

**FISH HABITAT PROGRAM
GRANT APPLICATION
GUIDELINES**

IOWA DEPARTMENT OF NATUAL RESOURCES

August 2002

Revised September 2006

FORWARD

The following guidelines have been prepared to assist county conservation boards prepare Fish Habitat Program applications for state assistance. The pages attempt to cover all aspects of the Program. Any question concerning the program should be directed to:

Budgets and Grants Bureau
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034
Telephone: (515) 281-3013

OR

Conservation & Recreation Division
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034
Telephone: (515) 281-5034
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GUIDELINES FOR COUNTY CONSERVATION BOARD PARTICIPATION IN THE FISH HABITAT PROGRAM

INTRODUCTION:

In 2001, the Iowa General Assembly passed legislation requiring anglers (except for residents who are younger than sixteen or are sixty-five years of age or more, or to residents or nonresidents when fishing in privately owned farm ponds or lakes) to purchase a fish habitat fee. **Beginning in license year 2004 the fish habitat fee (\$3.00) was rolled into the cost of the annual and 7-day licenses. All revenue derived from fish habitat fees of these license types shall be deposited in the state fish and game protection fund and shall be used in this state for fish habitat development. Not less than fifty percent of all revenues from the sale of fish habitat fee portion of eligible license type shall be used by the Department of Natural Resources to enter into agreements with county conservation boards to meet program goals.**

The Department of Natural Resources administers the Fish Habitat Program in compliance with the State Administrative Procedures Act, the DNR filed Administrative Rule Chapter 35 governing the administration of the program to county conservation boards (Appendix A).

ELIGIBILITY TO PARTICIPATE:

All county conservation boards are eligible to participate in the program. If the department determines that a county has unlawfully used fish habitat funds, the county shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the Natural Resource Commission.

PROJECT ACTIVITIES ELIGIBLE FOR ASSISTANCE:

Fish habitat grants will be made on a project basis for both acquisition and/or development.

Eligible development project activities include:

- Physical placement of fish habitats in ponds, lakes, pits and streams
- Armoring of pond, lake, pit and stream shores
- Construction of aeration systems
- Dredging of ponds or lakes
- Construction of ponds and lakes
- Construction of sediment retaining basins
- Repair of lake dams and outlets
- Manipulation of fish populations and aquatic vegetation
- Removal of dams

- Construction of fish ladders
- Construction of fish barriers
- Construction of rock-faced jetties

Acquisition projects are eligible when the land is used for fish habitat development purposes. The cost of an approved appraisal report and the cost of surveys necessary to determine acreage or to establish boundaries are also eligible for assistance. Project activities eligible for funding include:

- Land acquisition for pond and lake construction
- Land acquisition of fishable streams, ponds and lakes
- Land acquisition for watershed protection

ELIGIBILITY OF PROJECT COSTS:

No project or project activity shall be eligible for cost-sharing unless the applicant has been notified that a grant has been approved by the Natural Resource Commission prior to initiation of the project. A waiver of retroactivity (Waiver of Retroactivity, Page 5) and preliminary expenses are exceptions where cost can be incurred prior to initiation of the project. Consultation activities for land appraisals and surveys, engineering designs, cultural resource investigations and obtaining state and federal permits are examples of preliminary expenses.

An acquisition project shall be considered “initiated” when both parties have signed an “offer to buy” or “offer to sell” or real estate contract. The taking of an option will not constitute initiation until such time as the grant applicant exercises its option, thereby entering into a legal contract with the seller. However, wording in an offer to buy/sell contract or option to the effect that the sale of the land is dependent upon receipt of a grant will ensure eligibility as long as transfer of title does not take place.

A development project shall be considered “initiated” at the time any materials or supplies are purchased for a non-contract project or a construction contract is signed.

The cost of land in excess of the approved appraised valuation; donated labor, materials and equipment use; and force account labor and equipment use (sponsor’s own labor and equipment) shall not be eligible for assistance.

CONTROL OF PROJECT SITE:

In order for a project site to be eligible for a development grant, it must be under the physical control of the applicant, either by fee title, lease, management agreement, or easement. The term of a lease, management agreement, or easement must be commensurate with the life expectancy of the proposed development. Ten years is the minimum period that will generally be acceptable.

WAIVER OF RETROACTIVITY:

In case of extreme urgency involving land acquisition, a grant applicant may request a “waiver of retroactivity” which, if granted by the DNR, will permit the applicant to acquire the real property immediately without jeopardizing its chances of receiving a grant. However, the granting of the waiver in no way implies or guarantees that any subsequent grant application covering the acquisition will be selected for funding.

The request for the waiver must include adequate justification regarding the urgency of the acquisition, a description of the land to be acquired and a county map depicting the land location. Acceptable justification would include situations in which land is to be sold at auction or by sealed bids or when the landowner requires immediate purchase.

JOINT PROJECTS:

Two or more counties may join together to carry out a project. However, for the purposes of the grant program, the DNR will accept only one county as the primary sponsor. A written agreement among the counties will be made a part of the grant application. The written agreement is to include funding commitments to the joint venture.

The application rating system will be applied only to the primary sponsor when all counties are present the same districts. But, all districts involved shall rate the application and select the project for funding when a project crosses district boundary lines. The project agreement will be negotiated with the primary sponsor and reimbursements will be paid to it.

DIRECT PAYMENT TO LANDOWNER:

If requested in the project application and the applicant have shown good cause for such procedure the DNR may make direct payment of the state’s share to the seller. The state’s share will be paid for only eligible lands when a fee simple title, free and clear of all encumbrances or material objections, is obtained by the county at the time of payment (final payment in the case of contract purchases). For the most part, the only “good cause” which will be acceptable is the fact that the county does not have sufficient funds to make the entire payment to the landowner.

THE GRANT APPLICATION:

The review and selection committee shall not consider any application that on the date of the selection session is not complete. The application can be written in either in a narrative or outline format. To be complete a grant application shall contain a fish habitat program form (Appendix B), a statement resolution and **a project proposal**.

The statement resolution states that the county agrees to abide by all the covenants of Section 483A.3A Code of Iowa 2001 and Chapter 35 (571), Iowa Administration Code. An example of such a resolution is:

Whereas, the county board name is interested in acquiring and/or developing fish habitat at project location, AND Fish Habitat program funds are required for the project, NOW THEREFORE, the county board name does hereby make application for assistance, AND further agrees to abide by all the covenants of Section 483A.3A Code of Iowa 2001 and Chapter 35 (571), Iowa Administration Code, AND further certifies this resolution was officially adopted by the county board name at a legal meeting held on the ____ day of ____, in the year of ____.

SIGNED _____ TITLE _____

The project proposal shall follow a purpose, benefit, location, approach and cost format.

- **The purpose section shall** describe the project purpose and **clearly** identify the number of acres and land use for a proposed acquisition project or if a development project the activities by number, type and size.
- **The benefit section shall** describe existing habitat conditions and the benefits gained after the project is complete. Benefits may include improved water quality, sustaining, developing and/or improving sport fisheries and watershed protection and creating angling opportunities. This section will determine if the proposed activities are eligible for Fish Habitat funding. The review and selection committee will use information provided in this section to rate the project. The program rating system is included as Appendix C.

When possible measure the benefit of the fish habitat development activity. For example, the construction of a retaining basin will annually collect an estimated 2,000-ton of sediment from 50% of the lake's watershed and reduce nutrient delivery to the lake.

- **In the location section** identify the area according to legal description and a plat map identifying the area location.
- **The approach section** describes how that applicant will complete the project from start to finish. Schematic drawings or design plans shall be included for development activities. Assurance should be given that the applicant has physical control of the project site. Identify if the project activities are non-contractual or contractual. A time schedule shall be included. Future development activities or land management practices should be discussed for projects involving land acquisition. A combination acquisition/development project will be accepted. In this case, provide all items applicable to both types of activities. Give justification in cases when a portion of the total land acquisition qualifies for Fish Habitat funds.

- **The cost section** shall itemize cost accordingly to project activity. List items that are only eligible for funding. Show funding percentages if the activity is not 100 percent eligible.

* * * * *

The required minimum information in an acquisition proposal is:

- **A proposal stating the project's purpose, benefit, location, approach and cost.**
- An aerial photo that clearly identifying the subject property and land use.
- One copy of the appraisal reports (Appendix D - Appraisal Guidelines). The appraisal may be deferred until notification has been received that a grant has been approved. When land is acquired at auction or by sealed bid, this establishes the fair market value and an appraisal is not required. The appraisal requirement may be waived when the DNR determines that it is impractical for a specific project.
- One copy of an option, real estate contract, offers to buy/sell real estate, lease shall be submitted when available.
- If applicable, request and state good cause for DNR to make direct payment to the landowner.
- A written agreement among counties; if a joint project.

* * * *

The required minimum information in a development proposal is:

- **A proposal stating the project's purpose, benefit, location, approach and cost.**
- A schematic drawing depicting the development and its location.
- A written agreement among counties; if a joint project.
- A lease agreement shows that the county has physical control of the land.

APPLICATION SUBMISSION AND REVIEW PROCESS:

An applicant shall submit seven copies of an application to the review and selection committee chairperson within the appropriate County Conservation Board district no later than 4:30 p.m. on the last working day of November to be eligible for review. The committee will review and select applications for funding **by January 15** following the last business day in November deadline of the previous year. The committee will forward selected applications to the DNR **by January 22**. The DNR will present the committees' recommendations to the Natural Resource Commission at its next meeting following the rating of projects for funding.

APPLICANT, COMMITTEE & DNR RESPONSIBILITIES:

The role of the applicant is to:

- Communicate with the DNR fisheries management biologist for project assistance.
- Submit a complete application no later than 4:30 p.m. on the last working day of November.

- Provide supporting documentation when available, such as lease agreements, appraisals and real estate contracts.
- Enter into a cooperative agreement with the DNR.
- Complete a project billing form when submitting a grant payment.

Each County Conservation Board District is responsible for forming a review and selection committee. This committee shall be composed of at least five (5) county directors or their designees. The role of the committee is to:

- Name a committee chairperson.
- Provide the DNR designee the chairperson's name.
- Announce the application period to county conservation board directors.
- Receive and distribute grant applications to committee members.
- Provide the DNR designee a copy of each application by December 15 and invite the designee to the project review and selection meeting.
- Review and select applications for funding **by January 15** following the last business day in November deadline of the previous year. Each application shall be rated based on the scoring system developed by the DNR (Appendix C). Those projects scoring the highest shall be approved for grant assistance insofar as the available funds will extend.
- Compile selected projects according to priority and forward, with applications attached **by January 22** to Sandra Sampson, Wallace State Office Building, Des Moines, IA 50319.

The role of the Department of Natural Resources is to:

- Develop the program application guidelines and rating system **in collaboration with the County Conservation Fish Habitat Committee.**
- Advise county conservation board directors on project proposals.
- Provide the committee chairperson the name of the DNR designee.
- Present the committees' recommendations to the Natural Resource Commission at its next meeting following the rating of projects for funding.
- Administer program dollars.

PROJECT AGREEMENTS:

A cooperative agreement (Appendix E) between the DNR and the county describing the work to be accomplished and specifying the amount of the grant and the project completion date will be negotiated as soon as possible after a grant has been approved. However, agreements covering land acquisition will be dependent upon receipt of an acceptable appraisal report (when required) since assistance will be based on the approved appraised valuation or the actual purchase price, whichever is the lesser. Commission approval for development activities on land not control by the county will be dependent upon a lease agreement giving the county control over the useful life of the project.

Projects may be amended to increase or decrease project scope or to increase or decrease project costs and fund assistance. Any increase in fund assistance will be subject to the

availability of funds. The DNR shall receive written approval from the **respective County District** review and selection committee before fund assistance is increased. Amendments to increase scope and/or fund assistance must be approved by the DNR before work commences or additional costs are incurred.

TIMELY COMMENCEMENT OF PROJECTS:

Counties are expected to carry out their projects in an expeditious manner. Projects for which grants are approved shall be **completed 24 months** from the date counties are notified of grant approval. Failure to do so will be cause for termination of the project and cancellation of the grant by the DNR. A land acquisition project shall be considered “commenced” when a signed commitment is made by the landowner to sell. A development project shall be considered “commenced” when materials and supplies are purchased for non-contract projects or the signature of a construction contract.

PROJECT PERIOD:

A project completion date, which is commensurate with the work to be accomplished, will be assigned to each approved project and will be designated in the cooperative agreement. Extensions will be granted only in case of extenuating circumstances and when adequately justified by the county.

GRANT PAYMENTS:

Program financial assistance will not exceed ninety percent of all eligible expenditures of the approved grant.

County reimbursement requests shall be submitted on project billing forms provided by the DNR (Appendix F).

For **ACQUISITION** projects, one copy each of the following documentation shall accompany the first bill form:

1. Deed
2. Invoices or bills for any appraisal and/or survey expenses. (Photocopies are suggested.)
3. All applicable cancelled checks or warrants. (Photocopies are suggested.)
4. A certificate of title prepared by agency’s official legal officer (Appendix G).

On land acquisition projects, direct payments will be made to landowners when adequately justified by the county (see **DIRECT PAYMENT TO LANDOWNER**, Page 6). For the DNR to make direct payment the following procedures shall be followed:

1. The county will provide the DNR with an up-to-date title opinion from its official legal officer indicating that the landowner has and can convey clear title to the county.
2. The county will provide a letter to the DNR giving the exact amount of the payment and the date payment will be made to the landowner. Allow adequate time for a state warrant to be obtained from the State Comptroller -- usually about seven to ten days.
3. The DNR will forward to the county a state warrant issued to the landowner in the amount of the state's share of the land cost.
4. After the purchase has been consummated, the county will, as soon as possible, forward to the DNR a copy of the deed, a photocopy of the cancelled check whereby it paid its share of the land cost, and a certificate of title from its official legal officer.
5. The county will follow the project billing procedure already outlined if it is claiming reimbursement for any incidental land acquisition costs. No such reimbursement will be made, however, until Items 1 through 4 have been completed.

Reimbursements or direct payments to landowners will be made on real estate contract payments. The following procedures will be followed:

1. The county will submit to the DNR a copy of the real estate contract which must stipulate that the county will get physical control of the property on or before the date the first contract payment is made.
2. The county will submit to the DNR a copy of any approval that it is required to obtain from any governing body to enter into a real estate contract.
3. The county will submit to the DNR an up-to-date title opinion from its official legal officer indicating that the landowner has and can convey clear title to the county.
4. The county will submit a project billing with photocopy of the cancelled warrant when claiming reimbursement OR a letter designating the amount to be paid to the landowner and the date payment is desired.
5. When final payment has been made and title obtained the county will submit to the DNR a copy of the deed and a certificate of title from its official legal officer.

For **DEVELOPMENT** projects, one copy each of the following documentation shall be accompany the billing form:

- Invoices or bills for materials, and supplies, equipment rental, etc. (Photocopies are suggested.)

- Summary of extra labor hired specifically for the project (if applicable) including names, dates, and hours worked, rates of pay, and total pay.
- All applicable cancelled checks or warrants. (Photocopies are suggested.)

Submit only one reimbursement request for development projects costing \$10,000 or less. If more than \$10,000, no more than two reimbursement requests may be submitted.

A final reimbursement request shall be submitted within ninety days following the completion date indicated on the cooperative agreement. Failure to do so may be cause for termination of the project with no further reimbursement to the county.

Twenty percent of the total reimbursement due any county for a development project will be withheld pending a final site inspection or until any irregularities discovered as a result of a final inspection have been resolved.

Appendix A

CHAPTER 35

FISH HABITAT PROMOTION FOR COUNTY CONSERVATION BOARDS

571--35.1(483A) Purpose and definitions. The purpose of this chapter is to designate procedures for the allotment of fish habitat revenue to county conservation boards. These funds shall be used specifically to acquire from willing sellers whole or partial interest in land for use as or protection of fish habitats and to develop and enhance fishable waters and habitat areas. The department shall administer the fish habitat funds for the purposes as stated in the law at both the state and county levels.

The following definitions apply in these rules:

“Commission” means the natural resource commission.

“County” means a county conservation board.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“District” means a county conservation district.

571--35.2(483A) Availability of funds. Fish habitat funds are dependent on sales. Revenues received by the department shall determine the amount of moneys available at any time.

35.2(1) Local share. Funds available for county conservation boards shall be specified in the department’s budget in accordance with legislative appropriations. At least 50 percent of the fish habitat revenue shall be apportioned to county conservation boards.

35.2(2) Distribution. After deduction of 5 percent to be held for contingencies, the remaining local share shall be available on an annual basis. The department shall divide fish habitat funds equally among the districts. The districts shall have two years to obligate fish habitat funds once the funds are made available. After two years, the department shall apportion all unobligated funds equally among the districts.

571--35.3(483A) Program eligibility. All counties are eligible to participate in this program.

571--35.4(483A) Eligibility for cost-sharing assistance. A project shall not be eligible for cost sharing unless the commission specifically approves the project or the applicant has received a written waiver of retroactivity from the director prior to the project's initiation. A project shall not be eligible for cost sharing unless public fishing is allowed; however, the review and selection committee as described in 35.6(1) may recommend for commission approval projects with restrictions on boating.

35.4(1) Acquisition projects. A licensed appraiser shall appraise lands or rights thereto to be acquired, and the appraisal shall be approved by department staff. The appraisal requirement may be waived when the staff determines that it is impractical for a specific project. The cost share shall not be approved for more than 90 percent of the

approved appraised value. Acquisition projects are eligible for cost share either by direct payment as described in subrule 35.11(6) or by reimbursement to counties.

35.4(2) Eligible acquisition activities.

- a. Acquisition for pond and lake construction.
- b. Acquisition of fishable streams, ponds and lakes.
- c. Acquisition for watershed protection.

35.4(3) Development projects. Eligible expenditures for development projects shall include, but not be limited to, preliminary expenses; contracts; the purchase of materials and supplies; rentals; and extra labor that is hired only for the specific project. The purchase of equipment is not an eligible expenditure. Donated labor, materials and equipment-use and use of a county's own labor and equipment are not eligible for cost-share assistance. Development projects are limited to lands legally controlled by the county for the expected life of the project. Development projects are eligible only for reimbursement of reasonable costs actually incurred and paid by the county.

35.4(4) Enhancement projects. For purposes of this rule, "enhancement" shall be considered to be synonymous with "development." Eligible enhancement activities include:

- a. Physical placement of fish habitats in ponds, lakes, pits and streams.
- b. Armoring of pond, lake, pit and stream shores.
- c. Construction of aeration systems.
- d. Dredging of ponds or lakes.
- e. Construction of ponds and lakes.
- f. Construction of sediment-retaining basins.
- g. Repair of lake dam/outlets.
- h. Manipulation of fish populations and aquatic vegetation.
- i. Removal of dams.
- j. Construction of fish ladders.
- k. Construction of fish barriers.
- l. Construction of rock-faced jetties.

35.4(5) Project income. When, as a result of a purchase agreement or other title transfer action involving cost sharing with fish habitat funds, a county directly or indirectly receives financial income that would have been paid to the previous landowner, 90 percent of that income shall be transferred to the department unless the county has identified and committed to habitat development projects or additional acquisitions on the project site to be funded from the income received. The project review and selection committee shall recommend, and the director and commission shall approve, plans for the expenditure of income received pursuant to this subrule. In the absence of acceptable fish habitat development or acquisition plans, the county shall transfer to the department 90 percent of the income received as it is received. The department shall credit that income to the county's apportionment of the fish habitat fund as described in 35.2(1). The schedule of those reimbursements from a county to the state shall be included in the project agreement.

571--35.5(483A) Application for assistance. Applications must contain sufficient detail as to clearly describe the scope of the project and how the area shall be managed.

35.5(1) Form. Applications must be submitted on forms provided by the department.

35.5(2) Time of submission. Applications for funds shall be reviewed and selected for funding during January of each year. The district designee shall receive an original application and six copies in acceptable form by the close of business on the last business day of November of the previous year for consideration. The district shall forward a copy of all applications to the department's designee by December 15 of the previous year. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of funds. In emergencies, a county may request a waiver so that an acquisition project may be approved for retroactive payments if funds are available and the project meets all other criteria.

35.5(3) Joint applications. Joint applications are permitted. One county shall serve as the primary applicant. A joint application shall clearly describe the respective share of project costs for each county named. Any cooperative agreement between the counties named shall be provided as a part of the application.

35.5(4) County funding. An applicant shall certify that it has committed its share of project costs, and that these funds are available and shall state the means of providing for the county share. All necessary approvals for acquisition and financing shall be included with the application. All financial income received directly or indirectly that would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action shall be completely documented in the application.

35.5(5) Multiple development projects. An application for development project assistance may include development on more than one area if the development is of a like nature.

571--35.6(483A) Project review and selection.

35.6(1) Review and selection committee. Each district shall have a review and selection committee, hereinafter referred to as the committee. Each committee shall be composed of least five county directors or their designees. Each district's committee shall determine which grant applications and amendment requests shall be selected for funding. For advisory purposes only, a department biologist or designee shall be present during review and selection of grant applications and amendment requests.

35.6(2) Consideration withheld. The committee shall not consider any application that on the date of the selection session is incomplete or for which additional pertinent information has been requested but not received.

35.6(3) Application rating system. The committee shall apply a rating system to each grant application considered for fund assistance. The department shall develop the rating system. The rating system shall be used to rate each application, and those applications receiving the highest ratings shall be selected for fund assistance to the extent of the allotment for each annual period. If the amount of grant moneys available exceeds that requested, applications shall be reviewed only to determine eligibility.

571--35.7(483A) Commission review. The director shall present the committees' recommendations to the commission at its next meeting following the rating of projects for funding. The commission may approve or disapprove funding for any project on the list.

571--35.8(483A) Grant amendments. If funds are available, projects for which grants have been approved may be amended to increase or decrease project scope or to increase or decrease project costs and fund assistance. The director shall approve project changes prior to their inception. Amendments to increase project costs and fund assistance due to cost overruns shall not be approved if funds have already been committed or the work has already been performed.

571--35.9(483A) Timely commencement of projects. Grant recipients are expected to carry out their projects in an expeditious manner. A project for which a grant is approved shall be commenced within six months of the date upon which the grantee is notified that the project is approved, or at another date agreed upon by both parties. Failure to do so may be cause for termination of the project and cancellation of the grant by the commission.

571--35.10(483A) Project period. A project period that is commensurate with the work to be accomplished shall be assigned to each project. Extensions shall be granted only in case of extenuating circumstances.

571--35.11(483A) Payments.

35.11(1) Grant amount. Grant recipients shall be paid 90 percent of all eligible costs incurred on a project up to the amount of the grant unless otherwise specified in the project agreement.

35.11(2) Project billings. Grant recipients shall submit billings for reimbursement or cost sharing on forms provided by the commission.

35.11(3) Project billing frequency. Project billings shall be submitted on the following basis:

- a. Up to \$10,000 total project cost -- one billing.
- b. Over \$10,000 total project cost -- no more than two billings.

35.11(4) Documentation. Grant recipients shall provide documentation to substantiate all costs incurred on a project as required by the department.

35.11(5) Development projects. Eighty percent of the approved local share may be paid to the county when requested, but not earlier than start-up of the project. The department, pending successful completion and final inspection of the project, shall withhold 20 percent of the local share until any irregularities discovered as a result of a final site inspection have been resolved.

35.11(6) Acquisition projects. The department may make payment directly to a property seller pursuant to the following criteria:

- a. The county requests direct payment in the project application and shows good cause for such procedure;
- b. The seller provides to the county a marketable fee simple title, free and clear of all liens and encumbrances or material objections at the time of payment; and
- c. Sufficient program funds are available at the time of transfer.

571--35.12(483A) Record keeping and retention. A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs and direct or indirect income that normally would have been paid to the previous

landowner resulting from a purchase agreement or other title transfer action. A copy of the county's audits showing such income and disbursements for the grant period shall be submitted to the department's budget and grant bureau. These records shall be available for audit by appropriate personnel of the department and the state auditor's office. All records shall be retained in accordance with state law.

571--35.13(483A) Penalties. Whenever any real or personal property acquired or developed with fish habitat fund assistance passes from the control of the grantee or is used for other purposes that conflict with the project purpose, it shall be considered an unlawful use of the funds. The department shall notify the county of any such violation.

35.13(1) Remedy. Funds thus used unlawfully shall be returned to the department for inclusion in the fish habitat fund, or local, non-cost-shared funds shall be used to acquire a replacement property of equal value at current market prices and with commensurate benefits to fish. The replacement property must be approved by the commission. The county shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedies provided by this subrule are in addition to others provided by law.

35.13(2) Land disposal. Whenever it has been determined and agreed upon by the grantee and the commission that land acquired or developed with fish habitat fund assistance is no longer of value for the project purpose or that the county has other good cause, the commission may authorize that the land be disposed of and the proceeds thereof used to acquire or develop an area of equal value or that 90 percent of the proceeds be returned to the state for inclusion in the fish habitat fund.

35.13(3) Ineligibility. If the department determines that a county has unlawfully used fish habitat funds, the county shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement Iowa Code Supplement section 483A.3A.

Date

Liz Christiansen, Deputy Director

Appendix B
IOWA DEPARTMENT OF NATURAL RESOURCES
Wallace State Office Building
Des Moines, Iowa 50319

FISH HABITAT PROGRAM FORM

1. APPLICANT: _____ CONTACT (Name and Title): _____ ADDRESS (Inc. Zip Code): _____ Telephone # (___/___/___): _____	
2. PROJECT TITLE: _____	
3. PROJECT COST: Total \$ _____ State \$ _____ Local \$ _____ Source of Local Share \$ _____	4. TYPE OF PROJECT: Acquisition _____ Acres _____ Development _____ Combination _____
5. OWNERSHIP OF PROJECT SITE: Fee Title _____ Lease _____* *If leased, attach copy of the lease document.	
6. ESTIMATED PROJECT DATES: Start _____ Completion _____	
7. Do you wish to have grant for land acquisition paid directly to the seller: Yes _____* No _____ N/A _____ * Complete Number 8	
8. Justification for direct payment to landowner 	
9. Complete a Project Narrative following instructions on pages 6-9 of the Fish Habitat Program Grant Application Guidelines and attach to this form.	

APPENDIX C

INSTRUCTIONS FOR SCORING FISH HABITAT GRANT APPLICATIONS

Members of the County Conservation District habitat review and selection committee shall score every project proposal equally and regardless to project type. No committee member shall score their County's project. All lake fish habitat developments are eligible for grant funding. However, to be eligible, a lake habitat development project in which a lake has a watershed to lake ratio of greater than 100:1 shall be accompanied with two letters of recommendation. These letters shall be from the local District Conservationist at the Natural Resource Conservation Service (NRCS) and the area Fisheries Management Biologist. The letters shall state justification and support for the project proposal.

A rating of one (1) to ten (10) shall be the standard used to score the project proposals. One is the low score and ten is the high score. When scoring projects a weighted number of three (3) shall be given to the water quality and fish habitat value criteria and a two (2) to the sport fishing opportunity criteria. The weighed number for each of these criteria shall be multiplied by its standard number to sum to project's total score. The final project score is determined by summing all committee member scores and dividing by the number of scoring members. Committee members shall use the Fish Habitat Scoring Sheet found in this appendix when scoring project applications.

Appendix C (continued)
FISH HABITAT SCORING SHEET

Applicant	Grant Request	Eligible/ Complete Application	Project Type	Water Quality (3)*	Watershed Ratio (1)*	Sport Fishing Opp. (1)*	Sport Fishing Quality (2)*	Habitat Value Sustain, Restor (3)*	Permits/compli (1)*	Schematic drawings (1)*	Control of Area (1)*	Score	Average Score	Rank
			Habitat Placement											
			Lake shore armoring											
			Stream bank armoring		NA									
			Aeration System											
			Pond & lake dredging											
			Sediment basin											
			Pond & lake construction											
			Dam/outlet repair											
			Dam Removal		NA									
			Renovation of fish population											
			Vegetation Management											
			Fish ladders		NA									
			Fish barriers											
			Acquisition (Stream)		NA									
			Acquisition: (Lake or watershed)											
Total Amount Available														

*weighted score; multiple by the number in parenthesis

Appendix D

Appraisal Guidelines

The following are the minimum items which shall be addressed in any appraisal report covering land for which a county expects to receive state assistance from the Fish Habitat program.

1. A legal description of the subject property and a plat.
2. The date the value estimate applies.
3. An analysis and statement of the subject property's highest and best use.
4. Supporting data, including two or three comparable sales (which shall reflect the same highest and best use as the subject property), a brief analysis of those sales relative to the subject property, and a map showing their locations relative to the subject property.
5. Aerial photographs of the subject property and comparable sales.
6. Ground level photos of the subject property are beneficial.
7. A statement of the appraiser's experience and qualifications.
8. The appraiser's dated certification of value and signature.

Appendix E
Department of Natural Resources
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA 50319-0034

*COOPERATIVE AGREEMENT
FISH HABITAT PROGRAM*

Grantee:
Project Title:
Contact Person:
Grant Award: \$
DNR Contact/Phone #:

THIS AGREEMENT, entered into by the Department of Natural Resources, hereinafter referred to as the Department and the _____ County Conservation Board hereinafter referred to as the County.

WITNESSETH:

WHEREAS, the Department has established a program (Administrative Rule 571, Chapter 35) known as the Fish Habitat Program, hereinafter referred to as the Program, to assist County Conservation Boards in the acquisition and/or development of land/water for fish habitat purposes and,

WHEREAS, the County has applied for assistance from the Program for the following described project:

NOW, THEREFORE, be it mutually agreed by the Parties hereto as follows:

The Department agrees to reimburse the County or seller directly as specified in the Fish Habitat application, a sum no more than 90 percent of the acquisition costs upon written request for and proof of costs being liquidated by the County or by submitting proper documentation as stated in item #8. In no case shall the costs to the Department exceed that of the grant award.

The Parties further agree it hereto:

1. That the project described herein shall be completed by
2. That the County shall be responsible for maintenance and all expenses related thereto after completion of the project.
3. That the property shall be used for fish habitat purposes and no incompatible uses or changes in the property will be allowed. The public shall have access to the property upon such conditions as the County and the Department shall mutually agree upon.
4. That the property and its use shall remain subject to the regulatory authority of the Department.
5. That the applicable provisions of 571 I.A.C. Chapter 35 and the grant application are hereby incorporated into this agreement.

6. That the property or any part thereof may not pass from the control of the County or be encumbered in any way without the written approval of the Department.
7. That the remedies for unlawful use or disposal of the property set forth in 571 I.A.C. Chapter 35 shall be applicable and additional to any other remedies available by law.
8. Upon written approval of the appraisal(s), a maximum of 90 percent of the acquisition payment, up to the grant amount, may be made directly to the land seller, if requested in the application and approved by the commission, or the Grantee, by submitting a letter of request and the following documents:
 - title opinion showing title is clear and marketable;
 - offer to buy.

Acquisition costs include the lesser of the purchase price paid for the project lands by the grantee, or their fair market value established by a DNR approved appraisal.
9. The following documents are required upon completion of the grant:
 - title opinion showing title is clear and marketable;
 - offer to buy;
 - copy of the recorded deed naming the grantee as owner;
 - copy of the recorded groundwater hazard statement(s);
 - copies of billings and canceled checks for the acquisition and/or development;

THIS AGREEMENT entered into under the authority of action taken at an official meeting of the _____ of _____ County, Iowa, on the _____ day of _____, 20____, all as shown in the minutes thereof, and by approval of the Department of Natural Resources.

	Grantee Signature
_____	_____
Federal ID #	Print Name
_____	_____
Date	Liz Christiansen, Deputy Director Iowa Department of Natural Resources

Appendix G

In re: CERTIFICATE OF TITLE

County Board Director name
County Board Address

Dear CCB Director:

I have examined a deed and an abstract of title for land described as:

Give legal description of land.

and on the basis of that examination find the fee title for said property to be vested
in ___ County, Iowa.

Respectfully submitted,

Name
County Attorney