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Environmental Services

Project

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ENVIRONMENTAL SERVICES PROJECT

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INTRODUCTION

During the last 11 months, CORE's Program Analysis Working Committee and its staff conducted a comprehensive examination of the state's environmental services delivery system.

The study evaluated how effectively and efficiently environmental policies and programs are administered in Minnesota from the perspective of the customers or users of state environmental agency services.

The behavior of all citizens affects the quality of Minnesota's environment; therefore, all citizens are customers of the environmental system. The water we drink, the emissions from the cars we drive, the fish we catch, the parks we visit, and the garbage we produce all are governed by Minnesota's environmental laws.

In the course of its research, the Working Committee heard presentations from state agency heads and legislators. Staff met with about 700 people from around the state, including those who deliver and use environmental services. Users interviewed included environmentalists, business owners, local government officials and other citizens.

Based on that research, CORE produced a series of nine findings (Appendix A), which detail the current status of the environmental system. The major themes expressed in the findings are:

The system is fragmented. At the state level, there are more than 30 agencies and boards with environmental responsibilities. At the local level, there are 87 counties, 856 municipalities, 1801 townships, 41 watershed districts, and 91 soil and water conservation districts, all with some responsibility for environmental programs.

The processes are unresponsive to citizen needs. As the number of agencies with regulatory authority has multiplied, decision-making has slowed and citizen access to the system has become more complicated.

The system is overly prescriptive. Inflexible, detailed rules make it difficult to achieve compliance with environmental goals in a timely, cost-effective manner.

Existing conflict resolution processes are time consuming and costly. Environmental programs, more than most areas of public policy, provide services and relate to customers who often have competing and seemingly irreconcilable interests. Government officials often must decide what resolution will balance the competing interests, the private rights with the public interest. Too often, the outcome is lengthy court cases or political battles before the Legislature.

SUMMARY OF CORE RECOMMENDATIONS

After analyzing these problems and weighing the pros and cons of various solutions, the Program Analysis Working Committee is recommending a number of reforms to address the structural and policy complexity in the system. Overall, the Working Committee is attempting to construct a system that brings the expertise and perspectives of the different state agencies into an integrated system. It is a system that should work better for the citizens of Minnesota, and should safeguard the quality of Minnesota's environment and natural resources.

The Working Committee's five major recommendations and objectives are:

- 1. Consolidate most state environmental functions into two agencies, the Department of Resource Management (DRM) and the Department of Environmental Protection (DEP). This recommendation would strengthen systemwide accountability by consolidating authority for decision-making into two departments.**
- 2. Establish a Secretary of the Environment, who would report to the Governor and oversee the two departments' programs, budgets and administration of environmental policy. The Secretary's broad authorities would allow the individual to streamline and coordinate processes to produce better customer service. In addition, this top administrator would be charged with channeling resources in a systemwide manner to ensure that the state is moving in the direction of attaining the goals outlined in the Minnesota Environmental Policy Act.**
- 3. Deliver state environmental services on the basis of eco-regions, which recognize the different ecological needs of the state's natural regions. This goal would be achieved by redrawing the regional service boundaries according to natural eco-regions, decentralizing large numbers of state employees to manage the resources and serve customers, and co-locating DRM and DEP employees in eco-region offices. This reform is designed to improve the state's environmental stewardship and increase customer satisfaction by locating employees close to the citizens seeking service and resources being managed.**

4. Create citizen input mechanisms, including major advisory bodies that would provide citizens with the opportunity to offer their viewpoints to top administrators at the state and regional levels. CORE's recommendations formally connect environmental administrators with citizens, who must be consulted in an advisory capacity. The advisory bodies ensure that diverse opinions are heard and weighed by administrators, who are accountable to the Governor, Legislature and citizens of Minnesota.

5. Establish a process for clarifying and simplifying intergovernmental relations in the delivery of all environmental services. The long term goal of this process would be to reduce local governmental proliferation, service overlap and duplication, and facilitate development of multi-jurisdictional agencies of local government that are geographically congruent with natural eco-regions. Initially, this process will be implemented through a refinement of the existing county-based local water planning process.

ORGANIZATIONAL AND POLICY COMPLEXITY COMMITTEE RECOMMENDATIONS

1. State Agency Consolidation

RECOMMENDATION: Consolidate most state environmental functions into two agencies, the Department of Resource Management (DRM) and the Department of Environmental Protection (DEP).

Working Committee members articulated a two-agency vision in which the new Department of Resource Management emphasizes use of the natural resources in the environment, while the new Department of Environmental Protection stresses protection of the environment. To promote these distinct roles, staff designed the following two-agency structure that was approved by the Working Committee on January 12.

Department of Environmental Protection

This new department would expand the responsibilities of the current Minnesota Pollution Control Agency (MPCA). It would contain personnel to perform the service and regulatory functions necessary to protect and improve the quality of the state's air, land and water. These responsibilities are designed to promote both human health and a healthy environment.

The new Department of Environmental Protection would be organized along the following lines:

- Division of Waste
- Division of Air Quality
- Division of Surface Water
- Division of Ground Water
- Division of Environmental Clean-up
- Division of Environmental Review
- Division of Support Services

These divisions would emphasize compliance assistance services to work cooperatively with individuals, businesses and local government units in attaining state environmental goals and meeting current environmental standards. In addition, regulatory personnel would place greater emphasis on carrying out their responsibilities in a manner that is more flexible and understandable. This can be achieved, in part, through streamlined rules emphasizing ambient/outcome standards and well-defined and consistent enforcement protocols.

The Working Committee emphasized the need for both service and regulatory sections within divisions to be equipped with adequate resources. In constructing the divisions, the Committee discussed the importance of separating compliance assistance in the form of grants, technical assistance, and training from regulatory functions, such as inspections, permitting and

enforcement. These functions would be in separate sections within each of the divisions.

Division of Waste: This division would consist of education, technical assistance, and regulatory personnel who would administer solid waste and hazardous waste programs. It also would include a program development section responsible for rule and program development and special projects.

Employees working in MPCA's Hazardous Waste and Solid Waste Divisions would be assigned to this new DEP division.

In addition, employees from the Office of Waste Management (OWM) would be transferred to this location. This includes OWM staff involved with planning, source reduction and capital grants in the solid waste area. The SCORE recycling program also would be assumed by the new division. Hazardous waste functions now housed in OWM would be transferred.

Currently, OWM plays a technical assistance role in the waste area, and MPCA has permit and enforcement authority. This change would bring the service and regulatory functions into one division within one state agency. However, it should be emphasized that this transfer of OWM functions is designed to keep OWM's service functions independent from the regulatory functions in the Division of Waste.

Functions would be shifted to the Waste Division from other state agencies. The Emergency Response Commission, which deals with hazardous chemical storage reports, would move to DEP from the Department of Public Safety. The medical waste program in the Minnesota Department of Health (MDH) would be transferred. The Environmental Quality Board's (EQB) high-level radioactive waste program, which involves monitoring a federal siting process, would now be housed in DEP.

Division of Air Quality: MPCA currently has an Air Quality Division, and the DEP's Air Quality Division would be very similar. State and federal laws relating to air pollution would be administered by this division. Sections within this division include program development and air analysis, permits, enforcement and compliance assistance.

Division of Surface Water: This new division would handle all program analysis, planning, regulatory operations, and compliance assistance functions relating to surface water. It would be a hybrid of functions now scattered across several state agencies.

Protected waters permits, now issued by the DNR, would be shifted to this new DEP division. So would several of the functions now performed by the Board of Water and Soil Resources (BWSR), including wetland management, watershed district oversight and flood damage reduction. Surface water discharge permits, required of businesses and municipalities, are now handled by the MPCA and would be assigned to this DEP division. Nonpoint source control activities affecting lakes and rivers also would be housed here.

Division of Ground Water: An amalgam of four state agencies' programs would be integrated into this new DEP division.

The division would build on MPCA's current water quality responsibilities. The Department of Health's public water supply, wellhead protection and well management programs would be assumed by DEP. In addition, DNR would no longer issue water appropriation permits, because that environmental protection function would be transferred to this new division.

Finally, BWSR's responsibilities in the ground water area, including local water plan review, would be merged into DEP. Also housed in this division would be PCA's feedlot program and other service and regulatory programs dealing with nonpoint source pollution ground water.

Division of Environmental Clean-up: This new division would focus on cleaning up sites that have environmental problems, and administering two compensation boards that are now free-standing.

This division would contain sections dealing with tanks and spills, the state and federal Superfund programs, property transfer and closed landfill clean-up.

Functions to be transferred into the division now reside in the Harmful Substance Compensation Board and the Petroleum Tank Release Compensation Board.

Division of Environmental Review: This new division would assume a number of functions now performed by the Environmental Quality Board (EQB).

EQB has an important environmental review function, and under the two-agency consolidated model, this function is most appropriately assigned to the DEP. The Environmental Impact Statement (EIS) program provides information to the public and local government units on the environmental impacts of proposed projects before government permits and approvals are given.

Under statute, EQB is directed to adopt rules requiring a permit and environmental review for any release of genetically engineered organisms into the environment and to establish an advisory committee. That responsibility also would be assumed by this new DEP division. So would the critical areas program, which provides a process for the planning and management of geographic areas of regional and statewide significance.

To fully implement the Working Committee's decision to separate environmental use and protection functions, it would be necessary to transfer some of the authority of DNR's forestry and minerals divisions to the DEP. Personnel regulating the impacts of timber harvests and mineral extraction would be shifted from the current DNR to the new DEP.

Also, this new division would accept EQB's current role relating to utilities review. The EQB is now charged with power plant siting and pipeline routing responsibilities. According to the EQB, the power plant siting program is responsible for locating large electric power facilities

in an orderly manner compatible with environmental preservation and the efficient use of resources, and providing for the evaluation of the effects of such power facilities on land, water and air resources and on public health and welfare. Further, DEP would assume EQB's responsibility for selecting pipeline routes in a manner that reduces the environmental and human impacts of pipeline construction and operation.

The Health Risk Assessment Section, now located in the Department of Health, would be relocated here. It provides expert consultation on the health impact of environmental exposure to physical or chemical agents.

Division of Support Services: This division would provide an array of services for DEP, including the office of enforcement support, public information office, financial management services, personnel management, information services, data management, clientele training and library services.

The Executive Reorganization Working Committee is currently considering whether some support services should be consolidated into a single unit in the Secretary's office. The Program Analysis Working Committee expressed concern over the possibility of the Secretary becoming involved in detailed administrative issues. The ER Committee believes this concern is adequately addressed by having a chief administrator who handles these issues and who reports directly to the Secretary along with a policy coordinator.

Department of Resource Management

The proposed Department of Resource Management (DRM) would contain many programs now housed in the Department of Natural Resources (DNR). The most dramatic change would involve transferring DNR's Division of Waters to the DEP to consolidate water regulatory functions into one agency. The rationale for this major change is two-fold: 1) It clearly defines DRM as an agency focusing on "use" of the resources, while the DEP performs a "protection" role; 2) Consolidating water permits into one agency should provide better service to citizens by enabling permits to be combined or coordinated.

A second major change, outlined in the DEP description above, would require transferring timber and minerals regulatory functions out of the current DNR to the DEP.

The new Department of Resource Management would be organized along the following division lines:

- Division of Fisheries and Wildlife
- Division of Minerals
- Division of Forestry
- Division of Recreation
- Division of Enforcement
- Division of Support Services

Division of Fisheries and Wildlife: This division would be virtually identical to the current DNR composition, which means it would manage state programs concerning fish and wildlife. Also, it acquires land to be developed as Wildlife Management Areas.

This division would receive BWSR's Reinvest In Minnesota (RIM) program, which compensates private landowners for taking marginal agricultural land out of production. The RIM land serves as wildlife habitat.

The Ecological Services Section would provide information for use by the new DEP, DRM and the public. The section serves as a planning, fact-finding, monitoring and environmental review unit. It evaluates fish, wildlife, and related resources in all areas proposed for major development such as dams, hydro facilities, reservoirs, channels, mines, tailings basins and power plants so that recommendations and decisions can be made for the protection, mitigation and enhancement of these resources in project plans.

The Fisheries Section manages the state's 3.8 million acres of fishing waters, and the Wildlife Section implements research and management programs that affect all state wildlife species.

Division of Minerals: DNR currently has a Division of Minerals, which is responsible for the leasing of mineral rights and for industrial minerals and peat associated with the state-owned lands which DNR manages.

Management includes the mineral rights of lands held in trust for public schools and the university, lands acquired by DNR, lands forfeited for delinquent taxes, and other miscellaneous state-owned lands. The division manages rights associated with: 10 million acres of state-owned trust-fund and tax-forfeited lands, the state's 18 percent ownership of the Mesabi Range, copper/nickel, titanium and manganese resources and the potential for gold, platinum and other precious metals. The division manages 3 million acres of state and county peatlands and sand, gravel and stone on 2.6 million acres of state land. All of these functions would be housed in the new DRM.

Management and protection functions are now integrated within this one DNR division. Under CORE's two-agency plan, sufficient numbers of environmental "protection" employees would need to be shifted to the DEP to separate those dual roles.

Division of Forestry: DNR's current division has management and protection responsibilities for Minnesota's forest resources. The forests are managed for multiple uses, including improved wildlife habitat, quality forest recreation opportunities, increased yields of wood and wood products and conservation of land and water resources.

The forest management program includes forest fire protection, insect and disease protection of forest land, management of state forests and other state-owned lands, management assistance to non-industrial private forest landowners, counties, schools and municipalities, and assistance to wood users to improve harvesting, utilization and marketing of the timber resource.

The division directs the sale of timber from state-owned lands, builds and maintains state forest roads, and supervises state forest campgrounds and other recreational sites on state forest land.

Under the structure proposed by CORE, most functions would remain in the division of forestry assigned to the DRM. However, personnel would be transferred to DEP who are in charge of regulating the environmental impacts of timber harvests.

Division of Recreation: This new division would consolidate two existing DNR divisions: Parks and Recreation and Trails and Waterways. Included in this division is management of the state's 66 state parks and their associated recreational programs. In addition, the state's 16 waysides are managed by the division.

State park and forest trails, water access sites and canoe and boating routes would be handled by this division.

The Outdoor Recreation Grant Program, now administered by the Department of Trade and Economic Development (DTED), would be shifted to this DRM division. The program makes grants to local units of government for parks and recreational facilities.

Division of Enforcement: This division would be responsible for the same functions it now has in the DNR.

It enforces all natural resource laws in the state and regulates commercial and sport fishing, trapping, fur buying and hunting. It also serves as a guardian for small and big game, fish and migratory birds. Conservation officers manage and enforce the harvesting of Minnesota's wild rice crop, assist in the development and maintenance of public access to public waters, enforce boat and water laws, manage licensing and operation of snowmobiles and all-terrain vehicles, and enforce laws dealing with alterations of beds of lakes and streams. The division supervises safety and training programs on the use of firearms, snowmobiles and all-terrain vehicles.

The division does aerial pollution surveillance of lakes and rivers, surveys and census work regarding moose, beaver, and deer, and pheasant counts. The division enforces all rules and statutes within state parks, campgrounds and recreational areas under DNR's jurisdiction.

Division of Support Services: A number of functions that are used by the entire department would be assigned to this division. They include: engineering bureau, field services, financial management, human resources, information and education, library, license bureau, management systems, Minnesota Conservation Corps, office of planning, office services, real estate management and the volunteer program.

As noted in the DEP section, the issue of placement of support staff is still being discussed by the Executive Reorganization Working Committee.

State Agencies Affected by the Two-Agency Model

The preceding narrative identifies the divisions that would be housed within the two consolidated departments, the Department of Environmental Protection and the Department of Resource Management. It outlines major division responsibilities and describes programs that would be shifted from current state agencies into the two departments. The descriptions are not intended to be comprehensive, so all programs that would be transferred are not specified in this summary.

To implement the Committee's January 12 decisions, these agencies would be affected in the following ways:

Department of Natural Resources offices would be used as a base for housing the divisions and top management of the new Department of Resource Management (DRM). DNR employees would be absorbed into the new DRM, and the name DNR would no longer exist.

Pollution Control Agency offices would be used as a base for housing some of the divisions of the new Department of Environmental Protection (DEP). PCA employees would be absorbed into the new DEP, and the name PCA would no longer exist.

Pollution Control Agency Board would be eliminated; its powers would be transferred to the Department of Environmental Protection.

Office of Waste Management would be abolished; its programs and responsibilities would be transferred to the DEP.

Board of Water and Soil Resources (BWSR) would be converted to an advisory board to the Secretary of the Environment. The board's name would be changed to Local Government Advisory Board on Environmental Services. BWSR's programs and statutory responsibilities would be transferred to the DEP and DRM.

Harmful Substances Compensation Board would be eliminated; its program and responsibilities would be transferred to the DEP.

Petroleum Tank Release Compensation Board would be eliminated; its program and responsibilities would be transferred to the DEP.

Department of Public Safety's Emergency Response Commission would be transferred to the DEP.

Most functions in the Department of Health's Division of Environmental Health would be transferred to the DEP.

Department of Trade and Economic Development's outdoor recreation grant program would be transferred to the DRM.

Environmental Quality Board would be abolished. Its functions would be assigned to the DEP.

2. Secretary of the Environment

RECOMMENDATION: Establish a Secretary of the Environment, who would report to the Governor and oversee the two departments' programs, budgets and administration of environmental policy.

A. Comprehensive Budget Responsibility

The Secretary of the Environment, in conjunction with the Governor, would be accountable for establishing policy priorities through the budgeting process. While the Secretary would consult with the commissioners of the Departments of Resource Management and Environmental Protection as to budgetary needs of programs, the Secretary would make final decisions on balancing the competing interests of environmental use and protection. The Secretary could reassign programs and program budgets between the agencies as needed to address priorities and coordination. Commissioners would have control of their line item budgets; the Secretary would focus budget overview at the program level and above. The Secretary of the Environment would work with other cabinet secretaries when broader needs must be reconciled or when environmental priorities compete or conflict with priorities in other areas.

B. Service Integration

The Secretary would be responsible for seeing that coordination occurs among the two departments where such coordination results in efficiency savings and improvement of customer service. Areas where oversight is essential are: the decentralization of decision-making to regional offices; the co-location and sharing of administrative services in both central and regional offices; the development of integrated data management between the departments; data accessibility to users other than the two departments; permit reduction and coordination; public education coordination; and development of a standardized approach to delegation of environmental programs, both at the national and local levels.

C. Conflict Management

The Secretary would resolve administrative, jurisdictional, operational, program and policy conflicts between the two agencies. On conflicts over policy, the Secretary could request the

assistance of the Citizen Environmental Appeals Board. The Secretary must seriously consider all recommendations of the board relating to policy conflicts and prepare a written justification for any deviation or rejection of the recommendations of the board. Additionally, the Secretary could develop conflict management approaches and services, such as convening stakeholders early in the process and providing mediators.

D. Mission Development/Strategic Planning

The Secretary has the high visibility role of policy spokesperson for the Governor on environmental issues. Broadly, this includes speeches, legislative and congressional coordination and testimony, and contacts with other states. The Secretary would work with the two commissioners on creating a vision for the environmental area through strategic planning and mission development for the two agencies. The commissioners would be accountable to the Secretary for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies. Each commissioner would have the role of chief operating officer, accountable for the day-to-day operations of the department, as well as the continual effort to reach departmental goals. Each commissioner would advocate for the mission of his/her department (natural resource use and management, and environmental protection), but would work with the Secretary to achieve the mission statement and implement the strategic plan for the environmental area. The Secretary would be accountable to the Governor and Legislature for achieving the outcomes expressed in the mission statement and implementation of the policies and programs set by the Legislature.

E. Legislation/Rule Development and Implementation

In addition to budgetary control of policy, the Secretary would have substantial control over policy through coordination of legislation and oversight of rule development and implementation. While the commissioners would propose legislative initiatives, the Secretary could initiate others, would review and approve all legislative proposals with the Governor, and would coordinate efforts to secure passage of the proposals.

To see that rules effectively implement legislative directives, the Secretary would review all rules proposed to exceed federal standards and the commissioners would be required to justify exceeding the standards. The Secretary would develop a standardized process and establish the criteria for requesting waivers/variances from environmental rules of both agencies and periodically review the process for consistency in the application of these criteria by regional office directors, the ease of use by applicants, and the numbers and kinds of waivers granted for possible changes to rules.

To reduce the regulatory burden of rules, the Secretary would hold the commissioners responsible for: 1) preparing for each legislative session a listing of rules that should be repealed because they are obsolete, unnecessary or superseded so that they may be included in the revisor's bill; 2) working towards developing a uniform environmental code that comprehensively addresses obligations of regulated parties in the environmental area and

emphasizes compliance requirements based on outcome measures/ambient standards; and 3) monitoring the overall progress of rulemaking responsibilities and reporting on delays. Additionally, the agency commissioners would report to the Secretary options other than rulemaking to achieve the policy objectives proposed in a bill before requesting rulemaking authority as part of legislation.

3. Employee Decentralization and Regional Offices

RECOMMENDATION: Deliver state services on the basis of eco-regions and decentralize the state's environmental employees to the extent possible. Co-located eco-region offices would be established and headed by regional DRM and DEP directors, who would report to agency commissioners. More operational decisions would be shifted to the regional offices, including most permitting decisions. Major policy-making decisions and those decisions with statewide implications would be made at the Commissioner and Secretary levels.

This recommendation is designed to provide better service to citizens and to locate state employees closer to the resources they are managing and entities they are regulating.

The Working Committee embraced the concept of eco-regions at the December 8 meeting. Eco-regions have similarities in climate, soils, geology, topography, vegetation types and wildlife. Minnesota has tremendous natural diversity, which has led scientists to identify seven distinct regions that differ in environmental characteristics. Because of these distinctions, Minnesota's regions have different industries and resources that people use and the eco-regions identify unique environmental problems. (See Appendix B for a Minnesota Eco-Region Map.)

The seven natural eco-regions in the state are: Northern Lakes and Forests (NE MN), Northern Minnesota Wetlands (North-Central MN), Red River Valley (NW MN), North Central Hardwood Forest (Diagonal Mass Cuts from NW to SE MN), Northern Glaciated Plains (SW Strip), Western Cornbelt Plains (South-Central MN) and Driftless Area (SE MN). In addition, the Twin Cities metropolitan area would be designated as an eighth service delivery unit called the Urban Eco-region.

Based on the dramatic change proposed, it is unclear precisely how many more employees would be shifted outside of the Twin Cities. DNR and BWSR already have a majority of their employees decentralized. In contrast, the EQB has a small number of employees assigned to specialized responsibilities with statewide impact, and they would likely remain in St. Paul even though they would be shifted to the new DEP.

The MPCA has roughly 700 employees and less than 10 percent are decentralized. This is the biggest employee pool for decentralization; however, the Office of Waste Management and Department of Health also have employees who could be placed in regions.

RECOMMENDATION: Assign regional office location decisions to a two-agency task force

of DRM and DEP, which would be required to make recommendations that provide for regional offices within all eco-regions. A deadline for completion of this work should be set by the Legislature, and the task force should include employee representation from the agency programs being merged into DRM and DEP. Regional directors should be authorized to rent vacant storefronts and buy or lease used office equipment and furniture in the cities selected to house the eco-region offices.

Four state agencies currently have staff with environmental responsibilities based out of regional offices in 11 cities. The Working Committee believes those locations should be examined as part of the task force's study. However, the Working Committee recommended that each eco-region have an office, and noted that three eco-regions currently are not served by regional offices. Those eco-regions are the Red River Valley, Northern Minnesota Wetlands and Driftless Area.

In discussing the eco-region offices, the Working Committee expressed a desire to support local communities and save state tax dollars. Therefore, the Committee favors leasing space in existing buildings rather than paying for new construction. Further, the Committee stated that regional directors should be able to buy or lease used equipment and furniture, instead of being required to purchase new goods off of an approved state vendor list.

RECOMMENDATION: Increase the authority of the regional directors by assigning them primary responsibility for the performance of the employees under their supervision.

Currently, state employees based in regional and field offices have two supervisors. An employee reports to a regional director for administrative and personnel matters, but reports to a division director or designee in St. Paul for program accountability. Under the current system, the regional director has limited ability to oversee effective program implementation, because he or she has no authority to do so. Consequently, regional directors cannot be held accountable for substantive performance in their regions, and regional employees have two bosses. To increase the effectiveness of regional offices, this change is important.

RECOMMENDATION: The Secretary, two agency commissioners and central managers should interpret state law and make decisions with major statewide implications. Execution of the policy and programs should be carried out as close to the customer or citizen as possible.

The Working Committee supports an increase in the number of permitting decisions that are made in regional offices. However, it acknowledges that some permitting decisions also have the effect of policymaking. As a general rule, most permits to individuals and small businesses should be issued by regional offices. Permit requests from local units of government and large businesses should receive final action in the central offices.

The Committee approved this role delineation. It is believed that this policy would provide good customer service, efficiently use specialized expertise on complex permits, insulate regional

offices from political pressures and consistently and effectively administer state law.

4. Citizen Input

RECOMMENDATION: Create a citizen environmental appeals board composed of nine members with recognized environmental expertise and independent, objective judgment. The Governor should appoint members to serve staggered terms. No Governor should appoint more than half the members during the Governor's term. In making these appointments, the Governor should consider expertise needed to carry out the Environmental Policy Act, Minnesota Statutes Chapter 116D. The board should focus its considerations on policy conflicts between environmental use and environmental protection, as requested by the Secretary or a citizen. The board should decide whether to address or reject a request so as to limit its workload. A request can be considered independently of any administrative process. The Secretary should make staff available as requested by the board to assist its deliberations. Recommendations of the board should be sent to both the Secretary and the Legislature.

The Working Committee recommends the creation of a citizen board to provide a forum for consideration of controversial policy decisions involving conflicts between the advocates of natural resource use and management and environmental protection and conservation. The board's recommendations to the Secretary would be advisory, which would mean the final decision-making would rest with the Secretary. However, the board's recommendations should be sent to both the Secretary and the Legislature to ensure their careful consideration and the accountability of the Secretary for any decision that deviated from or rejected the board recommendations. The Secretary would be required to explain, in writing, the rationale for departing from the board's recommendations.

The nature of the issues that could fall within the board's purview is potentially broad. Yet, this is a citizen board with limited time to devote to consideration of issues, so the board's scope should be focused on policy conflicts that develop concerning the use and protection of environmental resources.

Although the issuance of a permit can establish a policy or involve interpretation and application of policy, to allow appeal of individual permit decisions to the board would delay the process and extend, rather than shorten, what can already be a lengthy process. A permit applicant already has an appeal route available through the Office of Administrative Hearings. However, policy issues which the board may wish to consider could arise during a permit issuance, a rule or environmental review or other administrative decision. If the board is requested to consider these policy issues, the board would consider them at its discretion. This could be before, after or during the administrative decision. The board would not be involved in the specifics of the individual administrative process, but neither would it be constrained or limited by the specifics of individual cases. It could choose to discuss an individual case as representative of broader policy conflicts, common to many individual cases.

The request to involve the board in a policy conflict should come from the Secretary or a citizen. A majority of board members or a committee of the board could be empowered to accept or reject the request. The requestor would have to state in writing the nature of the policy conflict. The Secretary should assist the board in its deliberations by making staff from the agencies or the Secretary's office available to perform needed functions.

The Committee recognized the need for recommendations to be made based on an appreciation and understanding of the scientific and technical concerns underlying the conflicts. However, the conflicts that result between the use of environmental resources and protection and conservation of the environment are less about science and more often about achieving a balance between economic and environmental values. Because the purpose of the citizen board is to apply diverse perspectives to consideration of the balance between economics and environmental protection, the key qualifications for service on the board should be a demonstrated ability for thoughtful consideration and analysis of public interest issues. Critical skills are independent judgment and the ability to understand, appreciate, and reconcile the diverse demands objectively in the public interest and consistent with the policies set forth in the Environmental Policy Act.

RECOMMENDATION: Convert the Board of Water and Soil Resources to a permanent advisory board to the Secretary of the Environment. Change BWSR's name to the Local Government Advisory Board on Environmental Services.

The rationale for this recommendation is the acknowledgement that local government units have major responsibility for administering many environmental laws and programs. To promote an effective partnership with local governments, it is useful for the Secretary to hear from local government representatives on a regular basis. They are both customers of state agencies as well as service providers on the local level. The current BWSR membership includes county commissioners, soil and water conservation district supervisors, watershed district representatives, and unaffiliated public members.

RECOMMENDATION: Direct the Secretary to establish a Minnesota Environmental Council, which would allow the Secretary to gain citizen input on policy and program initiatives and to gauge service delivery performance within the DEP and DRM. Direct the Secretary to establish Regional Environmental Councils, which would be convened by the regional directors of DEP and DRM to allow the agency administrators to stay in touch with the concerns of citizens and constituency groups in each region of the state.

This recommendation builds on the Working Committee's belief that citizens must have good access to the state's environmental service system, and should have broad input on issue identification, customer service and new state policy initiatives.

INTERGOVERNMENTAL COMPLEXITY COMMITTEE RECOMMENDATIONS

The principal finding in CORE's analysis of intergovernmental relations was that services were carried out by a complex and fragmented maze of federal, state, and local agencies resulting in:

- **unclear, overlapping, and redundant lines of authority, responsibility and accountability,**
- **increased cost to the customer and taxpayer,**
- **customer dissatisfaction.**

The hundreds of persons with whom staff consulted voiced concerns that there were too many agencies and too many governments involved in environmental programs, too many laws and rules, too much state control. This was often expressed as "overlap and duplication," "multiple permitting," "multiple fees" and "layering." As one observer expressed it: "**We have too much government and too little governance.**" A related problem cited was the propensity of state government to establish policies and rules on a statewide basis without adequately taking local and regional differences into consideration. Third, whether in the form of laws, rules, planning requirements, or grants, state environmental services programs were seen by local officials as having the effect of increasing state control at the expense of local flexibility and discretion.

Central to understanding the complexity of intergovernmental relations as they relate to the delivery of environmental services programs in Minnesota is the extent to which the state has relied upon local governments to implement state policies and programs. In addition to 87 counties and thousands of cities and towns, the state has created (or provided for the creation of) soil and water conservation districts, watershed districts, water management organizations, lake improvement districts, and numerous regional special districts. Generally speaking, all of these governmental entities function as "political subdivisions of the state."

The Working Committee reviewed the responsibilities of various local governments involved in environmental services and concluded that the most significant reform needed was to **simplify the complexity** that exists in intergovernmental relations. Central to this simplification would be a re-evaluation of the role of special district governments and their relationship to general purpose local governments and the state. It also concluded that natural eco-regions were the most appropriate basis for organizing the delivery of services by both local and state governments and that the boundaries of multi-jurisdictional local government agencies should be congruent with those utilized by state government for delivering services at the regional level.

RECOMMENDATION: Eco-regions should be the basis for organizing the regional

delivery of all environmental services in Minnesota by both state and local governments. Actual regional boundaries would be adjusted to follow county lines, but in a manner that corresponds as closely as practicable to natural eco-regions lines.¹ Determining these eco-region boundary adjustments would be the responsibility of the two-agency task force recommended by the committee to determine the location of state eco-region offices. (See page 13.) For purposes of making boundary adjustments, this task force would be expanded to include representatives of local government. Regional planning by local governments for the delivery of environmental services should be carried out in a manner consistent with and geographically congruent with eco-regions.

The Working Committee also concluded that it was not practicable to resolve this complexity in intergovernmental relations by simply abolishing special purpose units of local government. The services carried out by these governments and their relationships to counties, cities, and townships vary across the state. A standardized "one size fits all" reform would run counter to this diversity and decrease the flexibility of local governments to respond to the specific needs of their area.

The committee decided to recommend the establishment of a role clarification process which when completed would provide the basis for simplifying intergovernmental relations in the environmental services area. The goal of the committee is to apply this process to environmental services, beginning with a refinement of the existing local water planning process and eventually applying to all environmental services. Comprehensive water planning considers issues involved not only in surface water management, but also land use control, point and non-point water pollution, groundwater, and wetlands management. Clarification and simplification of the water planning process can provide a basis and model for simplifying other environmental areas, such as solid waste, hazardous waste, air pollution control and integrated resources management.

This reform should be based upon statewide guidelines and principles and reinforced with state sanctions, but the process itself should evolve from "bottom-up" rather than "top down" decisions. Minnesota state and local governments have accomplished a great deal in the last several years in their efforts to "rationalize" the water planning process. The process has been recently buttressed by additional legislative requirements and a comprehensive implementation rule for the metropolitan area.² Staff believe that the refinement of this process is the key to addressing many of the issues identified in project Findings.

Local governments (counties in some cases, in others SWCDs, in others watershed districts and WMOs) are now beginning the development of what are known as "second generation" water plans, ones which ultimately must be approved by the state. Sorting out and clarifying the various roles of these governments and organizations will be one of the greatest challenges

¹See Appendix B for a map of Minnesota eco-regions and Appendix C for one possible configuration of eco-regions adjusted for county boundaries.

²Minnesota Rules, Chapter 8410, adopted May 27, 1992, effective August 1, 1992.

facing the water planning process as it begins the development of "second generation" plans.

Recent rules relating to the metropolitan area specify the required content of joint powers agreements including requirements relating to organizational structure and governing procedures. This should result, upon the completion of second generation plans, in more stable and viable (and most likely, fewer) water planning and management organizations. Plans must describe conflicts between watershed plans and existing plans of local government units. They must also identify the relationship of the planning organization to state agencies, local soil and water conservation districts, and affected counties, cities, and towns with respect to authority, administration, and coordination. Failure to complete such plans can lead to state sanctions that include withholding state funding from local water projects and suspension of local government regulatory and permitting authority.³

Counties throughout the state are involved in the early stages of developing second generation plans. State agencies intend to develop a legislative and regulatory framework similar to that developed for the metropolitan area which will be applicable on a statewide basis. Current law "encourages" county governments to assume responsibility for the preparation of local water plans. The committee believes that this responsibility should be mandatory.

RECOMMENDATION: Local water planning should be a mandated responsibility of county government. Whether actually carried out by county governments or delegated, second generation water plans should clearly address the issues of governmental proliferation, overlap, duplication, redundancy and provisions for regional watershed-based planning.

RECOMMENDATION: Legislation and rules should be amended and revised to the extent necessary to assure that water plans:

- 1) clearly and specifically identify the relative roles of both general and special purpose governments within each local government planning area, including determining whether or not the continuation of existing special purpose governments and organizations remains justified,
- 2) document the manner in which a locally controlled regional organizational infra-structure will be established to guarantee that planning will be based on eco-regions and that regional hydrologic and watershed factors will be effectively addressed by local water planning and program implementation,
- 3) identify ways in which the water planning, management and regulatory process can be simplified and the number of

³Minn. Stat. §103B.231, Subd. 3(g), Minn. Rule 8410.0180.

governments and organizations reduced.

Within the metropolitan area, there is currently no clear requirement and certainty that a "metropolitan" or "regional" perspective will be taken into consideration in the development of individual local water plans.

RECOMMENDATION: The metropolitan surface water management law should be amended to authorize the Metropolitan Council to require modification of local water plans to the extent necessary to assure compatibility and consistency with region-wide comprehensive water planning issues.

The long term goal of the above recommendations is to achieve simplification through a clarification process resulting from the completion of second generation water plans. To assure that this occurs, it is essential that regional water planning organizations and state government have the necessary authority to carry out the responsibilities identified in these recommendations.

RECOMMENDATION: General local water planning legislation should be amended to provide locally controlled eco-region based multi-county watershed management organizations with authority to require changes in local plans to the extent necessary to assure compatibility and consistency with regional watershed considerations.

RECOMMENDATION: State government should be responsible for reviewing local and regional water plans, have authority to impose sanctions for non-compliance, and make recommendations to the legislature on specific mechanisms for simplifying intergovernmental relations in the environmental services, including the abolishment of special purpose governments.⁴

In summary, staff recommends that, in addition to all other objectives, the second generation of local water planning in Minnesota should be utilized and viewed as an opportunity to clarify intergovernmental roles, to simplify, and to examine and question the continued justification of governmental multiplicity. The goal should be to enhance the authority and accountability of general purpose governments and to increase linkages of special purpose governments and joint powers organizations to general governments. Through the review and approval of county plans, the state can exercise its appropriate responsibility to provide guidance and where appropriate, uniformity. Through development at the local level, flexibility and responsiveness to local needs can be enhanced. In the final analysis, it should be the mission of all participants, governments and organizations to both manage and protect the state's natural resources in a sustainable manner and to be responsive to government's ultimate customers, the citizens of Minnesota.

⁴Under the reorganization proposed under the governmental complexity component of this project, this responsibility would be vested in the Secretary of the Environment.

APPENDIX A

SUMMARY OF FINDINGS

PREFACE: Environmental programs more than most areas of public policy, provide services and relate to customers that often have competing and seemingly irreconcilable interests. Any system established to resolve conflict among these interests should be efficient and effective. Of equal importance, it should be fair and equitable. Striking a balance between these two objectives may be the greatest challenge to policy makers and advocates of change and reform.

CORE FINDING #1: Environmental services programs in Minnesota are carried out by a complex and fragmented maze of federal, state and local agencies. This governmental complexity results in: 1) unclear, overlapping and redundant lines of authority, responsibility and accountability; 2) increased cost to the customer and taxpayer; and, 3) customer dissatisfaction.

CORE FINDING #2: Minnesota's environmental system could be categorized as a collection of advocacy agencies, whereby each agency presents one or more differing perspectives, such as the environmentalist, conservationist, public health guardian and business proponent. At times, these separate and clashing perspectives lead to administrative gridlock, which means customers of the system cannot get decisions from the state.

CORE FINDING #3: The environmental system relies too heavily upon centralized decision-making, which has produced significant alienation in non-metropolitan counties. Many rural citizens are dissatisfied with their interactions with the centralized bureaucracy, and perplexed as to why state agencies do not assign more authority to regional agency offices.

CORE FINDING #4: The environmental system relies heavily on "command and control" regulatory processes to implement environmental goals rather than using a balanced mix of diverse approaches to achieving compliance with the goals.

CORE FINDING #5: The current environmental system relies upon the customer to coordinate among the agencies, instead of the agencies presenting a coordinated response to the customer.

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CORE FINDING #6: Minnesota's governmental structure in environmental services over the past several decades has grown by a process of addition, fragmentation and specialization rather than by subtraction, combination, consolidation and services integration. No consistent organizational or administrative pattern exists with regard to the responsibilities of departments, offices, boards, commissions and other agencies.

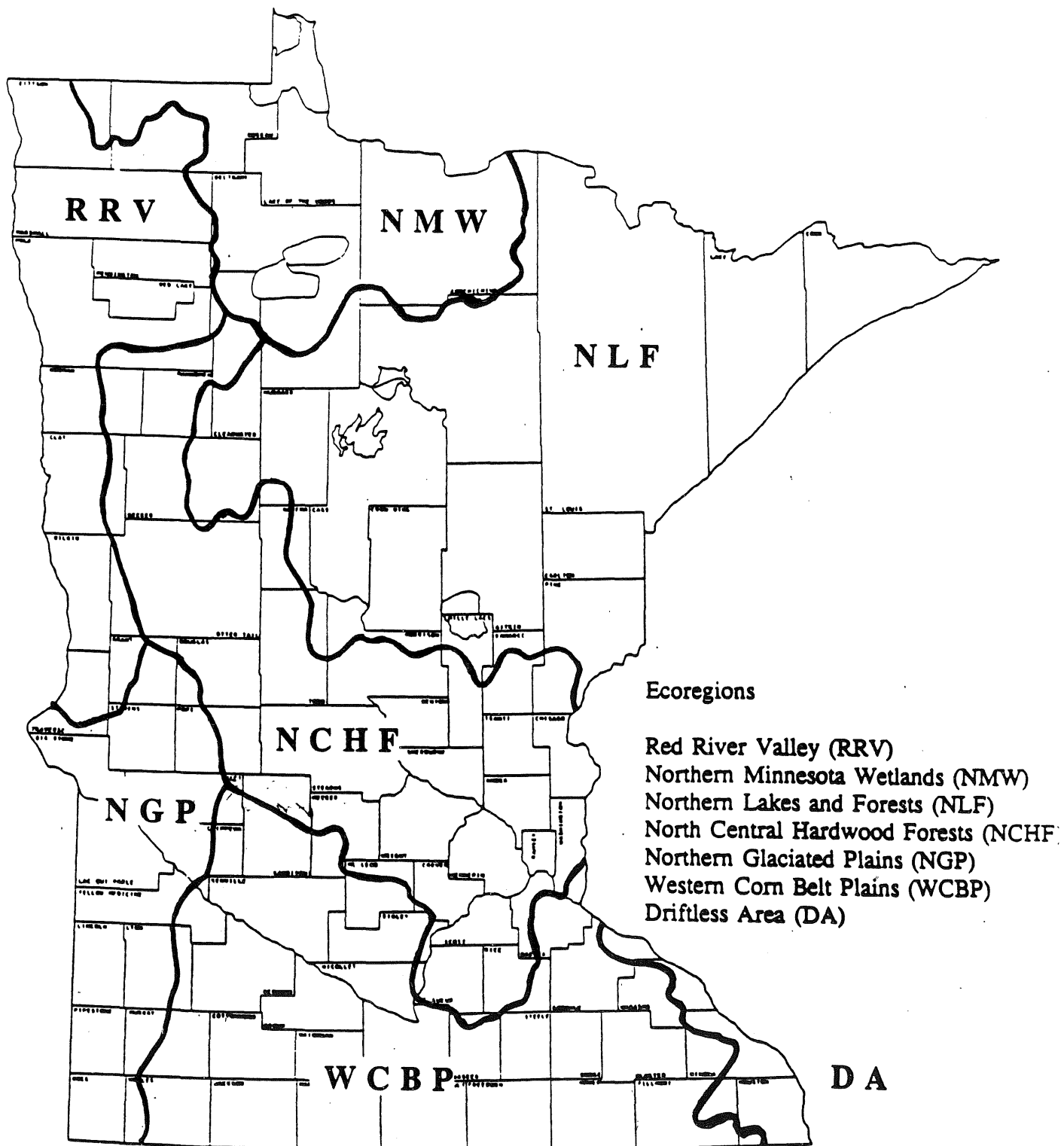
CORE FINDING #7: A variety of barriers have prevented the Environmental Quality Board (EQB) from exercising strong leadership as a planning, coordinating and oversight body in the environmental service system.

CORE FINDING #8: The linkage between the fees paid for environmental programs and the achievement of environmental policy goals is confused and unclear to payers of fees and to the general public.

CORE FINDING #9: The existing multi-layered, fragmented, environmental advocacy system makes it difficult to resolve conflicts among competing interests in a timely fashion.

APPENDIX B

MINNESOTA ECO-REGIONS



APPENDIX C

**MINNESOTA ECO-REGIONS ADJUSTED FOR COUNTY BOUNDARIES
(One Possible Configuration)**

