

IN THE IOWA DISTRICT COURT FOR POLK COUNTY		
ENVIRONMENTAL LAW AND	)	
POLICY CENTER,	)	
IOWA ENVIRONMENTAL	)	
COUNCIL, &	)	
SIERRA CLUB	)	
Petitioners,	)	No. _____
	)	
v.	)	PETITION FOR JUDICIAL
	)	REVIEW
IOWA DEPARTMENT OF	)	
NATURAL RESOURCES AND	)	
INTERSTATE POWER AND LIGHT	)	
COMPANY,	)	
	)	
Respondents.	)	

Petitioners Environmental Law and Policy Center, Iowa Environmental Council, and Sierra Club submit the following Petition for Judicial Review pursuant to Iowa Code § 17A.19:

INTRODUCTION

1. Petitioners seek judicial review of two permits issued by the Iowa Department of Natural Resources (“DNR”) that failed to require cessation of coal ash discharges as soon as possible.
2. The permit for the Ottumwa Generating Station did not implement Clean Water Act (“the Act” or “the CWA”) requirements to limit discharges from a coal ash landfill that flows through a wetland and creek into the Des Moines River. DNR also failed to incorporate the federal requirements during a major modification of the permit.
3. At the same time, the Ottumwa Midland Landfill (“the Landfill”), which stores coal ash from the Ottumwa Generating Station, discharged polluted groundwater without a CWA permit into tributaries of the Des Moines River. This led Interstate Power and Light Company

(“IPL”), the owner of the coal-burning power plant and coal ash landfill, to start shipping its wastewater offsite as a short-term solution. IPL evaluated alternatives but did not meet the requirements of the Clean Water Act as it selected an alternative that provided minimal and legally inadequate treatment. DNR issued the landfill permit and again failed to incorporate the federal coal ash discharge regulations.

4. Petitioners requested DNR implement the federal regulations required by the Clean Water Act through both the Ottumwa Generating Station and the Ottumwa Midland Landfill NDPS permits. Instead, DNR illegally allowed a new discharge of polluted groundwater from the coal ash landfill as it failed to incorporate federal requirements in either issued permit.

PARTIES AND VENUE

5. Petitioner Environmental Law and Policy Center (“ELPC”) is a Midwest-based not-for-profit public interest environmental, legal and economic development advocacy organization focused on improving environmental quality, including clean water and healthy, clean air, and protecting the Midwest’s natural resources. ELPC has members who reside in the State of Iowa, including members who are customers of IPL and MidAmerican Energy Company. ELPC has an office in Des Moines and focuses its work in Iowa on clean energy and clean water issues.

6. Sierra Club is the nation’s oldest grassroots environmental advocacy organization with nearly 600,000 members nationally and over 4,900 members in the state of Iowa, many of whom are customers of Interstate Power & Light and MidAmerican Energy Company. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the Earth; to practicing and promoting responsible use of the Earth’s resources and ecosystem; and to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out those objectives.

7. Petitioner Iowa Environmental Council (“IEC”) is a nonprofit membership organization incorporated under Iowa law with its office in Des Moines, Iowa. The IEC is a broad-based environmental policy organization with a mission to create a safe, healthy environment and sustainable future for Iowa. The IEC represents a broad coalition of Iowans including over 80 diverse member and cooperator organizations ranging from agricultural, conservation, and public health organizations, to educational institutions, business associations, and churches, along with hundreds of individual members. Many members of IEC are IPL ratepayers. IEC’s work focuses on clean water, clean air, conservation, and clean energy.

8. Respondent Iowa Department of Natural Resources is a state agency created under Iowa Code chapter 455A.2 and has the primary responsibility for protecting the environment and managing state parks, forests, fish, wildlife, and other land and water resources. DNR is an agency of the State of Iowa as defined in Iowa Code § 17A.2(1).

9. Interstate Power and Light Company is a rate-regulated public utility. IPL co-owns and operates the Ottumwa Generating Station coal-burning power plant. IPL also owns and operates the Ottumwa Midland Landfill for the disposal of coal ash combustion residual waste. IPL is an indispensable party to this case because its interests are directly affected by the requirements in the permit issued by DNR.

10. Venue for judicial review of agency action is appropriate in either the Polk County District Court or the district court for the county in which the petitioner resides or has its principal place of business. Iowa Code § 17A.19(2) (2026). Venue is proper in Polk County on either criterion based on the facts set forth in this petition.

LEGAL BACKGROUND

11. The Clean Water Act prohibits discharges into waters of the United States, such as the Des Moines River, unless they are authorized by a National Pollution Discharge Elimination System (“NPDES”) permit. 33 U.S.C. § 1311(a).

12. The Act allows states to implement a permitting program known as the National Pollutant Discharge Elimination System to authorize such discharges. 33 U.S.C. § 1342(b).

13. Iowa has a NPDES permitting program that is authorized to permit discharges under the CWA. Iowa Code § 455B.197; U.S. Environmental Protection Agency (“EPA”), “NPDES State Program Authority,” (last visited July 8, 2026) available at <https://www.epa.gov/npdes/npdes-state-program-authority>.

14. The Clean Water Act sets a national goal of eliminating pollution discharged into the nation’s waterways from industrial sources such as coal-burning power plants. 33 U.S.C. § 1251(a)(1).

15. To that end, the EPA must periodically establish increasingly stringent, technology-based limits on wastewater discharges from entities that discharge into waters of the United States, including coal-burning power plants, called Effluent Limitations Guidelines (“ELGs”). 33 U.S.C. § 1311(b)(2)(A).

16. State permitting authorities are required to incorporate ELGs into each respective facility’s NPDES permit “as expeditiously as practicable.” *Id.* § 1311(b)(2)(F).

17. Moreover, the CWA requires that each individual pollution discharge permit include provisions assuring that entities that discharge toxic effluent into public treatment works, as defined in *Id.* § 1292, comply with “all applicable” effluent limitations guidelines no later than three years after EPA’s issuance of a revised effluent standard. *Id.* §§ 1342(a), 1317(b)(1).

18. Additionally, the Act requires an antidegradation review before new or increased discharges of pollutants. 33 U.S.C. § 1313(d)(4)(B). Antidegradation is a fundamental part of the CWA’s effort to restore the “chemical, physical, and biological integrity” of water across the country. 33 U.S.C. § 1251(a).

19. In Iowa, degradation of surface water that meets water quality standards is only allowed where “lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located.” 40 C.F.R. § 131.12(a)(2); IOWA ADMIN CODE r. 567-61.2(2)“b”.

20. On May 9, 2024, EPA updated the ELGs applicable to coal-burning power plants, with an effective date of July 8, 2024. *See* Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 89 Fed. Reg. 40,198 (May 9, 2024) (“2024 ELG Rule”). The 2024 ELG Rule requires coal-burning power plants like the Ottumwa Generating Station to meet numeric limits on arsenic and mercury discharges for “unmanaged” combustion residual leachate and to eliminate “managed” combustion residual leachate discharges entirely. 40 C.F.R. §§ 423.13(l)(1)(i)(A), (l)(2)(i)(A), (l)(2)(ii).

21. The 2024 ELG Rule also sets new, more stringent “best available technology” limits on the three largest toxic waste streams from coal-burning power plants: flue gas desulfurization wastewater, bottom ash transport water, and managed and unmanaged combustion residual leachate.

22. EPA modified the final compliance deadlines in the 2024 ELG Rule as part of rule revisions in 2025 and 2026. Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category—Deadline Extensions, 90 Fed. Reg. 61,328 (Dec. 31, 2025); Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point

Source Category—Deadline Extensions; Correction, 91 Fed. Reg. 4016 (Jan. 30, 2026). The revised rule (“Revised ELG Rule”) maintains the requirement to eliminate discharges of combustion residual leachate as soon as possible. *Id.* at 4017.

23. For direct dischargers (*i.e.*, coal-burning power plants that discharge directly to waters of the United States), the ELG Rule requires state permitting authorities to incorporate ELG limits into each respective NPDES permit “as soon as possible beginning July 8, 2024, but no later than December 31, 2034.” 90 Fed. Reg. 61,328, 61,353 (Dec. 31, 2025); *see also* 40 C.F.R. § 423.13.

24. For indirect dischargers (*i.e.*, coal-burning power plants that discharge to publicly owned treatment works), the rule requires the regulated facility to meet the pretreatment standards set out in 40 C.F.R. § 423.16 by no later than January 1, 2029. 91 Fed. Reg. 4016, 4017 (Jan. 30, 2026).

25. EPA clarified in its response to public comments on the 2024 ELG Rule that the rule requirements apply to combustion residual leachate even if the leachate is transported off-site, such as to a publicly owned treatment works. EPA, *Response to Public Comments for Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*, at 1237 (Apr. 2024), available at <https://www.regulations.gov/document/EPA-HQ-OW-2009-0819-10584>.

26. In adopting the 2024 ELG Rule, EPA confirmed that “NPDES permits ... issued after July 8, 2024, must incorporate the ELGs, as applicable.” 89 Fed. Reg. 40198, 40,282 (May 9, 2024).

THE OTTUMWA GENERATING STATION AND PERMIT NO. 9000101

27. The Ottumwa Generating Station is a coal-burning power plant jointly owned by IPL and MidAmerican Energy Company and operated by IPL.

28. The Ottumwa Generating Station produces industrial wastewater – contaminated with toxic pollutants and metals such as arsenic, boron, cadmium, chromium, lead, mercury, copper, nickel,

and selenium. If not stored at the Ottumwa Midland Landfill and treated, this wastewater flows into waters of the United States, including the Des Moines River.

29. The Ottumwa Generating Station is subject to the ELG Rule.

30. Coal ash combustion residual waste from the Ottumwa Generating Station is disposed of at the Ottumwa Midland Landfill. The Landfill uses a “leachate collection” system, where leachate is collected and diverted into a lined pond.

31. Currently, IPL hauls the collected leachate by truck from the Ottumwa Midland Landfill off-site to the Ottumwa Water Pollution Control Facility, Ottumwa’s municipal wastewater treatment plant.

32. DNR issued a draft permit on April 5, 2024, for the Ottumwa Generating Station, Permit No. 9000101. The draft permit included effluent limitations for the discharge of coal combustion residual leachate.

33. Petitioners submitted public comments on May 3, 2024.

34. Petitioners noted in the comments that the EPA issued draft ELGs for combustion residual leachate, and that state permitting authorities are required to incorporate these ELGs into each respective facility’s NPDES permit. 33 U.S.C. § 1311.

35. On May 9, 2024, EPA finalized the 2024 ELG Rule with an effective date of July 8, 2024. *See* 89 Fed. Reg. 40,198 (May 9, 2024)

36. DNR responded to comments on May 20, 2024. On the same day, DNR issued the permit with an effective date of June 1, 2024. The final permit did not reference combustion residual leachate and did not incorporate the limitations set forth in the 2024 ELG Rule for combustion residual leachate, 40 C.F.R. part 423.

37. On June 2, 2025, DNR issued a draft modified Permit No. 9000101. The proposed modification changed the limits for a low-volume wastewater treatment pond because actual flows were different from the anticipated flows when DNR developed the permit. Wendy Hieb, “Amendment Rationale for NPDES Permit,” DNR (May 29, 2025) at 1.

38. Petitioners submitted public comments requesting DNR to add the 2024 ELG Rule limitations to the permit. Petitioners noted that new standards should be added when re-opening a permit for modification, citing the requirement in the ELG to achieve the zero-discharge standard “as soon as possible.” 40 C.F.R. § 423.13(l)(1)(i)(A); *see* 89 Fed. Reg. 40,198, 40298 (May 9, 2024). In their written comments, Petitioners requested a public hearing on the permit.

39. DNR granted the request for a public hearing and held the hearing on September 3, 2025. Petitioners and residents from the Ottumwa area spoke at the public hearing to request DNR impose the new limitations from the 2024 ELG Rule.

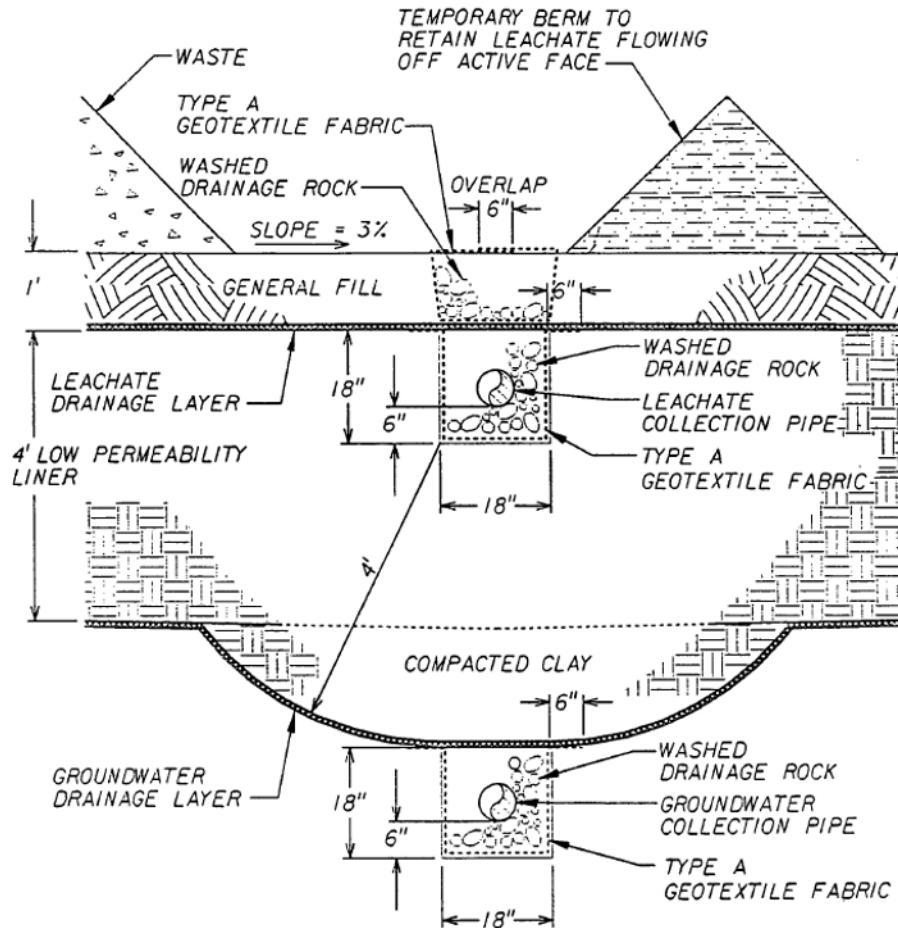
40. On September 29, 2025, DNR issued responses to comments. On October 1, 2025, DNR issued a final NPDES permit to IPL for the Ottumwa Generating Station, Iowa NPDES Permit No. 9000101. The final permit did not include the limitations from the 2024 ELG Rule or any compliance plan for achieving the limitations of the 2024 ELG Rule.

THE OTTUMWA MIDLAND LANDFILL AND PERMIT NO. 9000107

41. The Ottumwa Midland Landfill is a coal combustion residual landfill located in Wapello County near Ottumwa, Iowa. The landfill receives coal-combustion residuals from the Ottumwa Generating Station, but the landfill is a separate site located 12 miles from the Ottumwa Generating Station and on the other side of the Des Moines River. IPL owns and operates the Ottumwa Midland Landfill.

42. At the Ottumwa Midland Landfill, IPL collects wastewater in two ways: from a leachate collection system and a groundwater collection system below the landfill's clay liner, as shown in Figure 1 below, called the "underdrain." The underdrain piping removes and pumps out the groundwater underneath the liner and discharges it through a point source to a wetland connected to a creek, and finally the Des Moines River. IPL's own groundwater monitoring data demonstrates that the Ottumwa Midland Landfill underdrain groundwater discharges contain heavy metals and toxic pollutants commonly found in combustion residual leachate, including arsenic, barium, boron, calcium, cobalt, iron, lithium, magnesium, manganese, molybdenum, and zinc. See Alliant Energy, *2024 Annual Water Quality Report* (Nov. 27, 2024), available at <https://programs.iowadnr.gov/solidwaste/OpenText/DownloadDocument/111409>.

43. A cross-Section of the Ottumwa Midland Landfill Collection System shows the leachate collection pipe as well as the under-drain system below the compacted clay liner. Solid Waste Permit 90-SDP-8-92P, Construction Certification Report (filed July 11, 1995), at Appendix A (Montgomery Watson, Apr. 4, 1995), available at <https://programs.iowadnr.gov/solidwaste/OpenText/DownloadDocument/59283>.



44. For years, IPL discharged the polluted groundwater from the underdrain system to a wetland connected to a creek. IPL claimed the discharge was authorized by the facility's stormwater permit. On August 23, 2023, DNR told IPL that the discharge did not qualify for coverage under the stormwater permit. This triggered permitting and anti-degradation review requirements for the underdrain discharges from the Ottumwa Midland Landfill.

45. As a result, IPL began transporting untreated coal ash wastewater to Ottumwa Water Pollution Control Facility, the municipal wastewater treatment plant for the city. The municipal pretreatment permit limits do not ensure compliance with EPA's 2024 ELG Rule.

46. The 2024 ELG Rule contains standards for water sent to wastewater treatment plants. 40 C.F.R. § 423.16. The shipping of coal-ash contaminated water must end by January 2, 2029. *Id.* § 423.16(j)(1)(i)(A).

47. Under the Clean Water Act, any additional discharge of pollutants that may degrade water requires an analysis of alternatives. 33 U.S.C. § 1313(d); 40 C.F.R. § 131.12(a)(2)(ii). The Act only allows lower water quality where “necessary to accommodate important economic or social development in the area in which the waters are located.” 40 C.F.R. § 131.12(a)(2); IOWA ADMIN CODE r. 567-61.2(2)“b”.

48. IPL hired HR Green to conduct an Antidegradation Alternatives Analysis for IPL. HR Green, *Antidegradation Alternatives Analysis*, Ottumwa-Midland Landfill Underdrain Outfall Relocation (Dec. 16, 2024) (hereinafter “2024 AAA”). HR Green’s 2024 analysis evaluated three alternatives: (1) continuing the untreated discharge to the wetland, (2) re-routing the untreated discharge to the Des Moines River, and (3) adding treatment for iron and manganese. The 2024 AAA proposed pursuing option (2), re-routing the discharge to the Des Moines River without treatment. 2024 AAA at 12.

49. The 2024 AAA stated that “the preferred alternative is not anticipated to impact the local community” and it would provide “significant cost savings long-term” while minimizing degradation. 2024 AAA at 14. The 2024 AAA provided economic and demographic data for the Ottumwa area. It did not describe how the other alternatives would impact the local community.

50. HR Green publicly noticed the 2024 AAA on December 19, 2024, and provided a 30-day comment period.

51. Petitioners commented on the 2024 AAA, arguing that it ignored feasible alternatives, did not justify the degradation, and did not demonstrate that the lowering of water quality was “necessary to accommodate important economic or social development in the area in which the waters are located.” 40 C.F.R. § 131.12(a)(2); IOWA ADMIN CODE r. 567-61.2(2)“b”.

52. In 2025, after seeing no action on IPL’s request for an NPDES discharge permit, Petitioners issued a 60-day notice of intent to sue IPL for discharging polluted water without a permit. Within 60 days, IPL ceased the discharge by trucking the polluted groundwater to the City of Ottumwa wastewater treatment facility.

53. HR Green conducted a second AAA for IPL in 2025. HR Green, *Antidegradation Alternatives Analysis*, Ottumwa-Midland Landfill Underdrain Outfall Relocation (Aug. 8, 2025) (hereinafter (“2025 AAA”). HR Green published public notice of the 2025 AAA on August 8, 2025, and provided a 30-day notice period to submit comments.

54. The 2025 AAA considered four alternatives: (1) continue trucking the water to the municipal treatment plant, (2) pipe the water to the Des Moines River, (3) remove iron from the water with bag filters and discharge to a wetland, and (4) treat the water with reverse osmosis and discharge to a wetland. Alternative 3, iron removal and discharge to a wetland, was the selected alternative. 2025 AAA at 15.

55. The 2025 AAA claims that “historical water quality data indicates that Alternative 3 is capable of complying with WLA [wasteload allocation] limits for the proposed outfall and the beneficial uses of the [Des Moines River] will be maintained.” 2025 AAA at 17.

56. Petitioners submitted public comments on the 2025 AAA on September 5, 2025. Petitioners’ concerns included that it failed to analyze key pollutants, fully evaluate treatment alternatives, or justify degradation of water quality.

57. The selected alternative from the 2025 AAA would pump the underdrain water from the Landfill to an area IPL characterizes as a wetland, which then connects to the Des Moines River via unnamed creeks.

58. The segment of the Des Moines River where the Landfill discharges under its 2025 AAA selected alternative is currently an impaired waterbody for bacteria based on DNR's 2024 listing of impaired waters (i.e., waterbodies not meeting water quality standards). 2025 AAA at 3.

59. On December 17, 2025, the Department noticed a draft NPDES permit for the Landfill to discharge the underdrain water in this manner. Petitioners submitted public comments on January 6, 2026, re-raising concerns over the sufficiency of the AAA and commenting that draft permit failed to include limitations from or comply with the 2024 ELG Rule.

60. On February 19, 2026, DNR held a public hearing on the draft permit and accepted additional public comments from residents in the area of the landfill.

61. On March 16, 2026, DNR issued responses to comments and a final NPDES permit to IPL for the Ottumwa Midland Landfill, Iowa NPDES Permit No. 9000107. The permit became effective April 1, 2026. The final permit did not include any compliance plan with the 2024 ELG rule.

GROUND UPON WHICH RELIEF IS SOUGHT

62. Petitioners have been aggrieved and adversely affected by the Department's final permits. DNR failed to include requirements to comply with the ELGs in either permit. While DNR had discretion regarding which permit would contain compliance with the 2024 ELG Rule, it did not have discretion to fail to include the requirements in either one. The 2025 AAA for

permit no. 9000107 allows unnecessary degradation of water quality in violation of antidegradation requirements.

63. Petitioners have members who live, work, and recreate in the immediate vicinity of the Landfill. Petitioners' members use and enjoy areas downstream of the Landfill and downstream of the City of Ottumwa's treatment works on the Des Moines River for hiking, horseback riding, birdwatching, and enjoying wildlife.

64. The Permit fails to require the Landfill to eliminate its discharges of harmful coal ash leachate and other contaminants to the Des Moines River, as required by federal law, thereby adversely affecting Petitioners' members' protectible interests in using and enjoying their property and areas of the Des Moines River downstream of the Landfill.

65. Petitioners seek review of the Department's issuance of Permit No. 9000101 and Permit No. 9000107 under Iowa's Administrative Procedure Act. *See* Iowa Code § 17A.19(1). Issuing a permit is a reversible agency action under Iowa Code § 17A.19(10).

66. The 2024 ELG Rule's zero-discharge limit requires DNR to make compliance a requirement in a NPDES permit, and, if necessary, set a compliance schedule. Either the Ottumwa Generating Station NPDES permit or the Ottumwa Midland Landfill NPDES permit should have a compliance plan for the 2024 ELG Rule's zero discharge requirement. At present, neither NPDES permit contains the zero-discharge requirement nor a plan to comply with it.

67. In issuing the ELG Rule that extended compliance deadlines of the 2024 ELG Rule, EPA emphasized that the underlying effluent limitations remain in effect, and therefore state permitting authorities are still required to establish compliance deadlines "as soon as possible," subject to the consideration of the four regulatory factors set out in 40 C.F.R. § 423.11(t). 90 Fed. Reg. 61,346, 61,353 (Dec. 31, 2025).

68. EPA's extension of the final ELG compliance deadline does not excuse DNR from addressing IPL's leachate discharges.

69. Discharging the underdrain water to the Des Moines River via the wetland and unnamed streams neither prevents nor lessens the degradation and was not adequately justified in the AAA.

70. The AAA failed to articulate the "important economic or social development" from avoiding the cost of treating the polluted groundwater. As demonstrated in Petitioners' public comments, "the customer impact to treat the wastewater using reverse osmosis prior to discharge adds a little over 6.12 cents to a residential customer's monthly electric bill," compared to adding 0.68 cents to discharge to a wetland after iron filtration. *Comments on the Draft National Pollution Discharge Elimination System Permit for the Interstate Power and Light Ottumwa Midland Landfill in Ottumwa, Iowa, #9000107* (Jan. 16, 2026), at 22.

71. The grounds for relief include but are not limited to the following deficiencies in the permits, each of which provides grounds to reverse, modify, or grant other appropriate relief from agency action under section 17A.19(10):

- a. DNR's approval of the final NPDES permits is not supported by substantial evidence in the record. Iowa Code § 17A.19(10)(f);
- b. in issuing the NPDES permits, DNR failed to consider relevant and important matters in the record, including the evidence presented by Petitioners in their public comments on the Anti-degradation Alternatives Analysis and draft NPDES permits. *Id.* § 17A.19(10)(j);

- c. DNR's finding that the NPDES permits do not require a compliance schedule with the 2024 ELG Rule requirements was "unreasonable, arbitrary, capricious" and "an abuse of discretion." *Id.* § 17A.19(10)(n); and
- d. DNR's finding that the AAA was sufficient was "unreasonable, arbitrary, capricious" and "an abuse of discretion." *Id.* § 17A.19(10)(n).

RELIEF REQUESTED

72. Petitioners respectfully request that the Court reverse the DNR's decisions approving Iowa NPDES Permits No. 9000107 and No. 9000101, and remand for proceedings consistent with the law.

73. Petitioners request that the Court direct DNR to issue new permits including a schedule of compliance with the 2024 ELG Rule.

WHEREFORE, the Environmental Law and Policy Center, the Iowa Environmental Council, and Sierra Club request that the Court issue an order consistent with the relief requested above and provide any other relief the Court deems appropriate under the circumstances. Petitioners respectfully request oral argument in this matter.

Respectfully submitted July 23, 2026.

/s/ Joshua T Mandelbaum
Joshua T. Mandelbaum (AT0010151)
Environmental Law & Policy Center
505 5th Avenue, Suite 333
Des Moines, Iowa 50309
P: (515) 244-0253
jmandelbaum@elpc.org

**COUNSEL FOR ENVIRONMENTAL
LAW & POLICY CENTER**

/s/ Michael R. Schmidt

MICHAEL R. SCHMIDT (AT00013972)

STEVEN C. GUYER (AT0003019)

Iowa Environmental Council

505 5th Avenue, Suite 850

Des Moines, Iowa 50309

P: (515) 809-9524 (MRS)

P: (515) 809-9372 (SCG)

Email: schmidt@iaenvironment.org

Email: guyer@iaenvironment.org

**COUNSEL FOR IOWA
ENVIRONMENTAL COUNCIL**

/s/ Wallace L. Taylor

WALLACE L. TAYLOR (AT0007714)

4403 1st Ave. S.E., Suite 402

Cedar Rapids, Iowa 52402

P: (319) 366-2428

Email: Wtaylor784@aol.com

COUNSEL FOR SIERRA CLUB