

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee on  
Finance  
(JC-Fi)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR\_RCP\_pt01a
- 97hrAC-EdR\_RCP\_pt01b
- 97hrAC-EdR\_RCP\_pt02

- Appointments ... Appt
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- Clearinghouse Rules ... CRule
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- Committee Hearings ... CH
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- Miscellaneous ... Misc
- 97hr\_JC-Fi\_Misc\_Sept 24,1998\_pt09
- Record of Comm. Proceedings ... RCP
-

Sept. 24 1998

13.10 Mtg.

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STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
101 East Wilson Street, Madison, Wisconsin



RI  
Mailing Address:  
Post Office Box 7864  
Madison, WI 53707-7864

TOMMY G. THOMPSON  
GOVERNOR  
MARK D. BUGHER  
SECRETARY

September 18, 1998

The Honorable Tim Weeden  
State Senate  
203 East, Capitol  
Madison, WI 53707-8952

The Honorable John Gard  
State Assembly  
315 North, State Capitol  
Madison, WI 53707-8952

Dear Senator Weeden and Representative Gard:

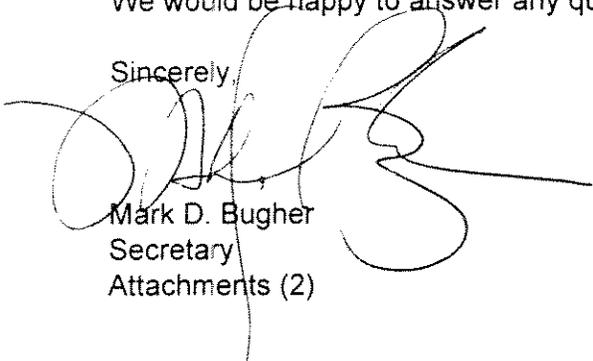
Attached is our report as required under s. 16.50, Wisconsin Statutes, on the number of federally funded positions approved during the April 1 - June 30, 1998 quarter. Also shown are changes in positions approved by the UW-System and by the Legislature during the same period. There were 13.0 federal positions approved in the quarter and 4.0 deleted for a net increase of 9.0 FTE.

Of the new positions created, the Department of Public Instruction received 1.0 FTE for Learning Support, Instructional Services. The Department of Transportation received 1.0 FTE for a policy advisor position. The Department of Veterans Affairs received 1.0 FTE for cemetery operations. The Department of Health and Family Services received 3.0 FTE for Women, Infant and Children Administration, 1.0 FTE for Children's Mental Health Services, 2.0 FTE for North Woods Wraparound, 1.0 FTE for Mental Health Systems and 3.0 FTE for the Bureau on Aging.

Also attached is our report on the surplus positions created for the same quarter.

We would be happy to answer any questions you may have on these reports.

Sincerely,



Mark D. Bugher  
Secretary  
Attachments (2)

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98	
	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes
Administration	1,041.13								1,041.13	
GPR	214.02								214.02	
PRO/PRS	745.80								745.80	
Federal	72.61								72.61	
SEG	8.70								8.70	
Adolescent Pregnancy Prevention and Pregnancy Services Board										
GPR	1.50								1.50	
	1.50								1.50	
Aging and Long-Term Care										
GPR	17.90								20.90	
PRO/PRS	8.45						3.00		11.45	
	9.45								9.45	
Agriculture, Trade & Consumer Protection										
GPR	700.52								704.52	
PRO/PRS	307.11						5.00		312.11	
Federal	253.86								253.86	
SEG	70.35								69.35	
	69.20								69.20	
Arts Board										
GPR	12.00								12.00	
PRO/PRS	5.00								5.00	
Federal	1.00								1.00	
	6.00								6.00	
Child Abuse & Neglect Prevention Board										
PRO/PRS	4.00								4.00	
	4.00								4.00	
Circuit Court										
GPR	494.00								494.00	
	494.00								494.00	

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes	
Commerce	446.65								446.65
GPR	97.95								97.95
PRO/PRS	238.15								238.15
Federal	20.35								20.35
SEG	90.20								90.20
Corrections	7,917.11								7,920.11
GPR	6,490.19						3.00		6,493.19
PRO/PRS	1,426.92								1,426.92
Court of Appeals	73.00								73.00
GPR	73.00								73.00
District Attorneys	370.00								370.00
GPR	348.00								348.00
PR	20.00								20.00
FED	2.00								2.00
Educational Communications Board	90.50								90.50
GPR	65.75								65.75
PRO	24.75								24.75
Elections Board	13.00								13.00
GPR	13.00								13.00
Employe Trust Funds	172.85								172.85
SEG	172.85								172.85
Employment Relations Commission	33.50								33.50
GPR	28.50								28.50
PR	5.00								5.00

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98	Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
		Adds	Deletes	Adds	Deletes	Adds	Deletes	
Employment Relations Department	90.75							90.75
GPR	82.05							82.05
PRO/PRS	8.70							8.70
Ethics Board	6.50							6.50
GPR	1.75							1.75
PRO/PRS	4.75							4.75
Financial Institutions	168.50							168.50
PR	168.50							168.50
Gaming Commission	53.45							53.45
PRO/PRS	52.45							52.45
SEG	1.00							1.00
Governor's Office	51.05							51.05
GPR	47.05							47.05
PR	4.00							4.00
Health and Family Services	6,333.04							6,340.04
GPR	1,559.11							1,559.11
PRO/PRS	3,798.08							3,798.08
Federal	968.10	10.00	-3.00					975.10
SEG	7.75							7.75
Higher Educational Aids Board	11.00							11.00
GPR	9.50							9.50
SEG	1.50							1.50

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes	
Historical Society	179.00								179.00
GPR	145.35								145.35
PRO/PRS	23.05								23.05
Federal	7.35								7.35
SEG	3.25								3.25
Insurance	141.50								141.50
PRO	127.25								127.25
SEG	14.25								14.25
Investment Board	96.50								96.50
PRO	96.50								96.50
Judicial Commission	2.00								2.00
GPR	2.00								2.00
Justice	554.40								554.40
GPR	410.15								410.15
PRO/PRS	116.25								116.25
Federal	22.25								22.25
SEG	5.75								5.75
Legislature	823.97								823.97
Legislators - GPR	132.00								132.00
Assembly Staff - GPR	253.50								253.50
Senate Staff - GPR	194.50								194.50
Office of Data Processing - GPR	16.00								16.00
Retirement Committee - GPR	3.00								3.00
Revisor of Statutes - GPR	10.00								10.00
Legislative Reference Bureau - GPR	56.00								56.00

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes	
Legislative Audit Bureau									
GPR	67.00								67.00
PRS	21.80								21.80
Legislative Fiscal Bureau - GPR	35.00								35.00
Legislative Council - GPR	35.17								35.17
Lieutenant Governor's Office									
GPR	8.00								8.00
GPR	8.00								8.00
Lower Wisconsin State Riverway Board									
SEG	2.00								2.00
SEG	2.00								2.00
Military Affairs									
GPR	335.51								335.51
PRO/PRS	105.83								105.83
Federal	25.50								25.50
Federal	202.68								202.68
SEG	1.50								1.50
Natural Resources									
GPR	2,910.72								2,910.72
PRO/PRS	521.28								521.28
Federal	237.64								237.64
Federal	484.05								484.05
SEG	1,667.75								1,667.75
Personnel Commission									
GPR	10.00								10.00
GPR	10.00								10.00
Public Defender									
GPR	533.60								533.60
PRO/PRS	529.60								529.60
PRO/PRS	4.00								4.00

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
			Adds	Deletes	Adds	Deletes	Adds	Deletes	
Public Instruction	624.55								625.55
GPR	328.06								328.06
PRO/PRS	84.02								84.02
Federal	212.47	1.00							213.47
SEG	0.00								0.00
Public Service Commission	190.25								190.25
PRO/PRS	189.25								189.25
Federal	1.00								1.00
Regulation and Licensing	127.00								127.00
PRO	127.00								127.00
Revenue	1,309.55								1,309.55
GPR	913.75								913.75
PRO/PRS	241.30								241.30
Federal	0.00								0.00
SEG	154.50								154.50
Secretary of State	6.50								6.50
PRO	6.50								6.50
State Fair Park Board	45.70								45.70
PRO	45.70								45.70
State Treasurer	23.50								23.50
PRO/PRS	23.50								23.50
Supreme Court	184.75								184.75
GPR	108.50								108.50
PRO/PRS	71.25								71.25
SEG	5.00								5.00

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes	
Transportation	3,931.77								3,932.77
PRO/PRS	3.00								3.00
Federal	954.67		1.00						955.67
SEG	2,974.10								2,974.10
Tourism	66.00								66.00
GPR	58.00								58.00
PR	5.00								5.00
SEG	3.00								3.00
University of Wisconsin	27,988.91								27,973.37
GPR	18,299.32								18,299.32
PRO/PRS	6,116.09				7.85	-19.76			6,104.18
Federal	3,484.31				16.71	-20.34			3,480.68
SEG	89.19								89.19
U.W. Hospitals & Clinic Board	1,556.71								1,556.71
PR	1,556.71								1,556.71
Veterans Affairs	809.60								810.60
GPR	5.65								5.65
PRO/PRS	677.83								677.83
SEG	116.32								116.32
FED	9.80								10.80
			1.00						
Wisconsin Technical College									
System	93.50								93.50
GPR	38.85								38.85
PRO/PRS	16.50								16.50
Federal	35.15								35.15
SEG	3.00								3.00

REPORT ON POSITIONS AUTHORIZED - APRIL 1 - JUNE 30, 1998

Agency	Budgeted Positions as of 3/31/98		Approved Under s. 16.50		UW Approved		JFC or Misc. Leg.*		Totals as of 6/30/98
	Adds	Deletes	Adds	Deletes	Adds	Deletes	Adds	Deletes	
Workforce Development	2,542.29								2,542.29
GPR	314.32								314.32
PRO/PRS	734.13								734.13
Federal	1,486.34								1,486.34
SEG	7.50								7.50
TOTALS	63,199.73		13.00	-4.00	24.56	-40.10	11.00	0.00	63,204.19
GPR	32,446.76		0.00	0.00	0.00	0.00	11.00	0.00	32,457.76
PRO/PRS	17,315.18		0.00	0.00	7.85	-19.76	0.00	0.00	17,303.27
Federal	8,039.48		13.00	-4.00	16.71	-20.34	0.00	0.00	8,044.85
SEG	5,398.31		0.00	0.00	0.00	0.00	0.00	0.00	5,398.31

REPORT ON SURPLUS POSITIONS AUTHORIZED  
APRIL 1 - JUNE 30, 1998

Agency	C Unclassified Service Leaves	D, E Medical, Education or Personal Leaves	A, B, I, X Double-filled Positions	Reason for Double-fill
Administration				
GPR	+1.0			Unclassified Leave of Absence
PR	+1.0; -1.0	-4.0	-1.0	Unclassified Leave of Absence
Corrections				
GPR			+2.0	Leave of Absence
PR			-1.0	
District Attorneys				
GPR		+5.5; -2.0		Leave of Absence
Financial Institutions				
PR	+1.0			Unclassified Leave of Absence
Health and Family Services				
GPR	+1.0; -2.0		+6.0; -25.0	Unclassified Leave of Absence
PR		-1.0	+2.0; -17.0	Medical Leave of Absence
FED			+3.0	Retirement Training
Insurance				
PR		+1.0		
Natural Resources				
SEG			-2.0	
Public Defender				
GPR		+1.0; -2.0		Leave of Absence
Public Instruction				
GPR	+1.0	+1.0		Unclassified Leave of Absence; Leave of Absence
Public Service Commission				
PR		+1.0		
Revenue				

REPORT ON SURPLUS POSITIONS AUTHORIZED  
 APRIL 1 - JUNE 30, 1998

Agency	C Unclassified Service Leaves	D, E Medical, Education or Personal Leaves	A, B, I, X Double-filled Positions	Reason for Double-fill
GPR		+1.0		Medical Leave of Absence
Transportation SEG			+129.0	Recruit Class - State Patrol; Retirement Training
Veterans Affairs PR		+2.0		Medical Leave of Absence
Workforce Development GPR FED		+3.0 -1.0	+1.0; -1.0	Medical Leave of Absence

Pool Code Types

- A= Understudy, 3 months or longer.
- B= Overlap replacement, less than 3 months for on-the-job training.
- C= Leave of absence replacement. Temporary hire during permanent employee's authorized leave to unclassified service.
- D= Leave-of-absence designation when permanent employee's authorized leave is less than 12 months.
- E= Leave-of-absence replacement. Temporary hire during permanent employee's authorized leave which is expected to last more than 12 months.
- I= Extended illness or worker's compensation (employee using accumulated sick leave or being paid through worker's compensation).
- X= DOA approved hire in anticipation of attrition (high turnover positions).

R2



STATE OF WISCONSIN \ ETHICS BOARD

James R. Morgan  
Chairman  
Paul M. Holzem  
David L. McRoberts  
Robert G. Borgwardt  
Joanne R. Orr  
Dorothy C. Johnson

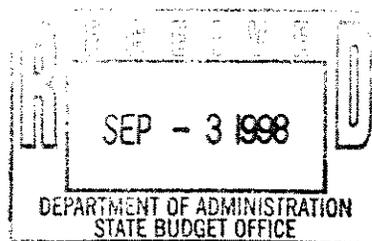
On the capitol square at:  
44 EAST MIFFLIN STREET  
MADISON, WISCONSIN 53703-2800  
608 266-8123

September 2, 1998

R. Roth Judd  
Executive Director

Senator Timothy Weeden, Co-Chair  
Joint Committee on Finance  
1 East Main, Rm203  
Madison, WI INTER-D

Representative John Gard, Co-Chair  
Joint Committee on Finance  
State Capitol, RM 316N  
Madison, WI INTER-D



**Re: Likely request for supplemental  
appropriation under § 13.101(3),  
Wisconsin Statutes**

Dear Senator Weeden and Representative Gard:

From time to time matters involving possible violations of the lobbying law and ethics code come to the Ethics Board's attention and merit the Board's review. The Board investigates most of these matters using existing staff resources. However, the Legislature has not made available an appropriation that permits the Board to carryout its statutory directive to investigate these matters when that requires the hiring of special investigative assistance.

In FY 1998 the Ethics Board spent only \$6,121.46 for assistance with investigations and during the same period collected and deposited to the state school fund penalties amounting to \$1,515.00.

I will continue to exercise prudence with respect to expenditures related to enforcement of the statutes the Ethics Board administers, but I alert you that the Ethics Board may turn to your committee for a supplement to meet investigations' costs as the Joint Committee has annually prescribed since 1989.

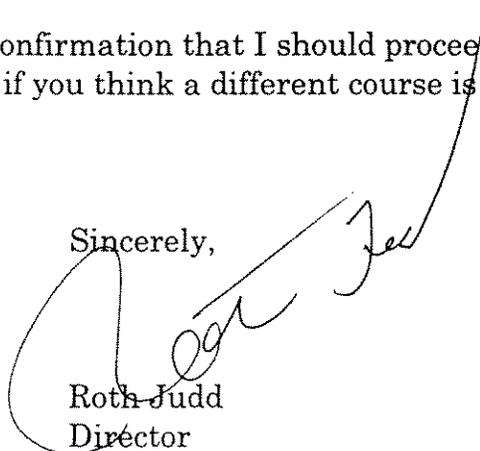
Senator Timothy Weeden  
Representative John Gard  
September 2, 1998,1998  
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In keeping with your committee's instructions in prior years I shall expect:

1. To proceed to incur expenses in connection with the investigation of possible violations of the lobbying law and ethics code and those laws' enforcement,
2. To keep you, the co-chairs, informed of costs the Ethics Board incurs as investigations proceed, and
3. That, in order to meet the financial obligations the Ethics Board has incurred for investigations, to request supplemental funding from the Joint Committee under §13.10 *Wisconsin Statutes* for established financial obligations for work already completed.

I will very much appreciate your confirmation that I should proceed in the manner just indicated or other instruction if you think a different course is more appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "Roth Judd", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail that extends upwards and to the right.

Roth Judd  
Director

cc: Bob Lang, Legislative Fiscal Bureau  
Tricia Collins, Legislative Fiscal Bureau  
- Dan Caucutt, Committee Secretary  
Deborah Uecker, Dept. of Administration

23



STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON  
GOVERNOR  
MARK D. BUGHER  
SECRETARY

Mailing Address:  
Post Office Box 7864  
Madison, WI 53707-7864



September 3, 1998

The Honorable Timothy Weeden  
Senate Co-Chair  
Joint Committee on Finance  
1 East Main Street, Room 203  
Madison, WI 53702

The Honorable John Gard  
Assembly Co-Chair  
Joint Committee on Finance  
315 North, State Capitol  
Madison, WI 53702

Dear Senator Weeden and Representative Gard:

Attached is the first of two progress reports regarding implementation of the revised memorandum of understanding between the Departments of Administration (DOA), Commerce (Commerce) and Natural Resources (DNR) concerning the PECFA program. As required by 1998 Act 237, this report is submitted for Joint Committee on Finance consideration at its September 1998, s. 13.10 meeting. These progress reports are intended to communicate the efforts of the two agencies toward limiting cleanup costs and speeding site closures.

Both agencies have worked diligently in seeking ways to streamline the site investigation and closure process. Furthermore, significant progress has been made in linking the site databases of the two agencies in order to ensure that sites are being appropriately classified and assigned. Given the complex nature of cleanup work and the multitude of sites involved, discussions regarding changes to procedures to more rapidly investigate and close sites have at times been time consuming. However, staff and management of both agencies are to be commended for their commitment to the process.

The attached report represents much work that is in progress and a data reporting system that needs significant refinement. The document also summarizes efforts made during eight MOU meetings held over the last 3 months. Key elements of the report are summarized below:

Unclassified sites and case assignment: DNR reviewed the status of all sites by June 12, 1998, as required in the MOU, and provided Commerce and DOA with a report. Approximately 16% of all sites identified on the DNR database do not have a classification primarily due to lack of a site investigation report. All other sites have been classified and assigned to the appropriate agency based on priority level. Classification and assignment of new sites to the appropriate agency by consultants has begun on a pilot basis. This streamlining effort will be reviewed by both agencies by March 31, 1999.

Classification of sites: As of September 2, 1998, a total of 10,916 sites had been identified on both the Commerce and DNR databases. Of that number, 8,758 sites (80%) are assigned to DNR and 2,158 sites (20%) are under Commerce jurisdiction.

Another 5,571 sites in the DNR database still need to be reconciled with Commerce records. An unknown number of these sites may be PECFA-eligible. Of the 10,916 sites appearing in both databases, 4,946 sites (45%) have been closed. Over 75% of the sites closed under DNR jurisdiction and 70% of sites closed under Commerce jurisdiction were completed within four years. Based on site classification criteria defined in the MOU, primarily due to groundwater contaminants exceeding the preventive action limit, approximately 62% of active sites in the database are classified as high priority. A review of all active and closed sites on the database finds that 45% have been classified as high priority.

Mini-investigations: This is an area where both agencies agree that there may be sites that can be rapidly investigated and closed at relatively low cost. They continue to work toward developing an implementation procedure that gathers enough information at the lowest possible cost to ensure a complete cleanup. Critical steps yet to be completed include outlining the scope of these procedures and developing guidance documents for agency staff and the public. The agencies are resolved to completing these tasks as soon as possible.

Public bidding and bundling of sites: In response to Commerce's latest emergency rule for the PECFA program, the mix of sites with lower cost cleanup plans appears to have improved dramatically. The emergency rule establishes an \$80,000 cost cap for sites that agree to adhere to the cap in exchange for less department oversight and quicker claim review. In the three months prior to implementation of the emergency rule, 16.6% of 390 submitted site plans were for less than \$120,000. Since the effective date of the emergency rule, 31.3% of 128 submitted site plans were for \$80,000 or less.

Bundling of sites is still in the very early stages of implementation. However, on the one bundle that has moved forward, savings of \$213,000 were achieved through lower excavation, disposal and backfilling costs. Commerce has also noticed increased interest in this approach from site owners. Conclusions from the initial stages of this initiative are that high quality investigations are critical and that creative strategies may be necessary to address unavoidable cost overruns.

The great majority of the effort over the last three months has been focused on reconciling a variety of data to ensure sites are appropriately classified and assigned to the two agencies. The next six months will focus on continued streamlining of the site closure process, including a more complete plan for implementing mini-

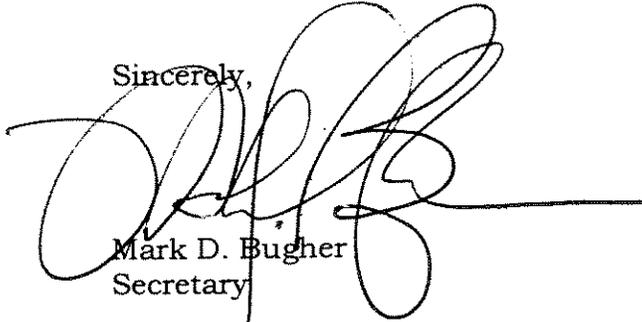
Senator Timothy Weeden and Representative John Gard

September 3, 1998

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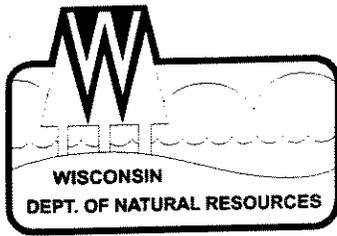
investigations at appropriate sites. All three agencies have embraced the need to bring together their respective expertise toward ensuring a successful cleanup program at the lowest possible cost.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'M. Bugher', with a long horizontal line extending to the right.

Mark D. Bugher  
Secretary

CC: Members, Joint Committee on Finance  
Bob Lang  
Representative Johnsrud  
Representative Duff  
Secretary McCoshen  
Secretary Meyer



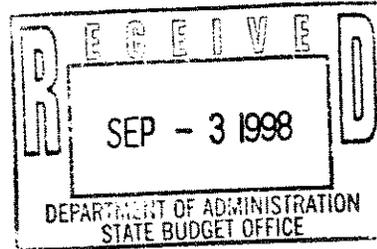
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TDD 608-267-6897

September 2, 1998

Mark D. Bugher, Secretary  
Department of Administration  
P.O. Box 7864  
Madison, WI 53707-7864



Dear Secretary Bugher:

The Departments of Natural Resources and Commerce are pleased to transmit to you, the first of the quarterly status reports that the PECFA program is charged with providing.

In the report, our two agencies provide a summary of the progress that we have made in implementing the Memorandum of Understanding (MOU) that exists between the two departments. Additionally, we provide an update on demographic information such as the number of sites within the program, the sites under the jurisdiction of each agency, progress in achieving site closure and other important information.

During the summer, the two agencies, working with guidance from the Department of Administration, have made significant progress in improving data flow and in implementing provisions of the MOU. We hope that you conclude that the attached report confirms that progress. If you, or your staff, have any questions regarding the report, please contact us so that we can provide any needed clarification.

Sincerely,

  
for William J. McCoshen  
Secretary, Department of  
Commerce

  
George E. Meyer  
Secretary, Department of  
Natural Resources

cc D. Schmiedicke



Quality Natural Resources Management  
Through Excellent Customer Service



**REPORT TO JOINT FINANCE**  
**Progress on Implementation of the Memorandum of Understanding**  
**Between the Departments of Commerce and Natural Resources Relating**  
**to the PECFA Program**

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## Chapter 1

### General Summary on Progress on Implementation of the MOU

#### Introduction:

Since completing the revision of the MOU between the two agencies on May 8, 1998, staff from the Departments of Natural Resources and Commerce have been meeting on a regular basis to further develop the provisions of the MOU and to coordinate program actions. Meetings have taken place on June 9, June 11, June 18, July 1, July 15, August 13, August 19, and August 26, 1998. The major topics of these meetings have been:

1. Transfer of sites to Commerce where a complete tank closure assessment shows no contamination above 100 ppm GRO/DRO.
2. Data elements and data exchanges for the quarterly joint reporting to the DOA and the Joint Committee on Finance.
3. The pilot project to allow consultants to determine which agency has jurisdiction on sites and the submittal of the Site Investigation Report (SIR) directly to the cognizant agency.
4. Reporting requirements for sites wishing to use the under \$80,000 flexibility options in PECFA's emergency rule.

Significant progress was achieved in a number of the topic areas and a more detailed description of this is included in the following section titled "Progress on Deadlines". Although progress has been achieved on coordination and implementation issues, a large amount of work remains. However, progress continues to be made and movement continues towards resolution of key points.

#### Progress on Deadlines Established in the MOU:

1. June 12, 1998: Assess status of sites that were "unassigned". (Section E of the MOU)

Status: DNR regional staff reviewed all case files to make sure they located all site investigation reports (SIRs). Staff updated the DNR tracking system (BRRTS) and a report was sent to DOA and Commerce on 6/12/98. DNR discovered in late July that the table from which the report was derived was slightly outdated and will supply a new list after the Commerce and DNR databases are correlated.

2. June 30, 1998: Transfer all sites to Commerce where groundwater contamination exists, but where all compounds detected are less than the PAL. (Section C of the MOU)

Status: The DNR tracking system does not specifically identify these sites. Regional staff looked for sites in this category when they reviewed case files for the June 12 deadline. The sites that were identified were transferred by the June 30, 1998 date. Due to the large volume of files and the short time to review those files, it is possible that some sites were missed that should have been transferred. Transfers will occur as they are identified

3. June 30, 1998: Implement a mini-investigation process (Section D of the MOU).

Status: This is an area where progress has been made on the definition of sites that would be subject to the mini-investigation and in understanding what would be encompassed by the investigation process. Work remains, however, on the detailing of actual procedures and the exact controls that will be placed on the investigation process.

In addition to the mini-investigation process, which would limit sites to expenditures of no more than \$3,000, the work group is also looking at how to identify sites that could limit investigation costs to the \$10,000 - \$12,000 range. Core points that need completion are how to identify these sites, allowable cost and work activities and methods of communicating this new process to site owners and consultants. Guidance documents will need to be prepared to provide information to the public and the respective staffs in order to successfully implement the program.

4. June 30, 1998: Agree on a common set of data fields for determining number and status of PECFA sites between the two agencies (Section J of the MOU).

Status: Completed June 19, 1998. Agreement was completed on a method of matching existing PECFA identification numbers with the DNR BRRTS case number. This match of numbers will be the link between the databases. In addition, the agreement states that a BRRTS number will be created for each contamination occurrence identified through the investigation and that the DNR will add necessary "flags" to the BRRTS system in order to extract information on PECFA sites. The decisions arrived at have allowed the development of data reports to continue and made possible much of the information that is included with this report.

5. July 1, 1998: Create a pilot process to allow consultants to submit site investigation reports to the appropriate agency. Evaluate effectiveness by March 31, 1999 (Section E of the MOU).

Status: A process was agreed upon at the June 11th MOU meeting. A letter was prepared based upon the agreement and signed by both DNR and Commerce. A mailing of the letter to the PECFA consulting firms was completed and the pilot has been implemented.

6. July 31, 1998: Classify all "unknown" sites with site investigation reports (SIRs) received before Feb. 1, 1998, unless the SIR was incomplete or there were extenuating

circumstances. Transfer the low and medium priority sites to Commerce (Section E of MOU).

Status: This task was completed by the DNR Regions by the July 31 deadline for all sites identified during the assessment of "unknown" sites. Low and medium priority sites were transferred to Commerce and additional information requested for all sites where the SIR was insufficient to determine classification.

7. August 17, 1998: Meet to discuss first joint report to DOA and the legislature (Section J of the MOU).

Status: This topic was first discussed at the June 19th meeting and again on August 19, 1998.

8. August 31: Provide first report to Legislature (Section J of the MOU).

Status: The deadline is satisfied by this report. Programmers in each agency generated required reports called for in the MOU. The first run of these was scheduled for August 14 and the data is about 90% reconciled at this time. Each agency was responsible for completing specific sections of the report and providing the necessary information to respond to the legislative reporting requirement. This first report may lack some of the refinement of subsequent reports but it is expected to be able to answer key legislative questions.

9. August 31, 1998: Classify all unknown sites with SIRs received before June 1, 1998 unless the SIR was incomplete or there were extenuating circumstances. Transfer the low and medium priority sites to Commerce (Section E of the MOU).

Status: This task was completed by the DNR Regions while completing task 6.

10. September 15 1998: Develop a data model (Section J of the MOU).

Status: The data model is essentially complete.

11. September 30, 1998: Develop additional cost caps and a rate catalog for inclusion in the final PECFA rule (MOU transmittal letter).

Status: A working draft of additional cost caps and allowable rates and activity levels is expected to be available by the September 30th deadline. The working draft will be presented to review groups and other interested parties for comment and then incorporated into the PECFA rule.

12. October 1, 1998: Establish a process where SIRs are reviewed and the priority established within 60 days of receipt of the SIR. Transfer sites to Commerce within 14 days of priority being established (Section C of the MOU).

Status: This process is in the implementation phase. However, the pilot project for consultant self-classification of sites and submittal to the appropriate agency may eliminate the need for file-transfer reviews at the DNR.

13. October 15, 1998: Decide upon implementation of data model (Section J of the MOU).

Status: A basic agreement has been established but some final changes may be needed based upon new information learned during the first reporting cycle. Efforts will continue to be made to generate reporting improvements and to eliminate data inconsistencies.

14. October 31, 1998: Joint review of a segment of high priority sites where contamination is between the preventive action level and the enforcement level (Section C 4 of the MOU).

Status: This project, aimed at more timely site closure, has not been addressed in the MOU meetings yet.

15. December 1, 1998: Hold first peer review meeting to involve staff in ongoing consistency efforts, and prepare a report within 60 days of the meeting (Section N of the MOU).

Status: This activity has not yet begun.

16. March 31, 1999: Evaluate success of consultant pilot.

Status: As the pilot is less than a month old, this has not yet been discussed.

## Chapter 2

### Classification of Sites

#### Section 1. Definitions of Classifications.

1997 Act 297, Section 9155(1g)(f) requires: "A summary of the definitions in the memorandum of the understanding of high, medium and low priority sites and the reasons for those definitions."

The definitions of high, medium and low priority sites in the MOU are:

1. *High priority site* (responsibility of DNR) - means a remediation site which meets one or more of the following criteria:

- a. Presence of a hazardous substance other than petroleum from a petroleum product storage tank system.
- b. Contamination to an area of exceptional environmental value where the discharge would pose a greater than normal threat.
- c. All sites with confirmed groundwater contamination where any compound detected is equal to or greater than an established PAL in NR 140.

2. *Medium priority site* (responsibility of COMMERCE) - means a remediation site that meets the following criteria:

- a. No evidence exists that the site is contaminated by a hazardous substance other than the petroleum product that was discharged from the petroleum storage tank systems; and
- b. All sites with confirmed groundwater impacts at which all compounds detected are less than an established PAL in NR 140.

3. *Low priority site* (responsibility of COMMERCE) - means a remediation site where there is only petroleum contamination in the soils and no threat to groundwater. There is also no evidence that the site is contaminated by a hazardous substance other than the petroleum product that was discharged from the petroleum storage tank systems.

As can be seen from the MOU language, there are three possible reasons for classifying a site high priority, the presence of non-petroleum contaminants, groundwater contamination above standards or a release into an area of exceptional environmental value. Non-petroleum contamination was selected as a reason for classifying a site as high rather than medium or low priority because the statutes (s. 101.144(2)(b)2., Wis. Stats.) specifically state that sites transferred to Commerce may not be contaminated with a hazardous substance other than the petroleum product that was discharged from a petroleum storage tank.

Groundwater contamination above a standard was selected based on the threat such contamination poses to public health, safety and welfare and to the environment. In developing its rules on soil cleanup standards, the DNR found that the critical pathway for petroleum compound contamination to reach potential receptors was most often the groundwater pathway. In addition, the potential for contaminant migration is higher once the contamination reaches the groundwater. Since the Preventative Action Limit (PAL) is set to serve to inform the DNR of potential groundwater contamination problems and establish the level at which the DNR is required to commence efforts to control the contamination, that level was also selected to serve in the classification of these remediation sites. DNR and Commerce have also agreed that sites contaminated with a substance for which no groundwater standard exists should initially stay with DNR. DNR consults the Division of Health on these sites, and if Health determines there is no significant environmental risk with the level of contamination present at the site, it will be transferred to Commerce.

Exceptional environmental value was selected to protect areas that might be more sensitive to contamination than other areas of the state. Discharges in these areas could pose a greater threat to the environment than discharges in other areas and it is appropriate for sites in these areas to be classified as high priority.

Section 2. DNR Progress on Classifying Sites.

Section 9155(1g)(a) of Act 237 requires information on the progress DNR has made in determining the classification of sites as high, medium or low priority. The current status of the classification of sites covered in the MOU between the agencies is contained in the table "Petroleum Tanks Sites by Priority Rank".

Petroleum Tank Sites By Priority Rank					
Counts by Priority Rank					
	High	Medium	Low	Unknown	Total
Sites In Both Commerce and DNR Data Bases					
DNR Open Sites	3,700	92	118	1,172	5,082
DNR Closed Sites	1,101	996	1,332	247	3,676
Commerce Open sites	53	286	490	59	888
Commerce Closed Sites	33	377	805	55	1,270

Sites Only In DNR LUST Data Base					
DNR Open Sites	974	67	149	854	2,044
DNR Closed Sites	485	645	1,960	346	3,436
Commerce Open sites	3	20	59	6	88
Commerce Closed Sites	0	0	3	0	3

The information on the sites in the tables in this report is split into two segments. The first segment is that set of sites where the agencies have matched the Commerce occurrence to a DNR activity and the sites are included in both agencies' databases. This set of data is the most important for this report as it contains most of the discharges from petroleum storage tanks that are PECFA-eligible or covered by the MOU. (Note: Both PECFA-eligible and non-eligible sites were transferred to Commerce in the 1995-1997 Budget Bill.) The second segment contains information on sites that are in the DNR LUST database but could not yet be matched to a Commerce occurrence. These sites have just been identified in the preparation of this report. The agencies have agreed on a plan to further investigate which of these sites are PECFA-eligible or covered by the MOU. This should be resolved prior to the next report, due on December 31, 1998.

The data in the table was derived from the data model that merges the Commerce and DNR databases. The databases were not fully reconciled at the time this report was prepared, i.e., September 2, 1998. For example, in the table there are only around 11,000 sites currently listed as tracked in the Commerce database, while in reality that system contains around 12,600 occurrences. The difference occurs because at this point in time staff were unable to find matches for roughly 1,600 Commerce occurrences in the DNR data base.

The ongoing reconciliation of the databases also affects the priority ranking of the sites. To determine the percentage of high priority sites, some of the figures in the tables will need updating to address obvious inconsistencies. For example, the table indicates that there are a number of high and unknown priority sites transferred to Commerce and a number of low and medium priority sites still at DNR. It is unlikely that these numbers are accurate. DNR would need to classify a site to transfer it to Commerce and high priority sites are not knowingly transferred. It is likely that DNR's database was not completely updated when these sites were transferred. DNR field staff were contacted when test runs of the data model showed active, low and medium priority sites remaining at DNR. The main reason this shows up in the report is that the database had not yet been updated to show the correct status and/or classification of a number of sites.

During the last two months, the staff responsible for updating the database have undertaken a major effort to match the 12,600 petroleum discharge sites in the Commerce data base with the 20,000 hazardous substance discharge sites in the DNR data base. They also have put in a lot of time identifying sites, classifying those sites, and transferring the appropriate sites to Commerce to meet the June 12, June 30 and July 31 deadlines in Sections C and E of the MOU. As these efforts took priority, DNR temporarily fell behind on data entry.

Also, there were a number of sites classified as medium and low that were classified under an earlier classification system. The implementation of the data model identified these sites. The reconciliation and correction of the databases through the data model is not yet complete and the reports generated using the data model have proven to be a very useful tool to identify inaccurate data. Reconciliation of the data is an iterative process, involving running the reports, identifying inaccurate data, correcting the data and rerunning the reports. With each iteration the percent of inaccurate data will decrease. As the data model came on line in the last week of August, there has not been sufficient time to correct all the inaccurate data identified to date. The information will be much more accurate for the report due December 31, 1998.

Section E of the MOU required the DNR to identify and classify all sites where SIRs have been submitted by specific deadlines. This was discussed in Chapter 1. DNR staff report that they have gone through files, found the SIRs, classified the sites and transferred the appropriate sites to Commerce. As the data-entry staff were busy on other efforts as previously mentioned, the DNR database has not yet been fully updated to reflect the results of the most recent classifications and transfers. This too will be more accurately represented in the December 31, 1998 report.

### Section 3. Percentage of High Priority Sites.

Section 9155(1g)(g) of Act 237 requires a description of causes for the number of high priority sites if more than 30% of the total known active petroleum discharge sites are classified as high priority. As mentioned above, the Commerce and DNR databases have not been fully reconciled, so the percent of active sites that are high priority can not yet be precisely calculated. However, it is obviously greater than 30%. Considering all active sites, including those with unknown priority, 60% to 70% are classified as high priority. Considering only active sites that have been classified as high medium or low priority, 70% to 80% are classified as high priority.

Most sites are high priority because they have groundwater contamination that exceeds one or more groundwater standards. Over 95% of the high priority sites have groundwater contamination that exceeds standards. About 20% of the high priority sites

are contaminated by a hazardous substance other than the petroleum product that was discharged from the petroleum storage tank systems. Very few sites are classified high priority because of contamination to an area of exceptional environmental value where the discharge would pose a greater than normal threat to the environment. The DNR is aware of only one, a site in the Kewaunee Marsh. In summary, roughly 80% of the high priority sites are high priority solely because of groundwater contamination, 5% solely because of co-contamination with non-petroleum substances and 15% have both groundwater contamination and co-contamination. Less than 1% are classified as high priority due to contamination to an area of exceptional environmental value.

The agencies have no day-to-day control over the percentage of sites ranked as high priority. Staff use the definitions in the MOU and rank sites accordingly. The definitions have been modified to ensure that sites that have groundwater contamination below the PALs are transferred to Commerce. At the time the legislation dividing the jurisdiction of site between Commerce and DNR was drafted, DNR estimated that 30% of the active sites were ranked as high priority. That was true at that time, but the number varies significantly depending on the information submitted in the SIRs.

## Chapter 3

### Progress in Implementation of the Bundling and Public Bidding Processes

On April 21, 1998, the Department of Commerce's latest emergency rule became effective. In that set of programmatic changes, the PECFA program attempted to create a series of cost control measures. Changes implemented in the rule ranged from the timing of progress payments to the review of existing sites for cost effectiveness and performance. Within these changes was an attempt to introduce additional competition into the remediation of contaminated sites.

In a previous rule change, PECFA introduced the competitive bidding of commodity services including laboratory, excavation, trucking, soil treatment, drilling and other essential remediation activities. What was not successfully introduced into the active remediation process was any level of competition to get the lowest cost remedial approach implemented on a site or to perform consulting services in the most cost efficient manner. To accomplish these two goals, the emergency rule incorporated the statutory authority, that the program had been provided, to create bundles of sites and services. In addition, it established that for sites not situated well for bundling (proximity being a key factor) an additional cost reduction tool would be bidding, among consulting firms, for both remedial strategy and cost.

The emergency rule provisions created a structure for implementation that included consultants submitting, for their claimants, the proposed remedial strategy and **total** cost to bring a site to closure. This cost would then be evaluated by the PECFA program to determine whether it should be:

- Approved for the site and established as a maximum cap on the remediation effort.
- Bundled with another site in an effort to reduce total cost.
- Sent through a public bid process to determine if there was a lower cost available in the market.

In a public bid process the original remedial alternative cost submitted by the consultant for a site is the "first bid" and will be included in the final bid comparison to determine the lowest cost to achieve site closure.

Program staff, working with the review of remedial alternatives, has established a set of filters that look at what direction is most appropriate for a site submitted to the program under the new rule. These filters attempt to screen for those sites where the savings through bidding or bundling will substantially outweigh the administrative cost of bidding or managing a bundle of sites.

The filters look at total cost, number of sampling events, cost of continuing work and whether consultant costs are disproportionate to the complexity of the site. All this is used to determine if there is the potential for other consulting firms providing the same level of work at less cost.

Finally, the staff also looks at the remedial approach. If there appear to be lower cost alternatives, which have not been proposed, the site is a candidate for either bidding or bundling.

### **\$80,000 Sites**

Although the primary vehicle for competition in the administrative rule was the bidding and bundling processes, other features included in the rule have taken on new significance. These other elements include the provisions on:

- \$80,000 or less sites
- Priority claim review of sites

As an incentive for owners to use the closure and flexibility tools that the DNR created and to emphasize total cost control, PECFA included in the emergency rule a provision that allowed sites which could be completed (excluding interest) for \$80,000 or less to move ahead with their work with less control and intervention by the Department. These sites would be exempt from a number of control provisions and, in addition, would receive priority claim review. It was believed that the flexibility and the priority review would induce some owners and consultants to take more control and to reduce the cost of sites that would otherwise been in the \$100,000 to \$150,000 range. Because the \$80,000 includes the cost of investigation, accomplishing a site for this dollar amount would be a significant reduction over an average PECFA site.

Although there is no true average PECFA site, the program has consistently had a grouping of sites that fall in the \$120,000 to \$130,000 range. If this type of site is accomplished for under \$80,000, savings will be achieved. Since the implementation of the emergency rule, the PECFA program has received 409 remedial alternatives. Of these remedial alternatives (which establish a total cost for a site based upon a proposed remedial strategy) a total of 128 have been requests to work within the \$80,000 boundary. This is 31.3% of total remedial alternatives received.

In the period directly prior to the emergency rule (January 1, 1998 to April 20, 1998) a total of 390 remedial alternatives were submitted to the program. A total of 65 were expected to be of \$120,000 or less in total cost (including investigation). This equated to 16.6% of the sites. The increase from 16.6% for \$120,000 or less to 31.3% for \$80,000 or less is significant. The change is likely to be based upon:

- Claimants/consultants cutting the cost of sites to avoid the potential that they will lose control of the site through a bidding or bundling process.
- The flexibility provided in the rule allowing for some economies that are resulting in reduced cost and this is being reflected in savings to the fund.
- The long payment delay, because of the claim backlog, convincing claimants to use the new tools to get closure in order to obtain priority review.

## Bidding and Bundling Activity Levels

The program has identified since 4/21/98 a total of 29 sites that are candidates for bidding. The original remedial action proposals on these sites totaled \$7,846,157 and this is the number that the program will be comparing against to determine if savings are achieved through the competitive bidding process.

In addition to the bidding sites, 6 potential remediation bundles have been identified. Each of these potential bundles contains 3 to 4 properties that will be incorporated into one coordinated remedial effort. The PECFA program is just moving into the process of bundling and actual savings figures are only available from one of the six bundles. In that bundle, however, excavation of contaminated soils was performed with monitoring scheduled to follow. The savings on excavation, disposal and backfilling costs through bundling totaled \$212,997.

The bundles that are coming together are likely to be of the following general nature:

- Major contaminations where individual occurrence maximums may be exceeded and the combination of sites will provide for the accomplishment of remediation within coverages (reducing owner cost).
- Sites where similar services (excavation, etc.) are needed across multiple properties.
- Sites where an active treatment system is needed and an existing system is operating in the area and can be extended to service the additional contamination (reducing total equipment investment costs).
- Operation and maintenance or monitoring activities where a group of services can be obtained for a set of similar sites.

One of the interesting features of the move to bidding and bundling processes is that a level of interest has been created among site owners for performing their own bids and bundles. In fact, the program has received one proposal from an owner group that would bundle up to 67 sites for the purpose of operation and maintenance. This growth has come as the program has identified sites appropriate to the competitive process. Claimants can be approved to conduct bids or create bundles, as long as their processes conform to the structure created by PECFA. For example, in the bid process, the owner would have to for a start:

- Conduct an open and fair bid process.
- Allow the bidding of any approach for getting a site to closure (**the owner can not select their preferred alternative and then get bids only on that approach**).
- Select the lowest cost complying bid.

Owners conducting bids has some advantages for the PECFA program. First, it leverages existing staff resources. In addition, it addresses an issue of concern from the consulting community on the bidding process. They have raised the issue that, in bids conducted by the PECFA program, the low bidder may not ultimately be awarded the work. The owner may elect

to retain the original consultant who will either cut their price to match the bid or use other approaches to retain the site.

Preparing a bid is a time consuming and potentially costly approach and the willingness of firms to prepare bids will be influenced by their perceptions of the effectiveness and fairness of the bid process. If they believe that they will not ultimately have an opportunity to obtain the work, the bid process will not be as competitive as the program would like and needs. In a process where owners are conducting their own bids, the signal can be clear: the owner is looking for a service provider and will be hiring the low bidder.

### **Current Issues**

In the development of the competitive processes, the PECFA program still faces a series of challenging technical questions. The ultimate success of the cost control measures will be dependent on the program's ability to solve the following issues:

- The quality of original site investigations is critical to conducting competitive bids or bundling for remediation. A poor investigation prevents the program from conducting an effective bid because the information needed by consulting firms to prepare a bid is lacking. It is even possible for the firm performing the investigation to withhold information from the investigation report in order to advantage themselves in the bid or bundle process.
- The bidding of a site is designed to establish a maximum reimbursement amount to site closure. Although this will work for many sites, there will be sites where the maximum is reached and the site is not yet closed. For some of these sites, the cost overrun may be significant and the suggestion has been made that performance bonding or an insurance policy be created for these sites. The program is investigating this issue and is considering the possible recommendation that the program take out an umbrella policy to "re-insure" this risk.
- Willingness of owners and consultants to participate in bidding or bundling processes is uncertain. As sites have been moved towards bidding or bundling, there has been a tendency on the part of consulting firms to try to move the site quickly into remediation in order to generate reimbursement dollars and possibly hold onto the site. This has taken place even though there may have been long previous delays in getting any action going on the site. This rush to remediation has the potential of resulting in disallowed costs and a significant level of duplicate work.

### **Conclusions**

Given the current knowledge and progress on the bidding and bundling of sites, we have the following early assessment:

1. Bidding and bundling does have the potential to produce program savings.
2. Consultants are going to use a range of strategies to hold onto sites. These strategies have the potential to create duplicate work and to result in disallowed costs for an owner.

3. There is a role for some type of insurance/bonding to at least partially cover sites that do not close within their maximum approved amounts.
4. The fairness and openness of the bid process will ultimately determine the success of the process. If owners are not willing to hire the lowest competitive bidder, it may be necessary to consider a strategy where PECFA has the authority to require the use of the successful bidder.