

**MINUTES OF THE
JOINT SUBCOMMITTEE ON PUBLIC SAFETY/NATURAL
RESOURCES/TRANSPORTATION
OF THE SENATE COMMITTEE ON FINANCE
AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-fourth Session
February 16, 2007**

The Joint Subcommittee on Public Safety/Natural Resources/Transportation of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order at 8:09 a.m. on Friday, February 16, 2007. Chair Dean A. Rhoads presided in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chair
Senator Bob Beers
Senator Dina Titus

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Mr. David R. Parks, Chair
Mr. Tom Grady
Mr. Joseph Hogan
Mrs. Ellen Koivisto
Ms. Kathy McClain
Ms. Valerie E. Weber

STAFF MEMBERS PRESENT:

Steven J. Abba, Principal Deputy Fiscal Analyst
Jeffrey A. Ferguson, Program Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Larry L. Peri, Principal Deputy Fiscal Analyst
Jo Greenslate, Committee Secretary

OTHERS PRESENT:

Kay Scherer, Deputy Director, State Department of Conservation and Natural Resources
Rex Reed, Ph.D., Administrative Services Officer, State Department of Conservation and Natural Resources
Glenn H. Clemmer, Ph.D., Administrator, Nevada Natural Heritage Program, State Department of Conservation and Natural Resources
Catherine Barcomb, Administrator, Commission for the Preservation of Wild Horses, State Department of Conservation and Natural Resources
David H. Emme, Chief, Environmental Programs, State Department of Conservation and Natural Resources
Leo Drozdoff, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources

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Colleen Cripps, Ph.D., Deputy Administrator, Air and Waste Programs, Division
of Environmental Protection, State Department of Conservation and
Natural Resources

CHAIR RHOADS:

First on the Agenda today is the Department of Conservation and Natural
Resources Administration.

CONSERVATION AND NATURAL RESOURCES

DCNR-Administration – Budget Page DCNR-1 (Volume III)
Budget Account 101-4150

KAY SCHERER (Deputy Director, State Department of Conservation and Natural
Resources):

I am filling in for Mr. Allen Biaggi, the Director of DCNR. He had to be in
Winnemucca today and requested I sit in for him.

REX REED, PH.D. (Administrative Services Officer, State Department of
Conservation and Natural Resources):

Our budget is similar to the budget we submitted last biennium with
adjustments for current costs. We have three sources of revenue. The largest is
the General Fund appropriation. In the first year, it is \$977,000; in the second
year, it is \$987,000. The second source of funding is the director's cost
allocation in the amount of \$163,000 the first year of the biennium, and
\$179,000 the second year. Our last source of funding is generated by the
Question 1 (Q1) Conservation Bond funds in the amount of \$126,000 for fiscal
year (FY) 2007-2008 and \$137,000 in FY 2008-2009. If you add those figures
together, you will see we are asking for approximately \$1.26 million in the first
year and \$1.3 million in the second year of the biennium.

We have nine enhancement units. Four are generated as the budget commonly
moves through a process that builds it. These include such things as salary
increases and contract transfers. We submitted five enhancement units, four of
which are similar to our request last Legislative Session. I would like to highlight
one that is different.

E-325 Services at Level Closest to People – Page DCNR-3

DR. REED:

In decision unit E-325, we are asking for \$1,053 each year of the biennium to
be used by Mr. Allen Biaggi, Director, who is a lead negotiator with Utah, over
how we will handle the common water basins that cross our State borders. If
you add all five enhancement units, the first year of the biennium represents
3.3 percent of our total budget request. The second year of the biennium
comprises 0.61 percent of our total budget request.

CHAIR RHOADS:

Could you bring us up to speed on the Q1 bond program? I see the State's
authority to issue bonds in support of A.B. No. 9 of the 17th Special Session
expires in November 2008. Are you planning to issue additional bonds?

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DR. REED:

To date, we have sold approximately 65 percent of the bonds authorized by the Question 1 vote. We have people working hard, meeting with counties and other bond fund recipients, to ensure we utilize as much of the bond authority as possible. We have a total of six years to utilize the bonds. At this point, 70 percent of that time frame has been utilized, and we are fairly well on track.

MS. SCHERER:

If you recall, from the budget overview provided on January 25, 2007, we are currently communicating with the Office of the State Treasurer regarding the possibility of extending the bond-sale period. This particular bond program is more interesting than those in the past because it involves a new element, the grant program to the counties, which took a little longer to implement.

CHAIR RHOADS:

Can the Legislature legally extend the bond-sale period?

MS. SCHERER:

Yes. It has been done before.

CHAIR RHOADS:

If the sale period is not extended, where does the money go?

DR. REED:

The bonds would not be sold and the money would not be generated.

CHAIR RHOADS:

Do you think you could use all of your bond authority by November 8?

DR. REED:

We are working hard to ensure we use all the bond authority.

ASSEMBLYWOMAN MCCLAIN:

If you are returning to the Legislature, it would have to be this biennium. Do you have a bill?

MS. SCHERER:

The Office of the State Treasurer is planning to bring that before the Legislature.

CHAIR RHOADS:

The next budget we will hear is Budget Account (B/A) 101-4101.

DCNR-Nevada Natural Heritage – Budget Page DCNR-8 (Volume III)
Budget Account 101-4101

ASSEMBLYWOMAN MCCLAIN:

Your computer requests include 13 full-time equivalents (FTEs), 6 new desktop computers and 4 laptop computers. What are the laptops for, and are the others on the four-year recycle plan?

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Ms. SCHERER:

The computers are not on the Department of Information Technology (DoIT) recycle schedule. There is one laptop in the budget for PowerPoint projectors. We do not currently have one for that purpose in the director's office.

ASSEMBLYWOMAN MCCLAIN:

This requests four laptop computers.

DR. REED:

With Homeland Security grant funds, the director's office purchased what is called an Incident Command Trailer (ICT) which is used by three of the agencies that are part of the DCNR: the Division of Forestry (NDF), the Division of Environmental Protection (DEP) and the Division of State Parks (DSP). As they have incidents, for example if DSP is concerned about activity at a specific park, they will take the ICT to that park. If there is a hazardous waste spill in the DEP, we would use the ICT, and the NDF is always struggling with forest fires. Each of those agencies has access to the ICT. Currently, there are no laptop computers or printer. We want to fully outfit the ICT to be as efficient as possible. Computers are now part of record keeping and an integral part of how we operate. Homeland Security funds were used to purchase the trailer; now we want to fully outfit it.

ASSEMBLYWOMAN MCCLAIN:

What funds are you using to pay for the laptops?

DR. REED:

The funds will come out of the General Fund.

ASSEMBLYWOMAN MCCLAIN:

Why not out of Homeland Security money?

DR. REED:

I will look into that.

GLENN H. CLEMMER, PH.D. (Administrator, Nevada Natural Heritage Program, State Department of Conservation and Natural Resources):

Unlike the budget of the Office of the Director, our budget is rather convoluted and complex because we have numerous sources of revenue. I will highlight several items in our budget request. We are requesting one new position, a biologist, to develop a geographic information system (GIS) database to document and map noxious weeds and invasive species in the State. We were asked to assume responsibility for this job since there is no central depository for these data or any readily-available maps or background information for noxious weeds, quaga mussels, African bees and so forth. At our overview meeting in January, Senator Beers asked about our GIS capabilities, and I am pleased a group approached us to ask if we could track biological information in the State. We have a position about to be filled that was approved by the Interim Finance Committee (IFC) in September. Eighty-three percent of the funds for this position come from federal dollars, and seventeen percent from State funds.

In reviewing our budget, I would like to expand on decision unit E-350.

E-350 Environmental Policies and Programs – Page DCNR-12

DR. CLEMMER:

This decision unit request is for \$17,000 in support of a data manager. These funds are requested from the Department of Transportation (NDOT). As it stands, our data manager is mostly funded by NDOT. The \$17,000 in each year of the biennium would fully fund this position. While we have not raised database fees, the money we have generated through these fees often fluctuates. It has fluctuated from \$8,000 to \$17,000 over the past five years. We are requesting this additional \$17,000 support from the NDOT to avoid a shortfall and to have a single revenue source for that position. We are looking for an account in which to put the database fees. If the database fees exceed the needs of our program, these will be transferred back to the NDOT at the end of the biennium.

Decision unit E-351 is a request for in-state travel.

E-351 Environmental Policies and Programs – Page DCNR-12

DR. CLEMMER:

The money we are requesting under decision unit E-351 is in support of travel for the administrator and our wetlands planner ecologist. General Funds have never supported the administrator's travel. In the past, travel was taken from our NDOT funding. We are increasingly aware we need to be more involved with database development of biological information from the south, particularly Clark County, but also the Amargosa Valley and the eastern part of the State in Pahranaagat Valley. Our wetlands planner is now coordinating meetings over his priority wetlands plans and will require additional travel.

E-352 Environmental Policies and Programs – Page DCNR-12

For out-of-state travel, there is a significant increase in our request. Approximately 48 percent of the increase comes from a biodiversity account funded by federal dollars from the U.S. Fish and Wildlife Service. Of our request, 21 percent is from the NDOT and 31 percent from General Funds. The large increase for the biodiversity account is because our ecologist, who is funded by the Biodiversity Initiative, did not travel out of state in 2006. He was performing field work on cheat grass and vegetation across the State. He has now completed that work and is involved in various workshops, conventions and conferences to discuss his data on cheat grass and vegetation. It is important for him to interact and continue this work because the high-tech aspect of the manner in which he has done the work has become a matter of interest. He used satellite imagery to track cheat grass and has now mapped cheat grass across the State of Nevada and into the Columbia plateau, the Owyhee plateau into Oregon and Idaho with support from Bureau of Land Management (BLM) funds.

We are requesting \$1,300 in General Funds to add to the administrator's travel needs. Travel is necessary for integrating our work with other heritage programs and maintaining a professional standing. We are requesting support from the

NDOT for our biologists to attend meetings and work with the specialists of their disciplines.

In decision unit E-353, we are requesting additional support for training.

E-353 Environmental Policies and Programs – Page DCNR-13

In the last biennium, we upgraded our database to a software system which is compatible with our GIS. Our staff, which is literate in GIS, has increased their workload. Five of our positions use GIS software, and we are requesting travel for GIS training of these staff members.

E-355 Environmental Policies and Programs – Page DCNR-13

In decision unit E-355, we are requesting support for professional membership dues, registrations and publications which are not covered in our Base Budget.

Replacement equipment is in decision unit E-710.

E-710 Replacement Equipment – Page DCNR-14

The cost for replacement is zero dollars in FY 2007-2008. In FY 2008-2009, we are requesting \$25,000 for an update to support six positions which will allow us to work with DoIT. All of our biologists will be working with the same software, and the computers will be compatible throughout the office.

In E-805, we are requesting support for reclassifications.

E-805 Classified Positions Reclassifications – Page DCNR-14

I would like to apologize for an error in our narrative. The request is for upgrades for two biologists from biologist III to biologist IV. What is not mentioned in the narrative is an upgrade for a biologist II to biologist III. Over the past two years, we have integrated new software, and all of our staff has become familiar with the GIS software. It is the same software used in all heritage programs throughout the United States and Canada. The GIS system includes higher technology skills that our biologists have incorporated into their backgrounds. The upgrades from biologist III to biologist IV both involve supervisory responsibilities which they have not had before. One position with supervisory responsibility will emphasize data development. As we become increasingly complex, we need oversight for the development, training, hardware and software for using the GIS applications in our office.

The other branch we view as program development. This will also be supervisory in nature and will come about due to the outreach and coordination with State and federal agencies, local groups with issues pertaining to conservation, planning and various species that we attract from bats to buckwheat.

CHAIR PARKS:

Have these upgrades been reviewed by the Department of Personnel (DOP)?

DR. CLEMMER:

We have not reviewed them directly with the DOP. We have supplied the necessary paperwork in our budget and have gone over similar work programs with the Department of Wildlife (DOW). They have not been reviewed by the DOP, but they will be upon approval by the Legislature. Part of our program-succession plan is the idea some of our staff needs more supervisory and administrative responsibilities. We look at this as a move toward the inevitable changes which will come to our agency in the near future.

CHAIR RHOADS:

Under your performance indicators, the number of records mapped, updated and computerized was 3,300 in your work plan; however, your actual was 7,616. You then dropped back to 3,300. What happened?

DR. CLEMMER:

Last year, as the new Biotics software system was installed, we went from a dot-map coverage for the State to polygons. We reviewed each of the 7,000 data points in our system, upgraded them and changed from individual occurrence records to polygons which covered more of a geographic basis for the species coverage. We had a surge of reviewing all of our data and then dropped to a more normal rate of entering new data rather than reviewing the old data.

CHAIR RHOADS:

Why should the biologist III position be funded by NDOT?

DR. CLEMMER:

Our other funding, \$17,000, comes from database fees. Our database fees are \$11,000 this year. If the database fees do not come in, it will create a shortfall. These are generated from people requesting information from our system ranging from statewide coverage down to, for example, a request for a cyanide leak in Winnemucca which covered two square feet. We supply all of the NDOT's environmental coverage on sensitive species for their environmental assessments and environmental impact statements. That amounts to approximately one-third of our data requests. According to the NDOT, this is a cost-effective and efficient way to gather data for all their species coverage.

CHAIR RHOADS:

What does the U.S. Environmental Protection Agency (EPA) do?

DR. CLEMMER:

The National Environmental Protection Act requires review of biologically sensitive information. We supply that information, usually within 24 to 48 hours for a quick turnaround, so they can continue with their planning. The alternative would be to contract with biological consultants at a cost of millions of dollars.

CHAIR RHOADS:

I thought the State EPA did that.

DR. CLEMMER:

The State EPA does, but there is also an element of the biological which goes into their environmental assessments. Any endangered at-risk species are a part of their review.

ASSEMBLYWOMAN MCCLAIN:

Changing the funding source for the biologist III position is more of a philosophical budgeting practice. We do not usually create reserve categories in the General Fund or the NDOT. This is like doing a shuffle. I do not think we need to make that change.

DR. CLEMMER:

The first part is to show we do have coverage for that position. The monies from our fees would go into what could be called a reserve. I prefer to think of it as an account. If we have that coverage, we would transfer those funds back to the NDOT. Currently, we do not have enough coverage, and in three of the last five years, we collected enough fees to cover that position. Therefore, our request to have the position fully funded with the NDOT is with the idea we would transfer the funds back if we get the coverage.

ASSEMBLYWOMAN MCCLAIN:

You just said you perform one-third of the work for the NDOT, but you want them to fund the position 100 percent.

DR. CLEMMER:

The NDOT does not fund only that position. The NDOT funds approximately 50 percent of our budget and they fund four other positions. What they are getting is not just the work from that position. It is the work from all of our positions; it is data in and data out. It is development of the database which makes it a credible source for the biological items. This position is part of the entire package the NDOT gets from the Natural Heritage Program which is a reliable data source in a quick turnaround time.

ASSEMBLYWOMAN MCCLAIN:

On your travel requests, could you give us a prioritized list of your recommended trips including the cost?

DR. CLEMMER:

I brought a copy of our travel requests listed by priority. It is a long list with complex funding sources. I will give a copy to staff.

SENATOR BEERS:

I am sensing an increasing amount of dysfunction at the NDOT resulting in exceptionally long project preparation delays. I would like you to include a performance indicator for future sessions on your turnaround time on the NDOT requests so we can eliminate you as a potential part of that problem.

DR. CLEMMER:

Our turnaround time is usually hours. We know where our money is coming from and we drop everything, but we will keep track of that.

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SENATOR BEERS:

As you move forward, you mentioned the GIS system you will be using is compatible with the heritage groups from other states. Is that correct?

DR. CLEMMER:

Yes, sir.

SENATOR BEERS:

What is that software?

DR. CLEMMER:

We belong to a larger group called Nature Serve. Each state and all but one Canadian Province, states in Mexico and down into South America have a common database system called Biotics. It is compatible with Advanced Resources Technology Group (ART) GIS 9.1. It allows us to compare data in all of North America to show what is truly rare biologically and not just of interest. An example is the snowshoe hare. We know there are only a few bunnies at Lake Tahoe, but they are common throughout Alaska and Canada. Therefore, since they are not rare in other regions, the snowshoe hare is not something in which we have a lot of biological interest. The NatureServe Website is available to find information on virtually all vertebrates, vascular plants and most invertebrates throughout North America.

CHAIR RHOADS:

In your budget, under expenditures, I see your work program had a BLM grant at Owyhee for \$35,000. To what was that allocated?

DR. CLEMMER:

That was a grant passed on to our ecologist who performed cheat-grass mapping for the State, and last year BLM requested he extend his studies into the Owyhee uplands of Idaho and Oregon. He did field work this past summer and added it to work he had previously done on cheat grass throughout the State and red brome in the southern part of Nevada.

CHAIR RHOADS:

Was this a one-year program?

DR. CLEMMER:

It lasted two years. He did field work, and he wrote and analyzed the results continuously through the second year.

CHAIR RHOADS:

Under decision unit E-805, would you clarify why these three positions should be reclassified?

DR. CLEMMER:

The level of skill and upgrades they are working with, primarily in GIS, is one factor, and for two of the positions, the definition of a biologist IV includes a supervisory function.

CHAIR RHOADS:

Does the DOP support this?

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DR. CLEMMER:

We have not gone through the DOP review but we will. We have worked on descriptors through biologists in the NDOW.

ASSEMBLYWOMAN KOIVISTO:

How many people work in your agency?

DR. CLEMMER:

We have eight, but the ninth, a weeds-management position, will be onboard, hopefully, by the end of the month.

ASSEMBLYWOMAN KOIVISTO:

It seems if these people are all performing supervisory functions, you have as many chiefs as Indians.

DR. CLEMMER:

There will be two additional chiefs, and I definitely need a supervisory person for the GIS program. My skills are in the areas of clay and red and yellow dots. The second arm of our supervisory workload consists of outreach, public relations and working with various committees and groups, representing our agency in workshops and planning sessions.

MS. SCHERER:

In response to Assemblywoman Koivisto, there are currently no supervisory positions in this group. One of the mandates from the DOP is to have some kind of succession planning within the agencies, especially in an agency as technical as this one.

CHAIR PARKS:

You complete a scorecard. Is that the pamphlet you compile?

DR. CLEMMER:

No, sir. Every few years, we go through our entire database and compile a scorecard ranking sites of highest conservation value. It is based on three elements. One is rarity of a species. Nevada is tenth in the country with the most endemic species. One ranking of rarity is one to five. We then rank these populations and sites on vulnerability. Some rare plants are not particularly vulnerable; they may be on a mountain top. We next look at and rank management needs. We now have 69 sites where some conservation planning should take place to protect populations and species within each site. Often, it is moved from species level to site level; thus our polygon GIS needs. The scorecard is a red flag showing species we could lose or which could become endangered in the near future.

CHAIR PARKS:

Do you widely distribute this scorecard to interested parties?

DR. CLEMMER:

It is on our Website. We do not have the funding to produce publications. We will have the scorecards on paper eventually.

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SENATOR BEERS:
What does endemic mean?

DR. CLEMMER:
Endemic means it occurs in Nevada only. It does not occur in any other state or anyplace else on the planet.

SENATOR BEERS:
Is that the same as native?

DR. CLEMMER:
No. Native includes everything that has been here in our biological history. We have an inordinately rich biodiversity in the State, and like the Devil's Hole pupfish, it occurs in a little pond in Nevada and nowhere else in the world.

CHAIR RHOADS:
What impact would it have on your budget if decision unit E-350 were eliminated and the reserves, as recommended in the *Executive Budget*, were used to fund the biologist III position?

DR. CLEMMER:
It would leave us with uncertainty of the funding. We would probably make up some of it with our fees. We have \$11,000 this year, but that still leaves us short. It would be a comfort to have the funding source to cover the position full time.

CHAIR RHOADS:
We will now move to the Heil Wild Horse Bequest.

DCNR-Heil Wild Horse Bequest – Budget Page DCNR-25 (Volume III)
Budget Account 607-4156

CATHERINE BARCOMB (Administrator, Commission for the Preservation of Wild Horses, State Department of Conservation and Natural Resources):
We are an agency of one; I am it. The budget is small and is status quo on all programs to maintain what we have done in the past. Our only enhancement is to establish a reward fund. We had one years ago but it was depleted. It is a small amount of money, \$1,000, to be paid out only if a reward was necessary. In the past, when killings have occurred, the BLM or private entities have added to a reward fund for information relating to incidents of abuse or slaughter of wild horses. Recently, we have not been able to pledge to that because it is not in our account. In the past, we have pledged but never paid out because no one has ever been found. It shows commitment and concern by the State of Nevada over the abuse and slaughter of wild horses. We are a non-General Fund agency. We operate completely on the interest income and principal from the Heil trust fund.

CHAIR RHOADS:
What happens in the future when the reserves are depleted? Will the Commission continue?

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MS. BARCOMB:

The Commission was created by the Heil trust fund, and that is all we have. Dr. Rex Reed has prepared a spreadsheet that puts us out to February or March of 2010 when we will run out of money. Next Legislative Session, we will address what the State would like to do.

CHAIR RHOADS:

It would either have to be funded by the General Fund or it would be shut down. Is that true?

MS. BARCOMB:

Yes, sir.

DR. REED:

I would like to point out that your ever-vigilant Committee staff found an extra \$20,000 in the Heil trust records we submitted. Based on that, the estimate of its lifespan goes out to March or April rather than February or March of 2010.

ASSEMBLYWOMAN MCCLAIN:

Do you have the authority to raise money? Can you get donations?

MS. BARCOMB:

Yes, we do have that ability. The problem is since we are a government agency, people do not believe we need money. There are agencies such as fire protection or environmental protection that can access federal funds and grants. That is not the case with wild horses.

ASSEMBLYWOMAN MCCLAIN:

Well, of course, because they just want to see them all go away.

MS. BARCOMB:

The wild horse program, on a federal level, is having severe financial problems. They recently cut \$5 million from the budget, and there is no federal funding for us. Private entities are always looking for funding. We created the Western States Wild Horse Expo 17 or 18 years ago. When you ask for money for a nonprofit organization, it seems to be much easier. When you ask for money for a government agency, people are less likely to donate.

ASSEMBLYWOMAN MCCLAIN:

Does the nonprofit organization you formed receive donations?

MS. BARCOMB:

Yes, it does. Volunteers organize a once-a-year fund-raiser and smaller events during the year. That money is granted out for projects such as water developments on public lands, educational programs and so forth.

ASSEMBLYWOMAN WEBER:

My questions are similar to Assemblywoman McClain's in that I do not think the public knows about the Heil trust. Nevada is about our wonderful out-of-doors. Is there a license plate to raise money for the wild horses? Also, do you have a Website?

Ms. BARCOMB:

We have a dedicated Website for the Commission. Regarding the license plate, there is a proposal by a private group that obtains signatures for a wild-horse license plate. The funds would go directly to that private group.

Ms. SCHERER:

In speaking with Mr. Biaggi, one focus over the next two years at the Department level will be looking at what opportunities there might be to continue this program. The Mustang Heritage Foundation, which is partially funded through the Commission and Heil trust, is a fund-raising effort. We will be looking at possibilities to continue the good work Ms. Barcomb has established over these many years. We will report to you as we have ideas. I have provided the Committee with a handout entitled "Nevada Natural Heritage Program-Budget Account 4101" ([Exhibit C](#)).

CHAIR RHOADS:

The next budget is the Environmental Protection Administration (EPA).

DNCR-Environmental Protection Administration – Budget Page DCNR-67
(Volume III)

Budget Account 101-3173

CHAIR RHOADS:

Before you begin, you only list one performance indicator which is unscheduled computer network downtime in hours and minutes. Do you think you could provide more meaningful performance indicators?

DAVID H. EMME (Chief, Environmental Programs, State Department of Conservation and Natural Resources):

We have struggled with that. We were criticized last Legislative Session for not having any performance indicators in the administrative budget account. Since it includes our information technology (IT) staff, we came up with network downtime as an indicator of IT staff performance. We have not derived any indicators that relate to account processing, accounting transactions or that type of thing.

LEO DROZDOFF (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

We are distributing an overview of our budget entitled "Division Budget Highlights" ([Exhibit D](#)). The first page summarizes the highlights, and it is followed by one-page summaries for the nine remaining budget accounts. By way of overview, the Division of Environmental Protection (DEP) is about a \$50 million agency based on revenue. Currently, we have 244 FTEs. We are primarily supported by fees and federal grants. Approximately 1 percent of our budget is supported by General Funds in two of the nine budget accounts.

Most of our enhancements occur in our air program, and a lot of that has to do with the issue of mercury. With Legislative Commission approval in May 2006, we adopted our Mercury Control Program. The program deals with emissions from mines or thermal units at mines. In 2007, we created the Nevada Clean Air Mercury Rule (CAMR) program based on the federal program of the same name.

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We used the federal template and improved upon it to make it best for this State.

In our Chemical Accident Prevention Program (CAPP), we put together regulations regarding mercury storage. Senator Titus has sponsored a bill on mercury storage which we plan to support. It should work well with the program approved by the State Environmental Commission (SEC). In addition, we have ongoing work in mercury research, fish- and water-sampling, environmental response and public outreach. We have a lot going on with mercury which shows up in our budget in terms of requested positions and, in some cases, requested travel.

CHAIR RHOADS:

Have there been any citations for mercury violations?

MR. DROZDOFF:

Yes. We issued a citation yesterday with regard to dust and mercury violations.

CHAIR RHOADS:

Was it a mine?

MR. DROZDOFF:

Yes. It was the Queen Stake Mine.

SENATOR TITUS:

I know this program calls for the annual reporting and checking of emissions. When you issue a citation, what does that mean? Do they pay a fine or do they have to do certain kinds of clean up?

MR. DROZDOFF:

Companies that receive citations have to do both and a little more. In this case, we put together a list of findings. Based on those findings, we will issue an order. The order spells out things that need to take place immediately, others within a week's time and various improvements with quick turnaround times to get things done on the ground. Our primary focus in issuing these citations is to take care of problems on the ground. Once that is accomplished, we will go back and review such things as fines, penalties and supplemental projects.

SENATOR TITUS:

Do you rely on the mine to monitor itself, or do you perform the monitoring?

MR. DROZDOFF:

That has come up a few times. There is not a simple answer. We typically do not perform monitoring ourselves.

SENATOR TITUS:

You rely on the fox to watch the henhouse?

MR. DROZDOFF:

Not quite. In all of our environmental programs, we require third-party monitoring. What we do, in the case of the mercury program, is look at the protocols before the work is done, approve the protocols and continue to

witness these tests. Then the reports are submitted to us. We oversee from beginning to end, whether it is air, water or solid waste. The concept of self-reporting is how these environmental programs work. However, it is not a case of violators merely submitting paperwork.

SENATOR TITUS:

I recently read an article entitled *Nevada's Gold Diggers Mucking Up the Air*, with the University of Nevada, Reno (UNR) study showing emissions are much higher than the DEP has reported. A spokesman for the DEP said the State does not agree the mines should conduct more tests. These numbers are quite negative. Are you planning to do anything about this or just accept the status quo with these emissions?

MR. DROZDOFF:

I do not know where to start with that article. I found a fair amount of inaccuracies in it. I have not seen the report, but from what I can glean from the article, the issues they are talking about are fugitive emissions or emissions from moving the material. If the material has gold and other materials, including mercury, there is a question about how much comes off the materials. It is primarily a worker-safety issue. We are funding research right now to answer that question.

SENATOR TITUS:

Is that the federal grant you are talking about?

MR. DROZDOFF:

This one is not a federal grant. It is money we collect from the mining industry and plan to use to conduct research.

COLLEEN CRIPPS, PH.D. (Deputy Administrator, Air and Waste Programs, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The numbers you see in the report Senator Titus mentioned, while they look high, are not an accurate assessment. The report indicates numbers that are twice the EPA reference dose. However, that reference dose was established for a person exposed twenty-four hours a day, seven days a week (24/7) for a lifetime. The types of sampling done by UNR do not show those types of numbers continuously. There is a huge fluctuation depending upon where they are at the site and when they go to the site. I am not sure you can make a direct comparison. I think 350 nanograms a cubic liter is the reference dose at which the DEP arrived for 24/7 exposure for a lifetime. For worker health and safety, it is 17,000 to 25,000 nanograms a cubic liter for a worker exposure that is eight hours a day, seven days a week. The numbers need to be put into perspective.

SENATOR TITUS:

What about the once-a-year reporting from the mines done on their dirtiest day? Is that a more accurate report?

DR. CRIPPS:

When we look at mine-site emissions, we check emissions from various types of control technology applied to mine processes with the potential to emit

mercury. The tests we perform are designed to establish the level of emissions that would occur under worst-case conditions. This will ensure the permit conditions we have established for the various types of emitting units are not exceeded. In addition, we evaluate a number of other parametric measures. We perform a number of on-site inspections as well as review their reporting and record-keeping procedures. The other advantage of the program requires the best-available controls, or the maximum-achievable control technology, be applied to all of the thermal units at the mine sites.

SENATOR TITUS:

Do you think it would be a better idea to test more than once a year to be sure the tests you just described are accurate?

DR. CRIPPS:

All of our tests give a good picture of what is going on at each facility. If we find things in the course of the inspection or in any of the reporting that looks questionable, we require additional testing. We have performed additional testing on numerous occasions at facilities, not only with mercury provisions, but also with other criteria pollutants we regulate.

SENATOR TITUS:

What do you tell the people downwind who have been advised not to eat fish? Do you tell them testing once a year is enough?

MR. DROZDOFF:

As Dr. Cripps said, there are a number of requirements in addition to the once-a-year testing. We inspect the sites more frequently than once a year. We heard that Assemblywoman Leslie was going to draft a mercury bill. We thought it would be helpful to her if we explained our program. We compiled an eight- or nine-page briefing document. I would gladly make that available to you or the entire Committee. It prospectively answers many of the questions you may have.

SENATOR TITUS:

I would like a copy of that document.

CHAIR RHOADS:

Would you share the document with all the Committee members?

MR. DROZDOFF:

Yes, I will.

SENATOR BEERS:

The concern is the states that tend to be downwind from us have accumulations of mercury that we find in their streams. My understanding of the history of mercury contamination is that prior to 1900, mercury was used to get gold and silver out of gold and silver ore, and there was a big business in producing mercury to be used in mining operations all over the western United States. The mercury-producing process must have released an immense amount of mercury vapor. Are you aware of any studies that have addressed how much of the problem we measure today is due to the earlier mining of mercury versus the modern methods of metals extraction?

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MR. DROZDOFF:

No. I am not aware of any study that focuses solely on historic mercury mining as a contributing factor. There is extensive research about a number of potential sources of mercury deposition in fish, especially in the west. There are other industries that contribute to the global pool of mercury as well.

DR. CRIPPS:

I would like to add we have been working closely with environmental agencies in Idaho, Utah and Regions 9 and 10 of the U.S. EPA. There is no consensus the mercury in fisheries in either Idaho or Utah is coming from the mining industry in Nevada. There are many other potential sources, and there is a huge global mercury pool where deposition occurs continuously. We are doing a lot of work in that area, and we just entered into a regional mercury-planning agreement with the two EPA regions and the states to address those issues.

SENATOR BEERS:

When you get back to your office, could you do a cursory search on the World Wide Web and see if anyone has researched the timing of mercury deposition? It seems to me, with the refining techniques used prior to 1900, we must have released a massive amount of mercury into the atmosphere – not just in Nevada, but in all western states.

DR. CRIPPS:

Sediment studies have been done in reservoirs to examine the layering of mercury to see if they can identify some of the potential mercury fluxes. Most of them have focused on recent years to see if they could identify fluxes related to more recent mercury emissions from the mining industry occurring now with the new thermal processes. I have not seen anything that has gone back to the turn of the last century.

ASSEMBLYMAN GRADY:

Mr. Drozdoff, you touched on, and we heard quite a bit through Senator Titus' interim study, on the storage of mercury at Hawthorne. Is that still under discussion? What is the status of mercury storage at Hawthorne at this time?

MR. DROZDOFF:

We put the regulations in place that were adopted by the SEC. We have been in discussion with Hawthorne with regard to their timing in terms of shipments. We again hope to work with Senator Titus on her bill to have that in place as well.

Senator Rhoads, we gave an overview to your Committee as well as the Assembly Committee on Natural Resources, Agriculture and Mining. Do you think that would be of use to the members of this Subcommittee?

CHAIR RHOADS:

Yes, I do. Do you have it?

MR. DROZDOFF:

I will provide it to you.

We requested three new non-General Fund positions in mining, administration and IT Services. We received a note this morning from IT that our request to fill that position was not granted. We will work with the Legislative Counsel Bureau and Budget Division staff to determine what to do about that position.

MR. EMME:

I will move into B/A 101-3173 and dispense with any additional overview at this time. This is our administration budget account. It includes 28 positions and the office of the administrator, our IT staff, accounting staff and the SEC. This is a cost-allocated budget with no General Fund revenue in this B/A. One enhancement is decision unit E-350.

E-350 Environmental Policies and Programs – Page DCNR-70

MR. EMME:

We are looking for a new clerical position in the E-350 decision unit. We have grown as an agency over the past few years. We have 215 FTEs from FY 2005-2006 which will increase, if our request is granted for the coming biennium, to 250 positions in FY 2008-2009. We requested the position to keep pace with growth in positions overall in the agency. This decision unit also includes contract authority for temporary services including \$50,000 a year. We have a temporary worker in our IT group, and the costs for the position are approximately \$45,000 a year for a technician-level temporary worker. We were unsuccessful recruiting through the standard means to fill a vacancy. We hired a temporary worker who is just out of college with no experience. We hope that person could eventually step into an existing position.

ASSEMBLYWOMAN MCCLAIN:

You are asking for a position you were paying someone approximately \$50,000 a year to do, but you still have both positions in the budget.

MR. EMME:

No, these are two separate positions. On the one hand, we are requesting a new clerical position, an administrative assistant I. On the other hand, a different line item within this decision unit is for contract authority to provide for temporary services. What we had in mind with the contract authority for a temporary worker is to fill stop-gap needs for IT vacancies when we have recruitment problems.

ASSEMBLYWOMAN MCCLAIN:

Do you really need both of those?

MR. EMME:

Absolutely. The next decision unit is E-352.

E-352 Environmental Policies and Programs – Page DCNR-70

MR. EMME:

Under this decision unit, we are requesting additional travel authority. The discussion regarding mercury points to the fact that this is an emerging issue that demands some anticipated travel from our management team to neighboring states and other EPA regions not included in the Base Budget. It

also includes requested training for our IT staff to keep pace with changing technology.

CHAIR RHOADS:

Can you discuss your reserve balance which is over \$1 million each year?

MR. EMME:

We have a fairly large reserve. The actual reserve we are projecting, going into the next fiscal year, is not as large as the budget figure represents. We have reduced our indirect cost rate over the past three years, but the budget mechanics did not catch up with that. We will be bringing the reserve down over the next two years, and we want to reduce the reserve rate gradually.

CHAIR RHOADS:

There are a number of errors in your budget you and staff can rectify.

MR. EMME:

We had some problems with cost allocation. The Nevada Electronic Budget System had a new feature this year that included a cost-allocation schedule. We will make corrections and provide them to you.

CHAIR RHOADS:

The next budget is Air Quality.

DCNR – DEP Air Quality – Budget Page DCNR-79 (Volume III)
Budget Account 101-3185

MR. EMME:

We have nine budget accounts within the DEP.

The air budget includes the only significant enhancements within the Division. The air program is funded with federal grants and fees. There is no General Fund revenue. There are 46 positions within 2 bureaus in the air programs. In decision unit M-590, we are requesting three new positions.

M-590 Clean Air Act – Page DCNR-81

The three positions would form a new branch in the air programs, an emissions review and auditing branch. It would address, in part, some of the mercury issues previously discussed. They would examine and audit emissions information from some of the facilities subject to the most stringent air requirements. There is also a provision for a new staff engineer in the CAPP. Decision unit E-350 includes some repair authority for air-monitoring equipment.

E-350 Environmental Policies and Programs – Page DCNR-82

We operate an ambient-air monitoring network throughout the State that includes protective gear, medical monitoring and so forth. Decision unit E-351 has a fairly significant increase in travel, particularly in state.

E-351 Environmental Policies and Programs – Page DCNR-83

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We plan to cross-train our permits and compliance staff and provide outreach related to mercury and other issues.

E-352 Environmental Policies and Programs – Page DCNR-83

Decision unit E-352 includes contract authority. This also relates to the mercury issue. There is \$300,000 in contract authority for sampling and laboratory analysis of stack-gas emissions.

E-710 Replacement Equipment – Page DCNR-83

E-720 New Equipment – Page DCNR-84

Decision units E-710 and E-720 are for new and replacement equipment. Decision unit E-710 includes a couple of replacement vehicles. Decision unit E-720 requests air-monitoring equipment, computer equipment for field inspectors and related items.

CHAIR RHOADS:

Tell us about the Mohave Power Generation Plant. At one time, I read a company was going to buy it, and they backed out. I understand there might be another interested company.

MR. DROZDOFF:

That is correct. Two companies have come to us and talked about restarting the company, but both have backed out. The most recent was the Salt River project in Arizona. They were seeking a number of investors. The fact the plant only has agreements for water for so many years and they must develop a specialized agreement with tribal leaders in Arizona on coal, in addition to starting up a plant and retrofitting it completely, makes the feasibility of the project extremely unlikely.

ASSEMBLYMAN HOGAN:

With acquisition of the new air-sampling equipment and laboratory capabilities you are requesting, will you be in a position to internally perform monitoring such as that done recently by the UNR professor to enable you to have independence and to control the data and the way it is gathered?

MR. DROZDOFF:

No. We are not requesting the air-sampling equipment and laboratory capabilities to become completely self-sufficient. We are asking for them to perform our own independent analysis, but it will not replace our current procedures.

CHAIR PARKS:

Regarding the Mohave Generating Station, it would seem to me that would be the perfect location for a solar facility, primarily because the distribution lines are already in place. Do you know if anyone has considered turning the Mohave Generating Station into a solar-power facility?

MR. DROZDOFF:

I am not aware of anyone pursuing that option.

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ASSEMBLYWOMAN MCCLAIN:

Your reserves are extremely low, and will be much lower at the end of this biennium. Do you think you will be able to maintain this level of funding for this budget over the biennium? What will you do to raise your reserves?

MR. EMME:

The reserve is not an issue with this budget account. We are not using reserve to correspond with a cash balance forward. We are drawing in fee revenue from a non-*Executive Budget* account. If our fee collection does not come in as anticipated, we will cut back, as we have done in the past, with discretionary funding for equipment, travel and contracts. As a last resort, we would have layoffs, but we have never experienced layoffs to date.

ASSEMBLYWOMAN MCCLAIN:

It seems like an odd way to do business.

MR. DROZDOFF:

I am comfortable. In this case, we know the budget well. I am certain there will not be issues such as layoffs.

ASSEMBLYWOMAN MCCLAIN:

My point is, what happens if you do not have enough revenue? Since you have the authority to increase fees, will you raise your fees again? You should rein your spending in a little.

MR. DROZDOFF:

I would say we do not spend every dollar that comes in.

CHAIR RHOADS:

Are there currently three programs in your agency looking at the mercury problem?

MR. DROZDOFF:

There are three programs in our air program, and there are other programs throughout the agency. The three programs in our air program are the Nevada Mercury Control Program, the Clean Air Mercury Rule and the Mercury Storage Program in our Chemical Action Prevention Program.

CHAIR RHOADS:

When you locate a mercury spill, how is it cleaned up? Do they put it in trucks and bury it, or do they haul it to Hawthorne?

MR. DROZDOFF:

The technicians do not take the mercury to Hawthorne. They take the mercury-contaminated items and dispose of them.

CHAIR RHOADS:

What disposal method is utilized? Is it burned?

MR. DROZDOFF:

Mercury-contaminated waste typically goes to Resource Conservation and Recovery Act hazardous-waste storage facilities.

STEVEN J. ABBA (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

You have significant enhancements in this account and your reserve is low. What the Committee would like to see going forward into the next biennium is where you will find funding to continue these enhancements. You have several different sources. However, the Department of Motor Vehicles Pollution Control fund, as an example, is somewhat tapped out. Therefore, if that is a source of funding you are counting on in the future, it may not be as reliable as you might think. Going forward, we would like to see where you plan to fund these enhancements from your various sources, including fees.

MR. DROZDOFF:

That is not a problem.

CHAIR RHOADS:

Your out-of-state and in-state travel have increased dramatically, but that is because of the mercury threat. Is that correct?

MR. DROZDOFF:

It is. It is important to remember the Nevada Mercury Control Program was adopted by the SEC in March and approved by the Legislative Commission in May. That was the end of the Base Budget year. We implemented a new program and that shows up in our increased travel request.

CHAIR RHOADS:

We will move on to the next budget, Water Pollution Control.

DCNR-DEP Water Pollution Control – Budget Page DCNR-87 (Volume III)
Budget Account 101-3186

MR. EMME:

This B/A includes the Bureau of Water Pollution Control. There are 39 positions in that bureau. The funding is derived from federal grants and fees. This account contains no General Fund revenue. The only significant item is the transfers. We are proposing to transfer out, in decision units E-905 through E-909, five FTEs that comprise our State Revolving Loan Fund (SRF). We are transferring these FTEs into a new budget account, B/A 101-3189.

DCNR-DEP-State Revolving Fund-Admin – Budget Page DCNR-139 (Volume III)
Budget Account 746-3189

The reason for the transfer into the new account is it was recommended by the Office of the State Controller and EPA auditors who have overseen our SRF to provide transparency and to make the auditor's job easier. This transfer is the most significant feature of this B/A. Standard replacement of equipment and some travel comprise the remainder of the budget request.

ASSEMBLYMAN HOGAN:

You indicate one of the main reasons for the transfer activity is to be responsive to a recommendation made by the former Controller. Has that been verified or revisited by the current incumbent and her staff?

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MR. EMME:

No, it has not, but that is a good point. We should look into verifying the recommendation with the current incumbent. The recommendation seems sensible; it is nothing we oppose. We supported this change and, in fact, it will make our accounting of the administration of the SRF program easier. Additionally, it simplifies B/A 101-3186 which formerly included the SRF program.

CHAIR RHOADS:

We will move on to the next budget, Water Quality Planning.

DCNR- DEP Water Quality Planning – Budget Page DCNR-99 (Volume III)
Budget Account 101-3193

MR. EMME:

This B/A includes the Bureau of Water Quality Planning. There are 21 positions in the account whose main function is to set water quality standards to operate an ambient water-quality monitoring network throughout the State. They also certify environmental laboratories. The source of most of the funding in this B/A is federal grants and fees. There is a small amount of General Fund revenue used to fund positions and as a match to federal grants. The only two significant items in this B/A are under decision unit E-350.

E-350 Environmental Policies and Programs – Page DCNR-102

We are looking for two seasonal conservation aides to help with our ambient water-quality monitoring program in summer months. That also includes a contract with UNR to help with studies relating to updating water-quality standards. Somewhat related is a reclassification request in decision unit E-805.

E-805 Classified Position Reclassifications – Page DCNR-104

We want to reclassify a public service intern to an environmental scientist III position. We have a relatively new bureau chief in the program who is focusing on updating the water-quality standards. In reviewing our staff, it was apparent this is the area where we needed to put our staff resource.

CHAIR RHOADS:

What would the impact be if this reclassification was not approved?

MR. EMME:

It would affect our ability to work on the standards updates. We would have to do that with available staff. It may slow the process.

ASSEMBLYWOMAN MCCLAIN:

It is a huge jump from a grade 29 to a grade 36. Is the person who is currently a public service intern qualified to be an environmental scientist III?

MR. EMME:

That position has been vacant for a while. We wanted to reclassify the position while it was vacant so we would not have to deal with that problem.

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ASSEMBLYWOMAN MCCLAIN:
How long has the position been vacant?

MR. EMME:
It may have been vacant up to a year.

CHAIR RHOADS:
It has been vacant since July 2005.

ASSEMBLYWOMAN MCCLAIN:
We are starting to see this in different budgets. I am not picking on you. It is fair notice to everyone. If you have positions that have been open for two or three years, there is probably not a good justification for filling it now other than just to spend down money.

CHAIR RHOADS:
The next budget is Safe Drinking Water Regulatory Program.

DCNR-DEP Safe Drinking Water Regulatory Program – Budget Page DCNR-107
(Volume III)
Budget Account 101-3197

MR. EMME:
This B/A includes our Bureau of Safe Drinking Water which is relatively new to the DEP. It was transferred from the Health Division in the last biennium. Staff, in this program, regulates public water supplies and implement the federal Safe Drinking Water Act. They also review subdivision plans for drinking water infrastructure. There are 19 positions in this program. Mostly federal grants and fees fund this program. There is approximately \$180,000 in General Funds, used to pay for a couple of positions and as a match for federal grants. The only requested significant enhancement was an IT position to replace contract support we used to manage the Safe Drinking Water Information System database. That position was under review by the DoIT director and the new IT panel. As mentioned by Mr. Drozdoff, we have received word the position was denied. We will work with your staff to make an amendment to withdraw this position.

CHAIR RHOADS:
Would you like to comment on the low reserve level?

MR. EMME:
We are not looking at a lot of enhancements here. Your concern about the low level will probably adjust itself once we remove the IT position and it is balanced to reserve.

CHAIR RHOADS:
We will move on to Waste Management and Federal Facilities.

DCNR-DEP Waste Management and Federal Facilities – Budget Page DCNR-114
(Volume III)
Budget Account 101-3187

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MR. EMME:

This B/A includes three bureaus within our agency: the Bureau of Corrective Actions, the Bureau of Federal Facilities and the Bureau of Waste Management. There are 70 FTEs within this B/A. There is no General Fund money. The funding is derived from federal grants, reimbursements and fees. In decision unit M-596, we are looking to establish grant authority for our recycling program.

M-596 Resource Conservation and Recovery Act – Page DCNR-118

We have a statutory mandate to implement certain recycling requirements. In the last Legislative Session, we gained specific authority to award grants under this recycling program. That amounts to approximately \$200,000 of the \$380,000 within that decision unit for each year of the biennium.

CHAIR RHOADS:

Did the grant money go to a contractor?

MR. EMME:

We have an open request for proposals from nonprofit groups, universities and municipalities that have recycling or waste-reduction projects needing funding. We review those in a competitive manner and then award them.

CHAIR PARKS:

Would that apply to someone with a proposal to dispose of e-waste?

MR. EMME:

Yes. We have funded, with partners, e-waste collection events.

CHAIR PARKS:

I know Assemblywoman Pierce is interested in e-waste collection.

MS. CRIPPS:

We have held a number of e-waste events, including a couple this past year. Those kinds of events would be eligible.

MR. DROZDOFF:

We have worked with Assemblywoman Pierce on e-waste, and we have added an entire module to our Website on e-waste, upon which we periodically consult with Assemblywoman Pierce.

MR. EMME:

Decision unit E-350 includes authority for training for hazardous waste and corrective actions staff.

E-350 Environmental Policies and Programs – Page DCNR-119

The E-350 decision unit also includes contract authority in the amount of \$200,000 which was put into the budget as a contingency. Within the Bureau of Corrective Actions, we have a number of sites, some of them quite large, where we are overseeing environmental cleanups. The responsible parties reimburse us for our costs. Some of the costs include contractors providing, in some cases, work on the ground. In other cases, they are helping our staff

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review the work of the responsible parties. This item was put into the budget as a contingency in the event another site is discovered that needs cleaning up.

CHAIR RHOADS:

Would it be better to go to the IFC for funding rather than putting a contingency into the budget?

MR. DROZDOFF:

I instructed our staff to take a good look at these budgets and minimize our trips to the IFC. At times, when we go to the IFC, we are asked why we did not put something into the budget rather than going to the IFC. This is a contingency, and if it is your preference to deal with it through the IFC, we have no problem with that.

CHAIR RHOADS:

Do you want to talk about your reclassification position in decision unit E-805?

E-805 Classified Position Reclassifications – Page DCNR-122

MR. EMME:

This is a proposal to reclassify an administrative assistant III position in a Las Vegas office to a management analyst I position. In recent years, we transferred our Bureau of Federal Facilities staff to Las Vegas. Prior to that, staff was split between Carson City and Las Vegas. It made sense to have them all together in Las Vegas since that is where the majority of the work is with the U.S. Department of Energy and the Nevada Test Site. We have added a couple of other positions in Las Vegas, and this position functions as the office manager for the Las Vegas office in terms of administrative functions. With the additional duties assigned to the position, it warrants reclassification.

ASSEMBLYMAN HOGAN:

Has this reclassification that moves from one specialty to another and up several steps survived review by the DOP?

MR. EMME:

It has not been reviewed by the DOP. My understanding of the process is the review will happen in the future.

CHAIR RHOADS:

The next budget account is Mining Regulation/Reclamation

DCNR-DEP Mining Regulation/Reclamation – Budget Page DCNR-127
(Volume III)

Budget Account 101-3188

MR. EMME:

This B/A supports our Mining Regulation/Reclamation Program. We have 18 positions within this bureau. Funding is derived 100 percent from fees. There are no federal grants or General Funds.

E-350 Environmental Policies and Programs – Page DCNR-130

The only significant enhancements are E-350 in which we are requesting an increase in travel and laboratory analysis costs due to an increase in field activity with the price of metals rising in recent years. We are also requesting contract authority to work with Standard & Poor's to evaluate the financial health of companies with corporate guarantees in the reclamation program.

E-351 Environmental Policies and Programs – Page DCNR-130

MR. EMME:

In decision unit E-351, we are looking for a new position in the second year of the biennium. We have had a contract relationship with the BLM for the past few years, and we have shared the cost of a position with them. That contract is coming to a close. We are uncertain if BLM will be interested in renewing the contract. Therefore, we requested a new position because the function being performed by the existing contract employee is critical. We did not eliminate the contract authority from the budget. The bureau chief for this program, in an ideal world, would like both the contract position and a new position to work on the backlog of reclamation permits.

CHAIR RHOADS:

Why is a new professional engineer position needed?

MR. EMME:

There is a backlog of reclamation permits. There has been tremendous activity in the field on mining properties that had not previously been active due to the low price of gold and other metals. The main reason for the request for a new position is workload.

E-805 Classified Position Reclassifications – Page DCNR-132

We would like to reclassify some positions under decision unit E-805. We indicated in the budget narrative this was to deal with turnover. However, that is not accurate. We have not had a high turnover rate in this B/A. In reviewing the workload and distribution of work among staff, it was recognized there is not a big difference between the work assignments of environmental scientist II and environmental scientist III. In the interest of equity, we wish to upgrade some of the environmental scientist II staff to the environmental scientist III level.

CHAIR RHOADS:

Has the DOP supported this reclassification?

MR. EMME:

No, they have not. We have worked with the DOP in a general sense, but not about this reclassification specifically. We have talked to the DOP about issues with turnover at the environmental scientist II level.

ASSEMBLYWOMAN MCCLAIN:

Since there are so many reclassification requests in your entire Division, would it be possible for you to go to the DOP and get some feedback from them before we close these budgets and provide that information to staff?

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MR. EMME:
We would be happy to do that.

CHAIR RHOADS:
We will now go to the Water Planning Cap Improvement budget.

DCNR-DEP Water Planning Cap Improvement – Budget Page DCNR-134
(Volume III)
Budget Account 101-4155

MR. EMME:
This is our least interesting budget. This B/A exists to administer the Water Infrastructure Grants Program funded with the sale of general obligation bonds. The account pays the administrative cost of operating this program. There are two positions in this B/A, and we are not looking for much in the way of enhancements.

CHAIR RHOADS:
We will move on to the last budget, the State Revolving Loan Program.

DCNR-DEP-State Revolving Fund – Admin – Budget Page DCNR-139
(Volume III)
Budget Account 746-3189

MR. EMME:
As I mentioned earlier, we were creating a new B/A for the State Revolving Loan Programs, transferring five FTEs from B/A 101-3186 into this B/A. There are some complications with the transfers, but there is not much more than merely transferring those positions into this new B/A.

CHAIR RHOADS:
Is your reserve sufficient for this budget?

MR. EMME:
It is a little low, but we have some administrative fee revenue to draw upon, and it will not be an issue.

CHAIR RHOADS:
If you did get into trouble, what would you do?

MR. EMME:
We could cut back on some contracting authority and the set-aside funds that we pass through, equipment purchases and that sort of thing.

MR. DROZDOFF:
Regarding some of the questions on our fees, the Division has one bill, A.B. 67. It is in line with the Clean Air Mercury Rule. It will allow us to collect revenue from the National Cap and Trade program. This is part of our long-term plan for our fees. When the Clean Air Mercury Rule is in place, we envision using those funds instead of fees.

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ASSEMBLY BILL 67: Revises provisions governing the control of air pollution.
(BDR 40-568)

CHAIR RHOADS:

Mr. Drozdoff, you were at the hearing I chaired the other day on mercury with the mining companies. Do you think the mining companies' figures are accurate in terms of their emissions?

MR. DROZDOFF:

Yes, I think they are.

CHAIR RHOADS:

It sounded as if they have made a huge improvement.

MR. DROZDOFF:

I agree. Both the voluntary program and the beginning stages of our regulatory program have made great strides. I am optimistic and proud of the work performed by my staff. I look forward to giving the Committee the briefing document we have prepared.

ASSEMBLYMAN HOGAN:

The Assembly Committee on Natural Resources also heard a similar presentation from which we all emerged quite pleased that things seem to be well under control. That is why we were so startled by the newspaper article that hinted at least the possibility the conditions were not anywhere near as favorable as we had been led to believe. We will continue to follow progress at the mines in their cleanup efforts.

SENATOR BEERS:

Was the study by the professor and student at UNR peer reviewed?

MR. DROZDOFF:

I am not aware of the study; I did not read it. However, historically, studies have not been peer reviewed.

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CHAIR RHOADS:
One thing that is beginning to irritate me is the performance indicators. They do not seem to mean much anymore. They need to be modified because they do not provide much information.

There being no further business to come before the Subcommittee, the meeting is adjourned at 10:07 a.m.

RESPECTFULLY SUBMITTED:

Jo Greenslate,
Committee Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chair

DATE: _____

Assemblyman David R. Parks, Chair

DATE: _____