

Good morning, Mr. Chairman and members of the Committee, my name is David Gaskin and I am the Deputy Administrator of the Division of Environmental Protection. I appreciate the opportunity to provide you with a review of the Division's activities.

NDEP is a regulatory agency staffed by 260 people in 10 bureaus. We have offices in Carson City and Las Vegas. We also provide staff support for the State Environmental Commission, the Board to Review Petroleum Claims and the Board to Finance Water Projects.

The Division is funded wholly by fees and grants. It receives no general fund money.

The work that we do can be divided into several areas:

Water

The Bureau of Water Pollution Control, Bureau of Water Quality Planning and Bureau of Safe Drinking Water serve to protect waters of the state from the discharge of pollutants and contaminants; preserve beneficial uses and maintain healthy aquatic habitat; and ensure that public water systems provide safe, reliable drinking water.

In addition to enforcing state water quality statutes and regulations, NDEP has delegated authority to implement many elements of the federal Clean Water Act and Safe Drinking Water Act in lieu of USEPA. Some of the activities we regulate include wastewater treatment plants, drinking water systems, and industrial discharges.

We evaluate the chemical, physical and biological health of watersheds throughout Nevada and develop standards and beneficial uses for specific bodies of water. We develop local, regional and statewide plans

to ensure water quality standards are maintained and impaired surface waters are restored when possible.

Water education programs such as Project WET provide integration of water quality protection concepts to K-12 teachers and students. We contribute a significant amount of grant funding for environmental improvement projects and educational programs throughout the state.

Through the State Revolving Fund, we provide low cost financing for improvements to drinking water and wastewater infrastructure.

We operate the state's lab certification program to ensure that laboratories performing water quality analyses adhere to acceptable methods and practices.

Mining

The Bureau of Mining Regulation and Reclamation ensures industry compliance with state regulatory programs that protect surface and ground water, and provides for reclamation of lands disturbed by mining operations and exploration projects.

Through state regulations and statutes, we regulate mine exploration, operation, closure and reclamation on both public and private lands. The Bureau coordinates with federal land managers to prevent duplication and conflict, and maintains two staff liaison positions to help foster direct communication with BLM.

The mine reclamation program requires financial assurance to cover full reclamation of a site prior to commencement of construction. Currently over \$2 billion in reclamation bonds are held for operations in Nevada.

Air

The Bureaus of Air Pollution Control and Air Quality Planning work to achieve and maintain healthy levels of air quality and minimize the risk of chemical accidents.

As is the case in the water programs, NDEP is authorized to implement the federal Clean Air Act in lieu of USEPA. The advantage of this arrangement to Nevada industries is timelier permit processing, increased expertise specific to our state's activities (such as gold mining), and an enhanced local presence to identify and resolve issues before they escalate into big problems.

The division has been working with the mining industry for many years to reduce mercury emissions and improve mercury management. New technology and enhanced practices are achieving impressive results.

We have seen and will continue to see a steady barrage of new federal air requirements related to climate change, energy production, mercury, ozone and particulate matter. NDEP works closely with industry associations to discuss new regulatory challenges and cooperatively develop ways to address them as smoothly as possible.

We operate a Chemical Accident Prevention Program, which was created to ensure that industrial facilities are designed and operated to prevent catastrophic releases of highly hazardous substances. We also have a Smoke Management Program to minimize impacts from controlled burns of wildlands, and an Alternative Fuels and Mobile Sources Program run in cooperation with DMV and other agencies. Finally, we monitor ambient air quality across the state to determine compliance with national air quality standards.

Waste Management

The Bureau of Waste Management is responsible for ensuring the safe management of solid and hazardous wastes.

This is carried out through regulation of facilities that generate, transport, store, dispose of or recycle hazardous waste and facilities that collect and dispose of solid waste. Again this is done through delegation of federal regulatory authority in lieu of USEPA.

We also encourage businesses, institutions and individuals to reduce the amount of waste generated and to participate in recycling programs to conserve natural resources.

Federal Facilities

The Bureau of Federal Facilities provides regulatory oversight at federal facilities, notably the Nevada Nuclear Security Site (formerly called the Nevada Test Site).

We oversee efforts to characterize the Site's geology and predict potential contaminant migration resulting from underground nuclear testing; administer the cleanup of industrial sites; and evaluate soil characterization activities. We perform inspections to ensure Department of Energy compliance with air, water, waste and drinking water regulations. We review all waste streams that are destined for disposal at the NNSS to ensure they meet established waste acceptance criteria.

Corrective Actions

The Bureau of Corrective Actions performs measures to assess and, if necessary, clean up contaminated properties to levels appropriate for their intended land use and zoning.

Clean up of contaminated sites is typically conducted voluntarily by responsible parties but in cases where there is an imminent and substantial hazard, such as ongoing exposure at unacceptable levels, the division has resources to conduct a cleanup action then pursue cost recovery. The cleanups usually involve legacy sites with multiple responsible parties, such as lead and arsenic contamination from historic mining operations. They can cover multiple jurisdictions and may be complicated by bankruptcy, reorganization, or property transfers. Large projects such as the BMI complex near Henderson require significant legal resources from the attorney general's office.

We regulate underground storage tanks to prevent the release of petroleum products to the environment, and we manage the Petroleum Fund which provides reimbursement for cleanup costs associated with tanks that have already leaked.

The Bureau administers a certification program for environmental consultants. This program is designed to ensure that competent and knowledgeable individuals are providing environmental cleanup information and services to the public and businesses.

That concludes my overview of NDEP's activities, but I was asked to bring up a couple of current issues: hydraulic fracturing and Waters of the US. Shall I proceed or are there questions at this point?

NDEP has been working cooperatively with the Nevada Division of Minerals to address senate bill 390. This bill instructed our two agencies to develop a program to assess the effects of hydraulic fracturing on the waters of the state; to require disclosure of each chemical used in hydraulic fracturing; and to provide notice to members of the general public relating to hydraulic fracturing in this state.

We worked with the Division of Minerals to write draft regulations addressing hydraulic fracturing to be included in NAC 522, NDOM's Oil and Gas requirements. I believe Rich Perry gave you a presentation recently on those proposed regulations and hydraulic fracturing in general.

Three public workshops were held in March. All public comments received at the workshops or during the public comment period were reviewed and addressed by a joint NDEP/NDOM working group.

The latest version of the draft regulations, reflecting changes made to address public comments, is available on NDOM's website as well as our own. The Commission on Mineral Resources will hear and take action on the regulations at their meeting on August 28th in Elko.

After that, the approved regulations will be reviewed by the Mining Oversight and Accountability Commission and then will be heard before the Legislative Commission for final approval before the end of this year.

Any questions on hydraulic fracturing?

The next issue is the proposed rule by USEPA and the Army Corps of Engineers to modify the definition of Waters of the United States in the Clean Water Act. This is a big issue because that definition determines which waters fall under Clean Water Act jurisdiction and consequently can subject those waters to federal requirements, oversight and permitting such as NPDES and Section 404 permits.

Since the proposed rule was released, there have been many discussions, meetings, webinars, workshops, etc. to try to understand what the revised definition means and what the implications are. These discussions are ongoing. As I mentioned previously, Colleen Cripps is in Washington DC today, leading a meeting on the Clean Water Act with EPA and the Environmental Council of States. I am leading a similar meeting with the Association of Clean Water Administrators at a national water conference next week.

Comments on the proposed rule are due on October 20th. We are still considering the issues and evaluating how we will respond. Many other parties will have concerns and comments as well. We are all very interested in how EPA and the Corps will respond.

Thank you again for the opportunity to be here. I'd be happy to address any questions you may have.

