



**STATE OF NEVADA
GOVERNOR'S FINANCE OFFICE
Division of Internal Audits**

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June 29, 2021

Members of the Executive Branch Audit Committee

The Honorable Steve Sisolak
Governor, Chairman

The Honorable Kate Marshall
Lieutenant Governor

The Honorable Barbara K. Cegavske
Secretary of State

The Honorable Zach Conine
State Treasurer

The Honorable Catherine Byrne
State Controller

The Honorable Aaron D. Ford
Attorney General

Trudy Dulong, CPA
Member of the Public

This is the 6-month follow-up on the implementation status of DIA Report No. 21-04, Department of Conservation and Natural Resources, Nevada Division of Environmental Protection (NDEP), Petroleum Fund (Fund), Certified Environmental Managers (CEM). The Division of Internal Audits (DIA) reviewed the actions taken by NDEP to address the findings in the January 2021 report. The review determined NDEP made the following progress implementing the recommendations:

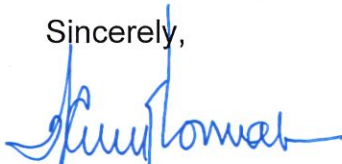
Recommendations	Fully Implemented	Partially Implemented	No Action	Total
1. Anticipated implementation period less than six months	0	0	1	1
2. Anticipated implementation period exceeding six months	0	0	3	3

Appendix A describes the current implementation status of each recommendation. NDEP's status report is included in Appendix B. DIA provided the analysis to NDEP.

Annually hereafter DIA will review the status of the outstanding audit recommendations.

DIA thanks NDEP management for their cooperation and assistance extended during this review.

Sincerely,



Warren Lowman
Administrator

cc: Michelle White, Chief of Staff to Governor Sisolak
Bradley Crowell, Director, Department of Conservation and Natural Resources
Susan Brown, Director, Governor's Finance Office
Greg Lovato, Administrator, Nevada Division of Environmental Protection

Appendix A

Division of Internal Audits Follow-up Determinations

Category 1: Recommendations with an anticipated implementation period less than six months.
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Recommendation 2

Establish rates for professional services.

Status – No Action

Agency Actions – NDEP conducted an analysis of Certified Environmental Manager (CEM) professional services costs. NDEP concluded that allowing CEMs to adjust their rates based on market conditions does not have an adverse financial impact on the Fund.

NDEP stated they would consider establishing other mechanisms to establish professional costs for investigating and remediation of underground storage tank leaks. NDEP requested an extension to January 2022 to implement this recommendation.

Auditor Comment – NDEP's analysis only considered a portion of the professional services costs analyzed in DIA's audit report. NDEP narrowly defined CEM costs as the costs billed for individual CEM professional services time. DIA's analysis considered total professional services costs and included drilling costs, soil excavation costs, analytical costs, and remediation construction costs. According to NDEP, these additional costs make up 75% of Fund charges. Excluding these charges leads to an incomplete analysis and significantly reduces the estimated annual cost savings of \$1 million.

Total clean-up costs should be included to ensure that all clean up related costs are appropriate and that the state is not reimbursing for varying and inflated rates.

Category 2: Recommendations with an anticipated implementation period exceeding six months.
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Recommendation 1

Reconcile project costs.

Status – No Action

Agency Actions – NDEP has conducted internal meetings and discussed available database options to track and reconcile project costs to authorized Not to Exceed Proposals (NTEP). The Fund will not have internal division database support until July 1, 2021. Additionally, NDEP stated this recommendation is affected by the research and

decisions made for Recommendation 2; therefore, limited action has been completed at this time. The estimated completion date for this recommendation is January 2022.

Recommendation 3

Strengthen CEM certification requirements.

Status – No Action

Agency Actions – NDEP has conducted internal meetings and discussed ways the certification program can strengthen the CEM portion of the program to evaluate the experience level of an applicant more accurately to include an analysis of education and experience. NDEP is also discussing the ability for the program to implement a revised certification renewal process that incorporates continuing education. These discussions are still in the planning phases and existing staff in the program has been occupied with other program duties; therefore, limited action has been completed at this time. The estimated completion date for this recommendation is January 2022.

Recommendation 4

Perform random verification of proofs of payment.

Status – No Action

Agency Actions – NDEP indicated it has not been able to make progress towards addressing Recommendation 4 due to competing program priorities. NDEP plans to amend regulation and policy during the second half of 2021 to require specific financial records to better demonstrate proof of payment, including claimant co-payments. The estimated completion date for this recommendation is January 2022.

Appendix B

Nevada Division of Environmental Protection Petroleum Fund Status Report



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources
Steve Sisolak, Governor
Bradley Crowell, Director
Greg Lovato, Administrator

May 17, 2021

Warren Lowman, Administrator
Division of Internal Audits
Governor's Office of Finance
209 W. Musser Street, Suite 302
Carson City, NV 89701-4298

RE: NDEP Follow-up Responses to Division of Internal Audit's January 28, 2021 Report to the Executive Branch Audit Committee, DIA Report No. 21-04

Dear Mr. Lowman:

This letter is provided in response to the Division of Internal Audit's February 1, 2021 letter request for the status of the four outstanding recommendations listed in Audit Report No. 21-04. It is NDEP's understanding this item will be reviewed at the June 29, 2021 Executive Branch Audit Committee hearing. Action on the four recommendations below is in addition to NDEP staff and management working diligently to address recommendations still pending for the Division of Internal Audit's Report No. 19-05, dated June 25, 2019. For example, NDEP has been presenting Assembly Bill 40 before various committees to change the small business designation in NRS 445C, per recommendation 1 from Report No 19-05.

Category 1: Recommendations with an anticipated implementation period less than six months.

Recommendation 2 - Establish rates for professional services.

NDEP has evaluated the potential cost savings that may be achieved by establishing rates for Certified Environmental Manager (CEM) professional services (i.e., skill level rates for Project Managers, Staff Geologists, Technicians, etc.) as they apply to the Petroleum Fund (Fund). The results of the analysis indicate the Fund would have incurred additional cost (approximately \$7,408 annually) by averaging skill level rates, but it could have saved approximately \$4,748 annually if rates were set using a median rate for each skill level (refer to Attachment 1 for a summary). This estimate is far less than the \$1 million estimate included in Audit Report No. 21-04 and is consistent with NDEP's original January 8, 2021 response to this recommendation.

An in-depth analysis was performed by query of Fund database records for the past three years (May 2018 through April 2021). Staff used not-to-exceed-proposals (NTEPs) requesting site assessment and/or corrective action work tasks that were submitted by CEMs and approved by Bureau of Corrective Actions case officers. The NTEPs propose both skill level hours and rates that are used to establish an overall task cost that cannot be exceeded when CEM costs are subsequently submitted for reimbursement in a claim to the Fund. Each CEM invoice containing professional service costs is

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linked to an approved NTEP when submitting a reimbursement claim in the Fund database system to prevent overpayment.

First, more than 10,000 data points were used to determine an amount the Fund has paid or will pay for approved CEM professional services. Staff then established a weighted-average rate for each skill level as well as a median rate for each skill level to determine whether there could have been a cost saving to the Fund or an overpayment by the Fund for the same three-year time period, if a skill level rate had been established. The results of the analysis indicate the Fund would have incurred additional cost (approximately \$7,408 annually) by averaging skill level rates, but it could have saved approximately \$4,748 annually if rates were set using a median rate for each skill level (refer to Attachment 1 for a summary).

Given the results of this analysis, it appears allowing CEMs to adjust their rates based on market conditions does not have an adverse financial impact on the Fund. If rates were established using an average for each skill level, the Fund would likely pay 0.35% more for CEM services. If rates were established using a median for each skill level, the Fund could save approximately 0.22% for CEM services. This is far less than the 11.5% cost savings cited in DIA's 21-04 Report. It should be noted that CEM costs make up approximately 25% of total Fund reimbursed costs. The formula used in the 21-04 Report to project a cost saving of \$1 million annually made an incorrect assumption that the entire \$8.75 million for 2020 claims reimbursement were all costs paid towards professional CEM services. Non-CEM costs, i.e., drilling costs, soil excavation costs, analytical costs, and remediation system construction costs make up 75% of the costs paid by the Fund.

Given the above research, it does not appear that establishing a rate for professional services will result in significant cost saving to the Fund. However, NDEP will continue to evaluate the potential benefit of establishing rates for professional services if it will facilitate staff review efficiencies in addressing Recommendation 1 – Reconciling project costs.

Based on this new information, NDEP is considering other mechanisms to establish professional costs for investigation and remediation of Leaking Underground Storage Tank sites by incorporating skill level rates and hours for specific tasks. As a result, NDEP is requesting the estimated completion date for Recommendation 2 be extended to January 2022 to align with the other three recommendations below.

Status Report: Partially Implemented

Category 2: Recommendations with an anticipated implementation period exceeding six months.

Recommendation 1 - Reconcile project costs.

NDEP has conducted internal meetings and discussed available database options to track and reconcile project costs to authorized NTEPs. Internal NDEP database support will not be available to the Petroleum Fund until the new fiscal year (July 1, 2021). This recommendation is affected by the research and decisions made for Recommendation 2 above; therefore, limited action has been completed at this time. The estimated completion date for this recommendation is January 2022.

Mr. Warren Lowman
May 17, 2021
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Status Report: No Action

Recommendation 3 - Strengthen CEM certification requirements.

NDEP has conducted internal meetings and discussed ways the Certification Program can strengthen the CEM portion of the program to more accurately evaluate the experience level of an applicant to the program as a result of education and experience. We are also discussing the ability for the program to implement a revised certification renewal process that incorporates continuing education. These discussions are still in the planning phases and existing staff in the program has been occupied with other program duties; therefore, limited action has been completed at this time. The estimated completion date for this recommendation is January 2022.

Status Report: No Action

Recommendation 4 - Perform random verification of proofs of payment.

NDEP has not been able to make progress towards addressing Recommendation 4 due to competing program priorities; however, staff plan to amend regulation and policy during the second half of 2021 to require specific financial records to better demonstrate proof of payment, including claimant co-payments. The estimated completion date for this recommendation is January 2022.

Status Report: No Action

Thank you for your consideration and we look forward to continuing work with your office on the follow up from this audit.

Sincerely,



Greg Lovato
Administrator

Attachment 1 – May 17, 2021 Update DIA Report 21-04, Recommendation 2 – Estimated Savings

cc: Bradley Crowell, Director, Department of Conservation Natural Resources
Susan Brown, Director, Governor's Finance Office

Attachment 1 - May 17, 2021 DIA Report 21-04, Recommendation 2 - Estimated Savings

3-Year Data Set: May 2018 through April 2021

Skill Level	Total Approved For Payment	Adjusted By Average Rate	Average Rate Difference	Adjusted By Median Rate	Median Rate Difference
Admin Assistant	\$258,075.94	\$260,288.03	-\$2,212.09	\$257,685.00	\$390.94
Drafter	\$309,738.88	\$306,587.75	\$3,151.13	\$286,695.00	\$23,043.88
Technician	\$1,180,082.50	\$1,150,823.56	\$29,258.94	\$1,137,106.80	\$42,975.70
Staff Geologist	\$2,076,464.60	\$2,095,212.78	-\$18,748.18	\$2,105,140.67	-\$28,676.07
Senior Geologist	\$346,595.70	\$347,861.57	-\$1,265.87	\$342,838.88	\$3,756.82
Staff Engineer	\$682,800.00	\$689,149.42	-\$6,349.42	\$622,242.00	\$60,558.00
Senior Engineer	\$175,112.50	\$186,944.07	-\$11,831.57	\$206,330.00	-\$31,217.50
Project Manager	\$960,133.44	\$968,203.75	-\$8,070.31	\$1,013,695.00	-\$53,561.56
Senior Manager	\$48,356.00	\$49,460.35	-\$1,104.35	\$49,755.00	-\$1,399.00
Principal	\$237,819.72	\$242,873.54	-\$5,053.82	\$239,445.00	-\$1,625.28
	\$6,275,179.28	\$6,297,404.82	-\$22,225.54	\$6,260,933.35	\$14,245.93
		Annual Additional Cost to Fund:	\$7,408.51	Annual Savings to Fund:	\$4,748.64

Average/median rate is higher than what the Fund paid out

