

**Des Moines Public Hearing**  
**11/10/09**

**Brad Klein:** My name is Brad Klein, I'm an attorney at the Environmental Law and Policy Center. Thank you for the opportunity to express the ELPC's support for the current Tier 2.5 list under this draft of Antidegradation Implementation Procedures. My comment is just very brief. I understand the difficulty of assigning a precise dollar value of both the costs and the benefits of this important policy but I do feel it's extremely important that we don't lose sight of significant benefits to Iowa's communities that these rules will provide especially to enhancing the quality of life, tourism opportunities and for many of the reasons that the Department will receive in written comments from our organization and from many other organizations today. In sum, we feel like these rules as currently drafted, assigning protection to Outstanding Iowa Waters will provide benefits that significantly outweigh the cost of inaction. So we would appreciate it moving forward.

**Steve Veysey:** I'm Steve Veysey, I live in Ames and I'm here today representing the Hawkeye Fly Fishing Association, I have a couple of positions with that organization. I'd like to start by restating something I mentioned during the introduction that was not recorded. In terms of the regulatory analysis we feel that the benefits of having Outstanding Iowa Waters were perhaps underrepresented in particular, the value of real estate as relates to trout stream real estate is extremely high and I mentioned that about three hundred yard segment of Village Creek, if you want to purchase both sides of the stream would cost about three hundred thousand dollars. Village Creek is thirteen miles long, so you can do the arithmetic, if even a portion of that land comes up for sale, to trout enthusiasts, you see the potential for a huge benefit related to the fact that it is an Outstanding Iowa Trout Stream, and if it does not have OIW protection then you risk the possibility that an industry or municipality could locate in the headwaters and reduce the quality of that water to the point where it was no longer, well it might still be a trout stream, but it would no longer be valued at three hundred thousand dollars per quarter mile. So I would like to see if the rate analysis is reopened, some emphasis placed on the value of the trout streams economically. Having said that what I really want to talk about and what I was hoping to talk about before ARC today, except that we were not permitted to speak is this concept of the nonuse value. I'll give you an example. This weekend which was beautiful weather, I went out to Northeast Iowa and I fished French Creek for six hours and I caught twenty trout, the largest of which was eighteen and a half inches. Then I went over to Waterloo and caught another ten trout, the largest of which was seventeen inches, then I went to South Pine, the only stream with Iowa native brook trout and I caught five little brookies the largest of which was seven inches and everything I've just told you is an absolute lie. I didn't go, I stayed home, I did yard work, I fixed two cars and guess what and I didn't feel bad about it. Because I have memories of French Creek and memories of Waterloo and memories of South Pine and I know they're there and I know the fish are there and they're going to stay there. And the next time I do want to go and can go, I'm going to enjoy them so I have that memory. That's the nonuse value of maintaining a natural resource. Think what the world would be like if we hadn't protected the Grand Canyon, if Mount Rushmore wasn't there, if all the natural resources that we hold dear just weren't there? I've never been to the Grand Canyon, it doesn't mean it's not valuable to me. So this wasn't addressed at all in response to this summary, I'm sorry in the rate analysis. Yet even, American Fisheries Society puts a value on the nonuse value on the fish that are killed in a

fishkill. So, I want people to think about this for a moment. It's more than just do I own land there, did I go fish there this weekend, it's about having it there for your next generation and the generation after that. And having the memories of it that keep you warm when you're out doing yardwork and fixing old cars instead of going fishing. That's all I have to say, thank you.

**Mike Delaney:** My name is Mike Delaney, I'm president of the Raccoon River Watershed Association and vice president of the Des Moines Isaac Walkway, first of all I want to apologize for jumping the gun this morning and maybe kind of messing up the program a little bit. I feel badly about that. I have just one point to make that I haven't heard before and I want to make sure it's in the record. I believe that preserving the best of what we have left in Iowa can be beneficial to the larger watershed of which these streams are part. If perhaps, we prevail and can approve the chemistry and conditions of the entire watershed of the northeast, the macro-invertebrates, the minnows, the other fish, will regenerate the whole system. Those systems will clean themselves out, I'm not sure about phosphorus in lakes, I think that problem may be perpetual but many of our streams and rivers, they can clean themselves out if we stop degrading them, they can recover. But if we lose species out of the entire state or out of the entire watershed, then it's going to be a lot trickier to try and bring back the entire ecosystem. So that's the only point I wanted to add. Thank you.

**Larry Wilson:** I'm a member of the Raccoon River Watershed also, and I want to speak a little bit in my note here that I will leave here with you on the perspective of what's sapping our river. I support the Iowa Department of Natural Resources proposed rulemaking package that includes added protections for thirty-two Iowa quality streams and six lakes. I am writing in defense of the category of Outstanding Iowa Waters in the proposed Antidegradation Rules for these streams and lakes. So that they have the opportunity to retain the high quality standards so lacking in much of Iowa. I believe that the evidence is overwhelming that positive economic benefits will follow. From increased tourism and recreational use of these streams and lakes if they retain a pristine integrity. Conversely, the current economic largess would be impacted negatively if water quality is allowed to deteriorate in these designated streams and designated waters. It's unfortunate in my thirty-six years of living directly on the Raccoon River Watershed, I have watched the disintegration of its water, the detriment of the creatures who need it and those of us who once used to recreate in it. As you may be aware, the river was so polluted with cyanobacteria in the Summer of 2008 and 2009 that Des Moines Waterworks eliminated it as the principal source of drinking water for over four hundred thousand of its consumers. I think that is a demonstration of what should not be allowed to occur in these designated lakes and streams and please do whatever is necessary to protect these outstanding Iowa Assets. Thank you.

**Wally Taylor:** I'm Wally Taylor with the Iowa Chapter of the Sierra Club. Let's start out with the proposition that the goal here, is to protect Iowa's waters. As Adam said previously, the antidegradation policy is enshrined in the Clean Water Act and that's what we're talking about. Everybody wants clean water, if you talk to anybody, public officials expound on what they believe, you talk to people all over, everybody wants and believes in clean water. The trouble is that nobody wants to pay for it. The Clean Water Act was passed in 1972 over thirty years ago, almost forty years ago now, and for too many years Iowa and Iowans stuck our head in the sand and didn't comply with the Clean Water Act, we didn't take it seriously, we did everything

backwards almost. In the last few years, I have to take some credit for this, along with other groups, the DNR is finally coming into compliance with the Clean Water Act. And the Antidegradation policy is an important part of that. But as I said, the problem is money, nobody wants to pay for clean water, but we've all created the problem, every one of us, and we all have to pay. And it's going to cost some money, as I said, we stuck our head in the sand for over thirty years, it's going to cost some money. We can't say yes we want clean water but we don't want to pay for it. You can't have it both ways. And the benefit of the future, for future generations, we should not say, if we have to make a choice, we're going to go with dirty water and that's what this is all about. The original list of Outstanding Iowa Waters listed all of the high quality waters that had previously been listed in Iowa. I would submit that the list should also include high quality resource waters and protected water areas. We have those designations, we have those lists in Iowa and we've had them for several years. And if you look at the definition of those waters, it fits perfectly with what an Outstanding Iowa Water is and should be. As I said, the regional Iowa Outstanding Waters List was the list of what some, forty some high quality waters. Under political pressure, those waters were deleted and a new list was created, there have been two or three new lists actually since the original list was deleted. And it's all because of politics and political pressure from the regulated community who don't want to pay for clean water and who don't expect the rest of us to pay for clean water. And money should not be the issue, clean water should be the issue, there are ways to pay for it. We can find ways to pay for it. There's the state revolving loan fund for municipalities and others to get the money to pay for upgrading their systems. There's right now federal stimulus money, the USDA has programs and funding, there are other sources. We should not let that stop us. The City of Elkader is a perfect example, the City of Elkader was out of compliance with their NPDES permit and they put up a lot of resistance when environmental groups complained and in fact we found the sixty day notice that they were in violation. They had been out of compliance repeatedly for some time and they blamed the environmentalists for causing all kinds of problems and they didn't want to do it and they couldn't do it and wouldn't do it and as it so happens they got some federal stimulus money and now they're building a new waste treatment plant, they're ahead of schedule, it's a plant that's going to serve them well into the future and they have no complaints now, it was all about money. So let's not look at the costs at this point, let's look at the purpose of what Antidegradation is, what the purpose of the Clean Water Act is and say yes we're going to have clean water and we have the creativity and the willpower to pay for it and all share in that responsibility. As...he meant to give me the closing sentences of the ARC meeting that was making reference to the Mastercard commercial where something is priceless, well clean water is priceless and that's how we should treat it. Thank you.

**Virginia Soelberg:** My name is Virginia Soelberg, I'm out of Sierra Club and the other environmental groups represented here. I'd like to go on record as supporting the DNR's plan the Tier 2.5 plan to protect Iowa's Outstanding Waters. I think the costs certainly the economic benefits outweigh the costs to the state of Iowa. I would also like to say usable process for nominating additional waters for special protection in the future, so why is it important to me to protect these outstanding waters? I'm afraid that Iowans are forgetting what our water could be and should be. We need examples, here in Iowa of high quality waters. And preserving these high quality waters from degradation may also provide aquatic species, fish, mussels and vertebrates, etc that are now threatened or missing in a habitat to be protected. I want to give this little example. The Floyd River in Northwest Iowa, and I'm originally from Sioux City, it goes

into the Missouri right there, is no longer an Outstanding Water, but it once was. Here's an excerpt from the story of Sioux County by Charles Dyke, 1942, which refers to his childhood memories of the river before 1881. The Floyd River was then a jam of cursed water on the immaculate bosom of Mother Earth, it was ten feet deep or even deeper in places and the water was so clear that when we dropped a white bean in it, we could see it settle on the sand and gravel bottom ten foot below. It abounded with game fish like pike and pickerel, sunfish and bullheads and the most delicious of all fish brook trout. Clear clean water shouldn't be something we read about in our history books, I went down to Beaver Creek near my house yesterday and pulled out my tube and checked the water clarity there, it was eighteen centimeters, seven inches not ten foot like it was in the Floyd River a long time ago, we want to protect the outstanding waters we have before they are further degraded.

**Shannon Garretson:** Good morning, afternoon, I'm sorry. I'm Shannon Garretson, representing the Iowa Environmental Council. First of all, thank you once again DNR for this opportunity to comment on a regulatory analysis for the proposed implementation of Outstanding Iowa Waters or Tier 2.5 waters and the Antidegradation Implementation Procedure. In addition to these comments here, we will be submitting written comments. The Iowa Environmental Council is very supportive of the rule package which has been amended throughout the public process to respond to concerns raised by different parties. We acknowledge and appreciate all work the DNR staff has put into this entire project. As you already know, this Tier 2.5 level of protection is an optional level not required by EPA, the EPA requires that states establish three levels of protection, the Tier 3 level establishes a level of outstanding national resource water, this water/this level has very stringent requirements and would need any permit activity within the watershed of a Tier 3 water would assure of no degradation of the Tier 3 water. Also, any changes to add or remove a Tier 3 water would be subject to EPA approval since the Tier 3 is so stringent and many states are not listing Tier 3 waters the EPA has recommended that states consider the option of the Tier 2.5 level. In established retainers for additional protection of important state waters that are more flexible and acceptable to the state. The predominance of the public land in Iowa really made Tier 3 level protection very difficult for Iowa to meet. Iowa does have a few remaining natural areas that are extremely important to our state and they need to be recognized and protected. The DNR has proposed to do this by creating the Tier 2.5 level of protection, the requirements of this level have changed throughout the process in response to public comments and have been more flexible, allowing newer expanded discharges for existing city or industry in an Outstanding Iowa Watershed as long as the least degrading affordable alternative is utilized. It's important for you to understand that the original rules proposed forty-eight streams and six Dickinson County lakes. After public comment and extensive analysis by the DNR that list was reduced to thirty-two streams and a Dickinson County lake. All the proposed streams that had existing discharges for industries and towns with the exception of two were eliminated from the rule package. All the proposed streams in Northeast Iowa are in rural areas and the watersheds are extremely small. The largest being the watershed for Bear Creek and Benton and Buchanan counties at fifty square miles and the smallest being Insen Creek in Allamakee County with an area of 1.12 square miles. In addition, to put this into perspective these rules will apply to 112 of Iowa's 71,655 stream miles of water or 16% of all our stream miles. Compare this with Wisconsin which currently protects 18.8% of its stream miles with their outstanding resource waters and exceptional resource water designation. The regulatory analysis identifies very modest cost associated with proposed protections of approximately fifty-

thousand dollars, however, the increased costs for communities is only hundreds of dollars. What I believe this analysis does a poor job of identifying are the benefits associated with protecting these waterbodies. Eco-tourism is an important that needs to be quantified. The Iowa Tourism Office and Travel Federation of Iowa identifies Eco-Tourism as a 6.3 billion dollar industry in Iowa, employing nearly 65 thousand people statewide and generating more than 307 million dollars in state capital, these are 1997 numbers. The trout streams of Northeast Iowa, part of what is known as the Trickless Area in Iowa, Wisconsin, Minnesota and Illinois, EPA has listed this area an ecosystem in need of protection and restoration. State, county and federal agencies as well as landowners and private organizations have invested approximately 45 million dollars in restoration approach in the four states over the past 25 years. A trout unlimited study economic impact for the recreation in the Trickless area says it generates 1.1 billion in annual economic benefits. 647 millions dollars of this total goes directly to the local economy from spending on food, lodging, supplies and entertainment. Obviously this is significant and should be more fully explained in the cost benefit analysis. I'd like to take some time to respond to some specific issues by other organizations who are not in support of these rules. These rules apply to you and expanding discharges only. Since these watersheds are rural and very small, restrictions on new industrial development is unlikely to be a big issue, if a new facility does desire to locate in the watershed of one of these proposed streams that activity requires a new wastewater discharge permit, it may be difficult but not impossible for a new industry to meet these requirements of Tier 2.5. If the new activity can be demonstrated to benefit the overall use of the Outstanding Iowa Water or it can be shown that discharges does not cause degradation to the Outstanding Iowa Water, it can locate in the watershed and it should. Quarries are concerned that they will have to locate outside of those watersheds and raw materials will need hauled over long distances increasing costs. The geology of Northeast Iowa is dominated by its carse terrain. Due to the fact that many proposed stream originate from groundwater streams and cracks in the limestone, the groundwater and surface water should be one and the same. It's my understanding that the dewatering process allows for the sand and gravel and clean water is removed from the top of the settling ponds. Therefore the water should have the same physical and chemical characteristics of the receiving stream and not cause degradation to the stream. If existing quarries expand and the new activities would lower water quality in the stream, then the least degrading affordable alternative will need to be used under the proposed rule. This does not require the existing quarry to relocate outside the watershed and please keep in mind the size of the watersheds we are discussing. Increase cost to farmers has been expressed as a concern, these rules only apply to concentrated animal feeding operations that are required to obtain an NPDES permit. There are currently no regulated CAFO's in the watersheds of the Outstanding Iowa Waters. Total confinement areas that are not allowed to discharge would not be restricted by these rules. The potential increase cost to private septic systems has been raised as an issue, DNR discourages use of discharging septic systems, however, should a new, private septic system be required in the watershed of an Outstanding Iowa Water the cost of less degrading septic system goes for a 9 thousand up to 10 thousand to 12 thousand. Existing septic systems are not affected by these rules. Given the economic value of these resources an additional one to three thousand dollars is minimal to protect our resources. A delay in permitting time is also an issue that has been brought forth. DNR has been cut to the bare bones and these rules require additional permits, the increased permits mean for an individual permit is due to the additional staff resources needed to issue an individual permit. So the extra days should allow DNR to dedicate the resources necessary to issuing permits with minimal delay, the staffing levels of the

DNR are a legislative issue that needs to be balanced with the budget constraints. Delays don't have to be rule and can become the exception with appropriate support for the Department. Our neighboring states have done a much better job of protecting their natural resources and our citizens who are choosing to recreate there rather than at home. Wisconsin has designated the total of nineteen hundred and one waters with additional protection as outstanding resource waters or exceptional resource waters. And it protects 7847 miles of stream. These include many of their cold water trout streams in the driftless area of Wisconsin. Minnesota has also designated 97 of its highest quality waters as outstanding resource waters, these are in addition to all the waters in the boundary waters canoe area wilderness and Boyerton National Park. Even Missouri has designated 43 of its state's highest quality waters as outstanding natural resource waters or outstanding state resource waters. We believe that all the waters proposed on this list are Outstanding Iowa Waters, however if there is one in particular, Deer Creek, that does not have community support, we are not opposed to further examination as to why this is listed. If we take this long overdue step to preserve Iowa's truly remarkable surface waters, then we have an opportunity to give our rural communities in Northeast Iowa and the Iowa Great Lakes the economic shot in the arm they need now more than ever. Thank you again for this opportunity to speak on behalf of our water quality.

**Rosalyn Lehman:** My name is Rosalyn Lehman and I'm here on behalf of Iowa River's Revival to express our strong support for the inclusion of a category Outstanding Iowa Waters in the Iowa Antidegradation Rules that are currently under development but the Iowa Department of Natural Resources. We also want to express our support for the inclusion of the 38 waters that are proposed for listing as Outstanding Iowa Waters as part of the initial rules. Iowa Rivers Revival is a state-wide non-profit organization that advocates for the restoration and protection of Iowa's rivers and promotes the enjoyment of Iowa's rivers and streams as important recreational assets. We are very supportive of the Category of Outstanding Iowa Waters and the proposed Antidegradation Rules and the DNR's recommendation to list 29 cold water streams and three warm water streams under protection for this new category. Unfortunately, many of Iowa's rivers and stream suffer from pollution and much of our state efforts are focused on repairing the damage to Iowa's waters. The list of proposed Outstanding Iowa Waters is a different kind of list. A list that all Iowans should be proud of. It seems obvious to us that recognizing and protecting the few remaining high quality waters in Iowa will benefit Iowa's economy and especially the economy of the areas where these waters are located. The cost of protecting the 38 waters proposed for the designation as Outstanding Iowa Waters is minor compared to the potential benefit for all Iowans. Please make sure that Iowa's Outstanding Waters are protected in the new Antidegradation Rules.