

TESTIMONY OF

Diana Trussell, Solid Waste Program Manager

Good afternoon Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Diana Trussell, and I am the Solid Waste Program Manager of the Department of Environmental Quality. I am here to testify in support of House Bill 1089.

The changes to North Dakota Century Code Section 23.1-08-03, Section 23.1-08-05, Subsection 1 of 23.1-08-09 and Section 61-28.1-12 were submitted to improve efficiencies in the Department of Environmental Quality.

NDCC 23.1-08-03

The new subsection requested in **Section 1** will allow the Department to establish rules for solid waste pilot projects. Pilot projects must submit a full permit application under the current rules, which can be a rigorous and lengthy process. This complicated process does not support innovation or new ideas. In the past year, a pilot project approached us for separating rare earth elements from coal ash, gasification of municipal solid waste, and other new technology projects. However, due to the existing rules and permitting requirements, they were not sure the pilot projects were feasible. By establishing more flexible rules for pilot projects, the Department could encourage and allow for innovative ideas and still have controls to protect human health and the environment.

NDCC 23.1-08-09(1)

The amendment requested in **Section 2** will allow the Department to establish rules for transferring solid waste management permits. Currently, solid waste management permits are non-transferable, causing additional workload for the regulated community and the Department. In some cases, it has also caused transparency concerns with the public. There are two examples in 2022 where there was a change of ownership at a permitted facility, and due to the current law, we had to treat them differently.

When Coal Creek Station changed ownership, a new permit application was required for three existing permits because the entity name changed, even though other conditions of the permit did not change.

In another case, three oilfield special waste landfills owned by the same company had a change of ownership. But because the name did not change for each facility, they were only

required to notify the Department that the controlling entity had changed.

The change in ownership of Coal Creek Station required a public comment period. However, the special waste landfills did not require public notice since the name did not change.

In **Section 5**, the Department requests a contingency effective date to allow the Department time to establish and adopt rules to transfer permits while streamlining the process and providing public transparency.

NDCC 61-28.1-12

The amendment requested in **Section 3** will remove the requirement for the Department to obtain approval of the Drinking Water State Revolving Fund (DWSRF) Intended Use Plan by the State Water Commission. This proposal will allow the Department to administer and disburse DWSRF funds more expeditiously. The Intended Use Plan is prepared annually and describes how the Department will administer the DWSRF program. Regulations from the Environmental Protection Agency require the Department to seek meaningful public review and comment during the development of the Intended Use Plan. The Department holds a public meeting to fulfill this requirement, then submits the final Intended Use Plan for inclusion on the following State Water Commission meeting agenda. Eliminating this requirement would allow the Department to complete and submit the Intended Use Plan to the Environmental Protection Agency in three months instead of four and a half months. In addition, **Section 3** will allow the governor to appoint a designee to approve the transfer of funds between the DWSRF and the water pollution control revolving fund. The transfer authority specifies the amount of funds to be transferred and the direction of the transfer. This process assists with cash flow based on the short-term financial needs of each program. Allowing the governor to designate an individual to authorize the transfer of funds reduces the administrative burden on the governor's office and allows both programs to make payments to borrowers promptly.

NDCC 23.1-08-05

The repeal requested in **Section 4** regards pilot projects for commercial oilfield special waste recycling facilities and establishes rules or guidelines for recycling and beneficial use of oilfield special waste. The legislature established this section during the height of the oil boom. Several pilot projects were selected and started; however, there was a downturn in oil, so none of the projects finished. As a result, the Department did not have sufficient information to establish specific rules or guidelines for recycling and the beneficial use of oilfield special waste. All of the dates in this section of law have long passed. In 2020, the Department adopted rules for General Permits in which a general permit could be established for the recycling and beneficial use of oilfield special waste if there was interest from the regulated community. In addition, as discussed in **Section 2**, the Department is requesting the ability to establish rules for solid waste pilot projects, which could include recycling and beneficial use of oilfield special waste.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for House Bill 1089 with the requested amendments. I would be happy to answer any questions.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1089

Page 3, line 17, overstrike “, after consulting with and obtaining the approval of the state water commission”

Renumber accordingly