

**REPORT TO THE TWENTY- FOURTH LEGISLATURE  
STATE OF HAWAII  
2007**

**ON THE  
ENVIRONMENTAL RESPONSE REVOLVING FUND**

**PURSUANT TO ACT 178, SECTION 20,  
SESSION LAWS OF HAWAII, 2005,  
REQUIRING THE DEPARTMENT OF HEALTH  
TO REPORT THE REVENUES AND EXPENDITURES OF THE  
ENVIRONMENTAL RESPONSE REVOLVING FUND  
AS OF DECEMBER 1, 2006**

**PREPARED BY:  
STATE OF HAWAII  
DEPARTMENT OF HEALTH  
DECEMBER 2006**

Section 20 of Act 178 requires the DOH to report to the Legislature on all revenues and expenditures as of December 1, from the Environmental Response Revolving Fund (ERRF), no later than twenty days before the convening of the 2006 and 2007 regular sessions. This report covers the period for the first half of FY 2007 (July 1, 2006 to December 1, 2006).

(Note: the following figures do not include data for December 1, 2006)

**Revenues/Expenditures Summary First Half of FY 2007 (July 1, 2006 to December 1, 2006)**

REVENUES:

|          |              |
|----------|--------------|
| HTH 849: | \$ 1,342,134 |
| HTH 840: | \$ <u>0</u>  |
|          | \$ 1,342,134 |

EXPENDITURES:

|          |                   |
|----------|-------------------|
| HTH 849: | \$ 436,629        |
| HTH 840: | \$ <u>453,742</u> |
| TOTAL:   | \$ 890,371        |

**Revenues/Expenditures Summary FY 2006 (July 1, 2005 to June 30, 2006)**

REVENUES: \$3,862,793

EXPENDITURES:

|          |             |
|----------|-------------|
| HTH 849: | \$1,208,214 |
| HTH 840: | \$1,243,190 |
| TOTAL:   | \$2,451,404 |

The revenue and expenditure information was generated utilizing the FINANCIAL AND BUDGET INFORMATION – DATAMART reporting system from the State of Hawaii FAMIS information system.

## **Budget**

The ERRF currently has a total annual appropriation budget for HTH 849 and HTH 840 totaling \$4,914,554 (\$1,703,872 + \$3,210,682). We project revenues for FY 2007 of approximately \$3.5 million. The appropriated amount currently includes support for thirty-eight (38.00) authorized positions and other current expenses to perform statutory mandated functions, prevention, and other non-emergency cleanup activities. DOH also budgets \$1,000,000 for emergency responses. Note that although overall projected expenses may exceed projected revenues, any deficits that occur will be covered by the cash balance in the ERRF. Our Administrative Services Office (ASO) compiles and submits annually a separate Non-General Fund report to the Legislature that provides the prior year ERRF balance and the prior year obligations which have yet to be liquidated.

## **Environmental Emergency Fiscal Preparedness**

The ERRF needs enough money to carry out emergency functions, its original and still primary purpose. In addition to the above-noted expenditures, we annually budget \$1 million for emergency response actions but estimate that an unencumbered balance of at least \$5 million should also be available for emergencies. Attached is a table that shows how we analyze the risks of incidents and their direct response costs to arrive at the \$6 million total for response. Our estimate excludes other economic consequences.

We must be able to pay our stand-by contractors and other responders to do immediate containment and clean up work if a polluter cannot or does not do so right away. Of course we try to recover our costs later, but first we must respond. Given this situation we strongly oppose any measure proposing to transfer funds from the ERRF.

## **Reliable, Available Revenues Are Few**

The regular source of revenue for the ERRF is the environmental response tax of five cents per barrel of petroleum imported into the State that was adopted by Act 300, SLH 1993. Before the tax was imposed, the only sources of monies for the ERRF were environmental fines and penalties, which fluctuated greatly. Revenues from the environmental response tax for the past fiscal years were as follows:

- FY 06: \$1,342,134
- FY 05: \$1,867,116
- FY 04: \$1,627,658
- FY 03: \$1,562,115
- FY 02: \$1,783,813
- FY 01: \$1,826,746
- FY 00: \$1,714,351

Other revenues to the ERRF must by law be spent on designated activities. Revenue from voluntary response program participants must support work on the projects that pay into the fund. Reporting fees required from people and companies handling certain amounts of chemicals (known as Tier II fees) are paid to the ERRF and support emergency planning community right-to-know activities under Chapter 128E.

### **The Fund Supports Other Uses Besides Emergencies**

Amendments have expanded the permissible uses of the ERRF. The ERRF supports thirty-eight (38.00) authorized positions with a total budgeted personal services cost of approximately \$2,430,915 (\$1,060,269 + \$1,370,646). The Environmental Health Administration uses the salaries of a number of these positions as matching funds for grants from the U.S. Environmental Protection Agency. The use of non-general funds as matching funds must not only be appropriated, but the funds must be fully capitalized.

### **Past Transfers**

Since 1999, transfers from the ERRF have totaled \$4,903,536. Monies transferred from the ERRF to date include:

- \$220,000 for Village Park Soil Testing appropriated per Act 192,/SLH 1999;
- \$500,000 transferred to the State Treasury per Governor's Memo dated December 6, 1999;
- \$3,000,000 transferred to the State Treasury per Section 43 of Act 178/SLH 2002;
- \$500,000 transferred to the Department of Land and Natural Resources (DLNR) for Salvinia cleanup per Governor's Memo dated March 17, 2003;
- \$500,000 transferred to the State Treasury per Section 13 of Act 52/SLH 2004;
- \$100,000 transferred to the Hawaii Energy Policy Forum, University of Hawaii, per Section 21 of Act 178/SLH 2005; and
- \$83,536 transferred to the Department of Land and Natural Resources (DLNR) for Firefighting per Governor's Memo dated April 26, 2006.

### **Conclusion**

With prudent administration the DOH has tried to maintain the long-term sustainability of the ERRF to fulfill our legal duties without dependence on the State Treasury, but the fund has been under stress. Only the environmental response tax provides revenue for environmental response and environmental management programs. Fines and penalties are an unpredictable source of revenue. Some revenues must be spent on dedicated uses. For the department to be prepared for emergencies, the fund must

have an adequate unencumbered balance, and transfers to other uses should be avoided.

**Relative Potential Risk of Environmental Releases/Incidents**

| <b>Events</b>                   | <b>\$/Event</b>   | <b>10 Year Incidence Factor</b> | <b>10 Year Cost</b> | <b>“Annual Probability”</b> |
|---------------------------------|-------------------|---------------------------------|---------------------|-----------------------------|
| <b>1) Avg Response Call</b>     | <b>5,000</b>      | <b>250</b>                      | <b>\$1,250,000</b>  | <b>\$125,000</b>            |
| <b>2) Minor Chem/Oil Spill</b>  | <b>100,000</b>    | <b>10</b>                       | <b>\$1,000,000</b>  | <b>\$100,000</b>            |
| <b>3) Median Chem/Oil Spill</b> | <b>1,000,000</b>  | <b>3</b>                        | <b>\$3,000,000</b>  | <b>\$300,000</b>            |
| <b>4) Major Chem/Oil Spill</b>  | <b>5,000,000</b>  | <b>2</b>                        | <b>\$10,000,000</b> | <b>\$1,000,000</b>          |
| <b>5) Bioterrorism</b>          | <b>20,000,000</b> | <b>1</b>                        | <b>\$20,000,000</b> | <b>\$2,000,000</b>          |
| <b>6) Natural Disaster</b>      | <b>25,000,000</b> | <b>1</b>                        | <b>\$25,000,000</b> | <b>\$2,500,000</b>          |
| <b>TOTAL</b>                    |                   |                                 |                     | <b>\$6,025,000</b>          |

HEER Office Analysis, 2005