

APPENDIX D  
MEMORANDUM OF AGREEMENT  
AND U.S. FISH AND WILDLIFE SERVICE COORDINATION

bin, and numerous depreciated livestock buildings. This property will provide excellent habitat for prairie chickens and upland game birds.

This acquisition will become part of the 980 acre Kellerton Bird Conservation Area, and will be managed by the Wildlife Bureau in accord with the area management plan.

Acquisition funding will be provided by a 75% REAP Private/Public grant with the remaining 25% donated by Pheasants Forever, Inc. No survey or fencing costs is anticipated. Incidental closing costs will be the responsibility of the Department.

*Motion was made by Commissioner Kramer to approve the purchase of 80 acres of land at the Kellerton Bird Conservation Area in Ringgold County from Myrom and Shirley Ingram for the discounted price of \$94,350.00. Seconded by Commissioner Schneider. Motion carried unanimously.*

**LAND ACQUISITION APPROVED**

Land Acquisition staff, Jerry Gibson, Rick Hansen and Travis Baker made a presentation on conservation easements. A conservation easement is a voluntary legal agreement between the landowner and public agency that protects the natural features of a tract of land by restricting or limiting present and future uses. They went on to review the restrictions and permitted uses and described the easement categories. The financial and tax benefits of conservation easement donations were reviewed and valuation of conservation easements were explained.

**ASHTON PITS WETLAND MITIGATION WITH DOT**

Linda Hanson, Administrator, Administrative Management Division, presented the following item.

The Commission’s approval is requested for a wetlands mitigation plan between the Iowa DNR and Iowa Department of Transportation to mitigate 1.88 acres of the Ashton Pits Wildlife Area, needed for a U.S. 60 highway construction project, by acquiring and developing 33.36 acres of wetlands and uplands. The Osceola County Conservation Board currently manages this area

*Motion was made by Commissioner Schneider to approve a wetlands mitigation plan between the Iowa DNR and Iowa Department of Transportation to mitigate 1.88 acres of the Ashton Pits Wildlife Area. Seconded by Commissioner Garrels. Motion carried unanimously.*

**PLAN APPROVED**

**CONTESTED CASE APPEAL – JACK W. AND BETTY SZERENCSE**

# Memorandum of Agreement

## Iowa Department of Natural Resources And Iowa Department of Transportation

Regarding Impacts to the Ashton Pits Wildlife Area  
In Section 11, T98N, R-42W of Gilman Township  
Osceola County, In connection with the Improvement of Iowa Highway 60

Project Number: NHS-60-1(13)—19-75

April 2002

Whereas, the Iowa Department of Transportation proposes certain improvements to Iowa highway 60 from near the community of Ritter north to the Minnesota border:

And Whereas, construction of the proposed highway improvement would have direct impacts upon the Ashton Pits Wildlife Area in Section 11, T-98N, R-42W of Gilman Township in Osceola County, a state owned wildlife area managed by the Osceola County Conservation Board:

And Whereas, both the Iowa Department of Natural Resources (DNR) and the Iowa Department of Transportation (DOT) agree that it is in the public interest to expend funds to improve highway 60, and that unavoidable impacts to the Ashton Pits Wildlife Area can be mitigated through restoration and/or replacement land:

Now, Therefore, the Iowa Department of Natural Resources and the Iowa Department of Transportation agree that improvements to Iowa highway 60 shall be implemented in accordance with the following stipulations relating to project impacts to the Ashton Pits Wildlife Area:

**Background:** Ashton Pits is a former aggregate surface mining operation now comprising a 33- acre wildlife area located just northeast of the community of Ashton, in Osceola County. See Figure 1. The area is owned by the Iowa Department of Natural Resources and is managed by the Osceola County Conservation Board. The facility consists of mixed land use consisting of open water, wildlife habitat with some native grasses and shrub plantings.

**Current Use:** No data is available on the number of public users each year, but the area is regularly used throughout the year primarily by hunters and fishermen according to the Osceola County Conservation Board. Some primitive camping also occurs, but there are no facilities for such use.

**Effects of Construction:** Construction of Iowa 60 alignment Alternative B, the preferred alternative, would require 1.88 acres from the extreme western property boundary of the Ashton Pits site, shown in Figure 1. Unavoidable impacts would result to wildlife management lands and the water resource associated with the west pit. Construction would also result in relocating the Iowa highway 60 facility generally along the west border of the Ashton Pits site.

### Other Considerations:

**Section 4(f):** For the purpose of resolving 49 U.S.C 303, commonly referred to as Section 4(f), the Iowa Department of Natural Resources, owner of the parcel in question and agency with jurisdiction

by law, formally declares that the Ashton Pits Wildlife Area is not an irreplaceable natural resource area. [For the purpose of Section 4(f), this wording satisfies the “no significance” clause in classifying this resource.] As the agency with jurisdiction, the Iowa DNR also agrees to represent the interests of the Osceola County Conservation Board in respect with their management functions, as they may relate to this Memorandum of Agreement.

Sport Fish and Wildlife Restoration Programs (50 CFR 80) : The Ashton Pits Wildlife Area was purchased with Sport Fish & Wildlife Restoration Program funding through federal aid project W-4(191)-L. Section 50 CFR 80.14 requires that real property purchased with federal aid funding must continue to serve the purposes for which it was acquired. If the real property should pass from control of the State Fish & Wildlife Agency, control must be fully restored, or the property must be replaced using non-program funding.

The compliance provisions required for conversion of federally assisted property are: 1) evaluation of all practical alternatives to conversion, 2) approval of land conversion by the Regional Director, US Fish and Wildlife Service, 3) establishment of the fair market value of both the federally assisted land being converted and the replacement land as determined by appraisal, and 4) replacement land must be of equal or greater value and provide equivalent wildlife and public use values.

For purposes of this Memorandum of Agreement, the Iowa DOT and Iowa DNR attest that the compliance provisions for the conversion of Sport Fish and Wildlife Restoration assisted property have been or will be met, as a result of actions discussed in this agreement. Iowa DNR will serve as the lead agency with respect to coordination with the U.S. Fish and Wildlife Service concerning federally assisted properties acquired with Sport Fish and Wildlife Restoration Funding.

## STIPULATIONS FOR MITIGATION

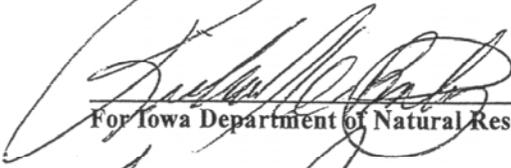
(This Memorandum of Agreement is comprised of two parts: The first part is the formal written agreement, with stipulations, providing for Iowa 60 highway improvement impacts to the Ashton Pits Wildlife Area in Osceola County. Part two is the Wetlands Mitigation Plan, which provides details for both replacement wildlife land as well as replacement wetlands. The Memorandum of Agreement is void if provisions of the mitigation plan are not carried out as presented in the mitigation plan, and within the timelines established by that plan.)

- A. The Iowa Department of Transportation (DOT) will prepare written appraisals defining both the value of the Ashton Pits Wildlife Area to be converted to transportation uses and also the Ashton Pits mitigation site replacement land. The value of the replacement land will be equal to or greater than the value of the Iowa DNR land being converted, as determined by the appraisal. Iowa DNR will provide these appraisals to the U.S. Fish and Wildlife Service (FWS) for approval of the land conversion.
- B. The Iowa DOT will acquire replacement land, including wetland replacement land, at mitigation sites shown in Attachment 1, Wetlands Mitigation Plan. The replacement lands for the Ashton Pits Wildlife Area mitigation site and also the wetland mitigation site would be purchased in the name of the State of Iowa for the use and benefit of the Iowa DNR. The Iowa DOT reserves the right to remove all necessary fill materials from these sites for the proposed Iowa 60 roadway project. Upon completion of the grading of the proposed roadway project, the Iowa DOT will relinquish all rights and interests to the Iowa DNR. The Iowa DNR agrees to accept these premises as provided by the Iowa DOT at the conclusion of the proposed Iowa 60 roadway project grading.

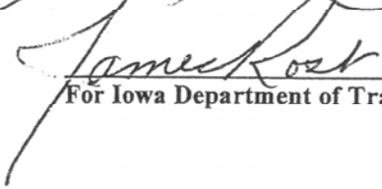
- C. An Iowa DOT wetlands ecologist will conduct a wetlands survey of the Ashton Pits Wildlife Area and this survey will be reviewed by the Iowa DNR. Wetland mitigation will be carried out on at least an acre-per-acre basis of comparable quality wetlands as detailed in the attached Project Mitigation Plan.**
- D. The Iowa DOT will perform a threatened and endangered species field review, with a written report submitted to Iowa DNR, for both converted land and replacement land. Iowa DNR will provide documentation to FWS that these surveys were completed.**
- E. The Iowa DOT will be responsible for Section 106 coordination with the Iowa SHPO and any necessary archaeological and historical surveys for both the converted land and the replacement land. The Iowa DNR will provide documentation to FWS that these surveys were completed.**
- F. January 2005 is the anticipated completion date of the proposed mitigation construction and seeding for both the Ashton Pits Wildlife Area and project area wetlands. This date would correspond with the anticipated completion of the grading of the Iowa 60 roadway project.**
- G. The Iowa DOT will improve the existing access road to provide public access to the Ashton Pits Wildlife Area Mitigation Site. The improved access road would extend north from present 230<sup>th</sup> Street within its present right-of-way limits. The access road would be improved to an approximate 16.5-foot top width with granular surfacing. The Iowa DOT would also provide a public parking area with approximate dimensions of 100 feet by 100 feet at the north end of the existing access road.**

CONCLUSION:

Provided the above stipulations are satisfactorily completed, the Iowa DNR agrees, after completion of the appropriate transfer agreements to be prepared by the Iowa DOT, to the transfer of needed right of way from the Ashton Pits Recreation Area to Iowa DOT. For its part, Iowa DOT agrees to implement the attached wetlands Mitigation Plan for Ashton Pits Recreation area as compensation for highway construction impacts to this resource.

  
\_\_\_\_\_  
For Iowa Department of Natural Resources

6/14/02  
Date

  
\_\_\_\_\_  
For Iowa Department of Transportation

4/29/02  
Date