

Testimony
House Bill 1004
Senate Appropriations Committee
Monday, March 9, 2015; 8:30 a.m.
North Dakota Department of Health

Thank you, Arvy. Good morning Chairman Holmberg and members of the Senate Appropriations Committee. My name is Terry O'Clair, and I am the Director of the Air Quality Division. I am here today to speak on behalf of the Environmental Health Section which consists of five Divisions within the State Health Department that are responsible for safe guarding North Dakota's air, land and water resources. The Environmental Section has witnessed considerable workload increases due to oilfield activities, and we have provided you a document entitled "Oilfield Impacts and the North Dakota Department of Health Environmental Health Section," which summarizes some of those impacts.

I would like to take a few minutes of your time this morning to highlight some of the workload increases identified in that document. In the Air program, construction permits have increased from 20 per year to over 100 per year. Each of those permits requires considerable review by our staff to insure the new source will comply with standards. Oil well registrations have grown from 2,000 in 2005 to more than 11,000 currently, and that number is expected to top 15,000 by the end of this year.

Dr. Dwelle spoke briefly about TENORM, a radioactive material that is a byproduct of oil production. I am sure many of you have read about the radioactive filter socks that were deposited in ditches and an abandoned gas station in the northern part of the state. To address this issue, the Department funded a study by Argonne National Laboratories to identify levels of TENORM that could be safely handled in North Dakota. Rules that will require transporters of such material to be licensed and comply with reporting requirements to insure proper disposal have been drafted and are expected to be finalized by this summer. Insuring compliance will increase the work load of both the Waste Management Division as well as the Radioactive Materials Program in the Air Division. In addition to the TENORM issue, the amount of oilfield special waste has increased from 10,000 tons in 2001 to 2.1 million tons currently.

Our Laboratory Services Division has experienced dramatic increases in the number of samples analyzed. The Municipal Facilities Division has witnessed a significant increase in the number of public water systems that require inspections and reporting assessments. The growing number of systems has also resulted in more violations, increasing from 150 in 2008 to nearly 500 in 2014. The number of plans and specifications that must be reviewed for such systems has more than doubled in the past five years.

The Water Quality Division has witnessed a five-fold increase in the number of spills in the past seven years. This increase requires many more Division responses to spills and requires much more oversight work to ensure these spills are properly cleaned up. The Blacktail Creek incident that occurred recently is expected to take many years of cleanup efforts.

The Environmental Sections enforcement case load has also grown dramatically in recent years and it is expected that enforcement activity will continue to rise.

Another challenge the Environmental Section faces is dealing with all the new rules that EPA has promulgated and continues to propose. The new rules are extremely complex and require considerable effort on the part of our staff to enforce. We have always prided ourselves in having knowledgeable and experienced staff who are responsive to the public and can assist industry, large and small, to understand the federal requirements by providing experienced interpretation to ensure that proper steps were being taken, and to ensure compliance. That ability to provide professional interpretation of federal laws is changing for a number of reasons.

First, the heavy workload and the effort it takes to address all the concerns has spread staff thin, making it difficult to fully address all the questions we receive. Secondly is the severe turnover we are experiencing. The Air Division alone has lost one third of our staff since the beginning of the current biennium. Although I believe the new staff has tremendous potential, we have lost and are losing many years of experience and training. We rely on experienced staff to address all the complex questions and concerns that arose. Now that work effort must be redirected to staff with limited experience, which requires much more time and places a burden on the section to issue permits and licenses in a timely manner.

I ask the Senate Committee to look closely at the equity package that was included in the Governor's budget, but was removed by the House, that targeted

areas of high turnover and hard to fill positions. The staff we lose indicates that they enjoy their work in the Environmental Section, but simply had to accept far better pay offers from other agencies and industry. Although the equity adjustments we are seeking will not match outside salary offers, I do believe it will reduce turnover to a manageable level and allow us to retain the much needed experience we are currently losing. I would also ask that the committee closely consider the FTE needs calling for 14 additional positions as outlined in the final two pages of the report.

Thank you for your attention and consideration. I am available, along with Arvy and the other Division Directors, to respond to any questions you may have.