

Testimony
House Bill 1190
House Energy and Natural Resources
February 7, 2013
North Dakota Department of Health

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. My name is David Glatt, Chief of the Environmental Health Section for the North Dakota Department of Health. The Environmental Health Section (EHS) is responsible for the implementation of many of the environmental protection programs in the state. The EHS currently operates a Radiation Program, which through an agreement with the Nuclear Regulatory Commission (NRC) allows the implementation of rules that address the use, storage, handling and disposal of radioactive sources. I am here today to testify in opposition to House Bill 1190.

House Bill 1190 would direct the Department of Health to issue a permit for the operation of a thorium refinery and molten fluid fueled reactors. It also declares that the U.S. Environmental Protection Agency, as well as the Nuclear Regulatory Commission (NRC), lacks the authority to deny regulatory permits because the products of these refineries and facilities have not traveled in interstate commerce. The Department of Health is in opposition to HB 1190 for the following reasons:

- The Department of Health lacks the regulatory authority to permit thorium refinery operations or molten fluid fueled reactors. It is our understanding after reviewing the federal law and discussing the issue with the NRC that the authority to permit nuclear reactors is the exclusive jurisdiction of the federal government. NRC regulatory authority is provided pursuant to federal laws, which rely on Congress's power over the common defense and security, interstate and foreign commerce, and promotion of the general welfare.
- The refining of thorium meets the definition of a mill, which North Dakota is not authorized to regulate under our current agreement with the NRC. The department would be required to amend the current NRC/State agreement to allow state program implementation with federal oversight. The process to receive authorization to regulate a mill at the state level is estimated to take several years to complete. This action would require the

state to gain regulatory and monitoring expertise not currently with the department.

- Mining thorium may come under the jurisdiction of the Department of Mineral Resources, requiring the establishment of rules to address the mining activities and issuing a permit. This process is estimated to take over a year to complete with a potential fiscal impact.
- Mining of potentially radioactive material in the past, such as uranium, without knowing all potential environmental ramifications has resulted in extensive and expensive remediation. For example, remediation of uranium mining activities that occurred over 50 years ago in western North Dakota has cost the state and federal government in excess of \$15 million dollars with environmental impacts still being observed today.
- The department does not have sufficient information available regarding the thorium mineral extraction process, energy generation process or the potential quantity and quality of air, water and solid waste streams to formulate a rational regulatory process or know the overall fiscal impact.
- It is not clear how the generation of radioactive material produced by the Molten Fluid Reactors would be handled or accepted through the state's low level radiation disposal agreements currently held with other states.

Based upon the information presented, the confusing nature of the existing bill and lack of knowledge regarding waste generation or regulatory authority, we would suggest that the thorium issue be studied thoroughly before moving forward with any development or regulatory action.

This concludes my testimony and I am available to answer any questions you have regarding this matter.