

**IOWA DEPARTMENT OF NATURAL RESOURCES
NATURAL RESOURCE COMMISSION**

NRC Business Meeting – Wednesday, January 18, 2023

Meeting Convenes at 10:00am

Meeting Location: Iowa DNR, 502 E 9th St, 2nd Floor Conference Rm, Des Moines, IA

Public Teleconference Options:

Video Link: <https://meet.google.com/sco-mbns-qva>

or

Telephone: call 442-242-3609 PIN: 883 789 392#

Public Participation begins at approximately 10:30 am

1.	Approval of Agenda Consent Agenda (*within agenda indicates proposed consent agenda item) *6. Contract with Ducks Unlimited Inc. (Fall Flights)	Decision	Commission
2.	Approve Minutes of 12/08/22 NRC Public Meeting	Decision	Commission
3.	Director's Remarks	Information	Kayla Lyon
4.	Division Administrator's Remarks	Information	Pete Hildreth
5.	Donations	Decision	Pete Hildreth
*6.	Contract with Ducks Unlimited Inc. (Fall Flights)	Decision	Todd Bishop
7.	Contract with The Xerces Society, Inc.	Decision	Todd Bishop
8.	Administrative Law Judge Proposed Decision Review (DIA No. 23DNRL0003) – In the Matter of Stuart Hagen	Decision	Jen Gieselman
9.	Public Land Acquisition Projects		
9.1	Iowa River Corridor Wildlife Management Area, Tama County – Iowa Natural Heritage Foundation	Decision	Travis Baker
9.2	Heendah Hills Wildlife Management Area, Plymouth County – The Nature Conservancy	Decision	Travis Baker
10.	Construction – Large Projects		
10.1	Lake Manawa Law Enforcement, Building Addition – Pottawattamie County	Decision	Travis Baker
10.2	Union Grove State Park, Pavement Preservation – Tama County	Decision	Travis Baker
10.3	Black Hawk Marsh WMA, Stream Bank Restoration – Sac County	Decision	Travis Baker
11.	General Discussion <ul style="list-style-type: none"> NRC Annual Report IAC 571, Chapter 1 - Draft Rule for Discussion 		
Pre-Meeting Optional Session: 7:30a-9:30a, Legislative Meet and Greet, State Capitol Dining Area			
Upcoming NRC Meeting Dates <ul style="list-style-type: none"> Thu, 02/09/23, 9:30am, Business Meeting (Polk County) Thu, 03/09/23, 9:30am, Business Meeting (Polk County) Thu, 04/13/23, 9:30am, Business Meeting (Polk County) 			

For details on the NRC meeting schedule, visit:

<http://www.iowadnr.gov/InsideDNR/BoardsCommissions/NaturalResourceCommission.aspx>

Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person attending the public meeting and has special requirements such as those related to mobility or hearing impairments should contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or Webmaster@dnr.iowa.gov, and advise of specific needs.

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

5. Donations

The Natural Resource Commission is requested to approve the following donations:

Donation to:	Amount	Description	Donation Provided by:
Brushy Creek State Recreation Area	\$880.00	Four swamp white oak ball/burlap trees	Morgan Endecott, Backcountry Horsemen of IA
Brushy Creek State Recreation Area	\$1,331.00	Memorial bench	Berneta Davis
Brushy Creek State Recreation Area	\$2,920.00	10 Fire rings for campground	Steve and Kathy Haakenson, BCRA
General Fund	\$50.00	Donation to support the General Fund in memory of Jerry Knudsen.	Christie Gamber
General Fund	\$20.00	Donation to support the General Fund in memory of Ed Stecklein.	Aimee Hospodarsky

Pete Hildreth, Division Administrator
Conservation and Recreation Division
NRC Meeting Date: 01/18/23

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (**indicates proposed consent*)

***6. Contract with Ducks Unlimited Inc. (Fall Flights)**

Commission approval is requested for a contract with Ducks Unlimited, Inc. (DU), of Dexter Michigan.

Contract Terms:

Amount: Not to exceed \$30,000

Dates: February 1, 2023 to June 30, 2023

Funding Source(s): State Migratory Bird Stamp

Contract Purpose: DU is dedicated to the increase and production of waterfowl and other migratory bird populations in Canada via restoration and preservation of wetland and grassland habitats. Conserving waterfowl production habitats in Saskatchewan, Canada is critical to reaching and maintaining continental population goals as set forth in the North American Waterfowl Management Plan. Iowa's State Duck Stamp was established to conserve continental waterfowl populations through habitat conservation projects in Iowa, with authority to provide up to fifteen percent of the revenues to support habitat projects in Canada. This agreement is in recognition that the provinces of Saskatchewan and Manitoba represent the largest geographic portion of North America's Prairie Pothole Region, and that they provide critical nesting habitat for the same waterfowl populations that nest and migrate through the State of Iowa. Since the State Duck Stamp was established in 1972, Iowa has contributed more than \$1 million to conservation of waterfowl production habitat in Canada via annual cooperative agreements with DU. DU has submitted a funding proposal, 2022 Proposal to Conserve Critical Waterfowl Habitat in the Prairie Pothole Region of Saskatchewan.

The DNR's purpose in entering into this Cooperative Agreement is to support waterfowl habitat projects in the Prairie Pothole Region of Canada. DNR is dedicated toward the conservation of continental populations of waterfowl and other migratory birds, especially those that nest in the Prairie Pothole Region and migrate through the Mississippi Flyway and State of Iowa. DU's purpose in entering into this Cooperative Agreement is to increase and maintain abundant continental waterfowl populations through restoration and protection of wetland and other critical waterfowl production habitats in the Prairie Pothole Region.

Selection Process Summary: The DNR enters into this Cooperative Agreement based on statutory authority provided in Iowa Code section 484A.4.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: 01/18/23

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

7. Contract with The Xerces Society, Inc.

Commission approval is requested for a contract with The Xerces Society, Inc. of Portland, Oregon.

Contract Terms

Amount: Not to exceed \$98,055.00

Dates: 1/23/2023 to 12/31/2025

Funding Source(s): Federal USFWS Competitive State Wildlife Grant

Contract Purpose: This three-year agreement is part of a Federal grant in which Iowa, Nebraska, Missouri, and Minnesota are cooperating to develop a community science program referred to as the Midwest Bumble Bee Atlas. As pollinators, bumble bees are essential contributors to the health of ecosystems in Iowa and across the Midwest, but there is alarming evidence that bumble bee populations are declining. There is a need for a regionally comprehensive bumble bee monitoring program to fill knowledge gaps in current distribution, site occupancy, and habitat associations of bumble bees. Outcomes of this project will be increased understanding of the status and habitat needs of these essential pollinators, greater awareness of the Species of Greatest Conservation Need (SGCN), and evidence-based conservation recommendations. By engaging the public, this program will help to build a network of volunteers that can help monitor bumble bees using a model that has been successfully used in the Pacific Northwest.

This subaward is for The Xerces Society to provide the services of project coordination, development of training materials and digital communications, and providing training workshops, bee identification for photo vouchers submitted to Bumble Bee Watch from Iowa, regional level summary reporting, and outreach presentations.

Selection Process Summary: The Xerces Society partnered with four states to develop a federal grant proposal which was selected for funding by the U.S. Fish and Wildlife Service. This is a sub-recipient award for the portion of the project which The Xerces Society committed to completing for Iowa. Development of agreements is authorized under Iowa Code section 455A.4(6).

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: January 18, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

8. Administrative Law Judge Proposed Decision Review (DIA No. 23DNRL0003) – In the Matter of Stuart Hagen

This matter comes before the Natural Resource Commission (“Commission”) for review of a Proposed Decision issued by an Administrative Law Judge (ALJ) of the Iowa Department of Inspections and Appeals (DIA) in DIA case number 23DNRL0003 -- In the Matter of Stuart Hagen. The ALJ found that Mr. Hagen was convicted of the offenses alleged and that the DNR correctly calculated the points assigned to those convictions, requiring a three-year license suspension under Iowa Administrative Code 571-15.16(4). Mr. Hagen filed a timely appeal of the ALJ’s Proposed Decision on December 6, 2022. The matter is now before the Commission for final agency action.

Mr. Hagen was convicted in Appanoose County District Court of seven violations of Iowa hunting, fishing, or trapping laws on July 27, 2021. This included two convictions of Iowa Code section 483A.26 (Making a False Claim to Obtain a License – Non-Resident), two convictions of Iowa Code section 483A.24 (Special License Violation), two convictions of Iowa Code section 481A.38 (Restriction on Taking Game – Deer and Turkey), and one conviction of Iowa Code section 483A.1(2)(i) (No Valid Non-Resident Deer License). *See* DNR Exhibits A-G. The Appanoose County District Court denied Mr. Hagen’s appeal of the convictions on March 29, 2022.

These convictions carry a total of twenty-one points under the multiple offender points system established at IAC 571--15.16. The administrative rules provide that the accumulation of thirteen or more multiple offender points within a three-year period requires a three-year license suspension. The DNR notified Mr. Hagen of its intent to suspend and revoke his hunting, fishing, and furharvester privileges on July 11, 2022. Mr. Hagen filed a timely request for a hearing on the matter. The hearing with an ALJ took place on October 27, 2022.

On November 7, 2022, the ALJ issued a Proposed Decision affirming the Department’s action. The ALJ found that the Department scored Mr. Hagen’s convictions correctly and that the three-year suspension was required under the multiple offender rules.

Mr. Hagen is now appealing the ALJ’s Proposed Decision to the Commission arguing he should not have been convicted of the above-named offenses. Arguments regarding the facts resulting in Mr. Hagen’s convictions are improper at the administrative licensing stage, nor does the Commission have the authority to vacate convictions. *See Rilea v. State*, 959 N.W.2d 392, 395 (Iowa 2021).

The Department requests that the Commission affirm the ALJ’s Proposed Decision. The Department has delayed the action against Mr. Hagen’s licenses during the pendency of this appeal.

The Commission is being presented with the ALJ’s Proposed Decision and the electronic record from the ALJ hearing. The Commission may reverse, in whole or in part, or uphold the ALJ’s proposed decision by vote or no action, which constitutes final agency action.

The parties may be allowed oral arguments pursuant to rule 561 I.A.C. 7.17(5)(e). Mr. Hagen did not submit an appeal brief or request for oral argument.

Jen Gieselman, Attorney
DNR Legal Services Bureau
NRC Meeting Date: January 18, 2023

One Attachment: Electronic ALJ Hearing Record including Stuart Hagen’s Appeal of Proposed Decision; ALJ’s Proposed Decision; Stuart Hagen’s Exhibits; DNR’s Petition, Witness List, Exhibit list, and Exhibits A-H.

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

9. Public Land Acquisition Projects

9.1 Iowa River Corridor Wildlife Management Area, Tama County – Iowa Natural Heritage Foundation

The Natural Resource Commission's approval is requested to purchase a tract of land located in Tama County adjacent Iowa River Corridor Wildlife Management Area (WMA).

Seller: INHF

Acreage: 516 acres

DNR Purchase Price: \$916,000

Appraised Value: \$916,000

Property Description: This irregular-shaped property is comprised of two separate tracts: 40 acres located 4 ½ miles northwest of Chelsea, and 476 acres located 1 mile south of Chelsea in southeastern Tama County. The entire property lies within the Iowa River floodplain, bisected and/or bounded by the Iowa River and Otter Creek. The tracts represent riparian, river floodplain, timber and wetland complexes, including wetland oxbows and river channel access. A portion of the property (159 acres) is enrolled in a permanent Emergency Wetlands Reserve Program (EWRP) easement. There are no building improvements. Access is provided by both paved and gravel county roads, as well as through adjacent state-owned and managed land.

Purpose: This acquisition reflects a vast diversity of habitat types, and will allow for public access to hunting and other outdoor recreation opportunities. The Northern long-eared bat, Indiana bat, Red-headed and Pileated wood peckers, and other bottomland dwelling game and non-game wildlife species are observed on this tract. Vast native forest plant species and sedges are evident on this land as well.

DNR Property Manager: Wildlife Bureau

Funding Source(s): \$687,000 Section 6, Endangered Species Act (Bat Recovery Grant), \$226,000 REAP License Plate, \$3,000 Wildlife Habitat Stamp

Incidental Costs: Incidental closing costs will be the responsibility of the Department. This property will remain on the tax.

9.2 Heendah Hills Wildlife Management Area, Plymouth County – The Nature Conservancy

The Natural Resource Commission's approval is requested to purchase a tract of land located in Plymouth County adjacent Heendah Hills Wildlife Management Area.

Seller: TNC

Acreage: 243 acres

DNR Purchase Price: \$732,530

Appraised Price: \$779,900

Property Description: This contiguous, west range Loess Hills property is located six miles north of Sioux City overlooking the aesthetic Big Sioux River in southwestern Plymouth County. The moderately rolling to steep tract is representative of the Loess Hills land formation, offering high ridge commanding scenic views of the river valley, along with beautiful rolling pastures and scattered mature timber. The property consists of hardwood timber, narrow grass ridgetops, and steep wooded ravines. There are no building improvements. Access to the property is provided by State Highway 12 along a portion of the west boundary.

Purpose: This tract offers the opportunity for high quality remnant prairie and bur oak savanna protection and management. The acquisition will provide public access to hunting and other outdoor recreation opportunities serving a large population near Sioux City. Wildlife species in the vicinity include prairie rattlesnakes, deer, turkey, various insects as well as unique grassland birds.

DNR Property Manager: Wildlife Bureau

Funding Source(s): \$297,530 Wildlife Habitat Stamp, \$270,000 Acres for America Grant (federal), \$165,000 REAP License Plate

Incidental Costs: Incidental closing costs will be the responsibility of the Department. This property will remain on the tax.

Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: January 18, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

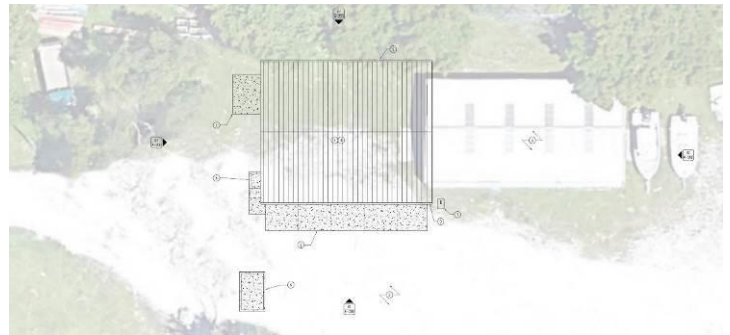
10. Construction Projects

10.1 Lake Manawa Law Enforcement, Building Addition – Pottawattamie County

The Department requests Commission approval of the following construction project:

Project Summary: Lake Manawa State Park is one of the most popular outdoor recreation facilities in the Omaha/Council Bluffs metropolitan area. The park's 1,529 acres encompasses a 753-acre natural lake. Lake Manawa was formed during a flood in 1881 when a portion of the river channel was cut off by the meandering of the great Missouri River. Over the years, the resulting "oxbow" lake became a major outdoor recreation center for millions of visitors.

Lake Manawa has a law enforcement boat storage building that not accommodate the size of modern boats. This project will provide a 40x48 addition will add the storage space and overhead door heights needed to get the larger boats under a roof. The project will be a post-frame structure with four overhead doors and storage loft in the rear of the building.



Engineering Project #: 22-04-78-03

Cost Estimate: \$210,000.00

Operating Bureau: Law Enforcement

Funding Source: Marine Fuel Tax (50%), Federal Coast Guard (50%)

Bid Letting Date: 12/08/2022

Construction Completion Date: 08/31/2023

Number of Bids Received: 3

Bidders

Veico Construction and Development	St. Joseph, MO	\$229,460.00
Construct Construction	Omaha, NE	\$352,499.48

Upon Engineering's review of bids, DNR recommends awarding the contract to Veico Construction and Development.

10.2 Union Grove State Park, Pavement Preservation – Tama County

The Department requests Commission approval of the following construction project:

Project Summary: Union Grove State Park, established in 1938, is a 282-acre state park in Tama County, Iowa. The park is 4 miles south of the city of Gladbrook, and is home to the 110-acre Union Grove Lake. The amenities include a campground, two modern cabins, hiking trails, two boat ramps, a beach, and several fishing jetties.

The roads were paved in the 1990's and are showing deterioration, such as asphalt thermal cracking, base settlement, crushed rock maintenance. This project consists of approximately 3,900 feet of asphalt pavement preservation and maintenance by patching and seal coating the asphalt roads and placing approximately 146 tons of crushed rock surfacing on access roads that lead to parking areas.

Engineering Project #: 22-05-86-01

Cost Estimate: \$90,000.00

Operating Bureau: Parks

Funding Source: IA DOT Park & Institutional Road Fund

Bid Letting Date: 12/08/2022

Construction Completion Date: 08/31/2023

Number of Bids Received: 1



Bidders

Manatts, Inc.

Brooklyn, IA

\$87,117.96

Upon Engineering's review of bids, DNR recommends awarding the contract to Manatts, Inc.

10.3 Black Hawk Marsh WMA, Stream Bank Restoration – Sac County

The Department requests Commission approval of the following construction project:

Project Summary: The Black Hawk Marsh wildlife management area covers over 2,000 acres and consists of marsh, timber, and upland wildlife habitat which provides for multi-use outdoor recreation. The WMA is located approximately 7 miles south of Sac City and is adjacent to Black Hawk State Park.

Carnarvon Creek runs through this section of the marsh. The creek has become incised and is eroding along the banks. This project will open up the floodplain along approximately 3,500 feet of stream by flattening the banks. Approximately 2,400 tons of fieldstone armoring will be placed along the graded areas.

Engineering Project #: 23-01-81-01

Cost Estimate: \$140,000.00

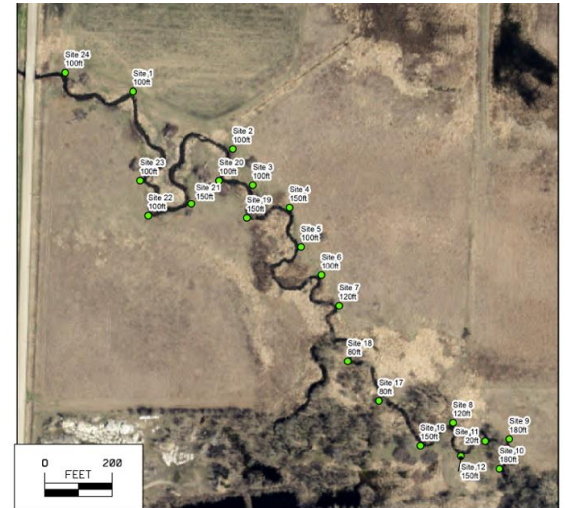
Operating Bureau: Wildlife

Funding Source: Federal 319 EPA

Bid Letting Date: 12/8/2022

Construction Completion Date: 6/30/2023

Number of Bids Received: 5



Bidders

Empire Excavation	Odebolt, IA	\$129,986.00
Richards Construction Co., Inc.	Sac City, IA	\$179,148.00
Niewohner Construction, Inc.	Onawa, IA	\$207,640.00
Leroy & Sons, Inc.	Arcadia, IA	\$231,828.00
Nelson & Rock Contracting, Inc.	Onawa, IA	\$280,320.00

Upon Engineering's review of bids, DNR recommends awarding the contract to Empire Excavation.

Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: 01/18/2023

NRC 01/18/23 Meeting

#11 GENERAL DISCUSSION ITEM - handout
(Draft of IAC 571, Chapter 1 Rule for discussion)

TITLE I
GENERAL

CHAPTER 1

OPERATION OF NATURAL RESOURCE COMMISSION

571—1.1(17A,455A) Scope. This chapter governs the conduct of business by the natural resource commission. Rule-making proceedings held as part of commission meetings and contested case proceedings involving the commission are governed by other rules of the department.

571—1.2(17A,455A) ~~Time of meetings~~ Meeting Logistics. The commission shall meet at least quarterly, ~~generally in January, April, July, and October and usually meets monthly.~~ The ~~director,~~ chairperson, or a majority of the commission may establish meetings ~~at more frequent intervals.~~ Normally, the time of the next meeting will be established at the current meeting. The location of the meeting shall be specified in the agenda.

571—1.3(17A,455A) ~~Place of meetings.~~ Meetings are held in the Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa, or at other locations as appropriate. ~~The meeting place will be specified in the agenda.~~

571—1.4 1.3(17A,455A) Notification of meetings. The director of the department shall provide public notice of all meeting dates, locations, and ~~tentative~~ agendas.

~~1.4(1) 1.3(1)~~ Form of notice. Notice of meetings is given by posting the tentative agenda and by distribution upon request. The agenda lists the time, date, place, and topics to be discussed at the meeting. The agenda ~~shall~~ may include a specific time for the public to address the commission on any issue related to the duties and responsibilities of the commission, except as otherwise provided in these rules.

~~1.4(2) 1.3(2)~~ Posting of agenda Agenda. The tentative agenda for each meeting will be posted at the ~~department's offices on the fourth and fifth floors, Henry A. Wallace Building and on the department's website,~~ normally at least seven days prior to the meeting. The agenda will be provided to anyone who files a request with the department. Agenda The final agenda will be posted at least 24 hours prior to the meeting, unless, for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. Any additions to the agenda after posting and distribution will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. The commission may adopt additions to the agenda at the meeting only if good cause exists requiring expeditious discussion or action. The reasons and circumstances necessitating agenda additions, or those given less than 24 hours' notice by posting, shall be stated in the minutes of the meeting.

~~1.4(3) Distribution of agenda.~~ ~~Agenda will be mailed to anyone who files a request with the director. The request should state whether the agenda for a particular meeting is desired, or whether the requester desires to be on the department's mailing list to receive the agenda for all meetings of the natural resource commission.~~

~~1.4(4) Amendment to agenda.~~ Any amendments to the agenda after posting and distribution under subrules 1.4(2) and 1.4(3) will be posted, but will not be mailed. ~~The amended agenda will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. The commission may adopt amendments to the agenda at the meeting only if good cause exists requiring expeditious discussion or action on such matters. The reasons and circumstances necessitating such agenda amendments, or those given less than 24 hours' notice by posting, shall be stated in the minutes of the meeting.~~

~~1.4(5) 1.3(3)~~ Supporting material. Written materials provided to the commission with the agenda may be examined and copied as provided in the public information rules of the department by the

public. Copies of the materials may be distributed at the discretion of the director ~~to persons requesting the materials~~. The director may require a fee to cover the reasonable cost to the department to provide the copies, in accordance with rules of the department.

571—~~1.5~~ 1.4(17A,455A) Attendance and participation by the public.

~~1.5(1)~~ 1.4(1) *Attendance*. All meetings are open to the public. The commission may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5.

~~1.5(2)~~ 1.4(2) *Participation*.

a. Items on agenda. Presentations to the commission may be made at the discretion of the chairperson.

b. Items not on agenda. ~~Because Iowa Code section 21.4 requires the commission to give notice of its agenda, the commission discourages persons from raising matters not on the agenda.~~ The commission will not ~~take action~~ act on a matter not on the agenda, except in accordance with subrule ~~1.4(4)~~ 1.3(2). Persons who wish to ~~address the commission~~ request a commission decision on a matter not on the agenda should file a request with the director to place that matter on the agenda of a subsequent meeting.

c. Meeting decorum. The chairperson may limit participation as necessary for the orderly conduct of agency business.

~~1.5(3)~~ 1.4(3) *Use of cameras and recording devices*. Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. The chairperson may order the use of these devices be discontinued if they cause interference, and may exclude those persons who fail to comply with that order.

571—~~1.6~~ 1.5(17A,455A) Quorum and voting requirements.

~~1.6(1)~~ 1.5(1) *Quorum*. Two-thirds of the members of the commission constitutes a quorum.

~~1.6(2)~~ 1.5(2) *Voting*. The concurrence of a majority of the commission members is required to determine any matter before the commission for action, except for a vote to ~~close a meeting~~ go into closed session which requires the concurrence of two-thirds of the members of the commission.

571—~~1.7~~ 1.6(17A,455A) Conduct of meeting.

~~1.7(1)~~ 1.6(1) *General*. Meetings will be conducted in accordance with Robert's Rules of Order unless otherwise provided in these rules. Voting shall be by voice or by roll call. Voting shall be by voice unless a voice vote is inconclusive, a member of the commission requests a roll call, or the vote is on a motion to close a portion of a meeting. The chairperson shall announce the result of the vote.

~~1.7(2)~~ 1.6(2) *Voice votes*. All commission members present should respond when a voice vote is taken. The response shall be aye, nay, or abstain.

a. All members present shall be recorded as voting aye on any motion when there are no nay votes or abstentions heard.

b. Any member who abstains shall state at the time of the vote the reason for abstaining. The abstention and the reason for it shall be recorded in the minutes.

~~1.7(3)~~ 1.6(3) *Provision of information*. The chairperson may recognize any agency staff member for the provision of information relative to an agenda item.

571—~~1.8~~ 1.7(17A,455A) Minutes, transcripts, and recordings of meetings.

~~1.8(1)~~ 1.7(1) *Audio Recordings*. The director ~~shall~~ may record ~~by mechanized means~~ each meeting and shall record each closed session. ~~and shall retain the recording for at least one year~~ Recordings of closed sessions shall be sealed and retained at least one year.

~~1.8(2)~~ *Transcripts*. ~~The department does not routinely prepare transcripts of meetings. The department will have transcripts of meetings, except for closed sessions, prepared upon receipt of a request for a transcript and payment of a fee to cover the cost to the department of preparing the transcript.~~

~~1.8(3) 1.7(2) Minutes.~~ The director shall keep minutes of each meeting. Minutes shall be reviewed and approved by the commission, ~~and retained permanently by the director. The approved minutes shall be signed by the director.~~

571—~~1.9~~ 1.8(17A,455A) Officers and duties.

~~1.9(1) 1.8(1) Officers.~~ The officers of the commission are the chairperson, the vice chairperson, and the secretary.

~~1.9(2) 1.8(2) Duties.~~ The chairperson shall preside at meetings, and shall exercise the powers conferred upon the chairperson. The vice chairperson shall perform the duties of the chairperson when the chairperson is absent or when directed by the chairperson. The secretary shall make recommendations to the commission on approval or revision of the minutes and act as parliamentarian.

571—~~1.10~~ 1.9(17A,455A) Election and succession of officers.

~~1.10(1) 1.9(1) Elections.~~ Officers shall be elected annually during May.

~~1.10(2) 1.9(2) Succession.~~

a. If the chairperson does not serve out the elected term, the vice chairperson shall succeed the chairperson for the remainder of the term. A special election shall be held to elect a new vice chairperson to serve the remainder of the term.

b. If the vice chairperson does not serve out the elected term, a special election shall be held to elect a new vice chairperson to serve the remainder of the term.

c. If the secretary does not serve out the elected term, a special election shall be held to elect a new secretary to serve the remainder of the term.

571—~~1.11 (68B) Sales of goods and services.~~

~~1.11(1) Prohibition.~~ An official shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the department unless the department consents as provided in this rule.

~~1.11(2) Definitions.~~

~~“Association” means any profit or nonprofit entity that is not a “corporation” or an “individual” as defined in this rule, but does not include any “unit of government” as defined in this rule.~~

~~“Commission” means the natural resource commission.~~

~~“Corporation” means “corporation” and “foreign corporation” as defined in Iowa Code sections 490.140 and 504A.2, but does not include any “unit of government” as defined in this rule.~~

~~“Department” means the department of natural resources.~~

~~“Goods” means personal property, tangible and intangible.~~

~~“Individual” means a human being and includes any individual doing business as a sole proprietorship.~~

~~“Official” means a member of the natural resource commission.~~

~~“Sale” or “sell” means the process in which goods or services are provided in exchange for money or other valuable consideration. The term does not include purchases of goods or services, nor outside employment activities that constitute an employer-employee relationship.~~

~~“Services” means action, conduct or performance which furthers some end or purpose or which assists or benefits someone or something.~~

~~“Unit of government” means “United States,” “state” and “governmental subdivision” as defined in Iowa Code section 490.140.~~

~~1.11(3) Application for consent.~~ An application for consent must be signed by the official requesting consent and submitted as specified in subrule 1.11(4). The application must provide a clear statement of all relevant facts concerning the sale, specify the amount of compensation and how compensation is to be determined, and indicate the time period or number of transactions for which consent is requested. The application must also explain why the sale would not create a conflict of

interest or provide financial gain by virtue of the applicant's position within the department.

~~— 1.11(4) *Consent procedure.* Applications for consent must be submitted to the director who will schedule the matter as an informational item at a meeting of the commission. When the informational item is considered, the applicant may explain the application and entertain questions. The director shall schedule the matter to be decided at the second meeting following its consideration as an informational item, at which time the commission shall consider written comments which have been filed with the director and entertain any oral comments. The commission shall approve or deny the application by voting in the same manner as it determines other matters, except that the applicant shall not vote.~~

~~— 1.11(5) *General conditions of consent.* Consent shall not be given to an official unless all of the following conditions are met:~~

~~— a. This condition is satisfied if either of the following paragraphs is met:~~

~~— (1) The duties or functions performed by the official are not related to the regulatory authority of the department over the individual, association or corporation; or~~

~~— (2) The duties or functions performed by the official are not affected by the selling of goods or services to the individual, association or corporation.~~

~~— b. The selling of the goods or services by the official does not include acting as an advocate to the department on behalf of the individual, association or corporation receiving the goods or services.~~

~~— c. The selling of goods or services does not result in the official selling a good or service to the department on behalf of the individual, association or corporation.~~

~~— 1.11(6) *Class prohibitions and consent.*~~

~~— a. The commission concludes that the sales of goods and services described in this paragraph, as a class, constitute the sale of a good or service which affects an official's functions. The department will not consent to sales which fall within the following categories unless there are unique facts surrounding a particular sale which clearly satisfy the conditions listed in subrule 1.11(5):~~

~~Sales which are prohibited by rule:~~

~~— (1) Sales of department information or the sale of services necessary to gather department information, including but not limited to solicitation lists.~~

~~— (2) Services utilized in the preparation of applications, reports, or other documents which may be approved or reviewed by the commission.~~

~~— b. The commission concludes that sales of goods or services described in this paragraph do not, as a class, constitute the sale of a good or service which affects an official's functions. Application and department approval are not required for these sales unless there are unique facts surrounding a particular sale which would cause that sale to affect the official's duties or functions, would give the buyer an advantage in its dealings with the department, or otherwise present a conflict of interest.~~

~~Sales for which consent is granted by rule:~~

~~— (1) Nonrecurring sales of goods and services if the official is not engaged for profit in the business of selling those goods or services.~~

~~— (2) Sale of farm products at market prices to a buyer ordinarily engaged in the business of purchasing farm products.~~

~~— (3) Sales of goods to general public at an established retail or consignment shop.~~

~~— (4) Sale of legal, mechanical, or other services at market or customary prices. However, if an official's client or customer has a matter for decision before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained pursuant to subrules 1.11(3) and 1.11(4).~~

~~— (5) Sale of goods at wholesale prices to a buyer ordinarily engaged in the business of purchasing wholesale goods for retail sale.~~

~~— (6) Sale of creative works of art, including but not limited to sculpture and literary products, at market, auction, or negotiated prices. However, if an official's customer has a matter for decision, directly or indirectly involving that good, before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained pursuant to subrules 1.11(3)~~

and 1.11(4).——

——~~1.11(7) *Effect of consent.* The consent must be in writing. The consent is valid only for the activities and period described in it and only to the extent that material facts have been disclosed and the actual facts are consistent with those described in the application. Consent can be revoked at any time by written notice to the official.~~

——~~1.11(8) *Public information.* The application and consent are public records, open for public examination, except to the extent that disclosure of details would constitute a clearly unwarranted invasion of personal privacy or trade secrets and the record is exempt from disclosure under Iowa law.~~

——~~1.11(9) *Effect of other laws.* Neither this rule nor any consent provided under it constitutes consent for any activity which would constitute a conflict of interest at common law or which violates any applicable statute or rule. Despite department consent under these rules, a sale of goods or services to someone subject to the jurisdiction of the agency may violate the gift law, bribery and corruption laws, etc.—— It is the responsibility of the official to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.~~

These rules are intended to implement Iowa Code sections 17A.3(1) “a,” 68B.4 and 455A.5.

[Filed 1/9/87, Notice 11/5/86—published 1/28/87, effective 3/4/87]

[Filed 6/4/93, Notice 3/31/93—published 6/23/93, effective 7/28/93]