

# STATE OF NEVADA

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## Audit Report

Department of Conservation and Natural Resources  
Division of Environmental Protection

2011



Legislative Auditor  
Carson City, Nevada

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# Audit Highlights



Highlights of Legislative Auditor report on the Division of Environmental Protection issued on October 17, 2011. Report # LA12-07.

## Background

The Division's mission is to preserve and enhance the environment of the state to protect public health, sustain healthy ecosystems, and contribute to a vibrant economy. To accomplish its mission, the Division implements state and federal environmental laws, provides financial and technical assistance related to drinking water and wastewater systems, oversees clean-up of contaminated soil and water, administers the State Petroleum Fund, and provides public education programs.

The Division is organized into ten bureaus with offices in Carson City and Las Vegas. As of August 2011, the Division had 252 authorized positions. The Division also provides staff support to the State Environmental Commission, the Board to Finance Water Projects, and the Board to Review Petroleum Claims. The Division is primarily funded by federal grants, fees, assessments, and reimbursements. In fiscal year 2011, revenues and expenditures amounted to \$114 million, exclusive of transfers and appropriations.

## Purpose of Audit

The purpose of this audit was to determine if state laws, regulations, and Division policies were followed regarding the administration of accounts receivable, reporting reliable performance measures, and the regulation of permittees. Our audit focused on the Division's activities for fiscal year 2011.

## Audit Recommendations

This audit report contains 9 recommendations to assist the Division in enhancing controls over accounts receivable, performance measures, and permit issuance and fee collection.

The Division accepted the nine recommendations.

## Recommendation Status

The Division's 60-day plan for corrective action is due on January 18, 2012. In addition, the six-month report on the status of audit recommendations is due on July 18, 2012.

# Division of Environmental Protection

## Department of Conservation and Natural Resources

### Summary

Developing controls to consistently turn debt over to the State Controller's Office can assist the Division with collections and ensure the removal of significantly delinquent debt. Additionally, controls to ensure subsidiary ledgers are accurate will aide in correcting quarterly reporting errors. Turning debt over to the Controller's Office and improving controls can create additional efficiencies that allow staff to concentrate efforts on other Division matters.

While the Division has a strategic plan, its performance measures can be improved by focusing on outcome based measures, maintaining supporting documentation, and developing policies and procedures. Without sound performance measures, state officials and Division management may be making decisions based on unreliable and inaccurate information. Additionally, management and stakeholders cannot effectively determine if goals and objectives are being met.

Delays were made in renewing some permits. Not promptly renewing permits may result in the Division losing revenue as permits are allowed to be active for periods beyond 5 years. Prompt issuance of permit renewals will also ensure fees are collected and permittee operations are proper.

### Key Findings

Most bureaus did not actively submit debt over 60 days delinquent to the State Controller during fiscal year 2010 or 2011. Assembly Bill 87, passed during the 2009 Legislative Session, centralized the State's collection efforts to the Office of the State Controller after debts reach 60 days past due. Even though this requirement is relatively recent, the Division forwarded only about \$84,000 of its roughly \$2 million in debt. (page 5)

The Division did not properly report accounts receivable on quarterly reports forwarded to the Controller's Office. Errors and inaccuracies on accounts receivable ledgers resulted in inaccurate reporting and were caused by insufficient controls and staff turnover. (page 7)

Significantly aged and uncollectible debt of nearly \$2 million continues to be carried on the Division's ledgers. Some accounts related to bankrupt and abandoned facilities have been due for over a decade, and collection is highly unlikely. (page 9)

Most of the Division's performance measures are non-outcome oriented. Our analysis found 30 of 37 measures were non-outcome oriented and many simply counted the number of activities or the amount of work the Division was doing. Conversely, outcome measures demonstrate the impact an agency is having on a stated issue or problem. The Legislature and the Department of Administration recommend agencies use outcome measures to help decide how well an agency is achieving its goals. (page 11)

Supporting documentation for 7 of the Division's 37 performance measures reviewed was not retained. The Division was also unable to recalculate or recreate 6 of the 7 measures. Policies and procedures have not been developed over performance measures and will help ensure reported results and calculations are consistent, accurate, error free, and supporting documentation retained. (page 12)

Permit renewals were delayed. We found 8 of 73 permits were not issued as old permits expired. Although the Division has decreased the frequency of delays since our last audit, we still found notable delays between permit expiration and issuance ranging from 1 year, 2 months to 7 years, 11 months. We also reviewed several types of permit listings which indicated additional expired permits of both large and small facilities. By not renewing some Water Pollution Control permits timely, the Division has already missed about \$23,000 in renewal fees. (page 15)



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This report contains the findings, conclusions, and recommendations from our completed audit of the Division of Environmental Protection. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 9 recommendations to assist the Division in enhancing controls over accounts receivable, performance measures, and permit issuance and fee collection. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA  
Legislative Auditor

September 26, 2011  
Carson City, Nevada



# Division of Environmental Protection

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# Introduction

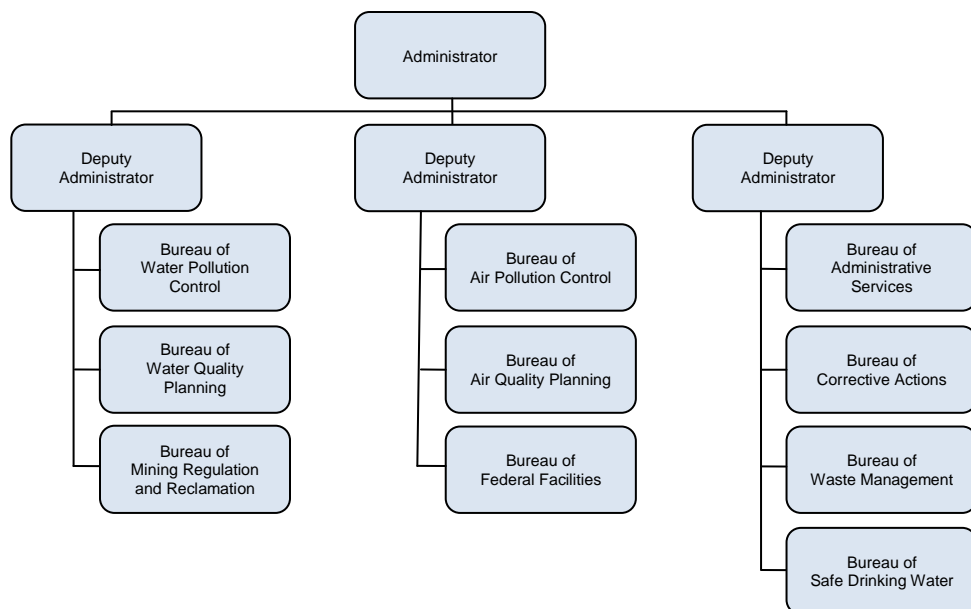
## Background

The Division of Environmental Protection (Division) was created within the Department of Conservation and Natural Resources in 1977. The Division's mission is to preserve and enhance the environment of the state to protect public health, sustain healthy ecosystems, and contribute to a vibrant economy. To accomplish its mission, the Division implements state and federal environmental laws, provides financial and technical assistance related to drinking water and wastewater systems, oversees clean-up of contaminated soil and water, administers the State Petroleum Fund, and provides public education programs.

The Division is organized into ten bureaus with offices in Carson City and Las Vegas. Exhibit 1 shows the Division's organizational structure.

### Division Organizational Structure

### Exhibit 1



Source: Division's website.



As of August 2011, the Division had 252 authorized positions. Exhibit 2 shows each bureau's responsibilities and the number of authorized positions.

**Bureau Descriptions and Authorized Positions** **Exhibit 2**

<b>Bureau</b>	<b>Responsibilities</b>	<b>Number of Authorized Positions as of August 2011</b>
Administrative Services	Provides financial, human resource, and computer management services to the Division.	38
Air Pollution Control	Ensures compliance with state and federal air quality rules and regulations for all counties in the State, except for Washoe and Clark counties, through its programs of permitting, compliance, enforcement, chemical accident prevention, and Nevada mercury control.	32
Air Quality Planning	Responsible for implementing programs to meet air quality rules and regulations through monitoring, developing, and/or revising air quality standards.	22
Corrective Actions	Responsible for the analysis and remediation of contaminated sites, certification of environmental consultants, regulation of underground storage tanks (USTs), remediation of leaking USTs, and administration of the Petroleum Claims Fund.	32
Federal Facilities	Provides programmatic and regulatory oversight of the U.S. Department of Energy's environmental restoration and waste management activities at the Nevada Test Site, the Tonopah Test Range, the Central Nevada Test Area, and Project Shoal Area. Activities include identifying the nature and extent of contamination, determining potential risk to the public and the environment, and performing the necessary corrective actions in compliance with applicable regulatory guidelines and requirements.	14
Mining Regulation & Reclamation	Responsible for mining regulatory programs which address the design, construction, operation, closure, and reclamation of mining and exploration operations. Program elements consist of permitting, inspection, compliance monitoring, enforcement, and plan and report review to protect human health, ground and surface water resources, and completion of reclamation activities which provide for a productive post-mining land use.	20
Safe Drinking Water	Ensures Nevada's public water systems comply with drinking water standards by enforcing the sampling and monitoring requirements for water quality and enforcing requirements for surface water treatment and corrosion control.	19
Waste Management	Responsible for ensuring safe management of hazardous waste by regulating its handling, transportation, storage, and disposal; ensuring safe collection and disposal of solid waste; and encouraging businesses, institutions, and individuals to reduce the amount of waste generated, participate in recycling programs, and conserve natural resources.	24
Water Pollution Control	Ensures compliance with water pollution control laws by issuing permits to discharge to surface and/or ground water, inspecting facilities, and reviewing wastewater treatment plant designs, and subdivision waste water systems.	31
Water Quality Planning	Responsible for implementing programs to meet requirements of the Clean Water Act and Nevada water quality statutes and regulations through monitoring, developing, and/or revising water quality standards.	20
<b>Total</b>		<b>252</b>

Source: Division's website, 2011-2013 Executive Budget, and State's Human Resource Data Warehouse.

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The Division also provides staff support to the State Environmental Commission, the Board to Finance Water Projects, and the Board to Review Petroleum Claims. A description of each commission and board are as follows:

- State Environmental Commission – eleven member body that hears petitions to adopt regulations, ratifies certain air pollution control penalties, and hears appeals from parties aggrieved by actions of the Division.
- Board to Finance Water Projects – five member board that governs applications for grant funds from the State Water Grants Program and applications for loans from the Drinking Water State Revolving Loan Fund.
- Board to Review Petroleum Claims – seven member board that governs claims against the State Petroleum Fund for reimbursement of expenses associated with remediation of petroleum releases from registered underground storage tanks.

The Division is primarily funded by federal grants, fees, assessments, and reimbursements. The Division has a total of 22 budget accounts, of which 9 are used for bureau operations. In fiscal year 2011, revenues and expenditures amounted to \$114 million, exclusive of transfers and appropriations. In addition, the Division received about \$102,000 in general fund appropriations, net of budget reductions, to support the monitoring and water quality standards program and provide the required state match for federal grants. However, the Division will not receive general fund appropriations for fiscal years 2012 and 2013. Exhibit 3 shows the Division's revenue sources, exclusive of transfers and appropriations for fiscal year 2011.

**Revenue by Source  
Fiscal Year 2011**

**Exhibit 3**

<b>Revenue Source</b>	<b>Amount</b>	<b>Percent of Total</b>
Federal Grants	\$ 45,760,551	40.0%
Fees/Assessments/Reimbursements/Other Charges	28,209,824	24.6
Interest/Principal on Loans <sup>(1)</sup>	27,215,341	23.7
Bond Sales/Forfeitures <sup>(2)</sup>	11,881,682	10.4
Fines/Penalties/Settlements	1,055,036	.9
Treasurer's Interest Distribution	497,782	.4
<b>Totals</b>	<b>\$114,620,216</b>	<b>100.0%</b>

Source: State accounting system.

<sup>(1)</sup> Federally funded loans provided to assist in improvements to drinking water and wastewater systems, and for the clean-up of petroleum spills. Repayments used to provide new loans.

<sup>(2)</sup> Bonds used for the required state match for federal grants, to provide grants for water system improvements, and to reclaim lands disturbed by mining operations.

**Scope and Objectives**

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit focused on the Division's activities during fiscal year 2011. The objectives of our audit were to determine if state laws, regulations, and Division policies were followed regarding the:

- administration of accounts receivable;
- reporting of reliable performance measures; and
- issuance of permits, collection of fees, and oversight activities.

# Receivable Administration Can Be More Efficient

The Division can improve its oversight of accounts receivable by enhancing controls over its processes. For instance, developing controls to consistently turn debt over to the Controller's Office, can assist the Division with collections and ensure the removal of significantly aged debt. Additional controls to ensure subsidiary ledgers are accurate will aide in correcting quarterly reporting errors. Turning debt over to the Controller's Office and improving controls can create additional efficiencies that allow staff to concentrate efforts on other Division matters.

## **Debt Should Be Submitted to the State Controller**

Most of the Division's bureaus did not actively submit debt over 60 days delinquent to the State Controller during fiscal year 2010 or 2011. Assembly Bill 87, passed during the 2009 Legislative Session, centralized the State's collection efforts to the Office of the State Controller after debts reach 60 days past due. Even though the requirement to submit debt after 60 days is relatively recent, the Division forwarded only about \$84,000 of its roughly \$2 million in debt. Debt was not forwarded to the Controller because some staff were not aware of the requirement and others assumed fiscal staff were performing the function.

Accounts receivable represent fees, fines, taxes, gaming revenues, interest income, charges for services, or other obligations owed to the State of Nevada. NRS 353C.120 requires agencies to submit periodic reports of debts owed to the State Controller. Furthermore, recent changes to state law require agencies to submit all debt 60 days past due to the Controller's Office for collection if:

- The debtor and the agency have agreed on the existence and the amount of the debt.

- The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures described by the agency.
- The debtor had timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

Once debt is submitted to the Controller’s Office for collection, state agencies are to remove the debt from its books and are not required to include the account on quarterly or year-end reports. Furthermore, when debts are submitted to the State Controller, all monitoring, collection, and subsequent write-off activities are initiated and performed by the Controller’s Office.

In response to the requirement to submit debt after 60 days, one bureau submitted \$77,000 in delinquent permit fees from fiscal years 2009 and 2010. No other bureaus submitted delinquent debt, even though nearly \$2 million of outstanding fees existed from fiscal year 2010 and prior. Exhibit 4 shows outstanding debt per bureau dating back to fiscal year 2007 and prior.

**Prior Years Outstanding Debt Per Bureau  
As of December 31, 2010**

**Exhibit 4**

<b>Bureau</b>	<b>FY10</b>	<b>FY09</b>	<b>FY08</b>	<b>FY07</b>	<b>Prior to FY07</b>	<b>Totals</b>
Air Pollution Control	\$ 3,438	\$ -	\$ -	\$ -	\$ -	\$ 3,438
Corrective Actions	299,457	-	-	-	-	299,457
Mining Regulation and Reclamation	103,782	104,032	119,500	119,500	1,219,568	1,666,382
Safe Drinking Water	1,005	337	-	-	-	1,342
<b>Total Prior Years Outstanding Debt</b>	<b>\$407,682</b>	<b>\$104,369</b>	<b>\$119,500</b>	<b>\$119,500</b>	<b>\$1,219,568</b>	<b>\$1,970,619</b>

Source: Bureau accounts receivable records.

None of the Division’s bureaus submitted delinquent amounts for fiscal year 2011, even though \$238,000 in current year debt was found to be over 60 days old. In December 2010, the Division received a request for clarification from the Controller’s Office regarding why debt had not been turned over to them for collection. In response, two bureaus submitted debts in January

2011 amounting to \$7,300 of the \$238,000 in amounts due. Exhibit 5 shows the amount of debt submitted to the State Controller since the 60-day debt requirement became effective.

### Debt Submitted To The State Controller

### Exhibit 5

Bureau	Date Submitted	Amount	Fiscal Year(s)
Water Pollution Control	09/23/09	\$73,132	2010
Water Pollution Control	01/31/10	3,946	2009
Mining Regulation and Reclamation	01/26/11	5,000	2009 - 2011
Safe Drinking Water	01/28/11	2,347	2009 - 2010
<b>Total Debt Submitted</b>		<b>\$84,425</b>	

Source: Bureau accounts receivable records.

Debt had not been properly submitted to the State Controller for collection because the Division lacked sufficient controls over its accounts receivable. The Division's procedures were not updated to reflect the 2009 statutory changes. Furthermore, some staff expressed confusion as to what debt functions were being performed by whom, because certain financial activities are centralized, while others are not.

As a general rule, collection of debt decreases as receivables age. By submitting debt to the Controller's Office after 60 days, the opportunity for collection and recovery of amounts owed could increase. Furthermore, debts submitted to the Controller's Office can be removed from the books of the Division. As a result, staff will not have to maintain submitted accounts, send periodic notifications to debtors, or perform other collection activities.

## Ledger and Reporting Controls Can Be Improved

The Division did not properly report accounts receivable on quarterly reports forwarded to the Controller's Office. We found errors and inaccuracies on accounts receivable ledgers which resulted in inaccurate reporting. Some ledger and reporting errors were related to significantly aged debt which should have been forwarded to the Controller's Office, thereby relieving the Division from having to administer the accounts.

As of December 2010, the Division had approximately \$2.4 million in outstanding fees, about \$400,000 related to fiscal year 2011

and \$2 million related to years prior. Exhibit 6 shows the Division's accounts receivable per bureau as of December 31, 2010.

**Accounts Receivable Per Bureau  
As of December 31, 2010**

**Exhibit 6**

Bureau	FY11 Fees		Prior Years Delinquent Fees <sup>(1)</sup>	Total
	Under 60 Days Old	Over 60 Days Old		
Air Pollution Control	\$ -	\$ 10,312	\$ 3,438	\$ 13,750
Corrective Actions	157,588	-	299,457	457,045
Mining Regulation and Reclamation	-	107,750	1,666,382	1,774,132
Safe Drinking Water	1,278	538	1,342	3,158
Water Pollution Control	-	118,978	-	118,978
<b>Total Accounts Receivable</b>	<b>\$158,866</b>	<b>\$237,578</b>	<b>\$1,970,619</b>	<b>\$2,367,063</b>

Source: Bureau accounts receivable records.

<sup>(1)</sup> Includes outstanding fees from fiscal years 1997 through 2010.

Our review of the Division's accounts receivable found errors and inaccuracies on individual bureau ledgers and quarterly reports sent to the Controller's Office. For instance:

- The Bureau of Corrective Actions did not account for or report over \$157,000 due. The Bureau did not consider this amount to be a receivable and failed to record it on its ledger or quarterly reports.
- Debt relating to the Bureau of Air Pollution Control was not reported or tracked. Bureau staff indicated debt may be contested if the facility is no longer in operation; therefore, until staff inspect the facility to determine if permits are active, it does not consider fees to be a receivable.
- The Bureau of Mining Regulation and Reclamation did not report delinquent regulation fees of \$24,000 due to a clerical error in preparing the quarterly receivable report.
- The Bureau of Mining Regulation and Reclamation reported over \$73,000 in delinquent reclamation fees which could not be verified as accurate. Even though Bureau staff tried to recalculate the stated amount, supporting documentation showed significantly more in accounts due. The Division could not verify the accuracy of either amount.

- The Bureau of Safe Drinking Water did not properly classify the age of its debt on quarterly reports. Of \$3,200 in amounts due, the Bureau should have classified \$1,300 as current, but only reported \$800.
- Timeframes for reporting debt to the Controller was not consistent among bureaus. For instance, the Bureau of Mining Regulation and Reclamation only reported debt for the last three years even though the bureau was tracking debt from prior periods. The Bureau of Safe Drinking Water reported current and prior year debt, while the Bureau of Water Pollution Control reported only current year debt.

Receivables were not properly reported because the Division did not have sufficient controls over its accounts receivable processes. Furthermore, the Division's receivable functions are decentralized requiring each bureau to track and report its amounts due. In addition, staff turnover and a lack of review impacted the accuracy and completeness of the amounts reported.

### **Uncollectible Amounts Should Be Written Off**

The Division continues to carry debt that is significantly aged and uncollectible. As of December 2010, Division ledgers showed nearly \$2 million in debt dating back several fiscal years. Some Bureau of Mining Regulation and Reclamation accounts relate to bankrupt and abandoned facilities, have been due for over a decade, and are unlikely to be collected. Write-off of debt should occur when reasonable collection efforts have been exhausted, the debtor cannot be located, the statute of limitations for collection have expired, or the cost to collect the debt will exceed the amount recovered.

Our 2003 audit report cited similar concerns with uncollectible amounts. In response, the Division developed policies and procedures regarding the write-off of uncollectible debt.

Procedures state:

“Delinquent accounts older than 90 days shall be brought to the attention of the Division Administrator for consideration of write-down, write-off, or referral to the Controller's Office for collection, unless otherwise specified in statute. Write-downs and write-offs should occur when collection efforts have been exhausted,



amounts are considered uncollectible, or are lower than the Division's established minimum threshold."

Bureaus did not always follow Division policies regarding account write-off though. Staff indicated concern that writing-off accounts would relieve the debts from future collection. However, Controller's Office policies and procedures state the write-off of an account does not forgive the debt. The debt is still owed to the State, but it is no longer reported on the agency's books as a receivable.

As discussed earlier, recent changes to state law require agencies to forward uncollected debt to the Controller's Office after debt is 60 days past due. When debt is transferred, the Controller's Office assumes the responsibility for identifying, processing, obtaining approval, and removing the debt from state records. If the Division turns over its debts timely to the Controller's Office, its role in processing debt write-off will be to approve those accounts identified for write-off or write-down.

It is inefficient and ineffective to continue carrying debt no longer considered to be collectible. By allowing the Controller's Office to collect and process bad debt, staff time necessary to complete these functions can be redirected to other Division activities.

### **Recommendations**

1. Report debt over 60 days delinquent to the State Controller for collection in accordance with NRS 353C.195.
2. Periodically update accounts receivable policies and procedures, including statutory changes, as necessary.
3. Develop controls over accounts receivable maintenance and reporting, and consider centralization of the accounts receivable function to the Division's financial management section.
4. Review and confirm the write-off of bad debt when requested by the State Controller.
5. Develop controls to ensure written policies and procedures over accounts receivable are followed.

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# Renewed Emphasis Needed Regarding Performance Measures

## Outcome Measures Preferred

While the Division has a strategic plan, its performance measures can be improved by focusing on outcome based measures, maintaining supporting documentation, and developing policies and procedures specific to each measure. Without sound performance measures, state officials and Division management may be making decisions based on unreliable and inaccurate information. Additionally, Division management and stakeholders cannot effectively determine if goals and objectives are being met.

Most of the Division's performance measures are non-outcome oriented. Our analysis of the Division's performance measures found 30 of 37 performance measures were non-outcome oriented and many simply counted the number of activities or the amount of work the Division was doing. Conversely, outcome measures demonstrate the impact an agency is having on a stated issue or problem. The Legislature and the Department of Administration recommend agencies use outcome measures to help decide how well an agency is achieving its goals.

Performance measures provide justification for an agency's budget request by detailing the expected results of an activity and the corresponding fiscal impact. A performance goal is a target level of performance expressed as a tangible, measurable objective against which actual achievement can be compared. Performance measures are the yardsticks used to assess an agency's success in meeting its performance goals. The Budget Office's guidance to agencies regarding performance measures shows six types of performance measures as follows:

- Input – Measures the resources going into making a product or providing a service.

- Output – Measures what comes out of an agency's efforts.
- Efficiency – Ratio of outputs or outcomes produced to inputs used or how quickly a service is provided.
- Effectiveness – Ratio of units of output to total output.
- Quality – Measures customers' opinions of the services provided or goods produced.
- Outcome – Measures the result (impact) of an agency's efforts.

Outcome measures are the results of programs and activities compared to their intended purpose, such as determining the percentage of air pollutants reduced through regulatory measures. The Division had several types of measures it was using to monitor performance; although, most of the Division's non-outcome measures were output oriented. Typically the Division's output measures quantified activities or products, such as the number of inspections performed or standards reviewed. Even though non-outcome based measures can provide important information for Division managers, Legislators, and other stakeholders, outcome goals and measures should be used whenever possible.

### **Selected Measures Undocumented**

The Division did not retain supporting documentation for any of the performance measures reviewed. Division management indicated performance measure calculations and supporting documentation are not reviewed or monitored on an ongoing basis. As a result, the accuracy and reliability, including the methodology used to determine reported amounts, could not be verified.

We selected 7 of the Division's 37 reported measures from fiscal year 2010 to review for accuracy and reliability. Exhibit 7 shows the measures tested, relevant bureau, and the reported results.

**Performance Measures Tested****Exhibit 7**

<b>Bureau</b>	<b>Measure</b>	<b>FY10 Results</b>
Air Pollution Control	Percent of air pollutants reduced through regulatory measures.	97%
Air Pollution Control	Percent of air quality permit final actions taken in established timeframes.	95%
Air Pollution Control	Percent of inspections of registered chemical accident prevention facilities that find substantial compliance.	90%
Water Pollution Control	Number of National Pollutant Discharge Elimination System (NPDES) permits in current status versus total number of NPDES permits.	76/95
Water Pollution Control	Number of facilities in compliance with NPDES permits versus total number of NPDES permits.	92/95
Mining Regulation and Reclamation	Percent of mining reclamation operations requiring financial assurance that have such assurance.	100%
Mining Regulation and Reclamation	Percent of scheduled mining regulation compliance inspections completed.	97%

Source: 2011-2013 Executive Budget.

The Division could not provide supporting documentation for any of the measures selected for testing. Furthermore, the Division was unable to recalculate or recreate six of the seven measures tested partially because data for many of the Division's measures are maintained in databases that are actively updated. Because data is constantly changing, the Division was unable to recreate reports used to calculate measures as of a specific date. Additionally, staff were unfamiliar with how measures were calculated and did not have adequate guidance to reference in order to recalculate reported amounts. Documentation was not retained because Division management indicated performance measure calculations and support are not routinely reviewed.

Written policies and procedures governing specific performance measures have not been developed even though Division policies require them to be developed. Specific policies and procedures help ensure calculations are consistent from year to year, accurate, error free, and supporting documentation retained. Problems found with performance measure results may have been avoided if policies and procedures were in place to guide staff.

The State Administrative Manual and internal control procedures require state agencies to develop written procedures addressing how performance measures are computed. Procedures should include formulas and calculations used to compute results and the source(s) of information used to determine calculations.

### **Recommendations**

6. Increase the number of outcome based performance measures to help Division management, the Governor, and the Legislature make fiscal and program decisions about Division operations.
7. Develop written policies and procedures regarding each performance measure including the methodology regarding how each measure is to be calculated, document retention, and management review.

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# Improvements Can Be Made Over Permit Renewals and Fees

## Permit Renewals Delayed

Improvements can be made over the regulation of permittees. Permits were not always renewed in a timely manner. Not promptly renewing permits may result in the Division losing revenue as permits are allowed to be active for periods beyond 5 years. Prompt issuance of permit renewals will ensure fees are collected and permittee operations are proper.

Some permit renewals were issued after old permits expired. Our review of Division files found 8 of 73 permits were issued after the expiration of prior permits. Although the Division has decreased the frequency of delays since our last audit, we still found notable delays between permit expiration and issuance, ranging from 1 year, 2 months to 7 years, 11 months. We also reviewed several types of permit listings which indicated additional expired permits of both large and small facilities. In most instances, state laws and regulations limit permit lengths to a period of not more than 5 years to ensure facility activities are periodically reviewed for continued compliance and public safety.

Issuing permit renewals late has resulted in the Division not collecting some renewal fees. For instance, by not renewing some Water Pollution Control permits timely, the Division has already missed about \$23,000 in renewal fees. One permit on the Division's permit list has been expired for over a decade. As a result, the permittee did not have to pay almost \$11,000 in renewal fees. Most bureaus do not issue retroactive renewals dating back to when the old permit expired, so promptly issuing permit renewals will ensure all fees are collected and permittee operations are proper.

Division management indicted staff shortages and other priorities led to permits not being renewed timely. Since Division regulations allow entities to operate under expired permits, if certain conditions are met, staff place a higher priority on new facilities and existing permit modifications. Management indicated new federal requirements may add additional permitting burdens for certain bureaus. Therefore, continued diligence by Division management will be necessary to maintain a reasonable period for permit renewals and will require the optimization of staffing resources and identifying available and emerging technology resources that may create efficiencies and reduce staff burden.

### **Fees Collected Not Always Accurate**

The Division received fees from a few facilities where collected amounts were not in accordance with those stated in statute or regulation. Fees received from 3 of 74 permittees were not proper. The Division under collected fees by \$1,550 and over collected by \$200. While these amounts are minimal, fees collected should agree to those amounts stated in statute and regulation. Our testing revealed the following:

- One permittee underpaid its renewal fee by \$1,000. The permittee should have paid \$3,650, \$2,000 plus \$150 for each well. The permittee had 11 wells and paid only \$2,650.
- Another permittee overpaid their modification fee by \$200. According to regulations, the permittee should have paid only \$50 for a permit modification related to a disturbance of 20 acres or less. Staff indicated that all modification fees are assessed a fee of \$250 regardless of the acres affected. This does not agree with state regulations.
- One permittee underpaid its annual fee by \$550. The permittee made a mathematical error on the sheet used to calculate amounts due. The Division did not identify the error during its collection and processing of annual fees.

The Division can review and revise its controls over fee collection and processing to limit future errors. Since the Division is funded partially by fees, it is crucial that the correct fees are received to fund operations.

## **Recommendations**

8. Continue to monitor and revise the permitting process to help ensure permit renewals are issued within statutory timeframes.
9. Develop controls to ensure fees are mathematically accurate and agree with amounts stated in laws and regulations.



# Appendix A

## Audit Methodology

To gain an understanding of the Division of Environmental Protection (Division), we interviewed staff and reviewed statutes and regulations. We also reviewed financial information, prior audit reports, budgets, legislative committee minutes, and other information describing the activities of the Division. Furthermore, we documented and assessed the Division's internal controls related to its accounts receivable, permitting process, fee collections, and performance measures.

To determine if the Division's accounts receivable were properly administered, we obtained a listing of amounts due per bureau as of December 2010. We verified the mathematical accuracy of each listing, compared listings to amounts reported to the State Controller, and reconciled differences. Additionally, we determined if debt over 60 days delinquent was submitted to the State Controller for collection in accordance with state law. Next, we determined if uncollectible amounts were considered for write-off. We identified significantly aged debt, inquired as to the nature of the debt, and the likelihood of collection.

To evaluate performance measures, including the reliability of reported results, we identified the Division's performance data stated in the Executive Budget and other budget documents. For the Division's 37 performance measures, we analyzed each measure and determined the type of activity represented. We then judgmentally selected seven measures based on the significance of the measure to the Division. We requested supporting documentation for each measure to review for accuracy, relevancy, and reasonableness.

To determine whether the Division adequately issued permits, collected fees, and ensured oversight activities occurred in compliance with applicable laws, regulations, and Division policies

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and procedures, we obtained a listing of the Division's active permits from each bureau. To verify the completeness of the data, we selected five permit files per bureau and traced pertinent information to the Division's databases. We then randomly selected 75 permits to test from the bureaus with the most fee revenue.

For each permit selected, we verified the permit length was within the timeframe established by the Division. If the permit had been in use longer than its original intended length, we verified the permittee submitted a renewal application and fee, calculated the length of time past its original intended issuance, and determined if modifications to the permit and related fee adjustments were made.

We verified appropriate annual fees were collected for each permit selected. We compared fees received to amounts stated in laws and regulations. If fees had not been received, we reviewed collection efforts, calculated the days outstanding, and traced the debt to applicable accounts receivable reports.

Next, we verified inspection activity for each permitted facility. We determined inspection frequencies and verified the permitted facility was inspected as indicated. We reviewed inspection reports and agreed them to permit terms. We also verified monitoring reports were submitted as required and that they were reviewed by the Division.

Our audit work was conducted from December 2010 to July 2011. We conducted the performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Administrator of the Division of Environmental Protection. On September 16, 2011, we met with

agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix B, which begins on page 21.

Contributors to this report included:

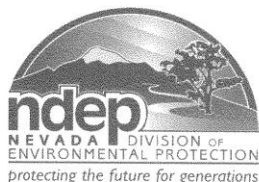
Tammy A. Goetze, CPA  
Deputy Legislative Auditor

Shannon Ryan, CPA  
Audit Supervisor

Roger Wilkerson  
Deputy Legislative Auditor

# Appendix B

## Response From the Division of Environmental Protection



**STATE OF NEVADA**  
 Department of Conservation & Natural Resources  
 DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor  
 Leo M. Drozdoff, P.E., Director  
 Colleen Cripps, Ph.D., Administrator

September 21, 2011

Paul Townsend, CPA  
 Legislative Auditor  
 Legislative Counsel Bureau  
 401 S Carson Street  
 Carson City, NV 89701-4747

Dear Mr. Townsend:

On September 7, 2011, we received the preliminary audit report summarizing the findings of the audit conducted by your staff during early-mid 2011. This letter is our response to the preliminary audit report, pursuant to NRS 218G.230. The Division of Environmental Protection accepts all nine of the recommendations included in the audit report. However, we would like to provide some explanation and context related to the audit findings.

Receivable Administration.

We acknowledge that our internal controls and business processes related to tracking and referring past due debts to the State Controller's Office need to be updated and improved. In fact, it is a subject specifically identified in our Strategic Plan and we had initiated work on process improvements prior to the audit.

\$2.4 million in past due fees is identified by the audit. We would note that roughly \$1.8 million of this amount represents debt owed by long bankrupt mining companies. The Division and State Controller's Office concur that this debt is uncollectible and should be written off. In addition, \$457,045 relates to late reimbursement by responsible parties of Division costs for overseeing cleanup of contaminated properties. This cost reimbursement is governed by Administrative Orders on Consent which include provisions for companies to dispute reimbursement claims and for the agency to respond. The companies involved had disputed a claim but it has since been resolved and paid in full. The roughly \$200,000 in past due debt remaining will be referred to the State Controller for collection, though we expect most will prove to be uncollectible due to bankruptcies.

Performance Measures.

We acknowledge that many of our performance measures are not "outcome-based". We have spent considerable effort over the years trying to improve our performance measures and have focused on reporting compliance rates as the most reasonable measure of success for our regulatory programs. Other approaches like attempting to relate ambient monitoring data to facility permitting and compliance programs are problematic for a range of reasons. For example, air monitoring may reflect regional sources of pollution. Similarly, ambient water quality monitoring may reflect impacts on quality due to irrigation diversions or drought. In addition, since we are required by federal grants to report



information to US EPA, we strive to align our performance measures with federal reporting requirements, which are not always outcome-based.

The audit report also identifies a lack of supporting documentation for some of our performance measures. This is an area we can improve upon. However, as the audit report correctly notes, an inability to re-create reported numbers is largely due to the fact that most measures are derived from database systems that are dynamic with information being constantly updated. Consequently, the reported numbers represent a snapshot in time.

Permit renewals.

The audit report indicates that 8 of 73 permits reviewed were not renewed on a timely basis. As the report correctly explains, in general, old permits remain in effect until they are renewed, so the issue is not lack of regulation but lost or delayed renewal fees. First, we would note that the finding of 11% of permit renewals not being issued timely is reasonable and a marked improvement over the 2003 LCB Audit which found 42 of 87 or 48% of permits reviewed not renewed timely. We have made significant progress in eliminating a backlog of permit renewals since 2003. Secondly, there are legitimate reasons for not renewing permits in a timely manner. It is often simply a matter of prioritizing resources. Issuing new permits to new projects or businesses is often a higher priority than renewing a low priority permit whose conditions are unlikely to change. In addition, some permits are not renewed timely because of unresolved compliance problems. Lastly, with regard to lost or delayed renewal fees, we would simply point out that the amount referenced in the audit report, \$23,000, is small relative to the tens of millions of dollars of permit fees collected.

The audit report also describes errors in a few fee payments. Fees from 3 of 74 permittee payments reviewed included errors. We acknowledge the need to verify the correct fee payment amounts. However, we would again note that the dollar amounts involved were nominal.

Your staff demonstrated exceptional professionalism, courtesy and thoroughness during the course of the audit. We would like to thank you and your staff for their thorough review and we look forward to working together to implement the needed improvements.

Sincerely,



Colleen Cripps, Ph.D  
Administrator

cc: Leo Drozdoff, P.E., Director, DCNR  
Kay Scherer, Deputy Director  
David Emme, Deputy Administrator

## Division of Environmental Protection's Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Report debt over 60 days delinquent to the State Controller for collection in accordance with NRS 353C.195 .....	<u>X</u>	<u>          </u>
2. Periodically update accounts receivable policies and procedures, including statutory changes, as necessary .....	<u>X</u>	<u>          </u>
3. Develop controls over accounts receivable maintenance and reporting, and consider centralization of the accounts receivable function to the Division's financial management section.....	<u>X</u>	<u>          </u>
4. Review and confirm the write-off of bad debt when requested by the State Controller.....	<u>X</u>	<u>          </u>
5. Develop controls to ensure written policies and procedures over accounts receivable are followed.....	<u>X</u>	<u>          </u>
6. Increase the number of outcome based performance measures to help Division management, the Governor, and the Legislature make fiscal and program decisions about Division operations .....	<u>X</u>	<u>          </u>
7. Develop written policies and procedures regarding each performance measure including the methodology regarding how each measure is to be calculated, document retention, and management review .....	<u>X</u>	<u>          </u>
8. Continue to monitor and revise the permitting process to help ensure permit renewals are issued within statutory timeframes .....	<u>X</u>	<u>          </u>
9. Develop controls to ensure fees are mathematically accurate and agree with amounts stated in laws and regulations.....	<u>X</u>	<u>          </u>
TOTALS	<u>9</u>	<u>0</u>