



**OFFICE OF AUDITOR OF STATE
STATE OF IOWA**

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NEWS RELEASE

FOR RELEASE July 21, 2004

Contact: Andy Nielsen
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Auditor of State David A. Vaudt today released a report on the Iowa Department of Natural Resources for the year ended June 30, 2003.

The Department has the primary responsibility for state parks and forests, protecting the environment, and managing energy, fish, wildlife, and land and water resources in this state.

Vaudt recommended the Department implement procedures to ensure subrecipients submit the required audit reports for the Clean Water and Drinking Water State Revolving funds.

In addition, Vaudt reported the Department had not complied with certain statutory requirements concerning its operations during the year ended June 30, 2003. The Department believes resource constraints have not allowed the Department to meet certain requirements and is considering seeking legislative repeal of some existing requirements during the next legislative session or reallocating resources to meet existing requirements.

A copy of the report is available for review in the Iowa Department of Natural Resources or the Office of Auditor of State.

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**REPORT OF RECOMMENDATIONS TO THE
IOWA DEPARTMENT OF NATURAL RESOURCES**

JUNE 30, 2003

Office of
**AUDITOR
OF STATE**

State Capitol Building • Des Moines, Iowa



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March 15, 2004

To the Members of the Iowa Environmental Protection
and Natural Resource Commissions:

The Iowa Department of Natural Resources is a part of the State of Iowa and, as such, has been included in our audits of the State's Comprehensive Annual Financial Report (CAFR) and the State's Single Audit Report for the year ended June 30, 2003.

In conducting our audits, we became aware of certain aspects concerning the Department's operations for which we believe corrective action is necessary. As a result, we have developed recommendations which are reported on the following pages. We believe you should be aware of these recommendations which pertain to the Department's internal control, compliance with statutory requirements and other matters. These recommendations have been discussed with Department personnel and their responses to these recommendations are included in this report.

This report, a public record by law, is intended solely for the information and use of the officials and employees of the Department, citizens of the State of Iowa and other parties to whom the Department may report. This report is not intended to be and should not be used by anyone other than these specified parties.

We would like to acknowledge the many courtesies and assistance extended to us by personnel of the Department during the course of our audits. Should you have questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience. Individuals who participated in our audits of the Department are listed on page 13 and they are available to discuss these matters with you.

DAVID A. VAUDT, CPA
Auditor of State

WARREN G. JENKINS, CPA
Chief Deputy Auditor of State

cc: Honorable Thomas J. Vilsack, Governor
Cynthia P. Eisenhauer, Director, Department of Management
Dennis C. Prouty, Director, Legislative Services Agency

June 30, 2003

Finding Reported in the State's Single Audit Report:

**CFDA Number: 66.468 – Capitalization Grants for Drinking Water
State Revolving Fund**

Agency Number: FS997593 03

Federal Award Year: 2002

State of Iowa Single Audit Report Comment: 03-III-EPA-542-1

Subrecipient Monitoring – OMB Circular A-133 requires the pass-through entity to be responsible for monitoring the activities of the subrecipients, as necessary, to ensure federal awards are used for authorized purposes in compliance with laws, regulations and provisions of the contract or grant.

The Department monitors subrecipients through audits performed during the course of the Drinking Water State Revolving Fund (DWSRF) project. The program requires subrecipients to submit an audit report if expenditures exceed \$300,000 during a fiscal year. The Department notifies the recipients of the audit requirement at the time the recipient receives the funds and again when Department records indicate the recipient has drawn down close to \$300,000 in a fiscal year. For 8 of 22 subrecipients tested, the Department did not receive audit reports.

Recommendation – The Department should implement procedures to ensure subrecipients submit the required audit reports.

Response and Corrective Action Planned – The Department currently has a good system in place to monitor subrecipients and ensure that they submit the required audit reports. While we may occasionally receive audit reports after the due date, we do eventually receive them. We have little recourse available to us if the reports are not submitted on time and, due to limited resources, do not plan to change our current procedures for following up on late reports.

The Department monitors DWSRF loan disbursements and annually sends notifications to recipients who receive more than \$300,000 that an OMB Circular A-133 audit will be required. Those who receive less than \$300,000 are generally sent a letter notifying them of the amount of DWSRF funds disbursed and the potential need for an A-133 audit if, in aggregate with other federal funds, this threshold is exceeded.

Each subsequent year, if the audit has not been submitted, the City is sent notification that the audit is past due. This continues until the audit is submitted. When received, if a review determines that the audit is not in compliance, the recipient is notified of the deficiency and need for correction. Again during the annual review, if the correction had not been made, the City is contacted again.

Seven of the eight DWSRF audits noted in the audit finding have subsequently been received.

Conclusion – Response acknowledged. We will review the reports in the subsequent audit period.

Findings Related to Internal Control:

No matters were noted.

June 30, 2003

Findings Related to Statutory Requirements and Other Matters:

**CFDA Number: 66.458 – Capitalization Grants for Clean Water
State Revolving Funds**

Agency Number: CS190000 02

Federal Award Year: 2002

- (1) Subrecipient Monitoring – OMB Circular A-133 requires the pass-through entity to be responsible for monitoring the activities of the subrecipients, as necessary, to ensure federal awards are used for authorized purposes in compliance with laws, regulations and provisions of the contract or grant.

The Department monitors subrecipients through audits performed during the course of the Clean Water State Revolving Fund (CWSRF) project. The program requires subrecipients to submit an audit report if expenditures exceed \$300,000 during a fiscal year. The Department notifies the recipients of the audit requirement at the time the recipient receives the funds and again when Department records indicate the recipient has drawn down close to \$300,000 in a fiscal year. For 8 of the 24 subrecipients tested, the Department did not receive audit reports.

Recommendation – The Department should implement procedures to ensure subrecipients submit the required audit reports.

Response and Corrective Action Planned – The Department currently has a good system in place to monitor subrecipients and ensure that they submit the required audit reports. While we may occasionally receive audit reports after the due date, we do eventually receive them. We have little recourse available to us if the reports are not submitted on time and, due to limited resources, do not plan to change our current procedures for following up on late reports.

The Department monitors CWSRF loan disbursements and annually sends notifications to recipients who receive more than \$300,000 that an OMB Circular A-133 audit will be required. Those who receive less than \$300,000 are generally sent a letter notifying them of the amount of CWSRF funds disbursed and the potential need for an A-133 audit if, in aggregate with other federal funds, this threshold is exceeded.

Each subsequent year, if the audit has not been submitted, the City is sent notification that the audit is past due. This continues until the audit is submitted. When received, if a review determines that the audit is not in compliance, the recipient is notified of the deficiency and need for correction. Again during the annual review, if the correction had not been made, the City is contacted again.

One of the eight CWSRF audits noted in the audit finding have subsequently been received.

Conclusion – Response acknowledged. We will review the reports in the subsequent audit period.

Report of Recommendations to the Iowa Department of Natural Resources

June 30, 2003

(2) Iowa Code Compliance – The Department was not in compliance with the following Chapters of the Code of Iowa during fiscal year 2003:

- (a) Comprehensive Plans and Programs for the State for the Management of Hazardous Waste – Chapter 455B.412(1) states the Department shall develop comprehensive plans and programs for the state for the management of hazardous wastes.

The Department has not developed comprehensive plans and programs for the state for the management of hazardous wastes.

- (b) Registry of Hazardous Waste or Hazardous Substance Disposal Sites – Chapter 455B.426(2) states the Director shall investigate all known or suspected hazardous waste or hazardous disposal sites and determine whether each site should be included in the registry.

The Department has not investigated all known or suspected abandoned/uncontrolled hazardous waste disposal sites.

- (c) Iowa Communications Network Report – Chapter 8D.10 states an annual written report certifying the identified savings associated with using the Iowa Communications Network should be submitted to the General Assembly on or before January 15 for the previous fiscal year.

The Department submitted the annual report on February 14, 2003.

- (d) Refuse-Derived Fuel – Calculation as Portion of Waste Reduction Goal – Chapter 455D.20 states the commission shall adopt rules which provide for the inclusion of reduction attributable to refuse-derived fuel in the calculation of a city or county in meeting the waste reduction goal of the state.

The Environmental Protection Commission has not adopted applicable rules.

- (e) Comprehensive Groundwater Monitoring Network – Chapter 455E.8 states the Director, in cooperation with soil and water conservation district commissioners and with other state and local agencies, shall develop and administer a comprehensive groundwater monitoring network, including point of use, point of contamination, and problem assessment monitoring sites across the state, and the assessment of ambient groundwater quality. The Director shall report any data concerning the contamination of groundwater by a contaminant not regulated under the federal Safe Drinking Water Act to the United States Environmental Protection Agency along with a request to establish a maximum contaminant level and to conduct a risk assessment for the contaminant.

The comprehensive groundwater monitoring network has not been developed and the Department does not report data concerning the contamination of groundwater by contaminants not regulated under the federal Safe Drinking Water Act to the United States Environmental Protection Agency.

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- (f) Regulating Use of Recycled Oil – Chapter 455B.412(5) states the Department shall adopt rules regulating the use of recycled oil for the purpose of road oiling, dust control, or weed control necessary to protect public health and the environment.

The Department has not adopted rules regulating the use of recycled oil for the purpose of road oiling, dust control or weed control.

- (g) Statewide Building Energy Efficiency Rating System – Chapter 473.40 states the Department shall adopt rules establishing a statewide building energy efficiency rating system. The rating system shall apply to all new and existing public, commercial, industrial and residential buildings in the state.

The Department has not developed rules establishing a statewide building energy efficiency rating system.

- (h) Submission of Report – Chapter 455A.4(1) states the Director shall submit a report to the Natural Resource Commission before January 15, 1992, and every five years thereafter, which shall include, but not be limited to, information on the following topics:

- (1) The classification of the state's parks, recreation areas and preserves and recommendations for their reclassification based upon present and future use.
- (2) Methods for maintaining the diversity of animal and plant life in state parks, recreation areas and preserves.
- (3) Options to achieve controlled deer hunting in order to prevent overpopulation of deer.
- (4) Prevention of economic damage to private property which is located adjacent to state parks, recreation areas and preserves.

The Department did not submit the report by the January 15, 2003 deadline.

- (i) Proposals for Hazardous Waste Research and Development and Implementation of Hazardous Waste Management Practices – Chapter 455B.484(11) states the division shall solicit proposals from public and private agencies to conduct hazardous waste research and to develop and implement storage, treatment and other hazardous waste management practices including, but not limited to, source reduction, recycling, compaction, incineration, fuel recovery and other alternatives to land disposal of hazardous waste.

The Department has not solicited proposals from public and private agencies for the activities listed above.

- (j) Classification and Prioritization of Contaminated Sites – Chapter 455B.601(1) states the Commission shall adopt rules to establish criteria for the classification and prioritization of sites upon which contamination has been discovered.

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The Commission has not adopted rules to establish the criteria for the classification and prioritization of contaminated sites.

- (k) Compliance Advisory Panel – Chapter 455B.150 states the Department shall create a compliance advisory panel pursuant to Title V, section 507(e) of the federal Clean Air Act Amendments of 1990, to review and report on the effectiveness of the small business technical assistance program.

A compliance advisory panel has not been created.

- (l) Hazardous Waste Sites and Facilities – Chapter 455B.443(2) states the owners and operators of a facility with hazardous waste sites shall submit an application to the Director requesting a site license be issued.

The Department does not ensure facilities submit an application to the Director requesting a site license be issued.

- (m) Hazardous Waste Listing – Chapter 455B.464 states the Director shall annually compile a list of additional hazardous wastes for adoption by the commission pursuant to the rulemaking procedures. The list should include wastes which may be a significant environmental burden if disposed of at a land disposal facility.

The Department does not compile a listing of additional hazardous wastes.

- (n) Oil and Gas Market Demand – Chapter 458A.6 states the Department shall determine market demand for each marketing district and regulate the amount of production of oil and gas within each district to that amount which can be produced without waste, and which does not exceed the reasonable market demand.

The Department does not determine the market demand.

- (o) Toxics Pollution Prevention Program – Chapter 455B.517(1) states the Department shall establish criteria for development of the toxics pollution prevention program.

The Department has not established criteria for the toxics pollution prevention program.

Recommendation – The Department should take the necessary steps to comply with the Code of Iowa or the Department should seek the repeal of outdated Code sections or Code sections contrary to federal regulations.

Response –

- (a) Comprehensive Plans and Programs for the State for the Management of Hazardous Waste – The management of hazardous wastes is administered at the Federal level through the Resource Conservation and Recovery Act (RCRA) part C program. The federal government has not delegated responsibility for RCRA to the state of Iowa. As a result, comprehensive plans and programs for the state for the management of hazardous waste are the responsibility of the federal government. It would take legislative action to reassign these responsibilities from the U.S. EPA to the Department.

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- (b) Registry of Hazardous Waste or Hazardous Substance Disposal Sites – The management of hazardous wastes is administered at the Federal level through the Resource Conservation and Recovery Act (RCRA) part C program. The federal government has not delegated responsibility for RCRA to the state of Iowa. As a result, an annual report for the state on the management of hazardous waste is not being produced. It would take legislative action to reassign the hazardous waste responsibilities from the U.S. EPA to the Department.
- (c) Iowa Communications Network Report – The Department will take steps in the future to ensure these reports are submitted on time.
- (d) Refuse-Derived Fuel – Calculation as Portion of Waste Reduction Goal – This Code requirement will be removed pursuant to House File 2517, passed in the 2004 legislative session.
- (e) Comprehensive Groundwater Monitoring Network – While the Department has not implemented a complete groundwater monitoring program, we have developed a plan identifying program needs and are in the process of implementing the network. The Department has constructed and is sampling several permanent monitoring wells, and has in place an expanded network of public water supply wells that are being monitored in conjunction with the US Geological Survey. The Department also supports testing of private wells, an important component of a groundwater monitoring plan. In FY04, the Department supported targeted monitoring of private wells in incorporated communities without a public water supply and began planning for an expanded, statistical sampling of private wells similar to the Statewide Rural Wellwater Survey conducted in 1988-89. We expect to continue seeking increased funding for groundwater monitoring from the legislature.
- (f) Regulating Use of Recycled Oil – This Code requirement will be removed pursuant to House File 2517, passed in the 2004 legislative session.
- (g) Statewide Building Energy Efficiency Rating System – Due to lack of funding appropriated for this purpose, the Department has not developed rules. The elimination of this code section will be considered when the Department develops next year's legislative package.
- (h) Submission of Report – The need for the report required by this Code section has diminished due to actions that have taken place since the requirement was established over ten years ago. During the 1997 Legislative session, an amendment to the Iowa Code was passed removing the statutory restriction on firearms in state parks. This was discussed in the original 1992 report as a key management option to control whitetail deer populations. Removal of this blanket restriction allows the Department to establish population-control hunts in state parks without first seeking reclassification of that park as a state recreation area. This code modification has been received favorably by all concerned and has greatly simplified the process for planning and conducting controlled hunts for antlerless deer in areas where biologists and park managers have identified a need to reduce deer populations.

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Controlled hunts continue to be utilized as the preferred means of reducing deer populations in and around several Iowa state parks. These controlled hunts offer a means of addressing economic damage to adjoining landowners, reducing deer/vehicle collisions, and maintenance of plant and animal diversity and ecosystem health within state parks and recreation areas. Additionally, an advisory committee has been formed to provide an effective means of communicating between stake holders (nursery operators, tree farmers, Iowa Farm Bureau, Iowa sportsmen, and others). DNR biologists have always monitored deer populations and the complex array of public attitudes toward desirable levels of deer numbers.

The elimination of this code section will be considered when the Department develops next year's legislative package.

- (i) Proposals for Hazardous Waste Research and Development and Implementation of Hazardous Waste Management Practices – The management of hazardous wastes is administered at the Federal level through the Resource Conservation and Recovery Act (RCRA) part C program. The federal government has not delegated responsibility for RCRA to the state of Iowa. As a result, solicitations for research on the management of and treatment of hazardous waste are not being released. It would take legislative action to reassign the hazardous waste responsibilities from the U.S. EPA to the Department.
- (j) Classification and Prioritization of Contaminated Sites – A bill was introduced during the 1999 legislative session to make the pesticide and fertilizer contaminated sites cleanup program the responsibility of the Iowa Department of Agriculture and Land Stewardship (IDALS). This bill (Senate File 466) was passed by the Senate during the 1999 session and was passed by the House and signed by the governor during the 2000 legislative session. It became effective July 1, 2000. The bill provides an alternative voluntary program that is managed by IDALS, but DNR is still involved in technical aspects such as cleanup standards. The bill calls for the DNR to work with IDALS on this activity, but to date DNR has not been contacted by IDALS with regard to this work.
- (k) Compliance Advisory Panel – The Minority Leader and Majority Leader in the Legislature have not made appropriate assignments to this advisory panel despite numerous requests by DNR and DED. The Department will continue its efforts to pursue creation of this panel.
- (l) Hazardous Waste Sites and Facilities – The Department reviews applications submitted and issues permits in response. If the Department has reason to believe that an owner and operator of a facility has hazardous waste sites we would require that an application be submitted to the Director requesting that a site license be issued. A permit was issued in August 2002 to AET, at the Iowa Army Ammunitions Plant in Middletown, Iowa.
- (m) Hazardous Waste Listing – The Department monitors changes in EPA listings of hazardous wastes and makes recommendations to the commission for adoption as needed. It should be noted the management of hazardous wastes (including maintaining a list of hazardous wastes) is administered at

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the Federal level as part of the Resource Conservation and Recovery Act (RCRA) part C program. As a result, the federal hazardous waste listing supercedes any state listing that might be prepared. The elimination of this code section will be considered when the Department develops next year's legislative package.

- (n) Oil and Gas Market Demand – The Department does not presently undertake this activity, as there are no production wells in the state.
- (o) Toxics Pollution Prevention Program – The Department has established a voluntary pollution prevention program for the metals finishing industry. The Iowa Strategic Goals Program (ISGP) provides a platform for recognizing businesses that voluntarily report their pollution prevention reductions based on a set of criteria. Those businesses that report their pollution prevention reductions and have voluntarily adopted an environmental management system have, in most cases, met the criteria. The favored environmental management system tool is the International Organization of Standards (ISO) 14001 Environmental Management System, which contains the criteria required of the Toxics Pollution Prevention Program. The ISGP will be operated on a pilot basis for the next two to three years. At that time, the Department will consider expanding the program to other industrial sectors.

Conclusion – Responses acknowledged. For those programs administered at the Federal level, the Department may wish to seek legislative language to further clarify the Department's responsibilities. The status and/or progress will be reviewed at the time of the next audit.

- (3) Solid Waste Alternatives Program – Chapter 455E.11(2)(1)(c) of the Code of Iowa states that any remaining groundwater protection funds shall be used by the Department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs. Iowa Administrative Code chapter 567, section 209.7 states the type of financial assistance offered to an applicant may be a forgivable loan, zero interest loan or low interest loan. The method used to calculate total interest to be collected on the low interest loans does not allow the Department to collect the majority of the interest in the earlier years of the loan. On one loan, the interest was calculated based on the full amount of the loan although the recipient did not receive the full amount of the loan. Also, the interest rate was only applied to the initial loan balance for a period of one year to determine the interest amount to be collected rather than applying the interest rate to the unpaid balance of the loan over the life of the loan.

Recommendation – The Department should develop written procedures for computing interest on low interest loans. These procedures would permit the Department to charge interest to the loan recipients in a consistent manner.

Response –

The Department's written policy for awarding loans and determining interest is as follows:

- 1) Loans awarded can be forgivable, zero interest, 3% interest, or any combination thereof. This is consistent IAC 567-209.7, which states "The type of financial assistance offered to an applicant (forgivable loan, zero interest loan, low

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interest loan) is based upon the amount of program funds awarded to each selected project. The department reserves the right to offer any combination of financial assistance types to any selected project.”

- 2) Loan repayment schedules are initially calculated under the assumption that the recipient will spend the entire amount awarded. In the event the recipient has not and will not claim the entire amount awarded, the loan repayment scheduled will be amended, including the total amount due to be repaid. Loan monies repaid prior to this determination will be applied over the length of the loan and the remaining scheduled repayments will be reduced accordingly. This is consistent with the Promissory Note the recipient is required to sign, which reads, “In the event the Contractor fails to claim and spend the full face amount of the Note as set out above, then the amount of each installment payment shall be reduced accordingly in equal amounts.”
- 3) Loans awarded for fiscal years 2001 and prior do not contain compounded interest. Interest collected was simply a 3% administrative fee, calculated based on the loan award portion not covered by forgivable loan or zero interest loan amounts.
- 4) Loans awarded beginning in fiscal year 2002 have the 3% interest portion of the loan compounded. This three percent (3%) rate is compounded and spread equally over the life of the loan. The 3% interest amount is calculated based on the loan award portion not covered by forgivable loan or zero interest loan amounts.

Conclusion – Response accepted.

Report of Recommendations to the Iowa Department of Natural Resources

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Staff:

Questions or requests for further assistance should be directed to:

Joe T. Marturello, CIA, Manager
James S. Cunningham, CPA, Senior Auditor II
Andrew E. Nielsen, CPA, Deputy Auditor of State

Other individuals who participated on the audits include:

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