality rules towards compliance with federal Clean Water Act requirements and U.S. Environmental Protection Agency (EPA) regulations, establishing new levels of protection for water quality. As an outcome of these efforts, all 26,000 miles of Iowa's perennial (flowing year-round) streams and intermittent streams with perennial pools are initially protected at the highest levels for recreation and warm water aquatic life uses. These actions provide initial protection for many miles of perennial streams that were previously not designated for aquatic life and/or recreational uses before.

Under these rules, it is presumed that all perennial streams and rivers are attaining the highest level of recreation and aquatic life uses and should be protected for activities such as fishing and swimming.

This concept of assigning all perennial streams the highest use designation, unless assessments show that the stream does not deserve that level of protection, is referred to as the "rebuttable presumption". Included in the federal regulations are the provisions that allow for scientific analysis of these "presumed" recreational and aquatic life uses. An integral part of implementing the new rules is verifying that a stream is capable of supporting the presumed uses.

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

The DNR elected to perform a UA/UAA on any newly designated stream that receives a continuous discharge from a facility with a National Pollutant Discharge Elimination System (NPDES) permit. Prior to issuing a NPDES permit for an affected facility, the DNR must complete a UA/UAA for the receiving stream or stream network.

Public hearings will be conducted the first week in February. Visit our webpage for more details on times and locations. We will be back in February with a Notice of Intended for the Commission's review. GIS will be available on those particular stream segments.

Susan Heathcote mentioned that more geographical details on the specific stream sites would be very helpful for the public when understanding the exact location. Suggested using GIS mapping.

INFORMATION

CONTRACT AMENDMENT – VIABILITY TECHNICAL ASSISTANCE WITH IOWA ASSOCIATION OF MUNICIPAL UTILITIES

Diane Moles, with the Water Quality Bureau presented the following item.

Recommendation:

The Department (IDNR) requests Commission approval of a contract amendment in the amount of \$299,968.00 with Iowa Association of Municipal Utilities (IAMU) for three years. This amendment shall be valid from April 1, 2010 through March 30, 2013. This is an extension of a successful three-year contract with IAMU which was signed in April of 2007.

Funding Source:

Funding for this contract comes from the Drinking Water State Revolving Fund (DWSRF) Other Authorized Use Set-aside, which is used to implement the state’s capacity development initiatives.

Original Contract	\$	298,969.00
Amendment #1	\$	<u>299,968.00</u>
Not to exceed	\$	598,937.00

Background and Purpose:

The purpose of this extension is to continue to retain the Contractor to provide on-site technical assistance to public water supplies and training for city council/water board members of those utilities.

Assistance focuses on capacity development and ensuring the long-term viability of public water supplies. Objectives include providing assistance to water systems in the accurate completion of the viability self-assessment manuals and comprehensive follow-up technical assistance to address problem areas identified by the self-assessment manual. IAMU works with the IDNR, the operator, city clerk, city council, board and/or owner as part of the technical assistance.

Over the course of the current contract, IAMU has completed assistance to 33 public water supplies, which includes cities, homeowners associations, restaurants, and mobile home parks, and is currently in the process of assisting an additional 41 public water supplies.

This contract was especially important during 2009 as it provided for assistance to DWSRF (American Recovery and Reinvestment Act stimulus) loan recipients. The viability of each applicant must be determined prior to receiving a DWSRF loan, and IAMU was able to provide on-site assistance to these applicants to ensure that they had the technical, managerial, and financial capability to continue to operate their water system in a responsible manner.

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

APPROVED AS PRESENTED

FINAL RULE – CHAPTER 64 – WASTEWATER CONSTRUCTION AND OPERATION PERMITS FOR WELL CONSTRUCTION AND WELL SERVICE AND WELL SERVICE DISCHARGES

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

Motion was made by Susan Heathcote to untable Chapter 64 from last month. Seconded by Paul Johnson. Motion carried unanimously.

The Commission is asked to approve the final rule to amend Chapter 64, “Wastewater Construction and Operation Permits.”

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

These rule amendments, if approved would:

1. Exempt water well construction and well services related discharge that does not reach the waters of the United States from department operating permits.
2. Require the issuance of a General Permit #6 for any water well construction and well services related discharges that reach Waters of the United States.
3. Exempt water well construction and well services related discharges which are authorized by and meet the standards as found in General Permit #6 from the requirement of submitting a Notice of Intent.
4. 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.
5. Establish an effective and expiration dates for the General Permit #6.
6. Exempt General Permit #6 from the collection of permitting fees.
7. Establish a time period of 5 years for the permit to be effective.

The Notice of Intended Action (NOIA) was published in the Iowa Administrative Bulletin on July 15, 2009 as **ARC 7945B**, and can be found on pages 127 and 128. Six public hearings were held across the state in August 2009. Approximately 23 persons or groups provided oral or written comments on the proposed Chapter 64 revisions and proposed general permit. A responsiveness summary has been prepared addressing the comments received in terms of the issues involved and the changes have been made to the proposed rules amendments and general permit based on the comments provided by the stakeholders.

The original NOIA was presented to the commission on June 16, 2009 and since the last time this information was presented to the commission there have been the following changes made:

To proposed Chapter 64 rules the changes include Minor corrections to the code citations due to amendments that Chapter 64 has experienced since this action was initiated.

To General Permit #6 the changes include-

1. The removal of private ponds and subsurface drainage tile from the list of exclusions.
2. The removal of the requirement that the engineer be a co-permittee on well construction sites.
3. Include the requirement that all well activities that use the services of an engineer shall have the engineer sign the WWPPP with the following certification: "The WWPPP is designed using best engineering practices."
4. Defining "co-permittee" as any individual who performs work on the well construction site involved in installing, managing, and altering BMPs intended to manage and treat well construction wastewater or whose on-site work may alter the effectiveness of the BMPs that have been deployed, increase the amount of discharge wastewater, or the reduce the quality of the discharge wastewater.
5. Placing the requirement for providing qualified inspectors on the permittee.
6. Establishing a notification period from no greater than 5 days before the drilling activity and no greater than 24 hours after activity in initiated.

Since the December 15th Commission meeting when the Commission tabled this item for additional time to review, the department has worked with stakeholders from the water well contractor and civil engineering communities to discuss and propose changes to the general permit that would meet the basic needs of both groups and allow this item to move forward for final commission rule process.

All document changes made after the December Environmental Protection Commission meeting are found within General Permit #6 and include-

1. Part 1.D.2 Qualifying both well construction and well services as required notification events when reaching waters of the United States.
2. Part III Amending the statement "best engineering practices" to state "good engineering practices" and the addition of a statement requiring that well services which require the services of an engineer for the development of the WWPPP shall retain the engineer until the completion of the well construction project.
3. Part III.D.4.A Amend the term "measure" to state "BMP" and amend the term "implement" so that it now states "install, manage, or alter."
4. Part III.D.4.B The additional of a statement which informs individuals that the failure to sign a certification statement as a co-permittee under the General Permit #6 does not exempt an individual or entity from which they are employed from meeting the requirements as found in the general permit if they meet the qualification of a co-permittee.

5. Part VII.E The addition of a qualifying statement to the definition of “co-permittee” which states “Planning and design activities related to the development or modification of the WWPPP, by themselves, do not constitute co-permittee status.”

The Department believes that the rule changes and the associated general permit:

1. Will meet the requirements placed upon the department by Iowa Code 455B.198.
2. Will provides adequate protection to the Waters of the United States.
3. Have been assembled in a manner which moderates the needs of the various stakeholder groups.

We ask the Commission to approve the changes as presented.

Motion was made by Susan Heathcote to adopt the proposed amendment from the Department to clarify the General Permit #6, page 6, III to read as: A site-specific Well Water Pollution Prevention Plan (“WWPPP”) shall be developed or obtained by the permittee prior to commencement of well construction or service activities. Plans for the public water supply wells must be developed prior to letting bids for the construction project. All well activities that use the services of an engineer shall have an engineer: a) prepare the WWPPP, b) prepare all revisions pursuant to Part III.C, and c) provide the following certification for the WWPPP and any revisions: “The WWPPP is designed using good engineering practices.” Seconded by Paul Johnson. Motion carried unanimously.

Motion was made by Paul Johnson to approve the final rule as amended. Seconded by Gene VerSteeg. Motion carried unanimously.

APPROVED AS AMENDED

CONTRACT – USGS – 2010 USGS JOINT FUNDING AGREEMENT

Lori McDaniel in the Water Quality Bureau presented the following item.

Recommendation:

The Department requests Commission approval of a contract amendment to add \$200,000 to the 2010 USGS Joint Funding Agreement.

Funding Source:

This project will be funded through state infrastructure fund dollars.

Background:

During the 2009 legislation HF822 stated the following:

6 It is the intent of the general assembly that the
6 7 department of natural resources shall implement the lake
6 8 restoration annual report and plan submitted to the joint
6 9 appropriations subcommittee on transportation, infrastructure,
6 10 and capitals and the legislative services agency pursuant to
6 11 section 456A.33B. The lake restoration projects that are
6 12 recommended by the department to receive funding for fiscal
6 13 year 2007=2008 and that satisfy the criteria in section
6 14 456A.33B, including local commitment of funding for the
6 15 projects, shall be funded in the amounts provided in the
6 16 report.

6 17 b. For floodplain management and dam safety,
6 18 notwithstanding section 8.57, subsection 6, paragraph "c":
6 19 \$ 2,000,000
6 20 Of the amounts appropriated in this lettered paragraph, up
6 21 to \$400,000 is authorized for stream gages to be used for
6 22 tracking and predicting flood events and for compiling
6 23 necessary data relating to flood frequency analysis.

6 24 Of the number of full-time equivalent positions authorized
6 25 to the department for FY 2009=2010 pursuant to 2009 Iowa Acts,
6 26 Senate File 467, if enacted, up to 21.00 full-time equivalent
6 27 positions shall be allocated for the floodplain management and
6 28 dam safety program.

Purpose:

The purpose of this contract is to carryout the intent of HF822 and add up to 10 additional stream gages in areas that will assist in the tracking and predicting of flood events by compiling the necessary data relating to flood frequency analysis.

USGS Joint Funding Agreement:

The USGS operates and maintains approximately 7,500 stream gauges which provide long term, accurate, and unbiased information on streamflow to meet the needs of many diverse users. The USGS stream gauging network is currently funded in partnership with over 800 Federal, State, and local agencies nationwide. The Iowa DNR has partnered with USGS for many years to maintain Iowa’s network of stream gages. The data gathered through the use of these stream gages is consistent, obtained by using standard techniques and technology and is subject to quality assurance and quality control.

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

APPROVED AS PRESENTED

CONTRACT AMENDMENT – IDALS-DSC FOR NONPOINT SOURCE PROGRAM BASIN COORDINATOR STAFFING ASSISTANCE

Allen Bonini with the Watershed Improvement Section presented the following item.

Recommendations:

Commission approval is requested for a 5 month amendment to an existing service contract with the Iowa Department of Agriculture – Division of Soil Conservation (IDALS-DSC). The contract amendment will extend the expiration date of the contract to June 30, 2010. The total amount of this contract amendment shall not exceed \$89,002. DNR shall have the option to renew this contract long as this contract and any extensions do not exceed a six-year period. The original contract term was February 19, 2009 through January 31, 2010.

Funding Source:

This contract will be funded through US EPA Section 319 Nonpoint Source Program grant dollars.

Background:

The Department shares in the funding of three (3) full-time positions and one (1) half-time position in IDALS-DSC to jointly support the development and implementation of Department section 319 and DSC WPF/WSPF watershed improvement plans and projects. Support for these shared positions has been ongoing for several years.

Purpose:

The purpose of this contract is to retain DSC to assist the Department in the implementation of Iowa’s nonpoint source pollution management program through the retention of three (3) full-time positions and one (1) half-time position in the DSC’s Water Resources Bureau for the purpose of providing technical assistance and guidance in the development and implementation of section 319 and WPF/WSPF watershed improvement plans and projects. The cost for these positions shall be shared equally by both parties.

Dale Cochran and Paul Johnson shared their experience, background and history on designating watershed boundaries in the past.

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

APPROVED AS PRESENTED

CONTRACT – MISSOURI AND MISSISSIPPI DIVIDE RESOURCE CONSERVATION AND DEVELOPMENT, INC., FOR A CONTRACT TO PREPARE A WATER QUALITY MASTER PLAN FOR THE RACCOON RIVER BASIN

Allen Bonini with the Watershed Improvement Section presented the following item.

Recommendations:

Commission approval is requested for a 17 month service contract with M&M Divide RC&D of Carroll, Iowa. The contract will begin on February 1, 2010 and terminate on June 30, 2011. The total amount of this contract shall not exceed \$250,000. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA) using funds reserved under Section 604(b) of the Clean Water Act (CWA) to carry out planning under Section 205(j) and 303(e) of the CWA. In addition, activities are supported through grant funds provided by the Environmental Protection Agency under the Section 319 Nonpoint Source Program.

Background:

The Department received an allocation of \$164,303 under the ARRA that, in accordance with Section 205(j) of the CWA, requires the Department to use these funds for purposes such as supporting water quality planning through a regional planning agency. In accordance with ARRA the Department must obligate these funds by February 2010 or the funds revert back to EPA for redistribution to other states. In order to provide adequate funding to support this type of water quality planning for the Raccoon River Basin, the Department elected to commit additional funds from its EPA Section 319 grant to increase to \$250,000 the maximum amount of funds available for this planning effort. The goal is for this regionally-led Water Quality Master Plan to become the foundation for long-term success in developing and implementing environmentally sound and economically sustainable watershed and water quality improvement efforts in the Raccoon River Basin.

Purpose:

The parties propose to enter into this Contract for the purpose of retaining the Contractor to develop a Water Quality Master Plan for the Raccoon River Basin in Iowa.

Contractor Selection Process:

M&M Divide RC&D was chosen using the Request for Proposals competitive process. M&M Divide RC&D was chosen for this project because they ranked highest among three proposals as a result of a review process involving an Evaluation Committee made up of representatives from DNR, DSC, The Nature Conservancy, Iowa Natural Heritage Foundation and NRCS.

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

APPROVED AS PRESENTED

JORDAN AQUIFER – CURRENT AND FUTURE STATUS

Bob Libra, State Geologist presented the following.

For the complete presentation please visit: <http://www.iowadnr.gov/epc/archive/10jan19h.pdf> or stop by the Iowa DNR Records Center located on the 5th floor of the Wallace State Office building.

INFORMATION

ADOPTED AND FILED – CHAPTER 65 – CONFINEMENT FEEDING OPERATION APPLICATIONS FOR CONSTRUCTION PERMITS: DEMAND FOR HEARING PROCEDURES

Randy Clark, Attorney with the DNR Legal Services Bureau presented the following item.

In June, 2009 the Commission approved the Notice of Intended Action proposing 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 15, 2009, as ARC 7961B and three public hearings were conducted in early August. Oral comments were received at all three public hearings and 360 written comments were received during the comment period. The responsiveness summary is attached.

As a result of the comments, the Department recommends the following changes to the amendment as published in the Notice of Intended Action:

- In 65.10(7)“a” and 65.10(8)“a,” the 14 day time limit for filing a demand for hearing after receipt of the department's preliminary decision is increased to 30 days.
- In 65.10(8)“a” and “b,” applicants are provided an additional 3 days in which to contest the department's preliminary decision if the county has filed a demand for hearing.
- In 65.10(7)“b,” 65.10(8)“a” and in 65.10(9)“a”(4) language is modified to provide that a demand for hearing includes legal briefs and to clarify the scope of responses to a demand for hearing.
- In 65.10(9)“a”(5), numbered item 1, language is added to clarify that only written material submitted at the hearing by the applicant, the county board of supervisors or the department may be accepted by the Commission.
- In 65.10(9)“a”(5), numbered item 4, language is added to provide that Commission members or counsel may direct questions to persons in “attendance” at the hearing in addition to persons “appearing” at the hearing.

- In 65.10(9)“a”(6), numbered item 6, language is added requiring the Commission to notify the applicant and the county 7 days prior to the hearing if technical experts or consultants have been designated to speak at the hearing; also, in 65.10(9)“a”(5), numbered item 4, language is added to provide that the applicant and the county may direct questions to those technical experts or consultants.

An additional correction of a typographical error not suggested by the comments, replacing “board’s” with “applicant’s,” is noted in 65.10(8)“a.”

To facilitate the Commission’s review, the recommended changes are highlighted in the attached draft Adopted and Filed document. If the Commission adopts the proposed amendment, including any of the foregoing changes, the published Adopted and Filed document will not include the highlighting, strikethroughs, or underlining.

Charlotte Hubbell expressed her concerns that the rules are creating contested case proceedings. This would constrain what the Commission can include in the record for court proceedings. We have the authority to create our own record under the standard administrative procedural law with the materials that we want to include. I believe we do need technical and expert advice which would be chosen by the Commission. The Court can decide what is relevant material to use during its proceeding.

Gene VerSteege and David Petty stated their concerns with the amount of testimonies and information that the Commission would need to review and submit as part of the court proceedings.

Dave Sheridan with the Attorney General’s Office stated that the current rules as proposed are not unlawful. We do believe you would have the authority to bring in an expert. We also believe there is no conflict of interest with Dave Petty and Gene VerSteege because of their businesses. The Ethics Board also agrees.

Charlotte Hubbell said that she believes there needs to be more discussion on the conflict of interest rule.

Motion was made by Susan Heathcote to approve Chapter 65 including the recommendations from the Department. Seconded by Paul Johnson.

Charlotte Hubbell proposed the following amendment:

Add a new section 65.10(9)(a)(5):

(5) No later than 15 days from the date set for hearing, any person may submit written material for the Commission to review. Whether such material is accepted into the record will be the decision of the chairperson of the commission depending on whether the chairperson deems it relevant to the appeal.

Renumber existing section 65.10(9)(a)(5) to 65.10(9)(a)(6)

Amend old section 65.10(9)(a)(5) [new section 65.10(9)(a)(6)] so as to delete the words "...submitted by the applicant, the county board of supervisors or the department and..."

Renumber existing section 65.10(9)(a)(6) to 65.10(9)(a)(7)

Carrie LaSeur agreed that it would be good for the Commission to seek out advice from credible sources, with deadlines in place so the Commission is allowed plenty of time to review and respond.

Marty Stimson expressed his concern that the Commission could get into making a record that falls into the guidelines of the contested case procedures.

Charlotte Hubbell confirmed with Dave Sheridan, Attorney General’s office, that they advise and direct the Commission on what’s within the Commission’s authority.

Motion was made by Susan Heathcote to include Charlotte Hubbell’s amendments in her original motion to approve Chapter 65 including the Department’s recommendations. Seconded by Paul Johnson. Roll call vote went as follows: David Petty – nay; Carrie LaSeur – aye; Paul Johnson – aye; Susan Heathcote – aye; Marty Stimson – aye; Gene VerSteege – nay; Dale Cochran – nay; Lorna Puntillo – nay; Charlotte Hubbell – aye. Motion carried.

Motion was made by Susan Heathcote to approve Chapter 65 as amended by the Department and Commission. Seconded by Marty Stimson. Roll call vote went as follows: Dale Cochran – aye; Paul Johnson – aye; Gene VerSteege – nay; David Petty – nay; Marty Stimson – aye; Carrie LaSeur – aye; Susan Heathcote – aye; Lorna Puntillo – nay; Charlotte Hubbell – aye. Motion carried.

APPROVED AS AMENDED

CONTRACT – US DEPARTMENT OF AGRICULTURE, FARM SERVICE AGENCY, AERIAL PHOTOGRAPHY FIELD OFFICE (APFO) – 2010 MIDSUMMER IOWA ORTHOPHOTO PROJECT

Wayne Gieselman, Division Administrator for Environmental Services presented the following item.

The Department requests Commission approval of a contract in the amount of \$91,117 with the APFO for the acquisition of 1 meter, 4-band, color orthophotos to be acquired statewide during the summer of 2010.

This contract will ensure that the APFO acquires high quality, 4-band imagery during the summer (leaf-on) of 2010 in Iowa. Without these funds, the APFO will only collect base quality

imagery in Iowa this year. For this effort DNR is contributing \$30,000 of its own funds, \$50,000 from Pooled Technology grant funds, and \$12,000 in contributions from local (city, county, private, etc.) partners. This project represents a second additional flight in 2010, separate from the imagery flown during leaf-off conditions in the spring 2010. The two products will be used in conjunction to develop a high-resolution (1 meter) landcover layer for the entire state of Iowa. Current landcover data is derived from satellite imagery and has a resolution of 15 to 30 meters. The resolution of landcover information generated from this project will exactly match that of our state LiDAR data and will maximize our ability to utilize that data in conservation and environmental protection efforts.

Funds for this project will come from Watershed Initiative and Pooled Technology funds directed to the DNR GIS Section.

APFO is tasked with collecting statewide aerial photography for the purposes of Farm Service Agency compliance monitoring. By partnering with APFO, the DNR will be essentially acquiring a million dollar airphoto product for \$91,117. In short, we do not have the funds to complete the project without the partnership with APFO.

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

APPROVED AS PRESENTED

FINAL RULE – CHAPTERS 123 REGIONAL COLLECTION CENTERS AND MOBILE UNIT COLLECTION AND CONSOLIDATION CENTERS AND 211 FINANCIAL ASSISTANCE FROM THE COLLECTION OF HOUSEHOLD HAZARDOUS MATERIALS AND HAZARDOUS WASTE FROM CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS

Theresa Stiner presented the following item.

The Commission is requested to approve the Final Rule to amend IAC 567-Chapters 123 “Regional Collection Centers and Mobile Unit Collection and Consolidation Centers” and 211 “Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste From Conditionally Exempt Small Quantity Generators”. These amendments are being made as part of an effort to improve the efficiency of the Regional Collection Center (RCC) program.

The amendments will differentiate between satellite facilities and Regional Collection Centers. Satellite facilities collect and store household hazardous materials which are then picked up by an RCC. Satellite facilities will not be required to obtain a permit, but will instead need to meet requirements set out in rule regarding building requirements, staff training, a plan of operations and an emergency preparedness plan.

Requirements for RCCs will be streamlined by:

- Extending the length of the RCC permit from three to five years
- Removing the requirement for an education program from the permit
- Reducing the amount of financial assurance required for a new RCC that serves a population of less than 35,000 from \$15,000 to \$5,000
- Clarifying that disposal funding assistance an RCC receives in a year cannot exceed the RCC's total disposal costs for the year.

During the public comment period the department received three comments, all in regards to the removal of the education requirement from the RCC permit. The department values the important role education plays in the Regional Collection Center program, which is why household hazardous material education is addressed through other means. A summary of the comments and the department's response is attached. These Final Amendments are identical to those that were published under Notice.

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

APPROVED AS PRESENTED

PROPOSED RULE – AMENDMENTS TO CHAPTER 135 – TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

Elaine Douskey, with the Underground Storage Tank Section presented the following item.

The Department proposes amendments to 1) revise the risk-based evaluation process for plastic water lines, adding in gasketed drinking water lines and different action levels based on material composition and usage, 2) allow consideration of no action required status if the contaminant plumes at low risk leaking underground storage tank (LUST) sites are demonstrated to be stable and when an institutional control is implemented, and 3) expand the Department's authority to require conformation sampling prior to acceptance of a 'no action required' classification or to waive 'exit monitoring' criteria when a groundwater professional can justify a 'no action required' classification for the site. Existing policy regarding confirmation soil sampling has been added to update rule with the current practice.

Iowa State University and American Water Works Association Research Foundation (AWWARF) released the results of their laboratory study titled, "Impact of Hydrocarbons on PE/PVC Pipes and Pipe Gaskets". The research suggests PVC pipe material is more resistant than previously believed, polyethylene (PE) and polybutylene (PB) pipes are extremely susceptible to petroleum contamination, and gaskets are potentially the weak link for exposure to petroleum in a water distribution system. A research group and follow up technical advisory

committee were formed to examine the results of this study and other published literature. The group concluded PVC is more resistant than previously believed when the Department initially developed risk-based corrective action (RBCA) rules, but that PVC lines are still deemed at risk in gross contamination. Additional research confirmed the findings related to PE/PB pipe and gaskets. Changes are proposed to incorporate these new findings regarding water lines for distribution of potable water, specifically to the target levels used for water lines in the RBCA evaluation at LUST sites.

Sites that are low risk may remain 'open' indefinitely if concentrations fluctuate above and below site-specific target levels and method detection limits. Changes to the rule have been proposed that would allow a site to be closed if it can be demonstrated the contaminant plume is stable and exposure to the contaminants were controlled through land use restrictions (environmental covenants and institutional controls).

INFORMATION

PLAINS JUSTICE LETTER – COAL COMBUSTION WASTE REGULATION

Wayne Gieselman, Division Administrator for Environmental Services presented the following information.

The Environmental Protection Commission received a letter from Plains Justice on December 7, 2009 regarding coal combustion waste regulation.

Dear Chairwoman Hubbell and EPC members:

On behalf of the staff and board of Plains Justice and the many Iowans who have spoken out in recent months about the need for more protective coal combustion waste regulation, I urge you to take the following immediate steps to protect Iowans' surface and groundwater and our health:

- 1. Pass a motion supporting federal regulation of coal combustion waste as hazardous waste;*
- 2. Urge EPA to draft a final rule that fully addresses the public health risks associated with current disposal practices; and*
- 3. Draft a letter to EPA, to be sent as soon as possible, detailing the actions taken by EPC and outlining some of the specific ways in which public health could be better safeguarded.*

As we approach the first anniversary of the Tennessee Valley Authority Kingston Fossil plant coal ash spill, we must not forget the devastating and lasting effects of this catastrophe. Although the risks to human health may not be fully known for decades, the cleanup costs alone already approach a billion dollars. Sadly, the spill could have been prevented. Nationwide, EPA has identified case after case of proven groundwater contamination from leachate escaping from dry CCW fill sites. This damage too is preventable through proper federal regulation.

After decades of inaction, EPA is expected to release a draft rule before the end of 2009. It is crucial that the voices of concerned individuals, organizations, and government boards and commissions such as EPC be heard during the final days before this action. EPC has the power to communicate directly to EPA how important this rulemaking is to the health and safety of Iowans.

Plains Justice, Environmental Integrity Project, and Earthjustice have outlined proposed regulations that would reduce both the risk of a catastrophic spill and of undetected contamination of aquifers and

drinking water supplies. Some of these proposed rules, which you may consider appropriate to include in a letter to EPA, are enclosed.

Thank you very much for your thoughtful consideration over the last several months of many viewpoints on this urgent issue. It is our hope that, having heard extensive testimony about various aspects of coal combustion waste disposal, EPC now feels prepared to make a statement on its own behalf to EPA. Iowans, and the governor, rely on EPC to exercise its judgment and authority as an independent commission to weigh in on the critical regulatory issues of the day. We believe that the time has come for EPC to take a public position on this issue, and we hereby request that a motion be voted on at the December meeting.

Wayne Gieselman passed out letters from the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), the National Governor's Association, ASTM International, ECOS and the Iowa DNR. All of which state that Coal Combustion Waste in Iowa should not be regulated under the RCRA Subtitle C hazardous waste program.

Motion was made by Susan Heathcote to draft a letter to EPA urging them to draft a final rule that fully addresses the public health risks associated with current disposal practices. Seconded by Carrie LaSeur. Motion carried unanimously.

Carrie LaSeur and Charlotte Hubbell will draft the letter to EPA.

ACTION TAKEN

ANNUAL REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY

The Commissioners finalized their annual report to the legislature.

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.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 gave updates on the following:

- The Legal Services Bureau has issued \$20,000 in fines for open burning/disposal violations.
- Patti Cale-Finnegan is working hard to beat the February 17th stimulus funding deadline for SRF programs.
- Currently reviewing what happens if EPA assumes responsibility of the Clean Water and Clean Air Act.
- The Governor has sent a letter to EPA about reducing our level of effort to meet the requirements of federal delegation.
- Karl Brooks is the new Regional Administrator for EPA Region 7.

INFORMATION

NEXT MEETING DATES

February 16, 2010 – DNR Building, 7900 Hickman Road, Windsor Heights

ADJOURNMENT

Motion was made by Marty Stimson to adjourn the meeting. Seconded by Susan Heathcote. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairperson Charlotte Hubbell adjourned the meeting at 5:20 p.m., Tuesday, January 19, 2010.

Richard A. Leopold, Director

Charlotte Hubbell, Chair

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