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February 22, 2019

Matthew Dvorak  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, IA 50319

RE: Notice of Intended Action: Chapter 61, Water Quality Standards – Surface Water Classification via Use Assessment and Use Attainability Analyses – Batch #5

Dear Mr. Dvorak,

The Iowa Environmental Council offers the following comments on the proposed amendments to Chapter 61, Water Quality Standards, revising the recreational and/or aquatic life use designation for 109 river and stream segments. These comments represent the views of the Iowa Environmental Council, an alliance of 75 organizations, at-large board members from business, farming, the sciences and education, and over 500 individual members.

## **GENERAL COMMENTS**

The Council makes the following general comments about the proposed use designations:

### **Assessment should take higher consideration of canoeing, kayaking, and tubing as A1 recreation activities**

The Council strongly believes that all rivers and streams that are used for canoeing, kayaking, and tubing should be designated for A1 recreation. Iowa's water quality standards recognize that canoeing is a primary contact recreation activity and classifies canoeing as an A1 recreation use. Iowa rivers that are navigable by canoe or kayak provide access to the public to the entire length of the river. While not all canoeists swim in the water while on a canoeing outing, when the weather is warm enough for swimming, many canoeists stop along the way to swim, splash, and cool off in the water. This certainly includes children who would not need deep water to engage in full body contact recreation. In fact, rivers that are used for canoeing are also frequently used by young people for tubing, which by its very nature is prolonged and direct contact with the water.

E.coli can be transferred by touch to a person's mouth before handwashing. Activities such as tubing make this kind of transfer entirely possible. Additionally, E. coli does not need to be ingested to cause negative health impacts. E. coli can cause pneumonia and urinary tract infections.

For these reasons we strongly recommend that the Department assure that all Iowa waters used for canoeing, kayaking, or tubing have water quality standards that are protective of primary contact recreation uses involving substantial contact with the water including the potential for water ingestion and contact with sensitive body organs such as the eyes, ears, and nose. Many smaller rivers and creeks in Iowa are used for primary contact recreation seasonally in the spring and other times of the year when flows will support these activities. Even if primary contact recreational uses are not attainable throughout the entire recreational season, if primary contact recreation uses are existing and/or attainable at any time, then these seasonal uses must be recognized and protected at the highest level with an A1 primary contact recreational use designation.

**Assessment of recreation uses in Public Use Areas is inadequate**

It is critical that rivers and streams flowing through our public use areas are properly designated and that the water quality standards are protective of existing water contact recreation uses occurring in these areas. This includes seasonal uses for canoeing and swimming when water depth and flow is sufficient to support these uses. All streams flowing within public use areas that include playgrounds, picnic facilities, camping, hiking trails, or support other activities for families with children should be designated A1 or A3 for children’s recreational use, even if the DNR failed to document that the use is frequent.

**Assessment of recreation uses in or near cities and towns is inadequate**

The Council strongly recommends a more thorough assessment of all river and stream segments in and near cities and towns to determine if primary contact recreational activities are occurring in these areas, including children’s recreational use. At a minimum, the Use Attainability Analysis (UAA) must include a site visit to the stream at its closest proximity to town and in the areas most likely to provide access to the public. The UAA should also include documented interviews with local residents including children and families living near the stream. It is critical that rivers and streams flowing through Iowa communities of all sizes are properly designated to assure water quality standards that are protective of water contact recreation uses, especially children’s play.

**Human health standards based on fishing for consumption should be more highly considered**

At least one UAA indicated that a stream flowing into a lake had game fish of large enough size to be fished for human consumption. DNR staff presented at a public hearing on February 12 at the Urbandale Public Library and stated that transient game fish from lakes should be protected with a designation for human health for people that are fishing the streams connected to lakes. The Council recommends that any streams that contain transient game fish from lakes should be designated with a protective human health (HH) standard.

**Lack of evidence to rebut presumption of A1 recreational use**

A primary contact recreational use can only be removed (rebutted) if the UAA determines that primary contact uses are not existing or attainable. If that conclusion

cannot be made because of lack of data and information (or lack of time or resources to collect that data or information), then the presumptive A1 use should be retained. The Council believes that the process by which streams are designated is not sufficient to rebut the presumption of attainable primary contact recreation uses in many cases. Often, DNR staff fail to talk with local residents or county conservation staff about the streams. When staff do hear from local residents, they may find that a stream that otherwise does not show evidence of primary recreation is in fact used for those activities.

Stoe Creek in Fayette County provides such an example. In the UAA for this stream, DNR staff noted no signs of recreation at this stream. However, local residents indicated that primary contact recreation occurs at two of the three assessment sites. DNR staff therefore recommend the stream be designated for A1 primary recreation along the entire stretch. As shown below, Stoe Creek looks very similar to streams where the A2 secondary recreation was recommended. The only difference is that DNR staff did not happen to speak with local residents about the other streams. Absence of evidence of recreation is not evidence of absence of recreation. The Council believes that more evidence is needed to rebut the presumption of A1 primary recreation use designation.



Stoe Creek Picture Guide 1232-4  
Recommended A1 primary recreation



Stoe Creek Picture Guide 1232-3  
Recommended A1 primary recreation



Stoe Creek Picture Guide 1232-5  
Recommended A1 primary recreation



Pilot Creek (City of Rolfe STP) Picture Guide 1225-2  
Recommended A2 secondary recreation



Phillips Creek (Olds Municipal Utilities) Picture Guide 1204-3  
Recommended A2 secondary recreation



Minerva Creek (Zearing STP) Picture Guide 1256-5a  
Recommended A2 secondary recreation

### **DETAILED COMMENTS ON SPECIFIC UAAs**

The Iowa Environmental Council completed detailed reviews of the DNR assessment information for all named Batch 5 stream segments. Based on our review, we have identified several river and stream segments where we question the DNR conclusion that primary contact recreation, children's recreational use, or warm water type 1 aquatic use is not an existing or attainable use.

Our observations and comments on these stream assessments are as follows:

- **Brush Creek, Des Moines Basin**  
**Facility: City of Woodburn STP**

DNR is recommending reducing the recreational use protections from A1 primary contact recreation to A2 secondary contact recreation. Documentation in the Recreation UAA includes a photo of a footprint in the sand and record of a footpath nearby. It is entirely possible that children could get down to the stream to wade.

**Without evidence that children do not use the stream, the Council recommends seeking further information to rebut the presumption of A1 primary recreation use or designating an A3 children's recreational use as a protective measure.**

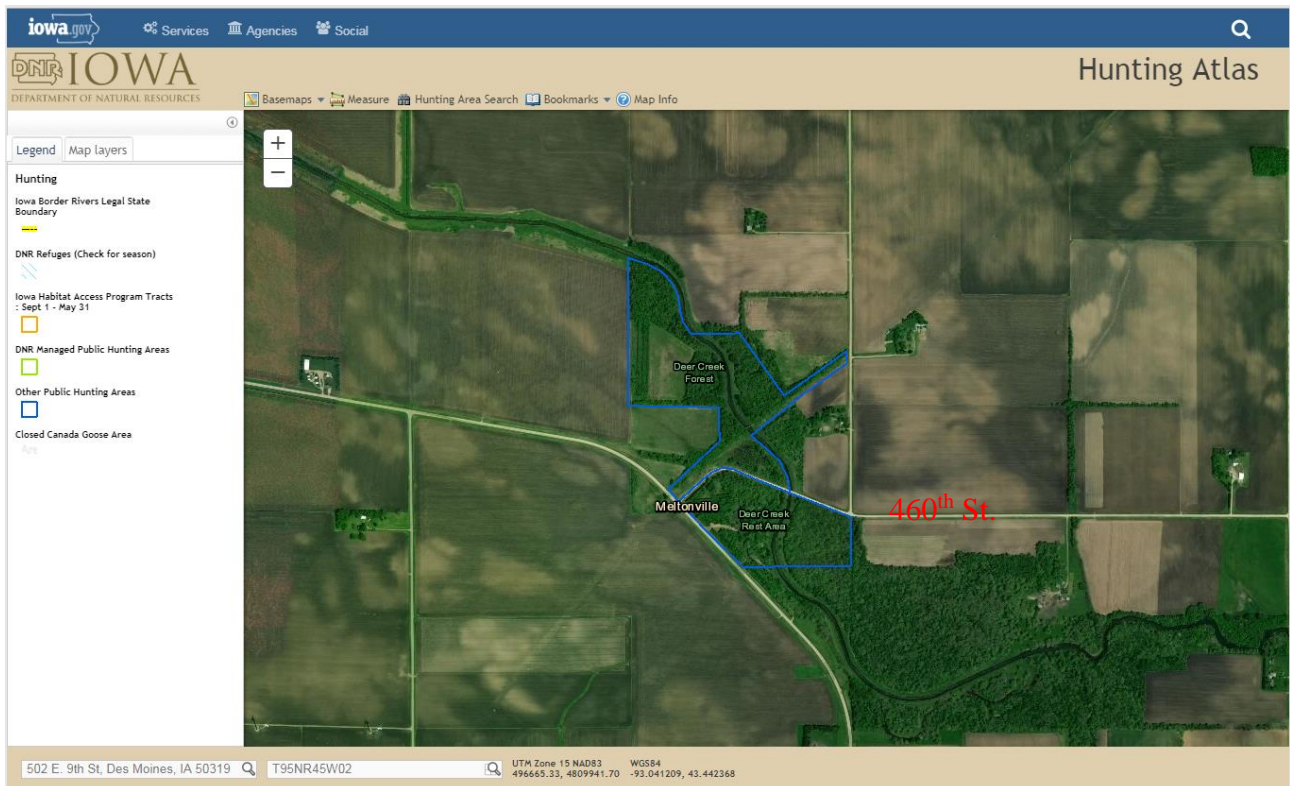


- **Buck Creek (Delaware County), Northeast Basin**  
**Facility: Buck Creek (City of Ryan STP)**

DNR is recommending downgrading recreational use protections from A1 primary contact recreation to A2 secondary contact recreation for 5.1 miles west of site 1262-3. DNR is recommending an A3 primary contact recreational designation for 9.1 miles east of the site due to evidence of recreational uses. The delineation between A2 and A3 recreational use seems entirely arbitrary; the point of change is where DNR staff happened to take a survey point. **The Council does not believe the data presented in the UAA is sufficient to justify the distinction between the A2 area and the A3 area, nor preclude an A3 designation for the entirety of the stretch.**

- **Deer Creek, Iowa-Cedar Basin**  
**Facility: City of Carpenter STP**

The DNR has proposed an A1 recreation designation for the 9.4 mile downstream section of this stream. An A2 recreation designation has been proposed for the portion of the stream north of 460<sup>th</sup> St. However, a small portion of the stream runs through the Deer Creek Wildlife Management Area north of this road. **The Council believes A1 should be designated for the portion of stream that flows through and adjacent to the entire Deer Creek public access area.** See the image below for reference of the extent of the Deer Creek Wildlife Management Area.



- **Dry Creek (City of Alburnett), Iowa-Cedar Basin**  
**Facility: Alburnett STP**

DNR has recommended an A2 secondary contact recreational designation for the 5.5

mile segment south of Alburnett. UAA documentation indicates a soccer complex to the west of survey site 1244-2. Children could easily wander down from the soccer complex to the stream. Additionally, the southernmost portion of the stream flows into the towns of Marion and Robins and behind several homes. No survey point was taken in this area, and no contact was attempted with the residents that live near that part of the stream. **The Council recommends that an A3 children's recreational use be designated for the portion of Dry Creek that flows past the soccer complex south to the section terminus in Robins to protect children that could access the stream.**

- **McCallister Creek (Johnson County), Iowa-Cedar Basin**

**Facility: Corridor Ridge**

DNR has proposed a B(WW-2) aquatic life designation for this stream. However, the fish survey found 4 largemouth bass at the survey point. Although these fish were juveniles and not large enough to consume, the stream use designation should be protective of transient game fish from the outflow into Coralville Reservoir. It is entirely possible that people could be fishing the stream for transient game fish, especially where the stream is wider and meets the reservoir. The stream is recommended for A1 recreation use. **Due to the possibility of transient game fish being found in this stream and the public access associated with Coralville Reservoir, the Council recommends protecting fishing for consumption on this stretch by designating a human health use (HH).**

- **Pilot Creek (Pocahontas County), Des Moines Basin**

**Facility: Rolfe STP**

The UAA identifies Feldman Park adjacent to the stream near site 1225-2. The Council does not believe a line of trees and foliage between the park and the stream is enough to prevent children from accessing the stream at this public access area. Graffiti under the bridge was also noted at this site. The stream skirts around the edge of the town of Rolfe, very close to homes. Only two residents were interviewed at this site, noting that fishing occurs. **The Council recommends an A3 recreational use designation for the portion of the stream between 290<sup>th</sup> Ave and 465<sup>th</sup> St around the town of Rolfe. We believe this area should be protected for children that could easily access the stream from the park or residences.**

- **Silver Creek (Linn County), Iowa-Cedar Basin**

**Facility: City of Cedar Rapids NW WTP**

The aquatic life UAA was uploaded in place of recreational UAA on the DNR UAA search website. The recreational UAA is not publicly available online. **The Council recommends retaining A1 primary recreational use for this stream until the public has adequate notice and time to review the evidence for the proposed A2 stream designation.**

- **Squaw Creek, Des Moines Basin**

**Facility: City of Osceola WTP**

This stream was recommended for a recreational designation of A2. However, the

recreational UAA contained documentation of a footpath upstream with children's footprints in the sand. Photo documentation includes footprints in the sand at both sites 1153-3 and 1153-4. **The Council recommends a designation of A3 children's recreational use for this stream due to the evidence of children in the stream.**

- **Three Mile Creek, Southern Basin**

**Facility: Three Mile Lake Campground**

DNR has proposed a B(WW-2) aquatic life designation for this stream. However, the fish survey found a largemouth bass at site 1217-3. The fish appears large enough for consumption. The stream use designation should be protective of transient game fish from Three Mile Reservoir, a popular recreation and fishing public access area. **Due to the possibility of transient game fish being found in this stream and the public access associated with Three Mile Reservoir, the Council recommends protecting fishing for consumption on this stretch by designating a human health use (HH).**

- **West Branch Iowa River (Hancock/Wright Counties), Iowa-Cedar Basin**

**Facility: Duncan Heights STP**

DNR is recommending an A2 secondary recreation use for this 27.2 mile stretch of West Branch Iowa River. This river flows by East Twin Lake Forest Area (a public access area) and numerous homes. At its southern point, it flows just north of the town of Belmond. Despite all of this, the DNR has only taken survey points at 5 sites along the river, not in the East Twin Lake Forest Area and not near the town of Belmond. **The Council does not believe the data presented in the UAA is sufficient to rebut the presumption of attainable primary contact recreation uses and recommends the A1 designation be retained for the entire segment of West Branch Iowa River.**

Thank you for the opportunity to comment on proposed revisions to Iowa's water quality standards. If you have questions or I can clarify these comments further, please feel free to call me.

Sincerely,



**Jennifer L. Terry**

Executive Director | Iowa Environmental Council