



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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TO: Mark Patronsky and Rachel Letzing
Legislative Council Staff

FROM: Kendra Bonderud, Fiscal Analyst

SUBJECT: Environmental Management Account of the Environmental Fund

This memorandum describes the revenues deposited in the environmental management account segregated environmental fund and the uses for which funds from the account are appropriated. It also includes an estimate of the condition of the environmental management account during the 2003-05 biennium, and a description of actions taken in 2003 Act 33 (2003-05 biennial budget) related to revenues and expenditures in the environmental management account.

The segregated environmental fund is comprised of the environmental management account and the nonpoint account. (The nonpoint account primarily funds Department of Natural Resources (DNR) and Department of Agriculture, Trade and Consumer Protection (DATCP) nonpoint source water pollution abatement programs, and is not described further in this memorandum.) The environmental management account is used for Department of Commerce brownfields grants and DNR administration of contaminated land cleanup, groundwater management, state-funded response actions, brownfield site assessment and green space grants, and debt service for general obligation bonds for remedial action. It also funds environmental programs in the Department of Health and Family Services (DHFS), Department of Military Affairs (DMA), and the University of Wisconsin (UW) System. Revenues to the environmental management account are generated from several fees, including the temporary vehicle environmental impact fee, solid waste tipping fees, a transfer from the petroleum inspection fund, a transfer from tribal gaming revenues in the 2001-03 biennium only, certain pesticide and fertilizer fees, a sanitary permit surcharge, and other fees. Revenue also includes revenues received for: (a) site specific remediation under federal regulations or court approved settlement agreements related to violations of state environmental statutes (primarily related to Fox River contaminated sediment cleanup since the provision was created in 2001 Act 16) that can only be used for the purposes authorized by the settlement agreement; and (b) cooperative remedial action that can only be used for activities agreed on by DNR and the person or municipality providing the funds.

Environmental Management Account Revenues

Revenues to the environmental management account are generated from several fees and sources that are listed in Table 1. The revenues are described in the following section in the order in which they are listed in the table. All revenues to the environmental management account are available for expenditure from any of the appropriations from the account, with the exception of revenues from cooperative remedial action, site specific remediation, and environmental assessments. The revenues shown for 2003-04 are preliminary amounts, and may change when state accounts are finalized later in the fall of 2004.

TABLE 1

Environmental Fund Revenues -- Environmental Management Account 2002-03 through 2004-05

<u>Revenue Source</u>	<u>2002-03 Actual</u>	<u>2003-04 Preliminary</u>	<u>2004-05 Estimated</u>
Vehicle Environmental Impact Fee	\$13,699,500	\$13,598,000	\$13,490,600
Environmental Repair Tipping Fee	3,546,100	3,938,600	3,814,800
Site Specific (Fox River) Remediation	2,927,600	4,782,200	4,000,000
Petroleum Inspection Fund	1,816,300	1,816,300	1,816,300
Pesticide and Fertilizer Fees	1,318,400	1,356,900	1,356,900
Transfer from Tribal Gaming Revenues	1,000,000	0	0
Groundwater Waste Generator Tipping Fee	785,600	869,900	838,400
Hazardous Spill Reimbursement	620,100	147,400	600,000
Hazardous Waste Generator Fee	533,000	548,600	550,000
Sanitary Permit Surcharge	489,500	539,700	550,000
Well Compensation Fee	334,800	366,900	335,400
Nonmetallic Mining Fees	162,600	151,100	150,000
Environmental Assessment	113,800	141,000	95,000
Dry Cleaner Response Reimbursement	64,300	0	0
Land Disposal Permit	63,100	68,400	65,000
Septic System Servicing Fee	48,200	11,300	25,000
Bulk Tank Surcharge	23,000	21,600	17,000
Environmental Repair Surcharge	5,800	4,100	6,000
Environmental Repair Base Fee	4,100	4,100	4,100
Civil Action Damages	2,500	14,900	24,000
Cooperative Remedial Action	800	300	0
Investment Income	361,300	219,600	200,000
Miscellaneous Revenue	<u>38,600</u>	<u>8,300</u>	<u>10,000</u>
Total	\$27,959,000	\$28,609,200	\$27,948,500

Vehicle Environmental Impact Fee. A \$9 per vehicle fee is assessed at the time of titling new and used vehicles. Between December 1, 1999, and September 30, 2001, the fee was \$6 per vehicle. Between December 1, 1997, the effective date of the fee, and November 30, 1999, the fee

was \$5 per vehicle. The Department of Transportation collects the fees and deposits them in the environmental management account. Under 1999 Act 9, the fee would have been repealed on June 30, 2001. Under 2001 Act 16, the \$6 per vehicle fee was recreated on July 1, 2001, was increased to \$9, effective October 1, 2001, and would have been repealed on December 31, 2003. Under 2003 Act 33, the repeal of the fee was extended to December 31, 2005. The fee is expected to generate 56% of revenue to the account in 2004-05 (excluding site specific Fox River remediation revenue). Manufactured homes formerly titled by the Department of Transportation as vehicles and currently titled by the Department of Commerce were subject to the fee until December 31, 2003, and the repeal date for the fee for manufactured homes was not extended.

Environmental Repair Tipping Fee. DNR assesses solid waste tipping fees to solid waste facilities and deposits the fees into the environmental management account. The tipping fees are based on: (a) annual tonnage; (b) whether the facility disposes of high-volume industrial waste or other waste; and (c) whether the facility is an "approved" or "nonapproved" facility. DNR collects the tipping fees.

Solid and hazardous waste facilities (landfills) pay an environmental repair tipping fee for each ton of waste disposed of at the facility, except materials used for lining, daily cover, capping or constructing berms, dikes or roads within the facility. Facilities that dispose of municipal, hazardous or non-high volume industrial waste pay 50¢ per ton and facilities that dispose of high-volume industrial waste pay 20¢ per ton (high-volume industrial waste includes paper mill sludge, bottom ash, foundry process waste and fly ash).

In addition, nonapproved facilities pay 1.5¢ per ton of solid non-hazardous waste disposed and 15¢ per ton of hazardous waste. (There are no hazardous wastes disposed of in Wisconsin at this time and thus, no revenue is generated from hazardous waste tonnage fees.) Nonapproved facilities also pay an environmental repair surcharge equal to 25% of the tonnage fee if the facility has a closure agreement, or 50% of the tonnage fee if the facility does not have a closure agreement.

Site Specific (Fox River) Remediation. Under 2001 Act 16, the following moneys are deposited in the environmental management account for site specific remediation activities: (a) any moneys received in settlement of actions initiated under federal Comprehensive Environmental Response, Compensation and Liability Act; and (b) all moneys received under court approved settlement agreements or orders, in settlement of actions or proposed actions for violations of environmental statutes, that are designated to be used to restore or develop environmental resources, to provide restitution or to make expenditures required under the order or agreement. Any revenues received under this provision can be used only for the purposes for which received. Almost all of the revenues received to date and expected to be received during the 2003-05 biennium relate to cleanup of PCBs (polychlorinated biphenyls) in a stretch of the Fox River from Lake Winnebago to Green Bay.

Petroleum Inspection Fund. An annual appropriation of \$1,816,300 in 2003-04 and \$1,816,300 in 2004-05 is made from the petroleum inspection fund to the environmental

management account. The appropriation includes \$766,900 in each year for groundwater management and \$1,049,400 (including \$80,000 for well compensation) for environmental repair. A petroleum inspection fee of 3¢ per gallon is assessed on all petroleum products brought into the state. The fee will generate approximately \$114 - \$118 million annually during the 2003-05 biennium. Fee revenues are deposited in the segregated petroleum inspection fund and are used primarily to fund cleanup of petroleum-contaminated sites under the PECFA program.

Pesticide and Fertilizer Fees. The Department of Agriculture, Trade and Consumer Protection (DATCP) collects a number of pesticide and fertilizer fees that are deposited in the environmental management account, the segregated agrichemical management fund and the segregated agricultural chemical cleanup fund. The fees that are deposited in the environmental management account are described as follows.

1. Registration fees are assessed annually on manufacturers and labelers of pesticides and collected by DATCP. Currently, the flat fee ranges from \$265 to \$3,060 based on annual sales. Of the total fee, \$124 for each household pesticide product licensed and \$94 for each industrial and nonhousehold pesticide product licensed is deposited in the environmental management account. The remaining fees are deposited in the agrichemical management fund.

2. Registration applicants pay a cleanup surcharge, which is deposited in the environmental management account, for all pesticide products that are not household pesticides that are wood preservatives solely labeled for use on wood and that contain pentachlorophenol or coal tar creosote. The surcharge ranges from \$5 if sales of the product in the state are less than \$25,000 to 1.1% of gross revenues if sales of the product exceed \$75,000 in the state.

3. Persons who sell or distribute fertilizer or who distribute a soil or plant additive in Wisconsin are required to pay a groundwater fee of 10¢ per ton of fertilizer, with a minimum fee of \$1 for aggregate sales of 10 tons or less, for deposit in the environmental management account. Additional fertilizer tonnage fees are collected by DATCP for deposit in the agrichemical management fund, agricultural chemical cleanup fund and University of Wisconsin System appropriations.

4. Producers of pesticides must pay a well compensation fee of \$150 annually.

Transfer From Tribal Gaming Revenue. Eight tribal gaming agreements with the state contain provisions for payments of certain monies by tribes to the state. Tribal gaming revenues are appropriated for a variety of purposes. Under 2001 Act 16, \$500,000 was transferred from tribal gaming revenues to the environmental management account in 2001-02 and \$1,000,000 was transferred in 2002-03. No transfers from tribal gaming revenue are authorized during the 2003-05 biennium.

Groundwater Waste Generator Tipping Fee. To support groundwater programs, DNR collects, and deposits in the environmental management account, a groundwater waste generator fee

of 10¢ per ton from solid and hazardous waste disposal facilities for waste disposed of at the facility, except materials used for lining, daily cover, capping or constructing berms, dikes or roads within the facility. The fee is 1¢ per ton for prospecting or mining waste, including tailing solids, sludge or waste rock.

Hazardous Spill Reimbursement. When DNR cleans up hazardous substances spills with state funds, it seeks compensation from responsible parties. The compensation is deposited in the environmental management account. DNR may also recover its costs of remedying adverse effects upon the waters of the state resulting from the unlawful discharge or deposit of pollutants in the waters.

Hazardous Waste Generator Fee. DNR assesses a \$210 base fee plus \$20 per ton to all generators of hazardous waste that are required to report annually to DNR under the state's hazardous waste law. Producers of at least 220 pounds of hazardous waste in any month report annually and pay the fee unless the waste is: (a) recovered for recycling or reuse; (b) leachate being transported to a wastewater treatment plant; or (c) removed from the site as part of an environmental cleanup project. The minimum fee for a single generator is \$125 and the maximum is \$17,000. DNR deposits the fees it collects in the environmental management account.

Sanitary Permit Surcharge. Local governments are required to issue a sanitary permit before a person may install any septic tank or private sewage system. The fee for the sanitary permit must be at least \$61, of which \$20 is sent to the Department of Commerce. In addition to the sanitary permit fee, the local government that issues the permit is required to collect a \$25 groundwater surcharge and pay it to Commerce, which then deposits the surcharge in the environmental management account.

Well Compensation Fee. DNR collects a well compensation fee from an owner or operator of a licensed solid or hazardous waste disposal facility equal to 4¢ per ton of non-mining waste disposed of at the facility for payment to the environmental management account.

Nonmetallic Mining Fee. DNR administers nonmetallic mining reclamation rules that became effective December 1, 2000. Counties were required to enact and administer a nonmetallic mining reclamation ordinance that complies with the administrative rules by June 1, 2001. A city, village, or town may also adopt an ordinance and administer a program. DNR administers nonmetallic mining reclamation in counties that do not adopt nonmetallic mining reclamation ordinances. A county, city, village, or town with a nonmetallic mining ordinance is required to collect fees that equal the cost of the examination and approval of nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation. The municipality is also required to collect DNR's annual share of fees equal to the Department's statewide cost to inspect, enforce, consult with, and audit the regulatory authority under the statute and rule. DNR's share of the fees, established in administrative rule, is \$30 if the mine size in unreclaimed acres is one to five acres, \$60 for six to 10 acres, \$90 for 11 to 15 acres, \$120 for 16 to 25 acres, \$140 for 26 to 50 acres, and \$150 for 51 acres or larger. Municipalities collect DNR's share of the fees and transmit the fees to

DNR for deposit in the environmental management account. Currently, all counties (except Milwaukee) and approximately 25 cities, villages or town administer nonmetallic mining reclamation programs, pay fees to DNR that are deposited in the environmental management account.

Environmental Assessment. When a court imposes a fine or forfeiture for violation of administrative rules or DNR orders related to pollution discharge, drinking water, or septic tank statutes, it also imposes an environmental assessment. The courts transfer the assessments to DNR and DNR deposits them in the environmental management account. The assessment is equal to ten percent of the fine or forfeiture. Fifty percent of the assessments are credited to a University of Wisconsin System environmental education appropriation to fund environmental education grants. While Table 2 shows the total amount of environmental assessment revenue, half of the amount is statutorily designated to be used solely for UW System environmental education grants.

Dry Cleaner Response Reimbursement. If DNR uses the state-funded response appropriation from the environmental management account to pay for a cleanup of a discharge of dry cleaning solvent at a dry cleaning facility when the owner of the facility is unable to pay for the cleanup, DNR is required to transfer an equal amount of money from the dry cleaner financial assistance appropriation in the dry cleaner environmental response fund to the environmental management account when sufficient funds are available.

Land Disposal Permit. Persons who discharge certain pollutants into the waters of the state are required to obtain a water pollutant discharge elimination system permit from DNR. The permit holder is also required to pay a \$100 annual groundwater fee if the permittee discharges effluent on land or produces sludge from a treatment work that is disposed of on land. The permittee is required to pay a \$100 annual groundwater fee if the permittee discharges effluent on land and disposes of sludge from a treatment work on land. DNR collects the permit fee for deposit in the environmental management account.

Septic System Servicing Fees. Persons who remove and dispose of septage from septic tanks, soil absorption fields, holding tanks, grease traps or privies must pay DNR a groundwater fee of \$100 for every two-year period. The fees are deposited in the environmental management account. In addition, these persons pay two fees that are deposited in a program revenue (PR) account for administration of septage disposal activities. The two PR fees are: (a) a septic servicing license fee of \$50 per servicing vehicle for two years; and (b) a license fee of \$60 for a site licensed for storage or disposal of septage on land if the site is 20 acres or larger.

Bulk Tank Surcharge. Persons must receive approval from Commerce of plans for installation of, or change in, the operation of a previously approved installation for the storage, handling or use of flammable or combustible liquids. In addition to any plan review fees, Commerce collects a groundwater fee of \$100 per plan review submittal for tanks with a capacity of 1,000 gallons or more and deposits it in the environmental management account.

Environmental Repair Base Fee and Surcharge. There are two different annual base fees for nonapproved solid waste disposal facilities. If the owner of a nonapproved facility has signed an agreement with DNR to close the landfill on or before July 1, 1999, the annual base fee is \$100. If no closure agreement has been signed, the annual base fee is \$1,000. The amount of the base fee is deducted from the tipping fees for nonapproved facilities described previously. Nonapproved facilities with a closure agreement pay a fee of 1.875¢ per ton of solid non-hazardous waste or 2.25¢ per ton without a closure agreement. Owners of approved solid waste facilities do not pay a base fee into the environmental management account, but both types of facilities pay fees based on the tons of waste landfilled.

Civil Action Damages. The environmental management account receives compensation resulting from court ordered payments by responsible parties for specific cleanup activities.

Cooperative Remedial Action. DNR is authorized to seek and receive voluntary contributions from a municipality or any other public or private source for all or part of the costs of remedying environmental contamination if the activities being funded are part of a cooperative effort by DNR and the person providing the funds to remedy the contamination. Any funds received are deposited into the environmental management account. Any cooperative remedial action revenues, and any interest income on such revenues, may only be used for the activities agreed on by DNR and the person providing the funds.

Investment Income. Earnings on state investments are distributed to various funds, including the environmental management account, based on its monthly cash balance.

Expenditures From the Environmental Management Account

Appropriations from the environmental management account are listed in Table 2, including the name of the appropriation, expenditure authority, and authorized positions. (Table 2 also shows the estimated expenditure levels for the continuing appropriations for cooperative remedial action, site specific (Fox River) remediation, and environmental education.) The account has authorized expenditure levels of \$30.1 million in 2003-04 and \$26.4 million in 2004-05, with 94.41 positions in 2003-04 and 69.37 positions in 2004-05. The largest use of funds from the account is for Commerce brownfields grants, with an appropriation of \$7.0 million annually. The second largest use of funds is for DNR administrative functions, with appropriations of \$8.5 million in 2003-04 and \$6.0 million in 2004-05, with 90.91 positions in 2003-04 and 66.8 positions in 2004-05. (This is a decrease from \$9.8 million with 103.54 positions in 2002-03.) The appropriations listed in Table 2 include a reduction made in Act 33 of \$1,120,000 in each of 2003-04 and 2004-05 in the Air and Waste Division operations appropriation. However, Act 33 did not reduce the number of authorized positions. DNR may need to ensure that approximately 14 currently authorized SEG positions are vacant in each year to accomplish the required expenditure reduction. This would require holding vacant a portion of the positions listed in Table 2. A description of the uses of the appropriations from the account follows.

TABLE 2

**Appropriations From the Environmental Management Account,
2002-03 through 2004-05**

		2002-03	2003-04		2004-05		
		<u>2002-03*</u>	<u>Positions</u>	<u>Act 33</u>	<u>Positions</u>	<u>Act 33</u>	<u>Positions</u>
Natural Resources (370)							
(2)(dv)	Environmental repair; spills; abandoned containers	\$3,321,300		\$3,321,300		\$2,440,800	
(2)(mq) **	Air and waste operations	4,204,700	59.00	2,511,500	47.00	1,485,800	33.75 **
(2)(mr)	Brownfields operations	0	0.00	230,300	3.00	230,300	3.00
(2)(du) ***	Site specific remediation	2,927,600		4,782,200		4,000,000	
(2)(fq)	Indemnification agreements	0		0		0	
(3)(mq)	Enforcement and science operations	1,113,900	11.00	1,191,200	11.00	875,400	8.08
(4)(ar)	Groundwater management	125,000		125,000		91,900	
(4)(mq)	Water operations	2,223,000	22.00	2,319,300	22.00	1,704,400	16.16
(4)(au)***	Cooperative remedial action; contributions	0		0		0	
(4)(av)***	Cooperative remedial action; interest on contributions	800		300		0	
(6)(bs)	Household hazardous waste grants	150,000		0		0	
(6)(cr)	Well compensation grants	400,000		400,000		294,000	
(6)(et)	Brownfield site assessment grants	1,700,000		1,700,000		1,700,000	
(6)(eu)	Brownfields green space grants	0		500,000		500,000	
(7)(bq)	Remedial action debt service	2,700,000		3,203,700		3,771,600	
(7)(er)	Administrative facilities debt service	135,500		217,900		419,400	
(8)(mv)	Administration and technology operations	1,614,700	3.44	1,580,600	0.00	1,161,500	0.00
(9)(mv)	Customer assistance and external relations operations	551,800	8.10	579,300	7.91	425,700	5.81
Commerce							
143 (1)(qm)	Brownfields grant program	7,000,000		7,000,000		7,000,000	
Health and Family Services							
435 (1)(q)	Groundwater and air quality standards	386,700	3.50	395,700	3.50	291,200	2.57
Military Affairs							
465 (3)(t)	Emergency response training	10,500		10,500		7,700	
University of Wisconsin System							
285 (1)(r) ***	Environmental education; environmental assessments	<u>47,500</u>	<u> </u>	<u>47,500</u>	<u> </u>	<u>47,500</u>	<u> </u>
Total SEG Environmental Management Account Appropriations		\$28,613,000*	107.04	\$30,116,300	94.41	\$26,447,200	69.37

*2003 Act 1 reduced the listed 2002-03 appropriations by \$8,950,000 and transferred the same amount to the general fund.

** While 2003 Act 33 reduced this appropriation by \$1,120,000 in each of 2003-04 and 2004-05, it did not make a reduction in the number of authorized positions. DNR may need to ensure that approximately 14 currently authorized SEG positions are vacant in each year to accomplish the required expenditure reduction.

*** Appropriations are continuing and show the currently estimated revenue that would be available solely for the purposes of the appropriation, rather than the Chapter 20 amount.

DNR Environmental Repair, Spills; Abandoned Containers (State-Funded Response Actions). DNR was appropriated \$3,321,300 SEG in 2002-03 for state-funded response. (However, 2001 Acts 16 and 109 and 2003 Act 33 transferred \$1,437,200 from the appropriation to the general fund.) Under Act 33, the appropriation is authorized \$3,321,300 in 2003-04 and \$2,440,800 in 2004-05 for expenditures related to: (a) DNR-lead cleanups of contaminated sites where the responsible party is unknown or can not or will not clean up the site; (b) the state share at certain Superfund site cleanups; (c) the state match to federal Leaking Underground Storage Tank Trust Fund (LUST) expenditures; (d) emergency spill response and cleanups; (e) response and cleanup of abandoned containers of hazardous substances where the responsible party can not be identified; (f) \$3 per capita payments to certain municipalities for groundwater monitoring and equipment purchases; (g) provision of temporary emergency water supplies; (h) DNR-lead remedial actions at abandoned privately-owned landfills; and (i) DNR-lead cleanups resulting from responsible party payment of court settlements. Expenditures from the appropriation averaged \$3.3 million annually for the five years from 1999-00 through 2003-04. Examples of sites where state funds have been used are old landfills, industrial sites, contaminated municipal water supplies, pipeline spills, train spills, and spills of hazardous substances at industrial sites.

DNR Air and Waste Operations. In 2002-03, DNR was appropriated \$4,204,700 SEG with 59 SEG positions from the environmental management account for administrative functions in the Air and Waste Division, including the remediation and redevelopment program, waste management program, and Division management. Act 33 decreases the appropriation to \$2,511,500 with 47 positions in 2003-04 and \$1,485,800 with 33.75 positions in 2004-05. DNR has not yet determined how it will implement the expenditure reduction made in Act 33 related to agrichemical fees (a reduction of \$1,120,000 annually, but no associated staff were deleted in the Act). The remediation and redevelopment program is authorized 32.5 of the 47 positions in 2003-04 and 23.09 of the 33.75 positions in 2004-05. The remediation and redevelopment program staff regulate the cleanup of contaminated properties, promote the return of contaminated properties to beneficial reuse, provide technical assistance to people conducting cleanups, provide redevelopment assistance to promote cleanup and reuse of properties, approve site closure when groundwater and soil cleanup standards are met, administer cleanup at closed solid waste landfills and facilities, respond to hazardous substances spills and abandoned containers, administer brownfields financial assistance under various programs, and administer cleanups at sites where the responsible party is unable or unwilling to complete the cleanup. Brownfields are abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

The waste management program is authorized 14 of the 47 positions in 2003-04 and 10.29 of the 33.75 positions in 2004-05 to regulate the transportation, treatment, storage and disposal of solid and hazardous waste, review and approve plans for solid and hazardous waste facilities, license solid and hazardous waste facilities and transporters, inspect facilities, administer nonmetallic mining reclamation and metallic mining regulations, manage special wastes, and provide technical assistance and outreach. The Division management is authorized the remaining 0.5 position in 2003-04 and 0.37 position in 2004-05 for central management of the Air and Waste Division.

DNR Brownfields Operations. As noted earlier, Act 33 transferred \$230,300 SEG and 3.0 SEG positions annually from the Air and Waste Division general operations appropriation to a new brownfields operations appropriation. The positions transferred were three of the six positions in the brownfields section in the remediation and redevelopment program, and are located in DNR's central office. The positions perform activities related to brownfields programs that promote the cleanup of contamination at brownfields properties. The other three positions in the brownfields section are funded from GPR, FED and PR. Other remediation and redevelopment staff in the regional offices, including some of the staff funded from the Air and Waste Division general operations appropriation, perform brownfields-related duties.

DNR Site Specific Remediation. Any revenues received for site specific remediation, as established in 2001 Act 16, will be used only for the purposes for which received. This includes moneys received under settlement of actions under certain federal regulations and state environmental statutes (primarily Fox River cleanup funds to date).

DNR Indemnification Agreements. A sum sufficient appropriation was created in the environmental management account in 1999 Act 9, that will be used if DNR makes any payments under an agreement that indemnifies the municipality against liability damages to persons, property or the environment attributable to PCBs (polychlorinated biphenyls) resulting from the municipality's: (a) acceptance and disposal of sediments contaminated with PCBs from remediation projects in streambeds or lakebeds in the Great Lakes basin; or (b) conveyance or treatment of leachate that is contaminated with PCBs and is from a landfill that accepts sediments contaminated with PCBs from sediment remediation projects in streambeds or lakebeds in the Great Lakes basin. To date, no expenditures have been made from the appropriation.

DNR Enforcement and Science Operations. In 2002-03, DNR was appropriated \$1,113,900 SEG and 11 SEG positions from the environmental management account for operations in the Enforcement and Science Division. Act 33 provides \$1,191,200 with 11 positions in 2003-04 and decreases the appropriation to \$875,400 with 8.08 positions in 2004-05. Positions funded from the appropriation perform environmental enforcement activities related to investigation and resolution of violations of environmental laws administered by the Air and Waste and Water programs.

DNR Groundwater Management. DNR was appropriated \$125,000 SEG in 2002-03, and is appropriated \$125,000 in 2003-04 and \$91,900 in 2004-05 for groundwater management contracts. These contracts are for groundwater monitoring projects, research or studies of the impacts of various substances on groundwater quality.

DNR Water Operations. In 2002-03, DNR was appropriated \$2,223,000 SEG and 22 SEG positions from the environmental management account for administrative functions in the Water Division. Act 33 provides \$2,319,300 with 22 positions in 2003-04 and decreases this to \$1,704,400 with 16.16 positions in 2004-05. Water Division staff funded from the appropriation include: (a) 13 positions in 2003-04 and 9.56 positions in 2004-05 in the drinking water and

groundwater program for activities related to groundwater quality standards development, groundwater monitoring, management of drinking water systems, management of private water systems, and plan review of high capacity wells; (b) 8.0 positions in 2003-04 and 5.88 positions in 2004-05 in the watershed management program for activities related to policy development, watershed planning and regulation, and water quality assessment; and (c) 1.0 position in 2003-04 and 0.73 position in 2004-05 for central management of the Water Division.

DNR Cooperative Remedial Action. Any cooperative remedial action revenues, and any interest income on such revenues, may only be used for the activities agreed on by DNR and the person providing the funds.

DNR Household Hazardous Waste Grants. DNR was appropriated \$150,000 SEG in 2002-03 from the environmental management account for grants to municipalities for household hazardous waste collection and management programs (Clean Sweep). Under Act 33, beginning in 2003-04, the program was transferred from DNR to DATCP and the associated \$150,000 SEG annually in expenditures was transferred from the environmental management account to the recycling fund.

DNR Well Compensation Grants. DNR was appropriated \$400,000 SEG in 2002-03 for grants to homeowners for the replacement of contaminated wells. Under Act 33, the appropriation is authorized \$400,000 in 2003-04 and \$294,000 in 2004-05. A well compensation grant pays up to 75% of the cost of a replacement water system if the well is contaminated with a substance, including pesticides, with a concentration exceeding groundwater standards established in administrative rules. The maximum grant is \$9,000. The appropriation is continuing, and had a July 1, 2003, opening unencumbered balance of \$595,800. Thus, DNR will be able to award well compensation grants totaling \$1,289,800 during the 2003-05 biennium. Expenditures under the program averaged \$127,200 annually for the five years from 1999-00 through 2003-04.

DNR Brownfield Site Assessment Grants. DNR is appropriated \$1,700,000 SEG annually for grants to provide financial assistance to local governments for eligible brownfields properties for: (a) environmental assessment of a contaminated property; (b) site investigation of environmental contamination; (c) demolition of structures, buildings or other improvements; (d) asbestos abatement, if it is a necessary part of the demolition activity; and (e) removal and proper disposal of abandoned containers, underground petroleum product storage tank systems or underground hazardous substance storage tank systems. DNR has made 206 grants for a total of \$6,550,000 through 2003-04 for industrial or commercial sites with contamination from gasoline and other industrial waste.

DNR Brownfields Green Space Grants. In 2001 Act 16, \$1,000,000 SEG was provided in 2001-02 in a biennial appropriation for grants to local governments for brownfields remediation projects that will have a long-term public purpose benefit, including the preservation of green space, the development of recreational areas, or the use of a property by the local government. However, in 2003 Act 1, this amount was deleted and transferred to the general fund, and no grants were made in the program in the 2001-03 biennium. In 2003 Act 33, the appropriation was

provided with \$500,000 in each of 2003-04 and 2004-05. Act 33 also authorized DNR to review applications received by the Department for green space grants by January 17, 2003, rank them under the 2002-03 scoring criteria for green space grants, and make awards totaling up to \$1,000,000 in funding provided to DNR for the brownfields green space grant program to applicants that would have been eligible in 2002-03.

DNR Remedial Action Debt Service. DNR is authorized \$41 million in general obligation bonding authority to conduct remedial action at contaminated sites. Of the total, \$3 million was authorized in 2001 Act 16, and \$38 million was authorized in previous legislation. In addition, DNR is authorized \$7 million in general obligation bonding authority to conduct remedial action at Great Lakes areas of concern such as contaminated sediments in harbors and rivers on the Great Lakes. Prior to 2001-02, all debt service payments were made with GPR, including expenditures of \$1,873,000 GPR in 2000-01. Under 2001 Act 16, a SEG annual debt service appropriation was created in the environmental management account to pay up to \$2,400,000 SEG in 2001-02 (actual expenditures were \$1,722,200) and \$2,700,000 SEG in 2002-03 (actual expenditures were \$2,092,800) for debt service on the general obligation bonds for both remedial action and contaminated sediment remediation. A corresponding decrease in use of GPR for debt service was provided. The GPR sum sufficient appropriation remained to pay any debt service costs in excess of the SEG appropriation, but no GPR was needed during the 2001-03 biennium.

In 2003 Act 33, the GPR appropriation was repealed and the SEG appropriation was converted from sum certain to sum sufficient. Under Act 33, all costs for environmental repair and contaminated sediment cleanup debt service will be paid from the environmental management account. The actual debt service costs in 2003-04 were \$1,601,400 and are estimated at \$3,771,600 in 2004-05.

Bonding to conduct remedial action at contaminated sites can be used to fund: (a) the state's cost-share for cleanup of federal Superfund or LUST sites; or (b) state-funded cleanup under the environmental repair statute or hazardous substances spills statute. Bonding authority can be used for public purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation, remedial design and cleanup of a specific site when the responsible party is unknown, unable or unwilling to fund the cleanup.

DNR Administrative Facilities Debt Service. DNR is appropriated a sum sufficient amount from the environmental management account for repayment of principal and interest on general obligation bonds issued for construction of departmental administrative facilities. The preliminary debt service cost was \$103,200 SEG in 2003-04 and is estimated to be \$419,400 SEG in 2004-05

DNR Administration and Technology Operations. In 2002-03, DNR was appropriated \$1,614,700 SEG in 2002-03 and 3.44 SEG positions from the environmental management account for central departmental functions in the Division of Administration and Technology. Under Act 33, the appropriation provides \$1,580,600 in 2003-04 and \$1,161,500 in 2004-05, but no positions,

for activities such as legal services, finance, administrative and field services, data processing, information technology, human resources and facility rent costs.

DNR Customer Assistance and External Relations Operations. In 2002-03, DNR was appropriated \$551,800 SEG and 8.1 SEG positions annually from the environmental management account for the Customer Assistance and External Relations Division. Under Act 33, the appropriation is authorized \$579,300 with 7.91 positions in 2003-04 and \$425,700 with 5.81 positions for activities including: (a) 2.58 positions in 2003-04 and 1.9 positions in 2004-05 for customer service related to environmental permits; (b) 3.01 positions in 2003-04 and 2.21 positions in 2004-05 for communication and education; (c) 0.86 position in 2003-04 and 0.63 position in 2004-05 in the community financial assistance program for administration of environmental grants (such as brownfields site assessment grants, brownfields green space grants and well compensation grants); (d) 0.86 position in 2003-04 and 0.63 position in 2004-05 in the cooperative environmental assistance program to provide a point of contact for businesses on pollution prevention, waste minimization, technical assistance and negotiation of agreements with facilities related to environmental flexibility; and (e) 0.6 position in 2003-04 and 0.44 position in 2004-05 for central management of the Customer Assistance and External Relations Division.

Commerce Brownfields Grants. Commerce is appropriated \$7,000,000 SEG annually for grants to provide financial assistance to businesses and governmental entities to fund the costs of brownfields redevelopment projects and associated environmental remediation activities. (2003 Act 1 reduced the Commerce brownfields grant appropriation by \$6,250,000 and transferred that amount to the general fund, and no grants other than legislatively-specified awards were made in 2002-03.) Act 33 authorized Commerce to review applications for brownfields grants received by the Department in October, 2002, rank them using the 2002-03 scoring structure, and make awards to eligible applicants totaling up to \$6,250,000 in funding provided for the program in 2003-04.

Brownfields redevelopment includes work undertaken to acquire a brownfields facility or site, or to raze, demolish, remove, reconstruct, renovate or rehabilitate the facility or existing buildings, structures or other improvements at the site. The redevelopment project must be for promoting the facility or site for commercial, industrial or similar economic development purposes. Environmental remediation activities include environmental assessment of the contamination, site investigation, abatement or removal of the pollution at the site and restoration of soil or groundwater at the site. Since the program was created in 1997-98, through 2002-03, Commerce has awarded \$28.4 million SEG from the environmental management account and \$2.3 million GPR for brownfields grants.

DHFS Groundwater and Air Quality Standards. The Department of Health and Family Services was appropriated \$386,700 SEG in 2002-03 and 3.5 SEG positions to research the health impacts of groundwater standards and develop air quality standards. Under Act 33, the appropriation is authorized \$395,700 with 3.5 positions in 2003-04 and \$291,200 with 2.57 positions in 2004-05.

DMA Emergency Response Training. The Department of Military Affairs was appropriated \$10,500 SEG in 2002-03 for emergency response training. Under Act 33, the appropriation is authorized \$10,500 in 2003-04 and \$7,700 in 2004-05.

UW System Environmental Education; Environmental Assessments. The University of Wisconsin System receives 50% of environmental assessment revenue that is used by the Wisconsin Environmental Education Board to fund environmental education grants. The UW System received \$56,800 in environmental assessment revenue in 2002-03. The revenue is deposited in the environmental management account and is available only for expenditure from the environmental education appropriation. The appropriation received \$70,400 in revenue in 2003-04 and will receive an estimated \$47,500 in revenue in 2004-05. In addition, the appropriation is continuing and had a July 1, 2003, opening unencumbered balance of \$126,000 that will be available for environmental education grants during the biennium.

Environmental Management Account Balance

Preliminary figures available for 2003-04 revenues and expenditures show that the environmental management account is expected to have a June 30, 2005, balance of approximately \$3.4 million. This is shown in Table 3. The estimated balance may change when final 2003-04 revenue and expenditures are available later in 2004. The estimated balance of the account can be attributed to: (a) the Governor's partial veto of a provision the Legislature included in the 2003-05 biennial budget that would have transferred \$1.3 million annually in certain pesticide fee revenues from the environmental management account to the agrichemical management fund; and (b) preliminary expenditures for general obligation bond debt service of \$1.7 million in 2003-04 instead of the \$3.4 million estimated during 2003-05 biennial budget deliberations. While the account balance was estimated at approximately \$2.7 million at the time of the Governor's vetoes of Act 33, a more recent review indicates the June 30, 2005, balance will be approximately \$3.4 million. The difference mainly reflects modest revenue decreases related to landfill tipping fees, hazardous spills reimbursements and investment income, and a decrease in expenditures for remedial action debt service.

TABLE 3**Estimated Condition -- Environmental Management Account
of the Environmental Fund (\$ Millions)**

	2001-02 <u>Actual</u>	2002-03 <u>Actual</u>	2003-04 <u>Preliminary</u>	2004-05 <u>Estimated</u>
Opening Balance -- July 1	\$19.6	\$29.5	\$22.2	\$3.2
Revenue	\$29.6	\$27.9	\$28.6	\$27.9
Total Available	\$49.2	\$57.4	\$50.8	\$31.1
Less Expenditures	- \$18.7	- \$25.1	- \$26.2	- \$26.4
Less Reserves and Lapses	- 0.0	- 0.0	- 0.0	- 0.6
Less Encumbrances and Continuing Balances *	- 0.0	- 0.0	- 20.7	- 0.0
Transfers to General Fund	<u>- 1.0</u>	<u>- 10.1</u>	<u>- 0.7</u>	<u>- 0.7</u>
Closing Balance -- June 30	\$29.5	\$22.2	\$3.2	\$3.4

* In 2003-04, includes funds legally committed, but not yet spent, including \$8.9 million for Commerce brownfields grants, \$4.7 million for DNR brownfields site assessment and sustainable urban development zone grants, \$2.7 million for DNR state-funded response, \$3.1 million for DNR site specific remediation, \$1.0 million for DNR well compensation, and \$0.3 million for other encumbrances.

Account revenues totaled \$28.6 million in 2003-04 and are expected to total approximately \$27.9 million in 2004-05. Preliminary account expenditures were approximately \$26.2 million in 2003-04 and are estimated to be \$26.4 million in 2004-05. There were 107.04 authorized positions in 2002-03 from the account. Under Act 33, this decreases to 94.41 positions in 2003-04 and 69.37 positions in 2004-05, as shown in Table 2. In addition, DNR may need to ensure that approximately 14 currently authorized positions are vacant in each year of the current biennium in the Air and Waste Division to accomplish Act 33 expenditure reductions where associated staff were not deleted (described in more detail in a following section). In 2003-04, \$4.8 million in revenues is related to Fox River remediation activities, and in 2004-05, an estimated \$4 million in revenues and \$4 million in expenditures is related to these activities. This site specific revenue is not available for allocation to other appropriations in the account.

Actions Under 2003 Act 33

Under 2003 Act 33, several actions impacted the revenues and expenditures of the environmental management account. These are described in the following sections.

Base Budget Reductions. The Legislature approved the Governor's recommendation to decrease the base budget for Air and Waste Division general operations by \$640,900 SEG annually with 9.0 SEG positions from the environmental management account, including: (a) \$180,000

annually with 2.0 positions in the waste management program; and (b) \$460,900 annually with 7.0 positions in the remediation and redevelopment program. In addition, Act 33 transfers \$640,900 in each year in a designated transfer from the environmental management account to the general fund, and approximately \$107,100 will be transferred as part of the allocation of larger undesignated transfers required to be made to the general fund.

Vehicle Environmental Impact Fee. The Legislature deleted the Governor's recommendations to increase the vehicle environmental impact fee from \$9 to \$10.50 for each new and used vehicle titled by the Department of Transportation and to make the fee permanent. Rather, Act 33 retained the \$9 fee and extended the December 31, 2003, sunset of the fee, to December 31, 2005. Vehicle environmental impact fees generated \$13.6 million in 2003-04 and are estimated to generate \$13.5 million in 2004-05. When site specific remediation revenues are excluded, vehicle environmental impact fees represent approximately 56% of environmental management account revenue in 2004-05.

As part of the legislative action to retain the current vehicle environmental impact fee level, and in order to maintain a positive balance in the environmental management account, Act 33 deleted \$3,656,500 SEG (a 26.5% decrease from the Governor's bill) and 25.03 SEG positions from most appropriations from the environmental management account in 2004-05, including DNR administrative appropriations, state-funded spills response, and well compensation grants, and the appropriations in DHFS and DMA. No associated reductions were made in brownfields grants administered by DNR and Commerce, or UW Systems environmental education.

Agrichemical Fees and Environmental Management Account Expenditures. The 2003-05 budget, as passed by the Legislature (Enrolled Senate Bill 44), would have directed that all pesticide, fertilizer, and soil additive fees that are currently deposited in the environmental management account instead be deposited in the agrichemical management (ACM) fund. This would have decreased revenues to the environmental management account by an estimated \$1.3 million in each year of the biennium and increased ACM revenues by the same amount.

In addition, in order to maintain a positive balance in the environmental management account, Enrolled SB 44 reduced the DNR Air and Waste Division operations appropriation from the environmental management account by \$1,120,000 SEG in each year, but did not make a reduction in the number of authorized positions. Enrolled SB 44 also transferred \$230,300 SEG and 3.0 SEG positions annually from the remediation and redevelopment program of the Air and Waste Division operations environmental management account appropriation to a new brownfields general operations appropriation. DNR would have been authorized to submit an alternative plan to the Secretary of Administration (DOA) for allocation of the reduction in the Air and Waste Division appropriation among any of the agency's other sum certain appropriations funded from the environmental management account except the new brownfields appropriation. DOA would have been required to submit the plan to the Joint Committee on Finance for its approval under a 14-day passive review procedure, but DOA could not have requested a reallocation of any of the reductions to the new brownfields appropriation.

In Act 33, the Governor vetoed the transfer of the pesticide, fertilizer, and soil additive fees from the environmental management account to the agrichemical management fund. The partial veto maintained revenues of approximately \$1.3 million annually in the environmental management account. The Governor also vetoed the provision that would have allowed DNR to submit an alternative reduction plan to DOA and for DOA to submit the plan to the Joint Committee on Finance for approval. However, the Governor could not use his veto to restore the \$1,120,000 in annual expenditure authority that was deleted under the Act. DNR has a number of options in implementing the expenditure reduction. DNR could choose to request, under s. 13.10 or through legislation, a reallocation of some or all of the \$1,120,000 in expenditure authority reduction from the Air and Waste Division operations appropriation to other administrative, grant or cleanup appropriations. Alternatively, or in combination with a reallocation, DNR could request a restoration of some or all of the \$1,120,000 in either or both years of the biennium.. DNR has not requested a reallocation or restoration of expenditure authority in the 2003-05 biennium to date, thus DNR has had to hold up to approximately 14 authorized positions vacant in each year in the SEG funded waste management and remediation and redevelopment programs in the Air and Waste Division. In the agency's 2005-07 biennial budget request, DNR includes \$958,400 as a standard budget adjustment for full salary and fringe benefit funding of all authorized positions in the SEG Air and Waste Division operations appropriation.

Household Hazardous Waste Grant Program. Act 33 transferred the household hazardous waste (urban clean sweep) grant program from DNR to DATCP. The associated \$150,000 SEG annually in expenditures was transferred from the environmental management account to the recycling fund.

Allocation of Cleanup and Administrative Expenditures. With at least \$4 million in Fox River remediation revenues and expenditures expected in each year of the biennium, expenditures for direct cleanup of contamination are expected to be approximately \$16.8 million (64%) of \$26.2 million in expenditures in 2003-04 and approximately \$20.1 million (76%) of the estimated \$26.4 million in expenditures in 2004-05. This would include the expenditures shown in Table 2 for Commerce brownfields grants, DNR site assessment grants, green space grants, well compensation grants, state-funded response, site specific remediation, and debt service for general obligation bonds that were issued to pay for state-funded remedial action activities. The remaining expenditures are for administrative appropriations in DNR, DHFS, DMA and UW Systems, and are estimated at \$9.4 million (36%) in 2003-04 and \$6.3 million (24%) in 2004-05.

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