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IN THE SUPREME COURT OF IOWA
Supreme Court No. 25-1219
Clayton County No. CVCV011384

DRIFTLESS WATER DEFENDERS, ET AL.,

Petitioners-Appellants,

vs.

IOWA DEPARTMENT OF NATURAL RESOURCES,

Respondent-Appellee,

AND

SUPREME BEEF, LLC,

Indispensable Party-Appellee,

Appeal from the Iowa District Court
For Clayton County
The Honorable Richard D. Stochl, District Judge

RESPONDENT-APPELLEE'S APPLICATION FOR FURTHER REVIEW

(Decision Date: June 10, 2026)

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QUESTIONS PRESENTED FOR REVIEW

I. Whether the panel's opinion conflicts with this Court's well-established caselaw on error preservation by reversing on an issue the district court neither considered nor decided.

II. Whether participants in an ongoing contested case proceeding under Chapter 17A are precluded from initiating a second agency action before the same agency requesting the same relief.

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STATEMENT SUPPORTING FURTHER REVIEW

Neither party nor the Court of Appeals disputes that the district court did not consider or decide whether "Iowa Administrative Code rule 561—3.3(1)(*b*)(1) require[d] the DNR to investigate a Complaint that is submitted by twenty-five or more residents and then respond." Appellants' Brief at 29. Neither that rule nor any related statute is mentioned in the district court's order. And that is the only issue Driftless pressed in support of reversal on appeal. Yet the Court of Appeals reversed the district court on that unpreserved issue. The panel's opinion conflicts with this Court's instruction in *Meier v. Senecaut* that "issues must ordinarily be both raised and decided by the district court before [the Court] will decide them on appeal." 641 N.W.2d 532, 537 (Iowa 2002).

Worse, the panel relied on this Court's precedent holding that it may *affirm* on any ground apparent from the record to *reverse* the district court on an issue not preserved below. Left undisturbed, the panel's opinion reduces the Court's error preservation doctrine into a rule of forfeiture, where an unsuccessful party would only have to raise an issue in the district court to present it as grounds for reversal on appeal. But a long line of cases going back to Iowa's founding have held that issues must be decided by the district court to be pressed as grounds for reversal on appeal. The Court should grant further review to restore consistency with the Court's error preservation precedents. Iowa R. App. P. 6.1103(1)(*b*)(1).

This case separately presents "an important question of law that has not been, but should be, settled by the supreme court." Iowa R. App. P. 6.1103(1)(*b*)(2). Petitioners ("Driftless"), a group of environmental activists, participated in a years-long contested case proceeding before the Department that led to the renewal of Supreme Beef's water permit. Dissatisfied with that outcome, Petitioners chose not to appeal the Department's decision to the Environmental Protection Commission as provided for by law. Rather, they chose to initiate a second agency action by filing an administrative complaint restating the allegations litigated in the first contested case. (Att. D0013, Administrative Complaint at 9–18 (5/2/2025).)

But this Court has held that the "final adjudicatory decision of an administrative agency" is entitled to "res judicata effect as if it were a judgment of a court." *Bennett v. MC No. 619, Inc.*, 586 N.W.2d 512, 517–18 (Iowa 1998). Thus, Driftless's attempt to relitigate its allegations before the Department, rather than appeal the Department's decision to the Commission, is precluded by the Court's precedent.

Even though the district court did not decide that issue, the Department (the prevailing party in the district court) pressed that issue on appeal as an alternative ground for affirmance. Yet the Court of Appeals decided not to address it and instead reversed on an alternative ground not decided below. Left undisturbed, the panel's result will incentivize litigants to seek a second bite at the agency apple, rather than

pursuing their grievances in the normal course via appeal. Not only does that conflict with ordinary practice, but it threatens to submerge the Department (and other agencies) and its permittees in endless loops of litigation. Indeed, the Department enters its fourth year of litigating Driftless's contest to the renewal of a five-year permit.

The Court should grant further review, vacate the Court of Appeals, and affirm the district court's judgment.

STATEMENT OF THE FACTS

I. First agency proceeding: Driftless fully litigates Supreme Beef's alleged pollution before the Department in a contested administrative proceeding.

The Department issued Supreme Beef a permit for "diverting, storing, or withdrawing water from any surface or groundwater source," under Iowa Code § 455B.265. (D0001, Petition ¶ 17 (4/10/2025).) The Department renewed Supreme Beef's water use permit effective June 1, 2022. (D0001 ¶ 24.) Driftless filed a notice appealing that decision on July 15. (D0001 ¶ 26.)

The Department then convened a contested case proceeding before the Iowa Administrative Hearing Division on the challenge to Supreme Beef's permit. (D0001 ¶ 27.) The Department solicited evidence and testimony about whether Supreme Beef's water use permit constituted a "beneficial use" as defined in Iowa Code sections 455B.262(2), 455B.264(2), 455B.267(4) ("Iowa Code § 455B.262 *et seq*."). The president of Driftless Water Defenders, Christopher Jones, and at least one other named party, Steve Veysey, testified at an evidentiary hearing on February 1–2, 2024 that Supreme Beef's use of its permit presented a risk to the cleanliness of Bloody Run Creek. (Att. D0013, Administrative Complaint at 9–18.) The evidentiary record closed after the hearing.

Driftless then sought to enter a sworn declaration prepared by Jones, purporting to show new testing results. (D0001 at 14 n.4.) The

Administrative Law Judge rejected the declaration as untimely. (D0001 at 14 n.4.)

On November 12, the Administrative Law Judge issued a proposed decision remanding the matter to the Department to "articulate a reasonable and rational basis for finding a 'beneficial use' exists, or does not exist" based on statutory factors enumerated in Iowa Code section 455B.262 *et seq*. (Att. D0005, Proposed Decision at 26 (4/22/2025).) The decision clarified that it "d[id] not rescind the existing renewed permit and in no way intend[ed] to direct the DNR one way or the other in its ultimate conclusion, nor suggest[ed] that the DNR should speculate about the mere possibility of future harms." (Att. D0005, Proposed Decision at 27.)

The proposed decision became final on December 12 when neither "party appealed, when the DNR's Director made no changes to the ruling, and when the Environmental Protection Commission did not amend the proposed decision." (D0001 ¶ 30.)

II. Second agency proceeding: Driftless files an administrative complaint restating its allegations against Supreme Beef.

While the first matter was on remand with the Department, Driftless pursued a second course of action seeking the same relief, this time filing an administrative complaint with the Department seeking rescission of Supreme Beef's permit on January 16, 2025. (D0001 ¶ 31.) Driftless stated that it was filing the complaint under Iowa

Administrative Code rule 561—3.3(1)(*b*)(1) and included the signatures of more than twenty-five Iowa residents.

The administrative complaint restated Driftless's first set of allegations. (Att. D0013, Administrative Complaint at 7–19.) The bulk of the facts section is a summary of the evidentiary hearing testimony in the first agency proceeding. (Att. D0013, Administrative Complaint at 9–18.) Though styled as an administrative complaint seeking an investigation, Driftless asked the Department to "cancel Supreme Beef's water use permit under Iowa Code section 455B.271(2)." (Att. D0013, Administrative Complaint at 22.)

Driftless also brought the earlier untimely sworn declaration prepared by its president to the Department's attention. (Att. D0013, Administrative Complaint at 7; D0001 at 14 n.4.)

On January 29, the Department sent Driftless a memorandum articulating "a rational and reasonable basis" of the existence of a beneficial use in connection with Supreme Beef's permit renewal. (Att. D0005, Exh. B at 1–2 (4/22/2025).) The Department thus declined to cancel Supreme Beef's permit and stated that the memo was the Department's "final agency action pursuant to this case." (Att. D0005, Exh. B at 1.) In doing so, the Department fulfilled the Administrative Law Judge's directive on remand in the first agency proceeding that it considers all the statutory factors in Iowa Code § 455B.262 *et seq.* in

determining whether renewing Supreme Beef's permit constituted a "beneficial use."

In the memorandum, the Department also informed Driftless that it would not be "exercising its discretionary authority to cancel or modify a water use permit" under Section 455B.271(2) after considering "whether [Supreme Beef's] proposed use will negatively impact the public's health, safety, interests in lands or waters or cause injury to persons or property." (Att. D0005, Exh. B at 2.)

III. An overlapping group of Petitioners file two actions in district court challenging the Department's decision.

The petitioners in the contested case proceeding did not appeal the Department's agency action declining to rescind Supreme Beef's permit to the Environmental Protection Commission within thirty days. Instead, they filed a Petition for Judicial Review on February 11 under Iowa Code Section 17A.19(1), alleging that it had "exhausted all adequate administrative remedies and [was] aggrieved or adversely affected by [a] final agency action[.]" (D0002, *Thompson v. Iowa Dep't of Nat. Res.*, Clayton County No. CVCV011358, ¶ 118 (2/22/2025).)

The Department moved to dismiss, citing Petitioners' failure to exhaust administrative remedies because they did not appeal the Department's decision to the Commission. (D0008, *Thompson v. Iowa Dep't of Nat. Res.*, Clayton County No. CVCV011358, at 3–6 (3/6/2025).)

After the Department moved to dismiss in *Thompson*, an overlapping group of Petitioners—also represented by Mr. Larew—filed this case in district court. Here, the petitioners contended that an "investigation [was] mandatory when twenty-five residents of Iowa make a complaint to the DNR" under Iowa Administrative Code rule 561—3.3(1)(*b*)(1). (D0001 ¶ 76.) Driftless then asked the district court to "[o]rder the DNR to perform its mandatory investigation of Petitioners' complaint pursuant to Iowa Administrative Code r. 561—3.3(1)(*b*)(1)" and "[d]irect the DNR that it must cancel Supreme Beef's renewed water use permit[.]" (D0001 at 20.)

IV. The district court dismisses both cases without addressing whether the Department was obligated to address Petitioners' duplicative administrative complaint.

Though the district court declined to consolidate the two cases, it issued one order dismissing both cases on June 25. (D0014 at 3.) The district court reasoned that Driftless was "required to appeal [the Department's decision not to rescind Supreme Beef's permit] to EPC, not petition for judicial review." (D0014 at 3.) "Because petitioners have not exhausted their administrative remedies under Iowa Code Chapter 17A," the district court determined it "d[id] not have jurisdiction to consider this controversy on judicial review." (D0014 at 3.) The district court's order did not mention Iowa Administrative Code rule 561—3.3(1)(*b*)(1) or any statute enumerated in that rule, much less decide whether that

regulation created a mandatory obligation for the Department to investigate Driftless's duplicative complaint. The district court's order also did not conclude that the Department's refusal to investigate Driftless's administrative complaint should be appealed to the Commission.

Driftless did not move to reconsider, enlarge, or amend the district court's order under Rule 1.904(2). Instead, Driftless appealed, seeking to reverse the order of dismissal, arguing that "Iowa Administrative Code rule 561—3.3(1)(*b*)(1) require[d] the DNR to investigate a Complaint that is submitted by twenty-five or more residents and then respond." Appellants' Brief at 29.

Since this litigation started, Iowa Administrative Code rule 561—3.3 has been rescinded. But because the rescission became effective after Driftless filed its administrative complaint and Petition for Judicial Review, the Department does not contest Driftless's position that that Rule applies to this litigation.

ARGUMENT

I. By reversing the district court on an issue it neither considered nor decided, the panel's opinion conflicts with this Court's error preservation precedents.

The only issue the panel addressed in its opinion was one that all parties, and the panel, agreed the district court did not decide. The panel misapplied this Court's caselaw, which says Iowa appellate courts may *affirm* on an alternative ground present in the record below, and instead *reversed* on a ground not preserved below. In doing so, the panel disregarded this Court's instruction that issues must be "decided by the district court before [the Court] will decide them on appeal." *Meier*, 641 N.W.2d at 537 (citing *Metz v. Amoco Oil Co.*, 581 N.W.2d 597, 600 (Iowa 1998)).

The panel's decision thus conflicts with the Court's well-established caselaw requiring a non-prevailing party "seeking to appeal an issue presented to, but not considered by, the district court to call to the attention of the district court its failure to decide the issue." *Id.* at 540. The Court should grant further review, vacate the Court of Appeals, and affirm the district court.

A. Issues must be decided by the district court before a losing party presses them as grounds for reversal.

In a long line of cases, this Court has held that "[i]t is a fundamental doctrine of appellate review that issues must ordinarily be both raised and decided by the district court before [the Court] will decide them on

appeal." *Meier*, 641 N.W.2d at 537; *see also Metz*, 581 N.W.2d at 600 ("issues must be presented to and passed upon by the district court"); *Peters v. Burlington N. R.R.*, 492 N.W.2d 399, 401 (Iowa 1992) (same).

"When a district court fails to rule on an issue properly raised by a party, the party who raised the issue must file a [rule 1.904(2)] motion requesting a ruling in order to preserve error for appeal." *Meier*, 641 N.W.2d at 537; *Benavides v. J.C. Penney Life Ins. Co.*, 539 N.W.2d 352, 356 (Iowa 1995). Indeed, this Court has held that "[w]hen a rule 1.904(2) motion requests a ruling on an issue properly presented to but not decided by the district court, the motion is proper even if the issue is a purely legal one." *Homan v. Branstad*, 887 N.W.2d 153, 161 (Iowa 2016) (citing *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 641 (Iowa 2013)).

When a non-prevailing party fails to preserve error on an issue it raises in support of reversal, this Court has explained it is not preserved. *See, e.g., State v. Krogmann*, 804 N.W.2d 518, 524 (Iowa 2011) ("[W]hen a court fails to rule on a matter, a party must request a ruling by some means"); *Fennelly v. A-1 Mach. & Tool Co.*, 728 N.W.2d 181, 187 (Iowa 2007) (similar); *Stammeyer v. Div. of Narcotics Enforcement*, 721 N.W.2d 541, 548 (Iowa 2006) (similar) Indeed, this Court reaffirmed that a non-prevailing party like Driftless must obtain a ruling on an issue from the district court before raising that issue as grounds for reversal on appeal

just last month. *See Richmond v. Jefferson Cnty. Att'y*, No. 25–0366, 34 N.W.3d 827, 833 (Iowa 2026).

An influential article providing guidance on how to properly preserve error in civil cases in Iowa courts similarly concludes that "[i]f a party disagrees with the trial court and intends to raise an issue not ruled on by the trial court, that party must seek a ruling from the trial court to preserve the issue for review." Thomas A. Mayes & Anuradha Vaitheswaran, *Error Preservation in Civil Appeals in Iowa: Perspectives on Present Practice* ("Mayes & Vaitheswaran"), 55 Drake L. Rev. 39, 68 (2006). "If a litigant seeks reversal based on an issue not addressed by the district court, he or she has an obligation to seek a ruling on that issue." *Id.* at 68.

"Error preservation is a fundamental principle of law with roots that extend to the basic constitutional function of appellate courts." *State v. Harrington*, 893 N.W.2d 36, 42 (Iowa 2017) (citing Mayes & Vaitheswaran). Indeed, Iowa's error preservation rules "have been part of Iowa law since statehood, and have been the subject of much scholarly commentary." Mayes & Vaitheswaran, at 43 (citing *Danforth, Davis & Co. v. Carter & May*, 1 Iowa 546, 552–53 (Iowa 1855)).

In law-tried cases like this, the rules have constitutional underpinnings. After all, the Iowa Constitution states that this Court "shall constitute a court for the correction of errors at law." Iowa Const. art. V, § 4; *see also* Iowa Code § 602.4102 ("The supreme

court . . . constitutes a court for the correction of errors at law.") "If the alleged error was not pointed out to the trial court, it is hard to see how the trial court's failure to rule on an objection that was never made can properly be called an error of law amenable to correction." Mayes & Vaitheswaran, at 44. That reflects the settled understanding among Iowa appellate litigators that a party may not seek reversal on an issue never decided by the district court.

And here, Driftless did not preserve error on the single issue it raises in support of reversal. As Driftless puts it, the only issue it raised in support of reversal was whether "Iowa Administrative Code rule 561—3.3(1)(*b*)(1) require[d] the DNR to investigate a Complaint that is submitted by twenty-five or more residents and then respond." Appellants' Brief at 29. But the district court did not decide that issue. And no motion to reconsider was filed. Thus, that issue is not preserved.

Neither party disputes that the district court did not rule on or address Driftless's argument that Iowa Administrative Code rule 561—3.3(1)(*b*)(1) required the Department to investigate a complaint of water pollution if twenty-five Iowa residents signed it. In their opening brief on appeal, Driftless argued that "[t]he district court erred when it failed to consider the Petitioners-Appellants' complaint under Iowa Code sections 455B.134(8) and 455B.174(1) as an other agency action, reviewable under Iowa Code Chapter 17A." Appellants' Brief 28.

Throughout its brief, Driftless laments the district court's failure to address the issue. *See, e.g.,* Appellants' Brief at 21 ("DNR, Joined by Supreme Beef, Moved to Consolidate and Dismiss and the District Court Dismissed the Matter Based on Reasoning Only Applicable to a Related Case."); *id.* at 8, 29. Each time Driftless points out that the district court did not address the only issue it raised in support of reversal, Driftless admits it did not preserve error on that issue.

The Department agreed, stating that "[n]either party disputes that the district court did not rule on or address Driftless's argument that Iowa Administrative Code rule 561—3.3(1)(*b*)(1) required the Department to investigate a complaint of water pollution if twenty-five Iowa residents signed it." Appellee's Brief 20. The Court of Appeals too concluded that "the district court did not specifically mention Driftless's claim brought under rule 561–3.3(1)(b)(1)." Slip Op. at 7.

Rather, the district court dismissed Driftless's Petition on the alternative grounds that Driftless had "not exhausted their administrative remedies under Iowa Code Chapter 17A" by appealing the Department's final decision in the contested case proceeding to the Environmental Protection Commission as required by statute. (D0014 at 3.) The district court's order does not mention Iowa Administrative Code rule 561—3.3(1)(*b*)(1) much less address whether it creates a mandatory obligation on the Department.

Yet Driftless did not move the district court to reconsider, enlarge, or amend under rule 1.904(2). Instead, it appealed, raising its unpreserved argument as the sole grounds for reversal.

Thus, Driftless failed to preserve error on the sole issue they raised in support of reversal. This alone requires affirmance.

B. The Court of Appeals' error-preservation analysis confuses reversal for affirmance and the appellant for the appellee.

The panel also misapplied the Court's precedent allowing Iowa appellate courts to affirm on any ground apparent from the record. Instead, the panel cited that precedent in support of reversing on an unpreserved, alternative ground. *See* Slip Op. at at 6–7.

The panel concluded that Driftless preserved error because the issue it raises in support of reversal "clearly appears in the record and is urged by the prevailing party." Slip Op. at 7. The panel reasoned that it "can *affirm* a trial court 'on any basis appearing in the record and urged by the prevailing party,' even if 'the district court did not rely on [the] ground for its decision.'" Slip Op. at 6–7 (quoting *In re Est. of Voss*, 553 N.W.2d 878, 879 n.1 (Iowa 1996)) (emphasis added).

But the panel did not affirm the trial court. It reversed it. And it did so based on an issue pressed by the losing party below but never considered or decided by the district court. Under this Court's caselaw going back over a century, that is improper.

One of the cases the panel relied on made clear that "the [error] preservation requirement ordinarily should apply only to an unsuccessful party." *Johnston Equip. Corp. of Iowa v. Indus. Indem.*, 489 N.W.2d 13, 17 (Iowa 1992). And here, the unsuccessful party in the district court is Driftless. The district court's order did not cite any rule or statute Driftless raises on appeal, so Driftless was required to "file a [Rule 1.904] motion requesting a ruling in order to preserve error for appeal." Slip Op. at 6; *see also Johnson v. Kaster*, 637 N.W.2d 174, 182 (Iowa 2001) ("When the [district] court fails to resolve an issue, a request to enlarge or amend the findings is necessary to preserve error.") But Driftless did not do so.

The panel's approach reduces the Court's test for error preservation to a federal-court style rule of forfeiture. But this Court's precedent requires issues to be "both raised *and decided* by the district court before [the Court] will decide them on appeal." *Meier*, 641 N.W.2d at 537 (emphasis added). The panel's opinion reads out the second prong of the *Meier* test.

Further, the panel's opinion illustrates one of the dangers of reversing on unpreserved error. Scholars have noted that reversing on unpreserved errors creates the risk of appellate courts "us[ing] a case where an issue was not previously raised as a vehicle to make the desired change instead of waiting for a case where the question is properly presented." Mayes & Vaitheswaran, at 73. Here, the panel reversed the district court because it "decline[d] to read section 455B.278's exhaustion

remedy and requirement into section 455B.134(8), section 455B.174(1), or rule 561—3.3(1)(b)(1)." Slip Op. at 9. But the district court never decided whether the exhaustion requirement applied to those statutes or administrative rules. Indeed, the district court's order of dismissal cites none of those statutes or rules.

II. The Department's years-long contested case proceeding that resulted in a final agency action precludes Driftless's second agency action requesting the same relief.

Consider the following hypothetical—a party fully litigates a claim in a years-long proceeding before a district court. After losing, the party does not appeal the judgment. Instead, the party sues again, making the same allegations, seeking the same relief. That is not allowed.

Yet that is what Driftless did here. After participating in a two-and-a-half year contested case resulting in a final agency decision, Petitioners—many petitioners in the first agency proceeding, represented by the same attorney—initiated a second agency action again seeking the same relief. Rather than administratively exhaust before the Environmental Protection Commission, as required, Petitioners sought a second bite at the apple. Under this Court's precedent, that is improper. Issue preclusion should apply.

The Department raised issue preclusion as an alternative ground for affirmance on appeal. Even though the district court did not decide the issue, the Court's precedents allow it to affirm on an alternative ground. Yet the Court of Appeals failed to address the issue. This Court

should grant further review, consider this alternative ground for affirmance, and affirm the district court.

A. Driftless's second agency action is precluded.

This Court's precedent precludes Driftless's attempt to initiate a second agency action seeking the same relief. The "final adjudicatory decision of an administrative agency" is entitled to "res judicata effect as if it were a judgment of a court." *Bennett*, 586 N.W.2d at 517–18.

Iowa courts generally follow section 83 of the Restatement (Second) of Judgments in considering whether administrative actions are entitled to preclusive effect. *Ghost Player, LLC v. Iowa Dep't of Econ. Dev.*, 906 N.W.2d 454, 462–63 (Iowa 2018); *Bennett*, 586 N.W.2d at 517. Section 83 states that an adjudicative determination of an administrative tribunal is entitled to preclusive effect if its proceedings entail "the essential elements of adjudication." *See* Restatement (Second) of Judgments § 83(2) (1982) (detailing the essential elements of adjudication for an agency proceeding to have preclusive effect).

Based on what Driftless alleges in its Petition and administrative complaint, the contested case proceeding that led to the Department's renewal of Supreme Beef's water use permit satisfied those elements.

First, Driftless had adequate notice of the first agency proceeding because the Department published notice of its intent to renew Supreme Beef's permit in a local newspaper on April 5, 2022, and heard comments from the public at a hearing on April 25, 2022. (D0001, Petition ¶¶ 20, 21

(4/10/2025).) Challengers to Supreme Beef's permit also presented evidence of "the effects of Supreme Beef's water use on the quality of the public water supply" at the evidentiary hearing before the Administrative Law Judge on February 1–2, 2024. (Att. D0013, Administrative Complaint at 9.) Petitioners also admit to receiving notice of the Department's conclusion that Supreme Beef's permit was directed to a "beneficial use" and thus, should not be rescinded. (D0001 ¶ 34.)

Second, Driftless had the opportunity to "present evidence and legal argument" about its contentions and rebut evidence and argument presented by the Department and Supreme Beef at the contested case proceeding. Indeed, Driftless's administrative complaint states that its own president, Christopher Jones, and at least one party named here, Steve Veysey, testified at the evidentiary hearing before the Administrative Law Judge and offered evidence of Supreme Beef's alleged pollution of Bloody Run Creek. (Att. D0013, Administrative Complaint at 10–18.)

Nor is there any merit to Driftless's contention that the Department's adjudication is not entitled to preclusive effect because "[t]he parties in these separate cases are not the same." Appellants' Reply 10. The *Bennett* test only requires "[a]dequate notice to persons who are to be bound by the adjudication" and the right to "to present evidence and legal argument in support of the party's contentions and fair opportunity to rebut evidence and argument by opposing parties." 586 N.W.2d at 517.

As already explained, Petitioners admitted having both notice of the Department's actions and the opportunity to be heard in a contested case. Accordingly, all Petitioners are bound by the Department's adjudication.

Third, the Administrative Law Judge heard testimony and considered evidence to determine whether renewing Supreme Beef's permit involved a "beneficial use" of the State's water resources, as statutorily defined in Iowa Code § 455B.262 *et seq*. (Att. D0013, Administrative Complaint at 10–18.) Thus, the contested case adjudication included a "formulation of issues of law and fact in terms of the application of rules with respect to specified parties concerning a specific transaction, situation, or status." *Bennett*, 586 N.W.2d at 517 (quoting Restatement (Second) of Judgments § 83(2) (1982).)

Driftless is asking this Court to endorse sandbagging via claims splitting. It contends that preclusion is inappropriate because its administrative complaint sought rescission of Supreme Beef's permit under a different section of the Iowa Code than those that were raised by the overlapping plaintiffs in the first agency action. Appellants' Reply 10–11.

But Driftless is not "seeking review under a different provision of the Iowa Code than those which were considered in the water use permit process." Appellants' Brief at 27. In his proposed decision, the Administrative Law Judge expressly directed the Department to consider "[t]he public's health, safety, interests in lands or waters, and prevention

of injury to persons or property" pursuant to Section 455B.271(2), the statute Driftless relies on here. (Att. D0005, Exh. A at 26.)

And in its final memorandum to Driftless, the Department stated that it would not be "exercising its discretionary authority to cancel or modify a water use permit" under Section 455B.271(2). (Att. D0005, Exh. B at 2.) So even if Driftless was correct that it could bring its claims arising from Supreme Beef's permit renewal piecemeal, its arguments under Section 455B.271(2) were fully considered and rejected by the Department in the contested case proceedings.

Fourth, the contested case proceedings also had a "rule of finality," establishing a specific point where presentations were terminated and a final decision was rendered. The evidentiary hearing in the contested case was held on February 1–2, 2024, after which the record was closed. (Att. D0013, Administrative Complaint at 9.) Indeed, Driftless notes that it was barred from submitting an untimely sworn declaration from its president, Christopher Jones, after the record had closed. (Att. D0013, Administrative Complaint at 14 n.4.) The Administrative Law Judge later issued his proposed decision in the case on November 12, which became final on December 12, 2024. (D0001 ¶ 71.) The Department sent its final memorandum to Driftless on January 29, 2025, concluding that Supreme Beef's use constituted a "beneficial use" as defined in statute. (D0001 ¶ 79.) Both agency actions are now final because neither was

appealed to the Environmental Protection Commission within thirty days, as required by statute.

Driftless argues that it is not precluded because "[t]he two cases involve different facts, including new evidence—notably Dr. Christopher Jones's August 2024 declaration showing nitrate levels exceeding 40 milligrams per liter in Bloody Run Creek." Appellant's Reply 10. That is wrong. As Driftless would have it, an agency's final adjudications would lose their preclusive effect each time a party presented new facts after the specified point of finality. The Court should reject Driftless's invitation to deprive the Department and its permittees of repose each time a challenger provides new evidence after a contested case has been closed.

Finally, the contested case proceedings had all the "procedural elements" to conclusively adjudicate the factual and legal issues surrounding the renewal of Supreme Beef's permit. Section 17A.12 states that all parties in a contested case proceeding "shall be afforded an opportunity for hearing after reasonable notice" and have the opportunity "to respond and present evidence and argument on all issues involved[.]" Iowa Code §§ 17A.12(1), (4). Driftless was given an adequate opportunity to offer evidence relevant to the contested case proceedings at the evidentiary hearing before a neutral Administrative Law Judge.

B. This case highlights the importance of finality in agency adjudications.

This Court explained that: "[T]he social importance of stability in the results of [administrative adjudications] corresponds to the importance of stability in judicial judgments. The rules of res judicata thus generally have application not only by courts with respect to administrative adjudications but also by agencies with respect to their own adjudications." *Bennett*, 586 N.W.2d at 517 (quoting Restatement (Second) of Judgments § 83 cmt. b).

Bennett's observations apply here. The Department adjudicated Supreme Beef's water use permit renewal in a years-long contested case, where all interested parties could present relevant facts. (Att. D0013, Administrative Complaint at 10–18.) While that matter was pending on remand to the Department, Driftless filed a duplicative administrative complaint relying on a self-serving affidavit. (Att. D0013, Administrative Complaint at 22–23.) After the Department concluded that Supreme Beef's permit should not be revoked, Driftless filed this case in district court without exhausting their administrative remedies. (D0001 at 1.)

Having failed to secure the relief it wanted, Driftless now seeks to collaterally attack the Department's decision to not revoke Supreme Beef's permit through a separate, duplicative agency action. The Court should deny its attempt to do so.

CONCLUSION

For these reasons, this Court should grant further review, vacate the Court of Appeals, and affirm the district court.

REQUEST FOR ORAL SUBMISSION

Because oral argument will likely help the Court decide this case, Respondent-Appellee requests oral submission.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This application complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(*e*), 6.903(1)(*g*)(1), 6.903(1)(*h*), and 6.1103(5)(*a*) because this application has been prepared in a proportionally spaced typeface using Century Schoolbook in size 14 and contains 5,195 words, excluding the parts of the application exempted by Iowa R. App. P. 6.1103(5)(*a*).

/s/ Rudra Reddy
RUDRA REDDY

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the 30th day of June, 2026, I, or a person acting on my behalf, filed this application and served it on counsel of record to this appeal via EDMS.

/s/ Rudra Reddy
RUDRA REDDY