

**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Department of Environmental Protection
Site Remediation Program**

July 1, 2012 to January 31, 2016

**Stephen M. Eells
State Auditor**

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Enclosed is our report on the audit of the Department of Environmental Protection, Site Remediation Program for the period of July 1, 2012 to January 31, 2016. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature of Stephen M. Eells in black ink.

Stephen M. Eells
State Auditor
June 13, 2016

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Scope

We have completed an audit of the Department of Environmental Protection, Site Remediation Program (SRP) for the period July 1, 2012 to January 31, 2016. Our audit included financial activities accounted for in the state's General Fund, Hazardous Discharge Site Cleanup Fund, New Jersey Spill Compensation Fund, 1996 Environmental Cleanup Fund, Hazardous Discharge Fund of 1986, and the Remediation Guarantee Fund.

The prime responsibilities of the SRP are to remediate sites contaminated by hazardous substances and pollutants to protect the public health and the environment and to restore contaminated areas. The program also administers the recent Site Remediation Reform Act, which requires almost all non-publicly funded site remediation projects be monitored by Licensed Site Remediation Professionals with SRP inspectors reviewing the work performed. Average annual expenditures of the SRP during fiscal years 2013, 2014, and 2015 were \$196 million. The average annual revenues for the same period were \$118 million and consisted primarily of responsible parties' annual fees, settlements, and surcharges.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the SRP, were reasonable, and were recorded properly in the accounting systems. An additional objective was to determine if the SRP is adequately monitoring the Licensed Site Remediation Professionals.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In preparation for our testing, we studied legislation, the administrative code, circular letters promulgated by the Department of the Treasury, and policies of the division. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and testing of transactions. We also read the budget messages, reviewed financial trends, and interviewed the program's personnel to obtain an understanding of the various programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions on our audit objectives, as well as internal control and

compliance. Sample populations were sorted and transactions were judgmentally selected for testing.

Conclusions

We found that the financial transactions included in our testing were related to the Site Remediation Program (SRP), were reasonable, and were recorded properly in the accounting systems. We also found the SRP is adequately monitoring the Licensed Site Remediation Professionals. In making these determinations, we noted reportable conditions that merit management's attention.

Improperly Allocated Payroll Costs

SRP management should reallocate payroll costs for the Emergency Management Program and the Office of Record Access.

During a departmental reorganization prior to our audit period, the Emergency Management Program and the Office of Record Access were transferred from the Site Remediation Program (SRP). However, 46 employees from these two units continued to be funded through SRP salary accounts. In total, we found 50 employees not performing work for the Site Remediation Program, which is funded through the Hazardous Discharge Site Cleanup Fund and the New Jersey Spill Compensation Fund.

At the end of calendar year 2013, 415 employees with annual salaries totaling \$35.7 million were on the SRP payroll. The annual salaries of the 50 employees, who worked for five other programs within the department, totaled \$3.3 million. Management did not exercise adequate oversight to ensure that costs charged to the SRP relate to the program and the funds that support it. This issue was still occurring as of the end of our field work.

Recommendation

We recommend the Department of Environmental Protection take action to transfer the salary positions of the 50 employees from the Site Remediation Program to the programs served by the employees.



Outstanding Debt

The Site Remediation Program should comply with state policy regarding debt collection, and apply liens based on internal policies.

As of April 29, 2015 the Site Remediation Program's Office of Direct Billing and Cost Recovery had \$7.4 million of outstanding debt older than 90 days, only \$2.2 million of which was transferred to the Department of the Treasury's Division of Revenue and Enterprise Services (DORES) for collection efforts. The Department of the Treasury's Circular Letter 13-11-OMB, Statewide Non-Tax Debt Collection and Write-Off, states that all accounts receivable that have not been collected within 90 days should be transferred to the DORES for collection. Transferring old debt has historically been delayed in an effort for the Site Remediation Program (SRP) to collect the revenue themselves. Although SRP recently started to refer their debt to DORES, with a debt referral rate of only 29.5 percent, SRP is limiting its potential for collection on older cases of which \$4.3 million of outstanding debt is over one year old.

Additionally, SRP internal policy states liens shall be established on delinquent direct billing accounts. SRP management stated they have been prioritizing their lien process based upon

high dollar amounts. We reviewed the 25 highest dollar accounts totaling \$2.7 million and noted 12 had no lien established totaling \$724,245. Establishing liens will aid in collection of future revenue.

Recommendation

We recommend the SRP transfer debt to the DORES in compliance with the applicable circular letter. In addition, the SRP should improve its rate of establishing liens on debtors.



Ranking of Contaminated Sites

The SRP is non-compliant with its statutory obligation to rank contaminated discharge sites.

The Department of Environmental Protection (DEP) is five years overdue in its statutory obligation to rank all hazardous discharge sites, cases, and areas of concern and provide public access on the internet. New Jersey Statutes Annotated 58:10-23.16 required the DEP to create a ranking system to establish categories to rank sites based upon level of risk to public health, safety, or the environment; the length of time the site is undergoing remediation; the economic impact; and any other relevant factor deemed appropriate by the DEP. The DEP's intention is to develop a Remedial Priority Scoring (RPS) ranking based on a computerized model that will gather data from different sources within the DEP and create a relative categorical ranking for the DEP's active contaminated sites. Sites would be ranked in five distinct categories with category one being the least potential risk and category five being the highest potential risk. Management has stated the RPS is still under development and therefore no remedial priority scores are available. Management also stated limited staffing has delayed the implementation of RPS. In addition, those limited resources were diverted because of events such as Hurricane Irene, Superstorm Sandy, and most recently an early 2016 Nor'easter that hit the Jersey Shore. The DEP has partially complied with the law by establishing a database that includes information concerning each site; identifying the location of the known or suspected contaminated site, the status of remediation, the contaminants of concern, and whether institutional or engineering controls are in use at the site. As of November 2015, the SRP listed 11,400 active sites on their website but none contained rankings.

Recommendation

We recommend the DEP comply with its statutory requirement by continuing to develop the Remedial Priority Scoring system that will provide rankings for all hazardous discharge sites, cases, and areas of concern, and make it available on their website.





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June 6, 2016

John J. Termyna
Assistant State Auditor
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Dear Mr. Termyna,

Thank you for the opportunity to review and respond to the draft audit report regarding the Department of Environmental Protection, Site Remediation Program, for the period of July 1, 2012 to January 31, 2016.

We are pleased that the audit concluded that the financial transactions included in your testing were reasonable, and were recorded properly in the State's accounting systems. We are also pleased that you found the Site Remediation Program (SRP) is adequately monitoring the Licensed Site Remediation Professionals.

The audit report also noted several matters which merit management's attention. We hereby offer the following information on current program status, as well as our planned corrective actions to address these issues and their corresponding recommendations.

Improperly Allocated Payroll Costs

The Department agrees, in part, with the auditor's recommendation. Of the 50 employees referenced in the draft audit report, 39 were from the Emergency Management Program (EM). Beginning with Fiscal Year (FY) 2017, as proposed in the FY 2017 Budget, the salaries for EM employees currently residing on the Hazardous Discharge Site Cleanup Fund (HDSCF) and New Jersey Spill Compensation Fund (NJSCF) will be transferred to a general State appropriation.

The remaining 11 employees include 7 from the Office of Public Records Access (OPRA) and 4 from various other DEP program areas. A vast majority of the workload within OPRA consists of requests answered on behalf of SRP, and the expense absorbed by SRP for OPRA salaries is appropriate. If the direct payroll charges of these 7 employees were to be removed, SRP's internally allocated annual OPRA assessment would increase by a commensurate amount, essentially leading to a zero net effect in charges to the HDSCF and NJSCF.

The other 4 employees identified by the auditors require further review and analysis, after which the Department will make a determination as to the most appropriate place for their salaries.

Outstanding Debt

The Department agrees with the auditor's recommendation. SRP is working diligently to comply with the State policy regarding debt collection. Ongoing discussions are being held with Treasury's Division of Revenue and Enterprise Services (DORES) in an attempt to develop alternate guidelines for collecting non-tax debt as per Circular 13-11-OMB. SRP has previously established internal procedures that contain timelines for collecting debt which exceed the 90-day standard promulgated by Treasury. SRP is in discussions with DORES to increase the number of days before debt has to be transferred. An increase in time before referral would assist SRP in meeting the auditor's recommendation of transferring debt to DORES in compliance with State policy. SRP is also having discussions, both internally and with DORES, to determine an appropriate course of action with regards to the \$4.3 million in "older cases" of debt that remains outstanding.

With respect to the recommendation that SRP improve its rate of establishing liens on debtors, it should be noted that the backlog in the process has been caused by an increase in the volume of cases that require liens to be filed, combined with the lien process becoming more time-consuming. Also please note also that, in many cases there is a lack of a viable person or entity (responsible party) on which to place the lien. SRP is currently assigning more full-time employees (FTE) to work through the existing cases that require liens in order to actively reduce the backlog. SRP is also exploring the option of establishing a lien threshold. If analysis on the backlog determines the workload to be unreasonable or unmanageable, a lien threshold will be developed and liens will only be filed at or above a specified debt amount.

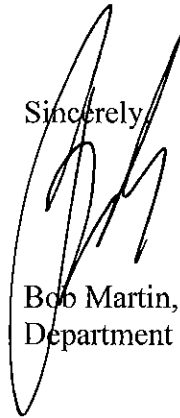
Ranking of Contaminated Sites

The Department agrees with the auditor's recommendation. As indicated in the audit report, DEP has established a public-access database that includes information regarding hazardous sites, cases and areas of concern. Furthermore, it is the DEP's intention to develop a formal Remedial Priority Scoring (RPS) ranking system for the contaminated sites. The sites will be scored independently for human health and ecological health, based on potential risk to public health and safety or to the environment. The system will consider contaminants, pathways and receptors to assess potential risk via soil, ground water, surface water and vapor intrusion. The goal of the RPS system is to prioritize sites based upon risk rather than timing. The challenges

faced by SRP in development of the RPS system include the substantial volume of sites that qualify (over 9,500 in New Jersey) and data gaps due to property abandonment and missing records. SRP anticipates work will continue on the development and implementation of the RPS system.

In closing, we would like to thank your audit staff for their continued diligent work and professionalism exhibited during the course of the audit.

Sincerely,

A handwritten signature in black ink, appearing to be 'Bob Martin', is written over the word 'Sincerely,'. The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.

Bob Martin, Commissioner
Department of Environmental Protection

C: Magdalena Padilla, Esq., Chief of Staff
Mark Pedersen, Assistant Commissioner, Site Remediation and Solid Waste Programs
Stephen Matis, Comptroller, Division of Budget and Financial Operations