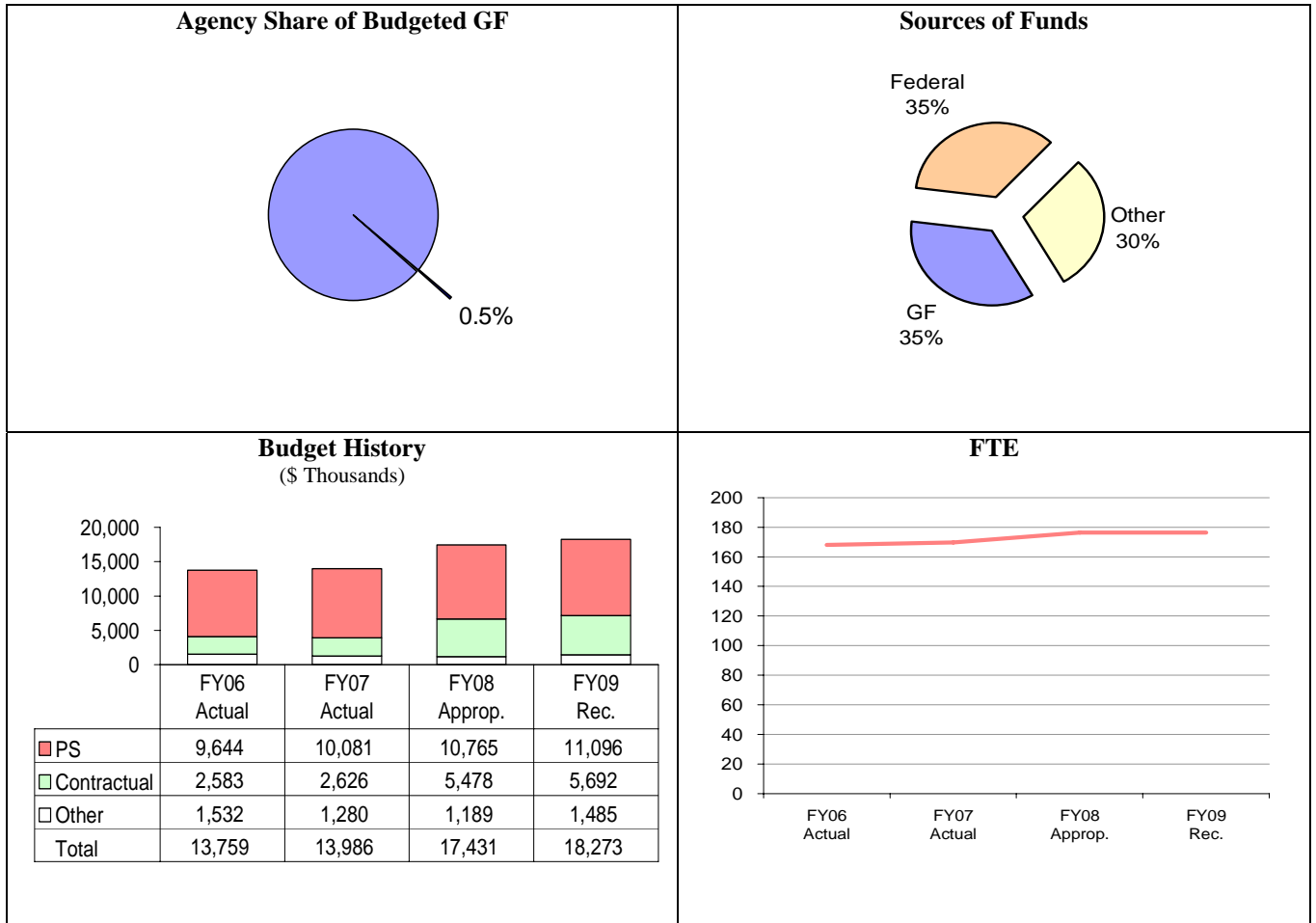


FY09 Budget Briefing

Environment and Natural Resources



Key Responsibilities

- To protect public health and the environment by providing natural resources assessment, financial assistance, and regulation in a manner that promotes a good business climate and exceeds the expectations of our customers.

Key Personnel

- Steve Pirner, Department Secretary
- Rob Green, Finance Officer

Environment and Natural Resources

For FY09, the Governor recommends an increase of \$842,064 from all funds from FY08. The FY09 recommended budget consists of \$6,422,430 from general funds, \$6,434,961 in federal fund expenditure authority, and \$5,415,472 in other fund expenditure authority, for a total budget of \$18,272,863 and 176.5 FTEs.

	Actual FY07	Budgeted FY08	Agency Req. FY09	Gov Rec. FY09	Inc/Dec FY09	% Change From FY08
Personal Services	10,080,697	10,764,573	10,764,573	11,095,841	331,268	3.1%
Travel	637,876	596,722	596,722	596,722	-	0.0%
Contractual Services	2,625,662	5,477,545	5,691,841	5,691,841	214,296	3.9%
Supplies & Materials	291,947	289,738	289,738	289,738	-	0.0%
Grants And Subsidies	132,964	108,000	108,000	108,000	-	0.0%
Capital Outlay	216,046	194,221	490,721	490,721	296,500	152.7%
Other	1,050	-	-	-	-	0.0%
Total	13,986,242	17,430,799	17,941,595	18,272,863	842,064	4.8%
Funding Types						
General	6,083,124	6,263,707	6,263,707	6,422,430	158,723	2.5%
Federal	5,486,531	5,910,470	6,321,266	6,434,961	524,491	8.9%
Other	2,416,587	5,256,622	5,356,622	5,415,472	158,850	3.0%
Total	13,986,242	17,430,799	17,941,595	18,272,863	842,064	4.8%
FTE	169.8	176.5	176.5	176.5	-	0.0%

The Governor's recommendation throughout this analysis also includes funding for Performance And Compensation Equity (PACE) movement of 2.5% for those employees who are paid under the job-worth of their pay range, a 2.5% across-the-board increase for all permanent employees, and an increase in the employer paid portion of the state health insurance plan.

	General Funds	Federal Funds	Other Funds	Total
2.5% PACE Movement	20,386	14,542	7,383	42,311
2.5% Across-the-Board	118,498	84,838	43,374	246,710
Health Insurance	19,839	14,315	8,093	42,247
	158,723	113,695	58,850	331,268

Major Expansions and Reductions

Budget Item	Agency Request			Governor's Recommendation		
	State General Fund	All Funds	FTE	State General Fund	All Funds	FTE
Environmental Services						
Contractual Services	-	214,296	0.0	-	214,296	0.0
Capital Outlay	-	296,500	0.0	-	296,500	0.0
Governor's Salary Policy	-	-	0.0	158,723	331,268	0.0
Total	-	510,796	0.0	158,723	842,064	0.0

Environmental Services:

- Contractual Services- The agency requests an increase of \$214,296 (\$114,296 federal, \$100,000 other) for FY09. The increase includes:
- \$96,340 in Engineering and Architectural Consultant for contracting environmental consultants with expertise in oil refineries, crude oil pipelines, and other expansion in industries where DENR has little or no expertise. For example, the proposed Hyperion oil refinery in Union County will require just about every environmental permit that the department issues and the permit applications are expected to be complex. Because the department has no experience permitting a refinery, DENR may need outside expertise to assist in evaluating the permit applications. Without the ability to contract with experts, the permits may not be issued timely, may not adequately address all of the potential impacts to human health and the environment, and may not withstand legal appeals from opposing local residents and environmental groups. DENR will request these industries to pay the consulting costs.
 - \$43,256 in Equipment Service and Maintenance to provide for operator air monitoring contacts and site rent for three air quality monitoring sites in the Hyperion oil refinery project area. The Hyperion project as proposed would be one of the largest and most complex air quality emission sources built in South Dakota. There is no previously recorded air quality data in any of the four counties (Lincoln, Turner, Clay, or Union) that surround the Hyperion project. Air monitoring will begin before the Hyperion project starts construction to establish baseline conditions. Air monitoring will continue indefinitely through construction and operation of the facility to determine if the facility causes any negative impacts to air quality. The contracted individuals will collect air quality samples and operate and maintain monitoring equipment. Weekly operation and maintenance are required at each monitoring site and periodic quality assurance testing is conducted to meet federal requirements. The department will request additional federal air quality monitoring funds from EPA.
 - \$47,719 in Off Campus Lab Services to provide analytical services from the EPA contractor that analyzes air toxic pollutant samples for the national air monitoring network. Air quality samples will be collected every sixth day from one of three air quality monitoring sites that the department plans to establish in the Hyperion project area. The contractor will provide the monitor and sample media, provide technical support, analyze the samples, and add the data results to the EPA national database. The samples will be analyzed for 150 parameters specified by the EPA as air toxic pollutants. The data collected will be used to establish background concentrations before operation of the facility and continue after startup to determine if the Hyperion facility is impacting the environment. Without the ambient air

quality data from this monitoring site, the department will not be able to determine if the Hyperion facility is causing impacts to current ambient air quality. The department has stated that they will revert any excess air quality monitoring funds from EPA.

- \$20,003 in On Campus Lab Services to provide analytical services from the State Health Lab for water samples taken from new water quality monitoring stations to be located in the Hyperion oil refinery project area. Four ambient water quality monitoring sites will be added by the Surface Water Quality Program to the established ambient surface water monitoring network. These new sites will be situated on waters near the location of the proposed oil refinery to collect surface water quality data. The data collected will be used to establish baseline concentrations for a number of water quality parameters including metals, total petroleum hydrocarbons, volatile organic carbon, and routine water quality monitoring parameters. These sites will continue to be monitored during construction and operation of the refinery to monitor for water quality impacts. These sites will be sampled on a quarterly basis. Without ambient water quality analytical data from these monitoring sites, the department will not be able to determine if the construction and operation of the oil refinery causes impacts to current ambient conditions. The department will request additional federal water quality monitoring funds from EPA.
- \$6,978 in miscellaneous increases and decreases in the contractual services budget.

The Governor recommends this request.

➤ Capital Outlay- The agency requests an increase of \$296,500 in federal fund expenditure authority for FY09. The increase includes:

- \$286,445 to replace lab equipment that is in poor condition. EPA requires the department to monitor various air quality standards under the federal Clean Air Act. As a result, the department requests replacement equipment in order to demonstrate compliance with the federal ambient air quality standards. The department requests 3 air monitoring sites with sampling equipment to provide air monitoring around the Hyperion project. The department also requests to purchase 18 thalimede stage recorders and 5 kalesto stage recorders for the Surface Water Quality Program.
- \$10,055 for various increases and decreases in computer software and hardware.

The Governor recommends this request.

Financial and Technical Assistance

To evaluate the natural resources of the state and to provide technical and financial assistance in a customer service-oriented manner for the protection, restoration, and development of those resources.

The total recommended budget for Financial and Technical Assistance consists of \$2,294,723 from general funds, \$1,795,168 in federal fund expenditure authority, and \$713,260 in other fund expenditure authority, for a total budget of \$4,803,151 and 58.0 FTEs.

	Actual FY07	Budgeted FY08	Agency Req. FY09	Gov Rec. FY09	Inc/Dec FY09	% Change From FY08
Personal Services	3,319,824	3,481,039	3,481,039	3,588,023	106,984	3.1%
Travel	229,295	200,000	200,000	200,000	-	0.0%
Contractual Services	679,867	824,695	824,695	824,695	-	0.0%
Supplies & Materials	133,190	137,052	137,052	137,052	-	0.0%
Grants And Subsidies	8,940	-	-	-	-	0.0%
Capital Outlay	72,592	53,381	53,381	53,381	-	0.0%
Other	-	-	-	-	-	0.0%
Total	4,443,708	4,696,167	4,696,167	4,803,151	106,984	2.3%
Funding Types						
General	2,173,434	2,238,211	2,238,211	2,294,723	56,512	2.5%
Federal	1,611,598	1,759,745	1,759,745	1,795,168	35,423	2.0%
Other	658,676	698,211	698,211	713,260	15,049	2.2%
Total	4,443,708	4,696,167	4,696,167	4,803,151	106,984	2.3%
FTE	56.5	58.0	58.0	58.0	-	0.0%

Revenues

	FY07			FY08			FY09
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Sale of Publications/Maps	4,000	2,483	(1,517)	4,000	2,000	(2,000)	2,000
Total	4,000	2,483	(1,517)	4,000	2,000	(2,000)	2,000

- **Personal Services-** The Governor's recommended appropriation includes an increase of \$106,984 (\$56,512 general, \$35,423 federal, \$15,049 other) for FY09 salary policy.

Selected Performance Indicators

	FY07			FY08			FY09
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Federal Fiscal Reports Prepared	52	50	(2)	52	52	0	52
Vouchers, and Cash Receipts Processed	4,010	4,497	487	4,000	4,500	500	4,500
Requisitions/Travel Requests Processed	45/1,300	49/1,245	n/a	45/1,300	50/1,250	n/a	50/1,250
Contracts and Grants Monitored	440	434	(6)	440	440	0	440
Awards/Projects:							
Consolidated Program	\$4.5M/25	\$4.3M/19	n/a	\$4.5M/25	\$4.0M/15	n/a	\$4.0M/15
Small Community Planning Grants	\$200K/40	\$181K/32	n/a	\$200K/40	\$190K/34	n/a	\$190K/34
Solid Waste Program	\$2.0M/13	\$2.4M/9	n/a	\$2.0M/13	\$2.0M/10	n/a	\$2.0M/10
State Revolving Fund (SRF) Loans	\$30M/25	\$18.4M/18	n/a	\$30M/25	\$50M/20	n/a	\$40M/25
(SWRMS) Projects	\$3.8M/5	\$5.2M/6	n/a	\$4.0M/3	\$7.6M/3	n/a	\$7.5M/2
Nonpoint Source Awards/Projects	\$3.5M/10	\$3.3M/12	n/a	\$3.2M/8	\$3.4M/9	n/a	\$3.0M/7
Water Quality Grants	\$1.0M/7	\$1.0M/6	n/a	\$800K/5	\$500K/3	n/a	\$500K/3
TMDL Waterbodies under assessment	67	62	(5)	70	76	6	69
Statewide Lake Assessment Monitoring	52	72	20	54	54	0	54
State Water Plan Projects	55	60	5	55	55	0	55
Construction Inspections Conducted	70	65	(5)	70	70	0	70
Construction Plans & Specs Reviewed	75	64	(11)	75	70	(5)	70
EPA State Revolving Fund (SRF) Loans Reviewed/Monitored	25/254	25/245	n/a	25/277	20/259	n/a	25/275
Test-Hole Footage Drilled	18,000	17,015	(985)	18,500	18,000	(500)	21,000
Test Holes Drilled	85	73	(12)	90	100	10	100
Wells Installed	20	9	(11)	20	10	(10)	23
X-Ray Analyses Completed	80	479	399	45	450	405	450
Water Samples Collected for Chem. Analysis	250	254	4	250	240	(10)	256
Square Miles Mapped (Geologic)	6,000	1,850	(4,150)	6,000	38,560	32,560	38,560
Square Miles Mapped for Aquifer Studies	6,000	6,801	801	7,500	4,800	(2,700)	4,600
Projects and Publications Completed	10	12	2	10	10	0	10
Presentations Given to Public or Agencies	50	36	(14)	50	40	(10)	40
Drilling Weeks Accomplished	40	33	(7)	40	38	(2)	43

Environmental Services

To provide environmental services in a customer service-oriented manner to help municipalities, industries, and citizens comply with regulations that protect public health, conserve natural resources, preserve the environment, and promote economic development.

The total recommended budget for Environmental Services consists of \$4,127,707 from general funds, \$4,639,793 in federal fund expenditure authority, and \$2,187,212 in other fund expenditure authority, for a total budget of \$10,954,712 and 118.5 FTEs.

	Actual FY07	Budgeted FY08	Agency Req. FY09	Gov Rec. FY09	Inc/Dec FY09	% Change From FY08
Personal Services	6,760,872	7,283,534	7,283,534	7,507,818	224,284	3.1%
Travel	408,581	396,722	396,722	396,722	-	0.0%
Contractual Services	1,911,573	2,137,850	2,352,146	2,352,146	214,296	10.0%
Supplies & Materials	158,757	152,686	152,686	152,686	-	0.0%
Grants And Subsidies	124,025	108,000	108,000	108,000	-	0.0%
Capital Outlay	143,454	140,840	437,340	437,340	296,500	210.5%
Other	1,050	-	-	-	-	0.0%
Total	9,508,312	10,219,632	10,730,428	10,954,712	735,080	7.2%
Funding Types						
General	3,909,690	4,025,496	4,025,496	4,127,707	102,211	2.5%
Federal	3,874,933	4,150,725	4,561,521	4,639,793	489,068	11.8%
Other	1,723,689	2,043,411	2,143,411	2,187,212	143,801	7.0%
Total	9,508,312	10,219,632	10,730,428	10,954,712	735,080	7.2%
FTE	113.3	118.5	118.5	118.5	-	0.0%

Revenues

	FY07			FY08			FY09
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Mining/Oil and Gas Permit Fees	43,000	48,800	5,800	43,000	48,800	5,800	48,800
Licensing and Renewal of Asbestos Handlers	15,000	24,000	9,000	15,000	15,000	0	15,000
Water & Wastewater Operator Certification	18,750	17,841	(909)	19,000	18,000	(1,000)	18,000
SARA Title III Fees	91,000	92,827	1,827	91,000	93,000	2,000	93,000
Air Quality Permit Fees	328,325	330,463	2,138	443,000	391,278	(51,722)	411,278
Solid Waste Permit Fees	6,000	20,038	14,038	13,500	14,500	1,000	13,500
Surface Water Discharge Permit Fees	590,135	584,571	(5,564)	594,635	560,000	(34,635)	570,000
Feedlot Fees	69,375	69,225	(150)	78,025	79,325	1,300	99,925
Drinking Water System Fees	246,500	246,965	465	246,800	247,000	200	247,000
Oil and Gas Conservation Tax	180,000	168,178	(11,822)	182,400	170,000	(12,400)	170,000
Water Right Fees	50,000	55,790	5,790	52,000	50,000	(2,000)	50,000
Well Drillers and Pump Installer License Fees	9,500	8,200	(1,300)	9,600	8,000	(1,600)	8,000
Total	1,647,585	1,666,898	19,313	1,787,960	1,694,903	(93,057)	1,744,503

- Personal Services- Personal Services- The Governor's recommended appropriation includes an increase of \$224,284 (\$102,211 general, \$78,272 federal, \$43,801 other) for FY09 salary policy.
- Contractual Services- The agency requests an increase of \$214,296 (\$114,296 federal, \$100,000 other) for FY09. The increase includes:
 - \$96,340 in Engineering and Architectural Consultant for contracting environmental consultants with expertise in oil refineries, crude oil pipelines, and other expansion in industries where DENR has little or no expertise. For example, the proposed Hyperion oil refinery in Union County will require just about every environmental permit that the department issues and the permit applications are expected to be complex. Because the department has no experience permitting a refinery, DENR may need outside expertise to assist in evaluating the permit applications. Without the ability to contract with experts, the permits may not be issued timely, may not adequately address all of the potential impacts to human health and the environment, and may not withstand legal appeals from opposing local residents and environmental groups. DENR will request these industries to pay the consulting costs.
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 - \$20,003 in On Campus Lab Services to provide analytical services from the State Health Lab for water samples taken from new water quality monitoring stations to be located in the Hyperion oil refinery project area. Four ambient water quality monitoring sites will be added by the Surface Water Quality Program to the established ambient surface water monitoring network. These new sites will be situated on waters near the location of the proposed oil refinery to collect surface water quality data. The data collected will be used to establish baseline concentrations for a number of water quality parameters including metals,

total petroleum hydrocarbons, volatile organic carbon, and routine water quality monitoring parameters. These sites will continue to be monitored during construction and operation of the refinery to monitor for water quality impacts. These sites will be sampled on a quarterly basis. Without ambient water quality analytical data from these monitoring sites, the department will not be able to determine if the construction and operation of the oil refinery causes impacts to current ambient conditions. The department will request additional federal water quality monitoring funds from EPA.

- \$6,978 in miscellaneous increases and decreases in the contractual services budget. The Governor recommends this request.

➤ **Capital Outlay-** The agency requests an increase of \$296,500 in federal fund expenditure authority for FY09. The increase includes:

- \$286,445 to replace lab equipment that is in poor condition. EPA requires the department to monitor various air quality standards under the federal Clean Air Act. As a result, the department requests replacement equipment in order to demonstrate compliance with the federal ambient air quality standards. The department requests 3 air monitoring sites with sampling equipment to provide air monitoring around the Hyperion project. The department also requests to purchase 18 thalimede stage recorders and 5 kalesto stage recorders for the Surface Water Quality Program.
- \$10,055 for various increases and decreases in computer software and hardware.

The Governor recommends this request.

Selected Performance Indicators

	<u>FY07</u>			<u>FY08</u>			<u>FY09</u>
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Permitted Air Emission Sources	620	603	(17)	670	625	(45)	650
Ethanol Production from Plants with Air	1,080	1,217	137	1,352	1,500	148	1,600
Air Quality Monitoring Sites	16	15	(1)	15	15	0	18
Regulated Public Water Drinking Systems	676	661	(15)	678	663	(15)	665
Total Population Served by Public Water	663,000	667,748	4,748	665,000	669,000	4,000	670,000
Permitted Solid Waste Disposal Sites	247	249	2	248	250	2	250
Storm Water Inspections	175	154	(21)	250	225	(25)	275
Total Water Right Permits	7,800	7,748	(52)	8,000	7,800	(200)	7,850
Cumulative Tanks Removed/Sites	4,048/2,920	4,018/2,870	n/a	4,148/2,920	4,118/2,920	n/a	4,218/2,970
Active Above-Ground Storage Tanks Regis.	4,140	4,134	(6)	4,180	4,174	(6)	4,214
Active Underground Storage Tanks Regis.	3,000	3,009	9	3,020	3,029	9	3,049
Spills and Releases Reported	200	171	(29)	200	200	0	200
Wastewater Point Sources Permitted	369	374	5	375	380	5	385
Active Gold and Other Mine Permits	48	48	0	49	46	(3)	46
Active Sand and Gravel Mine Sites Licensed	1,920	1,896	(24)	1,920	1,900	(20)	1,900
Brownfields Cleanup Project Completed	2	1	(1)	2	2	0	2
Wastewater Permit File Evaluations		30	30		45	45	45
Backlog of New or Modified Air Permits	0	1	1	0	0	0	0
Ave. Number of Days to Issue Air Permits	90	69	(21)	90	<90	n/a	<90

Regulated Response Fund- Informational

To provide for the cleanup of regulated substances during emergencies or when necessary to protect public health, safety, welfare, or the environment of the state.

The total recommended budget for the Regulated Response Fund consists of \$1,750,000 in other fund expenditure authority and 0.0 FTE.

	Actual FY07	Budgeted FY08	Agency Req. FY09	Gov Rec. FY09	Inc/Dec FY09	% Change From FY08
Personal Services	-	-	-	-	-	0.0%
Travel	-	-	-	-	-	0.0%
Contractual Services	34,222	1,750,000	1,750,000	1,750,000	-	0.0%
Supplies & Materials	-	-	-	-	-	0.0%
Grants And Subsidies	-	-	-	-	-	0.0%
Capital Outlay	-	-	-	-	-	0.0%
Other	-	-	-	-	-	0.0%
Total	34,222	1,750,000	1,750,000	1,750,000	-	0.0%
Funding Types						
General	-	-	-	-	-	0.0%
Federal	-	-	-	-	-	0.0%
Other	34,222	1,750,000	1,750,000	1,750,000	-	0.0%
Total	34,222	1,750,000	1,750,000	1,750,000	-	0.0%
FTE	-	-	-	-	-	0.0%

Revenues

	FY07			FY08			FY09
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Penalties and Reimbursements	100,000	258,119	158,119	100,000	100,000	0	100,000
Investment Council Interest	155,000	64,020	(90,980)	155,000	64,000	(91,000)	64,000
Total	255,000	322,139	67,139	255,000	164,000	(91,000)	164,000

➤ Starting Cash Balance in Regulated Response Fund on 7/01/07- \$2,234,664.

Selected Performance Indicators

	FY07			FY08			FY09
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Hot Springs Refinery Cleanup	\$0	\$1,539	\$1,539	\$0	\$0	\$0	\$0
Belle Fourche Shop Cleanup	\$0	\$4,423	\$4,423	\$0	\$0	\$0	\$0
Bridgewater Quality Meats Investigation	\$0	\$3,518	\$3,518	\$0	\$0	\$0	\$0
Gunderson Property	\$0	\$1,278	\$1,278	\$0	\$0	\$0	\$0
Madison VOC Investigation	\$0	\$23,379	\$23,379	\$0	\$0	\$0	\$0
Capacity to Match EPA Superfund Expenditures at Brohm and Respond to Other Cleanups	\$1,750,000	\$0	(\$1,750,000)	\$1,750,000	\$1,750,000	\$0	\$1,750,000

Livestock Cleanup Fund- Informational

To provide for the cleanup of discharges or spills from animal feeding operations during emergencies, or when necessary to protect public health, safety, welfare, or environment of the state.

The total recommended budget for the Livestock Cleanup Fund consists of \$765,000 in other fund expenditure authority and 0.0 FTE.

	Actual FY07	Budgeted FY08	Agency Req. FY09	Gov Rec. FY09	Inc/Dec FY09	% Change From FY08
Personal Services	-	-	-	-	-	0.0%
Travel	-	-	-	-	-	0.0%
Contractual Services	-	765,000	765,000	765,000	-	0.0%
Supplies & Materials	-	-	-	-	-	0.0%
Grants And Subsidies	-	-	-	-	-	0.0%
Capital Outlay	-	-	-	-	-	0.0%
Other	-	-	-	-	-	0.0%
Total	-	765,000	765,000	765,000	-	0.0%
Funding Types						
General	-	-	-	-	-	0.0%
Federal	-	-	-	-	-	0.0%
Other	-	765,000	765,000	765,000	-	0.0%
Total	-	765,000	765,000	765,000	-	0.0%
FTE	-	-	-	-	-	0.0%

Revenues

	<u>FY07</u>			<u>FY08</u>			<u>FY09</u>
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Investment Council Interest	27,000	30,980	3,980	27,000	27,000	0	27,000
Penalties and Reimbursements	10,000	2,000	(8,000)	10,000	10,000	0	10,000
Total	37,000	32,980	(4,020)	37,000	37,000	0	37,000

➤ Starting Cash Balance in the Livestock Cleanup Fund on 7/01/07 - \$1,061,721.

Selected Performance Indicators

	<u>FY07</u>			<u>FY08</u>			<u>FY09</u>
	Original Estimate	Actual	Difference Over (Under) Estim.	Original Estimate	Current Estimate	Change in Estimate	Estimate
Environmental Cleanups Funded	1	0	(1)	1	1	0	1
Capacity to Respond to Cleanups Needed	\$765,000	\$0	(765,000)	\$765,000	\$765,000	0	\$765,000

Other Departmental Issues

A. Budget Transfers (FY07 and FY08 year-to-date)

\$55,000 no FTE	One-time transfer	05/01/2007 approved by BFM
DENR transferred \$55,000 in federal fund expenditure authority to other fund expenditure authority within Financial and Technical Assistance. This is a one-time transfer involving personal services. The funds transferred will be used for administration of the Clean Water SRF programs. Funds are available due to lower than expected federal funding.		
\$136,000 no FTE	One-time transfer	06/25/07 approved by BFM
DENR transferred \$50,000 of general funds within Environmental Services and \$86,000 of other fund expenditure authority to federal fund expenditure authority within Environmental Services. This is a one-time transfer involving both personal services and operating expenses. The \$50,000 is available due to vacancies throughout the year in Environmental Services. The \$86,000 of other fund expenditure authority is available due to the division not utilizing other funds to avoid raising fees. The \$50,000 of general funds will provide research funding for South Dakota to use Lansat technology which determines water usage statewide. The \$86,000 of federal fund expenditure authority will be used to cover personal services within the Environmental Services Division.		
Total of all Transfers: \$191,000		

B. Audit Findings

None.

C. General Fund Reversions FY03-FY07

FY03- \$103,140
FY04- \$227,302
FY05- \$119,515
FY06- \$25,418
FY07- \$0

D. Letters of Intent – FY08

No Letters of Intent items for FY08.

October 26, 2007

REGULATED SUBSTANCE RESPONSE FUND



South Dakota Legislative Research Council

Frequently Asked Questions

The purpose of this FAQ sheet is to provide information to the Joint Committee on Appropriations regarding Informational Budgets in the South Dakota budgetary system. The information was compiled by the Legislative Research Council with assistance from the Department of Legislative Audit and the Government Operations and Audit Committee.

When and why was this fund created?

The Regulated Substance Response Fund was created by the 1988 Legislature for the purpose of providing funds for the cleanup of regulated substance discharges. Regulated substances include pesticides, fertilizers, hazardous substances, toxic pollutants, petroleum, oil, gasoline, and kerosene, etc. The fund is attached to the Department of Environment and Natural Resources for informational budgeting and administration of the fund.

Where does the revenue come from?

The revenue for the fund comes from:

- (1) Appropriations from the general fund;
- (2) Money from civil action or administrative proceeding based upon violation of the state's environmental statutes or upon damage to the environment, including actions from administrative expense recoveries, civil penalties, compensatory damages, and money paid from any agreement stipulation or settlement;
- (3) Interest due to the fund; gifts, grants, reimbursements, or any appropriations for the purpose of the fund;
- (4) One-time contribution of \$350,000 from the petroleum release compensation fund; and
- (5) A temporary pesticide registration increase.

Has the original purpose of the fund changed?

The original purpose was to provide funds for the cleanup of regulated substance discharges. The purpose hasn't changed, but a subfund was added to the fund by the Legislature in 1990.

34A-12-3.1 created a subfund of the Regulated Substance Response Fund for recovered leaking underground storage tank trust fund money. The subfund is separately maintained and administered in the manner required by the Superfund Amendments and Reauthorization Act of 1986 as amended as of January 1, 1990. Money deposited in the subfund is disbursed and used only for the purposes authorized under subtitle I of the Resources Conservation Recovery Act as amended, October 1986.

What spending restrictions exist on the fund?

Money in the Regulated Substance Response Fund is continuously appropriated. (34A-12-3)

The Secretary of the Department of Environment and Natural Resources may expend funds to provide for the costs of investigations, emergency remedial efforts, corrective actions, and managerial or administrative activities (34A-12-4). The Secretary's use of the response fund shall be based upon the following:

(1) In the case of an investigation, when the Secretary determines that a discharge requiring an emergency remedial effort may have occurred and that the general operating budget of the department for such purposes is not adequate to cover the costs of the necessary investigatory activities;

(2) In the case of an emergency remedial effort, when the Secretary determines that a discharge has occurred and that corrective actions shall be immediately undertaken to protect an imminent threat to the public health or safety or to contain a discharge which, if not immediately contained, shall in time pose a significantly greater threat to public health or safety or to the environment of this state than if such action is not immediately taken; and

(3) In the case of a discharge not of an emergency nature when the Secretary determines that a discharge has occurred, that a responsible party or liability fund capable of performing the corrective actions either cannot be identified or refuses to undertake corrective actions, and that corrective actions shall be undertaken to protect the public health, safety, welfare, or environment of the state.

Is the fund on the state accounting system? What is the timing of the Fiscal Year?

The fund is on the state accounting system. The fiscal year runs the same as the State Fiscal Year which is from July 1 to June 30.

What Oversight Exists?

The South Dakota Department of Legislative Audit has audited the financial statements of the Regulated Substance Response Fund as of June 30, 2006. The fund is also reviewed annually by the Joint Appropriation's Committee during the budget hearing process for the Department of Environment and Natural Resources.

2007 Government Operations and Audit Committee "Blue Book"

Prepared by the Department of Legislative Audit

Other Fund Information

**Department of Environment and Natural Resources
State Accounting System - Other Fund Balances
Company 3072 - Regulated Substance Response Fund**

	FY2004	FY2005	FY2006	FY2007
1 Cash Pooled with State Treasurer	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
2 Total Assets	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
3				
4 Accounts Payable	-	-	-	-
5 Total Liabilities	-	-	-	-
6				
7 Reserve for Encumbrances	-	-	-	-
8 Unreserved Fund Balance	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
9 Total Fund Equity	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
10 Total Liabilities and Fund Equity	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
11				
12				
13 Fines, Forfeits and Penalties	206,760.55	94,773.50	71,822.44	258,119.00
14 Use of Money and Property	427,150.97	305,503.74	266,594.57	336,433.25
15 Other Revenue	-	901.17	-	-
16 Total Operating Revenue	633,911.52	401,178.41	358,417.01	594,552.25
17				
18 Personal Services and Benefits	-	-	-	-
19 Travel	-	-	-	-
20 Contractual Services	25,511.74	60,273.99	110,598.34	34,222.32
21 Supplies and Materials	-	-	-	-
22 Grants and Subsidies	-	-	-	-
23 Capital Outlay	-	-	-	-
24 Total Operating Expenditures/Expenses	25,511.74	60,273.99	110,598.34	34,222.32
25				
26 Transfers In	14,761.73	-	5,000.00	-
27 Transfers Out	(353,859.10)	(250,740.20)	(233,410.41)	(272,413.01)
28 Net Transfers In (Out)	(339,097.37)	(250,740.20)	(228,410.41)	(272,413.01)
29				
30 Net Change	269,302.41	90,164.22	19,408.26	287,916.92
31				
32 Beginning Fund Equity	1,567,873.10	1,837,175.51	1,927,339.73	1,946,747.99
33 Ending Equity	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91

Company: 3072

Company Name: Other Funds - Participating

Fund Name: Regulated Substance Response Fund

Fund Type: Special Revenue

Purpose: SDCL 34A-12-3 created the Regulated Substance Response Fund. Source: Appropriation from general fund; money from civil action or administrative proceeding for violation of environmental statutes or upon damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings; interest attributable to investment of the money in the response fund; one-time contribution from petroleum release cleanup fund; temporary pesticide registration fee increase. Use: Money is continuously appropriation to provide funds for the clean up of regulated substance discharges.

SDCL 34A-12-3.1 created a subfund of the Regulated Substances Response Fund. Source: Recovered leaking underground storage tank trust fund moneys. The subfund shall be separately maintained and administered in the manner required by the Superfund Amendments and Reauthorization Act of 1986 as amended as of January 1, 1990. Use: Moneys deposited in the subfund shall be disbursed and used only for the purposes authorized under subtitle 1 of the Resources Conservation Recovery Act as amended, October 1986.

SDCL 1-50-9 created the SARA Fee Subfund for deposit of all monies including fees received pursuant to 1-50-8. Used to defray expenses for the state emergency response commission and match for any grants the commission may receive.

Budget Information: Included in the General Appropriations Bill as an informational budget.

Condition Statement Prepared by the Bureau of Finance and Management on 12/21/07

**Department of Environment & Natural Resources
Regulated Response Fund
Condition Statement (3072-802-Info)**

	ACTUAL FY2006	ACTUAL FY2007	BUDGETED FY2008	PROJECTED FY2009
TOTAL RECEIPTS	\$125,007	\$322,139	\$215,474	\$172,650
TOTAL DISBURSEMENTS	\$110,598	\$34,222	\$72,410	\$172,410
TRANSFER IN/ (OUT)	\$5,000	\$0	\$0	\$0
NET (Receipts + Transf- Disburs)	\$19,409	\$287,917	\$143,064	\$240
BEGINNING CASH BALANCE	\$1,927,341	\$1,946,750	\$2,234,667	\$2,377,731
ENDING BALANCE	\$1,946,750	\$2,234,667	\$2,377,731	\$2,377,971

ENVIRONMENTAL LIVESTOCK CLEANUP FUND



South Dakota Legislative Research Council

Frequently Asked Questions

The purpose of this FAQ sheet is to provide information to the Joint Committee on Appropriations regarding Informational Budgets in the South Dakota budgetary system. The information was compiled by the Legislative Research Council with assistance from the Department of Legislative Audit and the Government Operations and Audit Committee.

When and why was this fund created?

The Environmental Livestock Cleanup Fund was created by the 1998 Legislature for the purpose of providing funds for the cleanup of intentional or unintentional discharge which results in the release, spill, leak, escape, or disposal of manure or other materials or wastes associated with livestock operations that have not been contained or managed properly and are a source of harm or a threat of harm to public health, safety, or the environment, and must be corrected. The fund is attached to the Department of Environment and Natural Resources for informational budgeting and administration of the fund.

Where does the revenue come from?

The revenue for the fund comes from:

- (1) Money, other than criminal fines assessed in criminal actions, recovered by the state from any livestock operation in any action or administrative proceeding based upon violation of the state's environmental statutes in Title 34A or upon damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings;
- (2) Interest due to the fund;
- (3) Money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the purposes of the environmental livestock cleanup fund;
- (4) Money from licenses, permits, and fees; and
- (5) A one-time contribution of \$750,000 from the general fund when the fund was created.

What spending restrictions exist on the fund?

Money in the Regulated Substance Response Fund is continuously appropriated. (34A-2B-2)

The Secretary of the Department of Environment and Natural resources may expend money from the environmental livestock cleanup fund to provide for the costs of investigations, emergency remedial efforts, corrective actions, and managerial or administrative activities associated with the activities resulting from a discharge. (34A-2B-3) The Secretary's use of the environmental livestock cleanup fund shall be based upon the following:

(1) In the case of an investigation, when the Secretary determines that a discharge has probably occurred and that the general operating budget of the department for such purposes is not adequate to cover the costs of the necessary investigatory activities;

(2) In the case of an emergency remedial effort, when the Secretary determines that a discharge has occurred and that corrective actions shall be immediately undertaken to protect an imminent threat to the public health or safety or to contain a discharge which, if not immediately contained, will in time pose a significantly greater threat to public health or safety or to the environment of this state than if such action is not immediately taken;

(3) In the case of a discharge not of an emergency nature when the secretary determines that a discharge has occurred, that a responsible party or liability fund capable of performing the corrective actions either cannot be identified or refuses to undertake corrective actions, and that corrective actions shall be undertaken to protect the public health, safety, welfare, or environment of the state; or

(4) In the case of corrective action required at a livestock operation when the secretary determines that the potential for a discharge exists, that an owner, operator, or liability fund capable of performing the corrective actions either cannot be identified, refuses or is unable to undertake corrective actions, and that corrective action must be undertaken to protect against an imminent threat to the public health, safety, welfare, or environment of the state.

Is the fund on the state accounting system? What is the timing of the Fiscal Year?

The fund is on the state accounting system. The fiscal year runs the same as the State Fiscal Year which is from July 1 to June 30.

When was the last audit completed on this fund?

The South Dakota Department of Legislative Audit has audited the financial statements of the Environmental Livestock Cleanup Fund as of June 30, 2006. The fund is also reviewed annually by the Joint Appropriation's Committee during the budget hearing process for the Department of Environment and Natural Resources.

2007 Government Operations and Audit Committee "Blue Book"

Prepared by the Department of Legislative Audit

Other Fund Information

Department of Environment and Natural Resources
State Accounting System - Other Fund Balances
Company 3072 - Environmental Livestock Cleanup Fund

	FY2004	FY2005	FY2006	FY2007
1 Cash Pooled with State Treasurer	961,777.17	993,383.49	1,028,741.19	1,061,721.08
2 Total Assets	961,777.17	993,383.49	1,028,741.19	1,061,721.08
3				
4 Accounts Payable	-	-	-	-
5 Total Liabilities	-	-	-	-
6				
7 Reserve for Encumbrances	-	-	-	-
8 Unreserved Fund Balance	961,777.17	993,383.49	1,028,741.19	1,061,721.08
9 Total Fund Equity	961,777.17	993,383.49	1,028,741.19	1,061,721.08
10 Total Liabilities and Fund Equity	961,777.17	993,383.49	1,028,741.19	1,061,721.08
11				
12				
13 Licenses, Permits and Fees	-	2,529.00	9,240.00	2,000.00
14 Total Operating Revenue	-	2,529.00	9,240.00	2,000.00
15				
16 Personal Services and Benefits	-	-	-	-
17 Travel	-	-	-	-
18 Contractual Services	-	-	-	-
19 Supplies and Materials	-	-	-	-
20 Grants and Subsidies	-	-	-	-
21 Capital Outlay	-	-	-	-
22 Total Operating Expenditures/Expenses	-	-	-	-
23				
24 Transfers In	42,506.04	29,077.32	26,117.70	30,979.89
25 Transfers Out	-	-	-	-
26 Net Transfers In (Out)	42,506.04	29,077.32	26,117.70	30,979.89
27				
28 Net Change	42,506.04	31,606.32	35,357.70	32,979.89
29				
30 Beginning Fund Equity	919,271.13	961,777.17	993,383.49	1,028,741.19
31 Prior Period Adjustment	-	-	-	-
32 Ending Equity	961,777.17	993,383.49	1,028,741.19	1,061,721.08

Company: 3072

Company Name: Other Funds - Participating

Fund Name: Environmental Livestock Cleanup Fund

Fund Type: Special Revenue

Purpose: SDCL 34A-2B-2 created the Environmental Livestock Cleanup Fund. Source: Civil actions related to damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings. Interest attributable to investment of the money in the fund. Uses: All money in the environmental livestock cleanup fund is continuously appropriated to provide funds for the cleanup of discharges.

Budget Information: Included in the General Appropriations Bill as an informational budget.

Condition Statement Prepared by the Bureau of Finance and Management on 12/21/07

**Department of Environment & Natural Resources
Livestock Cleanup Fund
Condition Statement (3074-740-INFO)**

	ACTUAL FY2006	ACTUAL FY2007	BUDGETED FY2008	PROJECTED FY2009
TOTAL RECEIPTS	\$35,358	\$32,980	\$45,000	\$44,000
TOTAL DISBURSEMENTS	\$0	\$0	\$121,800	\$180,000
NET (Receipts less Disbursements)	\$35,358	\$32,980	(\$76,800)	(\$136,000)
BEGINNING CASH BALANCE	\$993,383	\$1,028,741	\$1,061,721	\$984,921
ENDING BALANCE	\$1,028,741	\$1,061,721	\$984,921	\$848,921