

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 125  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
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Interim  
716 West Fourth Avenue, Suite 430  
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## SENATOR LESIL MCGUIRE

March 26, 2012

Senator Lyman Hoffman  
Co-Chair, Senate Finance Committee  
State Capitol, Room 518  
Juneau, Alaska 99801

Dear Senator Hoffman,

Several special purpose funds either have, or are projected to have shortfalls that will create a considerable general fund liability in the near future. I commend you and the members of the Senate Finance Committee for tackling this problem and as Chair of the Senate Finance Subcommittee for the Department of Environmental Conservation (DEC), I wish to draw your attention to an ongoing issue that will have a significant impact of the FY 14 operating budget. Current projections by the DEC predict a shortfall in oil/haz funds (fund code 1052 – a.k.a. 470 funds) of \$1.741 million in FY 14, and an ongoing annual shortfall of \$5.39 million beginning in FY 15.<sup>1</sup> 470 funds are currently levied through a \$.04 cent surcharge on each barrel of oil produced in Alaska and used to fund the operating costs of the Spill Prevention and Response Division as well as the Administrative Services and State Support Services allocations. At this point, the current Administration has not developed a plan to correct the projected shortfall in 470 funds and at this late date in the session, seems unlikely to do so. I am concerned that failing to address the coming shortfall threatens to undermine the State of Alaska's reputation as a diligent regulator of the oil and gas industry.

It is my view that the shortfall is largely the result of two factors: (1) declining oil production and (2) a lack of cost recovery for the remediation of state owned contaminated sites. Since we are all well aware of the decline in oil production I will not address that issue here; except to note that the Spill Prevention and Response Division regulates a wide range of industries and activities outside the oil and gas industry. At some point in the future it may be appropriate to look at other fees that could broaden the base from which the revenues come to support the Division's budget. However, at this time I feel it is more appropriate to begin by considering the State's liability for contaminated sites and how the failure to recover costs for remediation contribute to the projected revenue shortfall.

Currently, the cleanup of contaminated sites is largely funded through the DEC Contaminated Sites Program and capital appropriations from the 470 fund. According to the most recent Oil and Hazardous Substance Release Prevention and Response Fund, Fiscal Year 2009 Interim Report almost \$700,000 was spent on state-owned contaminated sites in FY 09.<sup>2</sup>

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<sup>1</sup> See attachment #1: Department of Environmental Conservation: Response Fund: Prevention Account – Balance Projection.

<sup>2</sup> See attachment #2 for examples of state owned contaminated sites and project descriptions.

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Over time, these expenditures for the remediation of state-owned sites have been significant. Further, the most recent State Certified Annual Financial Report (CAFR) identifies \$53.316 million in long term liabilities for pollution remediation (p. 101)<sup>3</sup> at state owned contaminated sites. The state has a large inventory of contaminated sites for which it is responsible and will have to expend resources to remediate in the future.

By law the DEC is required to pursue cost recovery from a responsible party for the cleanup of contaminated sites (AS 46.04.010) and the current statute does not exempt other state agencies from this requirement. However, it is currently the practice to not recover costs when a contaminated site is owned by the state. While it may not be in the State's interest to have other Departments request general funds to reimburse DEC, it may be appropriate for the State to recognize the liability DEC is assuming and appropriate general funds to the 470 fund to satisfy the cost recovery statute. In addition, I would hope that additional appropriations would be considered to enable the DEC to remediate state owned sites more quickly. I am disturbed that while we debate the issue of the environmental impact of the Bureau of Land Management's legacy wells, the State of Alaska maintains a considerable backlog of contaminated sites.

I strongly feel that it should be the responsibility of the Administration to develop a plan to submit to the Legislature that will both (1) address the declining balance in the 470 fund and (2) remediate State owned contaminated sites in a reasonable time frame. Before the Committee considers any interim action to support the 470 fund in this appropriation cycle, I ask that we first request that the Administration develop a plan that satisfies the elements I have outlined.

Sincerely,

A handwritten signature in black ink, appearing to be "Lesil McGuire", with a long horizontal line extending to the right.

Senator Lesil McGuire

CC: Senator Bert Stedman  
Senator Johnny Ellis  
Senator Joe Thomas  
Senator Donald Olson  
Senator Dennis Egan  
Commissioner Larry Hartig, DEC  
Karen Rehfeld, OMB

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<sup>3</sup> See Attachment #3 for selected page from 2010 CAFR.

**Attachment #1**

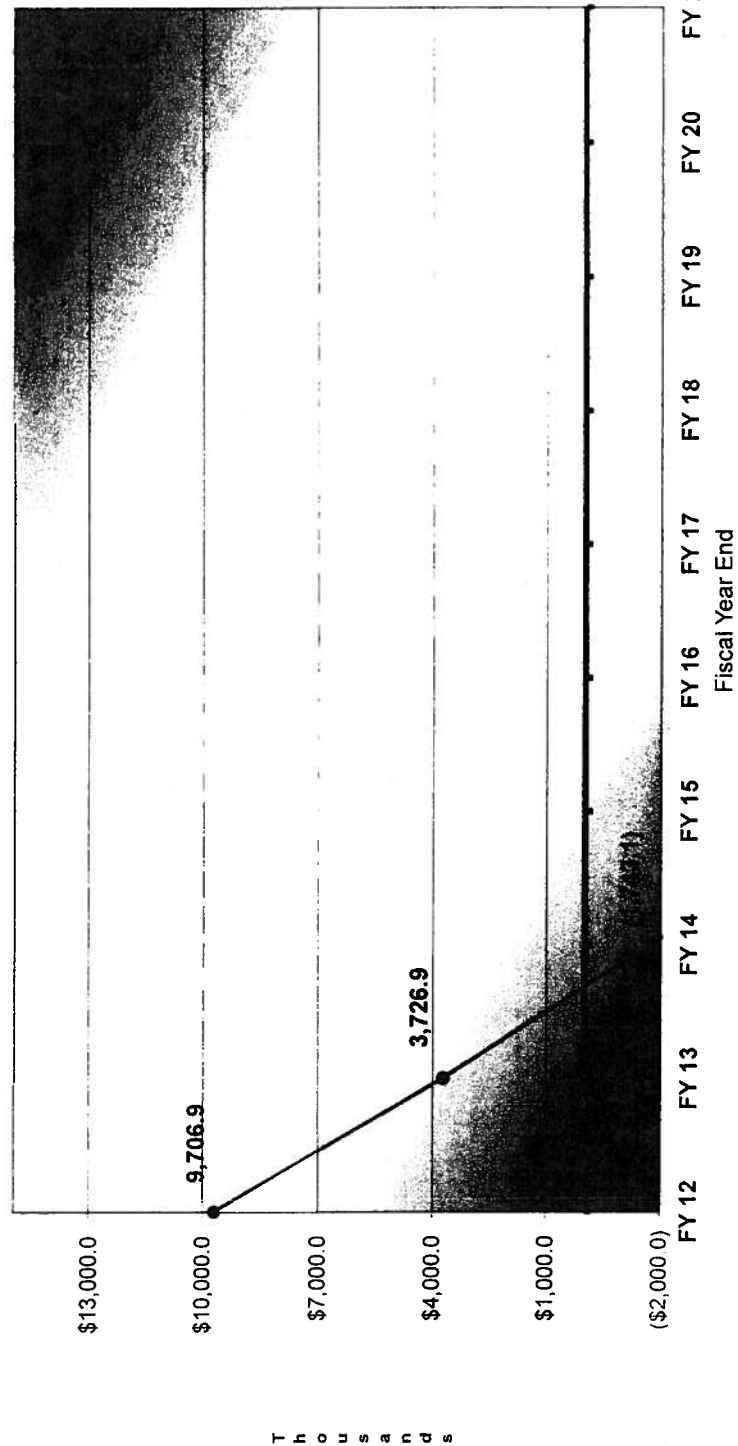
**Alaska Department of Environmental Conservation  
Response fund  
Prevention Account Balance - Projection**

# DEPARTMENT OF ENVIRONMENTAL CONSERVATION RESPONSE FUND

## PREVENTION ACCOUNT - BALANCE PROJECTION 12.16.11 UPDATE - Current 4¢ Surcharge

	FY 11 YEAREND FUND BALANCE	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
<b>REVENUE TO PREVENTION ACCOUNT</b>	<b>11,323.0</b>	<b>13,528.9</b>	<b>10,220.0</b>	<b>9,980.0</b>	<b>10,060.0</b>	<b>9,740.0</b>	<b>9,660.0</b>	<b>9,420.0</b>	<b>9,500.0</b>	<b>9,180.0</b>	<b>8,780.0</b>
4¢ Surcharge (Fall 2011 Revenue Sources Update)		7,703.5	7,520.0	7,280.0	7,360.0	7,040.0	6,960.0	6,720.0	6,800.0	6,480.0	6,080.0
Cost Recovery/Fines/Penalties		4,625.4	1,500.0	1,500.0	1,500.0	1,500.0	1,500.0	1,500.0	1,500.0	1,500.0	1,500.0
Investment Income		1,200.0	1,200.0	1,200.0	1,200.0	1,200.0	1,200.0	1,200.0	1,200.0	1,200.0	1,200.0
<b>GOVERNOR'S OPERATING BUDGET</b>	<b>15,045.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>	<b>15,450.0</b>
<b>GOVERNOR'S CAPITAL BUDGET</b>	<b>100.0</b>	<b>750.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>ESTIMATED PREVENTION ACCOUNT BALANCE</b>	<b>9,706.9</b>	<b>3,726.9</b>	<b>(1,743.1)</b>	<b>(7,133.1)</b>	<b>(12,843.1)</b>	<b>(18,633.1)</b>	<b>(24,663.1)</b>	<b>(30,613.1)</b>	<b>(36,883.1)</b>	<b>(43,553.1)</b>	<b>(49,773.1)</b>
<b>EXPENDITURES IN EXCESS OF REVENUE</b>	<b>(1,616.1)</b>	<b>(5,980.0)</b>	<b>(5,470.0)</b>	<b>(5,390.0)</b>	<b>(5,710.0)</b>	<b>(5,790.0)</b>	<b>(6,030.0)</b>	<b>(6,270.0)</b>	<b>(6,510.0)</b>	<b>(6,750.0)</b>	<b>(7,000.0)</b>

## PREVENTION ACCOUNT BALANCE



NOTE: Change to surcharge rates must be implemented 1 year prior to actual need. For example, to realize revenue in FY14 a surcharge increase would need to be implemented on July 1, 2012.

Attachment #2

Selected Contaminated Site Reports taken from the  
Oil and Hazardous Substance Release Prevention and Response  
Fund

Fiscal Year 2009

Interim Report

Project/Site Name: **Pedro Bay Former Dena'ina School**  
Location: Pedro Bay  
Project Manager: Keather McLoone  
Site ID Number: 1860

Telephone: (907) 269-7526  
Ledger Code: 14896480

**Situation:**

Pedro Bay village administrators first contacted the department in 1993 with reports of diesel fuel odors in the school and the presence of occasional sheen on the water at the shore of Lake Iliamna. Department of Environmental Conservation (DEC) involvement as state lead began in 1997.

Historic fuel storage methods involved storage of up to 500 drums in the playground area. An addition to the school building was later constructed over the area used to store drums. Spills had also occurred at the tank farm and generator building. Soil and groundwater had been contaminated with benzene and diesel. Lead had also been found in past groundwater results above cleanup levels. A past estimate suggested the area of petroleum contamination to be approximately one acre. However, concentrations and extent of subsurface contamination were unknown prior to FY09. Soil sampling results within the past ten years had been limited to a few surface soil samples for petroleum contamination.

Lake and Peninsula School District conducted a limited interim remedial action for soils within the playground area in 1995, and about 4 cubic yards were removed. This was the first of two excavations that took place at this site prior to FY09. In 1999, DEC stockpiled additional excavated soil and installed a groundwater remediation system to address hydrocarbon seepage into water bodies. The stockpile remained on site. Site structures were removed by 2007.

**FY09 Actions:**

During FY09 additional site characterization was performed to address data gaps before finalizing a Corrective Action Plan. Following multiple teleconference meetings to include various stakeholders, the Corrective Action Plan was finalized.

FY09 Response Fund Expenditures: \$46,351.47  
FY09 Cost Recovery: State Owned - No Cost Recovery

**FY10 Projected Actions and Expenditure Amounts:**

In FY10, a second field effort will focus on "hot spot" removal and excavation of highly contaminated soil in one source area. This contaminated soil will be placed in an on-site landfarm which will be tilled periodically through FY10. Other FY10 activities will include reporting and ADEC oversight.

Estimated FY10 Costs: \$35,000.00

**Project/Site Name:** Togiak School

**Location:** Togiak, Alaska

**Project Manager:** Deborah Williams

**Site ID Number:** 4587

**Telephone:** (907) 451-5174

**Ledger Code:** 14622260

**Situation:**

A site characterization was conducted October 2007 at the Togiak School property (4.8 acres) in conjunction with building demolition and new school construction. The findings indicated historic contamination, including gasoline and diesel range organics, and benzene above Department of Environmental Conservation (DEC) cleanup levels. Contamination was found at multiple locations on both the northern and southern halves of the property. The site is sometimes referred to as the Togiak Old School. Demolition and construction plans included removal of the south end of the main school building as well as all other buildings and facilities on the southern half of the property. Renovations are planned for the northern half of the property for continued use as a school. After the building demolition plan is complete, the City of Togiak plans to reuse the southern half of the property as a recreation facility, meeting hall, and playground/park. There are also individual residential buildings on site.

**FY09 Actions:**

During FY09, assessment activities were completed during the decommissioning activities at the old school site. Significant contamination was identified and approximately 4,000 cubic yards of contaminated soil were excavated and stockpiled at the landfill. Complete removal of all petroleum-contaminated soil was not possible because of limited resources.

FY09 Response Fund Expenditures: \$ 102,080.59

FY09 Cost Recovery: State Owned – No Cost Recovery

**FY10 Projected Actions and Expenditure Amounts:**

During FY10, recommendations will be developed for stockpile management and additional site characterization will be developed, including vapor intrusion monitoring and sampling. Some additional onsite activities will be scheduled for spring.

Estimated FY10 Costs: \$75,000

Project Site Name: **ADOT&PF Kotzebue Airport**

Location: Kotzebue, Alaska

Project Manager: Tamara Cardona-Marek

Site ID Number: Multiple: 25111 and 3251

Telephone: (907) 451-2192

Ledger Code: 14243780

**Situation:**

The Contaminated Sites database has listed several sites in Kotzebue that are currently active, state-owned, and for which exposure pathways have been determined to be complete. Therefore, remediation and/or mitigation are necessary to address any risks to human health and/or the environment, including to ecological receptors in the nearby Kotzebue Sound and Kotzebue Lagoon.

Several data-gaps in the knowledge of the hydrogeology of Kotzebue currently exist. It has been determined that addressing these data gaps and designing a pilot-study to mitigate the migration of contamination from the Kotzebue Airport to the Kotzebue Sound and Lagoon is a priority.

This project also includes the Kotzebue Drum Dump, where a recent inventory of the site indicates that several drums remain on the property, some of them containing what seems to be waste oil.

**FY09 Actions:**

During FY09, it was determined that the surface water exposure pathway was complete by collecting pore-water samples from the groundwater- surface water interface of the Kotzebue Sound and Kotzebue Lagoon. Surface water standards for total aromatic hydrocarbons (TAH) and total aqueous hydrocarbons (TaqH) were exceeded as well as groundwater cleanup levels for DRO and benzene. In addition, an inventory of remaining drums at the Kotzebue Sewage Lagoon Drum Dump site indicated that some empty drums and others (apparently containing waste oil) are still present on site.

FY09 Response Fund Expenditures: \$ 49,785.95

FY09 Cost Recovery: State Owned-No Cost Recovery

**FY10 Projected Actions and Expenditure Amounts:**

During FY10, DEC plans to:

- fill in existing data gaps related to the hydrogeology at the Kotzebue Airport;
- design a pilot-study to mitigate the migration of contamination from the Kotzebue Airport to the Kotzebue Sound and Lagoon;
- sample drum contents at the Kotzebue Sewage Lagoon Drum Dump contaminated site, and
- follow up with the investigation done during FY09 in which the status of the contamination at several sites in Kotzebue was assessed.

Estimated FY10 Costs: \$ 60,000



**Project/Site Name:** ADOT&PF Peger Road Facility

**Location:** Fairbanks

**Project Manager:** Ann Farris

**Site ID Number:** 1402

**Tel:** 907-451-2104

**Ledger Code:** 14800780

**Situation:**

The Alaska Department of Transportation and Public Facilities (ADOT&PF) Operations and Maintenance facility is located on Peger Road in Fairbanks. Environmental investigations of solvent and petroleum spills began in the early 1990s, first under the direction of the Department of Transportation (DOT), then continuing since 1998 under the direction of the Department of the Environmental Conservation (DEC).

The release of chlorinated solvents, specifically trichloroethylene (TCE), and gasoline and diesel fuels have contaminated soil and groundwater at the facility. There are groundwater contaminant plumes that extend off-site in the general direction of the regional groundwater flow (to the northwest) to residential areas with private water wells. There are two TCE groundwater plumes and a petroleum plume. The TCE groundwater plume associated with the Materials Laboratory is the longest off-site plume.

**FY 09 Actions:**

In FY09, DEC performed the following activities:

- sampled residential wells (and all were below regulatory levels)
- sampled select wells within the monitoring well network and the plume appears stable
- decommissioned damaged wells, and,
- evaluated vapor intrusion.

FY09 Response Fund Expenditures: \$77,489.43

FY09 Cost Recovery: State Owned - No Cost Recovery

**FY10 Projected Actions and Expenditure Amounts:**

Monitor the groundwater plume and sample the residential wells. Evaluate the need to turn on the depressurization system at the Materials laboratory. Work with DOT to become in compliance with their injection well closure program.

Estimated FY 09 Costs: \$75,000.00

Project/Site Name: **ADOT&PF – Regional Complex Juneau**

Location: Juneau, Alaska

Project Manager: Bruce Wanstall

Site ID Number: 25131 (Source Area #77612)

Telephone: (907) 465-5210

Ledger Code: 14223080

**Situation:**

Contaminated soil was left in place after closure by removal of five regulated underground storage tanks in several locations on the property. A network of monitoring wells was installed to investigate ground water contamination. Elevated concentrations of gasoline range hydrocarbons and benzene have been detected in water samples from five monitoring wells and elevated concentrations of diesel range hydrocarbons have been detected in seven monitoring wells. During construction of a new office building, gasoline vapors were detected in utility trenches that connect the new building to the main office structure. Ground water data also indicated that gas vapors were likely present and could pose an exposure risk along the vapor intrusion pathway to indoor air of the new building.

In 2007, groundwater monitoring of all wells and field testing of ambient air in one of the occupied buildings on the property was completed. Results indicate that benzene and gasoline range hydrocarbon concentrations in groundwater between the source area and occupied buildings are declining as a result of active treatment. Sub-slab soil vapor and indoor air sample data collected in 2007 indicate that indoor air exposure from the soil vapor intrusion pathway was not a current risk for the building that was tested.

**FY09 Actions:**

During FY09, the 2008 field work included ground water sampling at each of the monitoring wells and vapor intrusion assessment for an office building. After collection of the water samples, fresh oxygen release compound "ORC" socks were placed in the water wells to promote bacterial breakdown attenuation of the petroleum in the soil and ground water. Results indicate that concentrations of benzene and gasoline range hydrocarbon in groundwater between the source area and occupied buildings are declining. The sub-slab soil vapor and indoor ambient air sample data indicate that indoor air exposure from the soil vapor intrusion pathway was not a current risk for occupants of the building. Although tetrachloroethylene (PCE) was detected in sub-slab soil vapor in concentrations above the Environmental Protection Agency (EPA) screening levels, the compound was not detected in ambient indoor air samples. PCE is used in vehicle maintenance but has not been a contaminant of concern for soil ground water contamination near the building property.

FY09 Response Fund Expenditures: \$13,925.02

FY09 Cost Recovery: State Owned-No Cost Recovery

**FY10 Projected Actions and Expenditure Amounts:**

Annual sampling of ground water monitoring wells to incorporate testing for PCE, with further vapor intrusion assessment dependent on the detection of PCE in groundwater.

Estimated FY10 Costs: \$35,000 .00

**Project/Site Name:** ADOT&PF Tudor Road Maintenance Facility (DOT Maintenance Yard)

**Location:** Anchorage

**Project Manager:** Bill O'Connell

**Telephone:** (907) 269-3057

**Site ID Number:** 926

**Ledger Code:** 14978980

**Situation:**

Three distinct source areas are present at the site: (1) gasoline underground storage tanks (USTs) at Building 4801; (2) diesel USTs at Building 5820; and (3) a disposal pit at Building 5750. At Building 4801, free-phase product has been present in the area and observed in MW-4 for several years. At Building 5820, groundwater contamination has largely attenuated, though monitoring continues. At Building 5750, the disposal of solvents in an unlined pit led to solvent contamination in groundwater which has also largely attenuated downgradient of the source area.

In addition to the sources discussed above, several other environmental issues are present at the site that must be addressed prior to considering the long term status of the site. These issues include:

- A storm drain at the site is being infiltrated by contaminated groundwater from Buildings 4801 and 5750 and transporting contaminated water to the storm water detention pond;
- The storm water detention pond has contaminated sediment that produces hydrocarbon sheen when disturbed; and
- The storage of sand mixed with salt leading to chloride contaminated runoff that may impact the flora and fauna off of the property to the southeast.

Groundwater monitoring has been conducted at the site since the 1990's to delineate the extent and characterize the nature of groundwater contamination at the site. In 2007, 28 monitoring wells that were no longer needed were decommissioned, leaving approximately 17 monitoring wells in place for future use.

**FY09 Actions:**

Activities conducted in FY09 included excavation and treatment of petroleum hydrocarbon contaminated soil using a chemical oxidant and the mechanical removal of free product from the water table using a vacuum truck.

FY09 Response Fund Expenditures: \$22,272.01

FY09 Cost Recovery: State owned – No Cost Recovery

**FY10 Projected Actions and Expenditure Amounts:**

No activities planned for FY10.

Estimated FY10 Costs: \$0.00

Attachment #3

Certified Annual Financial Report

p. 101

**NOTE 6 – SHORT-TERM DEBT, BONDS PAYABLE AND OTHER LONG-TERM OBLIGATIONS**

**A. SUMMARY OF CHANGES**

**SHORT-TERM DEBT**

Two enterprise funds, the Alaska Clean Water Fund and the Alaska Drinking Water Fund issued bond anticipation notes during FY 10 totaling \$964 thousand and \$1,629 thousand respectively. The proceeds were used to fund the State share of loan distributions and administration costs. In accordance with the Environmental Protection Agency regulations, interest and investment earnings were used to retire the bond anticipation notes. No balance was outstanding at year end.

Short-term debt activity for the primary government for the fiscal year ended June 30, 2010 is as follows (in thousands):

	Beginning Balance	Increases	Decreases	Ending Balance
Bond Anticipation Notes	\$ -	\$ 2,593	\$ 2,593	\$ -

**LONG-TERM LIABILITIES**

The following table summarizes changes in long-term liabilities for the fiscal year ended June 30, 2010 (in thousands):

Governmental Activities	Beginning Balance	Increases	Decreases	Ending Balance	Amounts Due Within One Year
Revenue bonds payable	\$ 430,176	\$ 908	\$ 5,331	\$ 425,753	\$ 2,596
General obligation debt	520,019	-	30,502	489,517	34,839
Capital leases payable	410,846	20,603	21,364	410,085	21,224
Unearned & deferred revenue	285,819	24,149	7,781	302,187	43,290
Certificates of participation	51,415	-	5,810	45,605	6,005
Compensated absences	143,661	143,303	132,913	154,051	122,506
Claims and judgments	135,404	41,571	101,888	75,087	32,991
Pollution Remediation	43,130	19,273	9,087	53,316	6,103
Other noncurrent liabilities	3,256	-	1,952	1,304	966
Net pension obligation	-	751	-	751	-
Total	<u>\$ 2,023,726</u>	<u>\$ 250,558</u>	<u>\$ 316,628</u>	<u>\$ 1,957,656</u>	<u>\$ 270,520</u>

Internal service funds predominantly serve the governmental funds. Accordingly, long-term liabilities for internal service funds are included as part of the above totals for governmental activities.

The General Fund, special revenue and internal service funds in which the leases are recorded typically liquidate the capital lease obligations. The compensated absence obligations are typically liquidated by the funds incurring the related salaries and wages. Claims and judgments attributable to governmental activities will generally be liquidated by the General Fund, except for the payments by Capital Project Funds for the rebate of arbitrage. Certain claims and judgment liquidations will receive proportional federal reimbursement. Other non-current liabilities due within one year will be liquidated by the General Fund and those due after one year will be liquidated by the Reclamation Bonding Pool, a special revenue fund.

The Internal Revenue Code and arbitrage regulations issued by the Internal Revenue Service require rebate to the federal government of excess investment earnings on bond proceeds if the yield on those earnings exceeds the effective yield on the related tax-exempt bonds issued. Arbitrage rebates payable are reported under claims and judgments.

