COMMISSION
ON REFORM
AND EFFICIENCY

CORE

REFORMING MINNESOTA'S ENVIRONMENTAL SERVICES SYSTEM

DETAILED REPORT

MARCH 1993

THE CORE VISION OF STATE GOVERNMENT

The Commission on Reform and Efficiency envisions a Minnesota state government that is mission driven, oriented toward quality outcomes, efficient, responsive to clients, and respectful of all stakeholders. These goals are defined below.

Mission driven

State government will have clearly defined purposes and internal organizational structures that support the achievement of those aims.

Oriented toward quality outcomes

State government will provide quality services. It will focus its human, technical, and financial resources on producing measurable results. Success will be measured by actual outcomes rather than processes performed or dollars spent.

Efficient

State government will be cost-conscious. It will be organized so that outcomes are achieved with the least amount of input. Structures will be flexible and responsive to changes in the social, economic, and technological environments. There will be minimal duplication of services and adequate communication between units. Competition will be fostered. Appropriate delivery mechanisms will be used.

Responsive to clients

State government services will be designed with the customer in mind. Services will be accessible, located conveniently, and provided in a timely manner, and customers will clearly understand legal requirements. Employees will be rewarded for being responsive and respectful. Bureaucratic approvals and forms will be minimized.

Respectful of stakeholders

State government will be sensitive to the needs of all stakeholders in providing services. It will recognize the importance of respecting and cultivating employees. It will foster cooperative relationships with local units of government, and nonprofit and business sectors. It will provide services in the spirit of assisting individual clients and serving the broader public interest.

— Feb. 27, 1992

CORE STATE OF MINNESOTA
COMMISSION ON REFORM AND EFFICIENCY

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March 12, 1993

The Honorable Arne Carlson
Governor
130 State Capitol
St. Paul, Minnesota 55155

The Honorable Ember Reichgott
Minnesota Senate
Legislative Commission on Planning and Fiscal Policy
306 State Capitol
St. Paul, Minnesota 55155

Dear Governor Carlson and Senator Reichgott:

Pursuant to Laws of Minnesota 1991, Chapter 345, Article 1, Section 17, Subdivision 9, the Commission on Reform and Efficiency was directed to recommend long-term actions for improving government efficiency and effectiveness.

This is one of a series of reports being issued in response to our charge and provides detailed findings and recommendations regarding environmental services. We are pleased to report that the commission has identified numerous opportunities for significant reform. The problem analysis and recommendations contained in this and our subsequent reports represent the best thinking of our diverse and bipartisan group. You will see that we have taken our charge seriously and have not shied away from controversy. We respectfully request your continued support for the much-needed government reform detailed in the commission's reports and recommendations.

Sincerely,

Arend J. Sandbulte
Commission Chair

Jack Eugster
Chair
Working Committee

Dana B. Badgerow
Commissioner of
Administration

AJS/JE/DBB

c: Agency Heads
Legislators

REFORMING MINNESOTA'S ENVIRONMENTAL SERVICES SYSTEMS

DETAILED REPORT

BY THE
MINNESOTA
COMMISSION ON
REFORM AND EFFICIENCY

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EXECUTIVE SUMMARY

A healthy natural environment is one of Minnesota's greatest resources. The state's system for managing this environment, however, is suffering from several ills that seriously reduce its effectiveness and efficiency.

In its study of the state's environmental services delivery system, the Commission on Reform and Efficiency (CORE) has found that:

- *The system is fragmented.* The state has more than 30 agencies and boards with environmental responsibilities. At the local level, there are 87 counties, 856 municipalities, 1801 townships, 41 watershed districts, 91 soil and water conservation districts, and 44 community health services districts, all of which have 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.

- *Current conflict resolution processes are time-consuming and costly.* Environmental programs, more than most areas of public policy, have 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.

Specifically, CORE found:

1. Minnesota's environmental services system can be categorized as a collection of advocacy agencies in which each presents one or more differing perspectives, such as that of the environmentalist, the conservationist, the public health guardian, and the business proponent. At times, these separate and clashing perspectives can lead to administrative gridlock, which means customers of the system cannot get timely decisions.

2. The system relies too heavily on centralized decision making, which has produced significant alienation in nonmetropolitan 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 their regional offices.

3. The system relies on the customer to coordinate among the agencies, instead of the agencies presenting a coordinated response to the customer.

4. The multilayered and fragmented environmental advocacy system makes it difficult to manage conflicts among competing interests in a timely manner.

5. The structure of environmental services over the past several decades has developed through addition, fragmentation, and specialization, rather than through 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.

6. Several barriers, including its composition and diffuse responsibilities, have prevented the Environmental Quality Board (EQB) from exercising strong leadership as a planning, coordinating, and oversight body in the environmental services system.

7. The 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.

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

9. Environmental services programs are carried out by a complex and fragmented collection of federal, state, and local agencies. This complexity results in unclear, overlapping, and redundant lines of authority, responsibility, and accountability; increased cost to the customer and taxpayer; and customer dissatisfaction.

Recommendations

CORE is recommending a package of reforms to address this structural and procedural complexity. Its goal is to construct a system that brings the expertise and perspectives of the different state and local agencies into an integrated system that should work better for the citizens of Minnesota and should safeguard the quality of Minnesota's environment and natural resources.

CORE's six major recommendations 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. The responsibilities of this two-agency system include the protection of the public health, the responsible use and management of natural resources, and the protection of the air, land, and water for the benefit of human health and the natural environment.

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 him or her to streamline and coordinate processes to produce better customer service. In addition, this top administrator would be charged with channeling resources to ensure that the state is moving in the direction of attaining the goals of the Minnesota Environmental Policy Act.

3. *Deliver state environmental services on the basis of ecoregions, which recognize the different ecological needs of the state's natural regions.* The regional service boundaries would be redrawn according to natural ecoregions, decentralizing large numbers of state employees to manage the resources and serve customers and co-locating DRM and DEP employees in ecoregion 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, the legislature, and the citizens.

5. *Streamline the procedures and processes used to implement state environmental policies.* CORE makes several recommendations for improving compliance processes, which should make the system more efficient for its customers and more effective in protecting the quality of Minnesota's environment. The reforms involve rule making, standardizing enforcement tools for state and local government regulators, and developing alternative approaches, such as market incentives and expanded pollution prevention programs, to achieve environmental compliance.

6. *Establish a process for simplifying intergovernmental relations in the delivery of environmental services.* Ecoregions, adjusted for county boundaries, should be the basis for planning the delivery of state and local environmental services. Simplification and clarification of government complexity should begin in the area of water; counties would use the existing local water planning process to identify duplication and overlap. Other areas would then follow. Regional water planning organizations

would oversee the development of local plans, with the state having final responsibility for ensuring that all local plans are coordinated into a consistent approach that considers ecoregion and statewide needs. This reform should improve customer service and the effectiveness of local environmental program management.

These recommendations are a prescription for developing a healthy environmental services delivery system that can energetically and efficiently serve the citizens of Minnesota and protect the state's invaluable natural resources.

INTRODUCTION

The Commission on Reform and Efficiency, a 22-member citizens' group appointed by Gov. Arne Carlson and the Minnesota Legislature, chose to conduct a comprehensive study of environmental services delivery in February 1992. Commission members were concerned about the fragmented system that sometimes produces bureaucratic gridlock because of the large number of federal, state, and local government entities that have authority in environmental matters. CORE knew that citizens were frustrated about the length of time it takes to get decisions on permit requests and answers to their questions in this area, and it recognized the confusion that ensues when citizens or businesses receive conflicting messages from different state agencies and local governments on the same environmental issues.

Project scope

CORE's Program Analysis Working Committee, a seven-member group that directed the Environmental Services Project, defined the following scope for the commission's inquiry:

> From the perspective of the customers or users of state environmental agency services, examine how effectively and efficiently environmental policies and programs are administered in the state of Minnesota.

The term *customer* is defined as any citizen, government unit, or business that interacts with the environmental services system in Minnesota. All Minnesota residents are customers of the 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 are all governed by Minnesota's environmental laws.

CORE worked to identify the organizational barriers and procedural problems that are impeding quality service delivery and thoughtful and timely decision making. The commission's goal was to strengthen the capacity of government to promote strong environmental stewardship and to efficiently use the available public dollars.

CORE sought reforms that benefit taxpayers who finance the environmental regulatory system, environmentalists who seek strong technical assistance and regulatory programs that improve environmental quality, and businesses and others that expect and deserve timely and clear decisions.

CORE's recommendations can be categorized as administrative and management reforms. The commission affirms the Minnesota Environmental Policy Act and existing laws and

policies that safeguard the state's environment and natural resources. CORE explored new structures and procedures for administering state laws and programs. Also, CORE sought alternatives for resolving environmental conflicts that fairly balance the public interest and private rights.

The Program Analysis Working Committee, chaired by Musicland CEO Jack Eugster, included John Brandl, Arlene Lesewski, Lee Luebbe, Kati Sasseville, Erma Vizenor, and Steve Watson.

Project work plan and methods

From March through August 1992, CORE conducted primary research and reviewed the wide range of environmental studies previously conducted by public and private organizations. The primary research consisted of individual and group meetings with representatives of state agencies, local governments, environmental groups, and businesses, as well as private consultants, other experts, and citizens.

During June and July, the working committee heard presentations and engaged in discussions with the commissioners of the departments of Agriculture, Health, and Natural Resources and the Pollution Control Agency, the chairman of the Environmental Quality Board, the chairman and executive director of the Board of Water and Soil Resources, and the director of the Office of Waste Management.

Sen. Steve Morse and former House Speaker Robert Vanasek met with the working committee in July to discuss legislative concerns about the state's environmental service delivery system.

In late summer, CORE staff and some working committee members attended seven hearings hosted by the EQB that were designed to give Minnesotans an opportunity to describe the strengths and weaknesses in the system and to suggest improvements.

In September and October, the working committee adopted nine findings that describe the current environmental services system and its problems.

CORE staff proposed a series of options for addressing the identified problems in December to the working committee, which adopted preliminary recommendations that were then circulated for written public comment.

Fifty-four letters were received from state agencies, state employees, local governments, the agribusiness community, environmental groups, and public health organizations. That public input was reviewed by the working committee and staff as the recommendations were refined.

During the course of the project, CORE staff met with more than 700 people from around the state, including those who deliver and use environmental services.

CORE approved the Environmental Services Project recommendations Jan. 28, 1993, and commission members began meeting with Gov. Carlson and legislators in February to discuss their proposed reforms and rationale.

FINDINGS

In late 1992, after six months of research, CORE published nine findings about the operation of Minnesota's environmental services system. These findings describe the stress points in the system and are presented here to:

- Describe the authority of various state agencies and local government units as defined by state law.
- Convey the problems that citizens have identified in the environmental services delivery system.
- Provide background information on the evolution of the environmental system.
- Offer CORE's analysis of the problems that must be addressed to improve the system's accountability and responsiveness to citizens.

The environment is part of the fabric of our daily lives. As one citizen observed, "The environment touches everything in Minnesota . . . it affects everything we do." But because there is no unanimity about how to use and preserve the environment, one overall finding is presented as a frame of reference for all others:

> **Environmental programs, more than most areas of public policy, have customers who often have competing and seemingly irreconcilable interests.**

CORE acknowledges that conflict will always be part of the environmental system, because legitimate differences exist on how to protect and use the state's environmental resources. In designing a reformed environmental services system, therefore, CORE emphasizes the principles of fairness and equity as well as efficiency and effectiveness.

These findings reflect CORE's belief that it is imperative to reform the system to help government, the regulated community, and citizens work together to achieve environmental goals.

Advocacy agencies

Finding No. 1: Minnesota's environmental system can be categorized as a collection of advocacy agencies, whereby each agency presents one or more differing perspectives, such as that of the environmentalist, conservationist, public health guardian, and business proponent. At times, these separate and clashing perspectives can lead to administrative gridlock, which means customers of the system cannot get timely decisions from the state.

When a business, landowner, or local government unit seeks a state permit to engage in an activity that affects the environment, the applicant wants a timely response from the state. But that desire is sometimes unfulfilled, because agencies have disputes among themselves. Meanwhile, the applicant waits for an answer. If the applicant gets frustrated, he or she may call a legislator to put pressure on agencies to make a decision.

The paralysis that results when agencies are in sharp disagreement on particular projects led some legislators in 1992 to sponsor a bill that would have consolidated the competing agencies into one superagency. The rationale was that more accountability would be instilled if the agencies were forced to reconcile their differences within the new superagency.

The state's failure to make timely decisions generates frustration and complaints. At an Association of Minnesota Counties meeting in Montevideo, one county official said: "Nobody dares make a decision. The system rewards people who don't make a mistake." He was upset by his perception that state employees are safe if they do not make a decision and are not penalized for inaction. At an EQB hearing in Detroit Lakes, a north-central county commissioner described the current environmental system as an "utter nightmare." She complained about disputes between the Department of Natural Resources (DNR) and the Pollution Control Agency (PCA) and disagreements among DNR divisions. At the same meeting, a northwestern Minnesota farmer complained about DNR's Waters and Fish and Wildlife Divisions taking opposing sides on wetlands regulation.

These anecdotes illustrate that there is more than ample opportunity in Minnesota's environmental services system for differing perspectives to develop, and they give rise to the following questions:

- Should competing environmental interests be given voice primarily in the legislative process?

- Is the public's interest well served by several agencies that each represent a distinct advocacy perspective?

- Should competing perspectives be acknowledged within a smaller number of agencies, a system that would require that multiple perspectives be considered within a particular agency?

- Would an executive branch appeals board ensure that administrative agencies consider competing perspectives? Would a strong appeals board that is responsive to citizen complaints prompt agencies to justify their decisions by weighing multiple and relevant perspectives?

Two points are clear:

- Many Minnesotans are exasperated by the operation of the current system of advocacy agencies, because the agencies do not have incentives to reach decisions in a timely fashion.

- Alternative environmental services systems must be designed to incorporate the four major concerns of environmental protection, conservation, commerce, and public health.

Does the current amalgamation of advocacy agencies serve the public interest? Citizens, businesses, and local government units that have experienced the negative effects of the internecine struggles would say no. Those who have grown comfortable with the personalities and missions of particular agencies would say yes.

In isolation, creating new departments to handle new environmental regulations and challenges was rational at the time the decisions were made. However, when examined from a broader system perspective, confusion emerges.

Legislators, who listen to constituents who vote, constructed an environmental system that meets the needs of various interest groups. Each group has an important concern and generally has an agency in state government to give voice to this concern.

Each of the seven major environmental agencies has a distinct advocacy perspective. This public persona has developed over time based on the laws the agency administers, the values of the agency and its employees, and the types of policies the agency recommends to the legislature. Although each agency attempts to balance a number of legitimate concerns, each tends to have a primary advocacy concern.

The DNR has a conservationist profile, which can be traced to the department's creation in 1931, when it was named the Department of Conservation. A conservationist is generally defined as one who favors the controlled use and systematic protection of natural resources. The PCA is perceived as upholding the concerns of environmentalists, who seek to protect the natural environment from destruction.

In its mission statement, the Department of Health calls itself an "advocate and protector of public health." The Department of Agriculture emphasizes promotion of a strong agriculture economy, which includes support of farmers and agribusinesses. Meanwhile, the Board of Water and Soil Resources and the Office of Waste Management exist primarily to provide resources and advocate on behalf of local government units. The Environmental Quality Board, which has a majority membership of agency heads, is designed to play a coordinating role. EQB aims to serve the broad public interest, but it also serves as a forum for the advocacy agencies to clash over and engage issues or to avoid them.

A February 1987 legislative auditor's report on water quality monitoring discussed the

pros and cons of the agency advocate system:

> One of the reasons that many agencies are involved is that water issues are complex and far-reaching, affecting almost every citizen. Government agencies are concerned with ensuring an adequate supply (enough, but not too much) of quality water for a wide variety of uses. Consequently, agencies dealing with agriculture, health, public safety, natural resource management, pollution control and recreation all have legitimate interests in water-related issues. The result, in both Minnesota and other states, is a complex interrelationship among different agencies at different levels of government.[1]

The report pointed out that the complex advocacy system prevails, despite at least 14 different reform proposals and reorganization studies between 1970 and 1986. It concluded, "The major rationale for Minnesota's organizational approach is that separate agencies can advocate better for their specific areas of responsibility."[2]

In the water arena, the legislative auditor said:

> Although the advocacy approach may prevent one agency or point of view from over-shadowing competing interests, it can have disadvantages as well. Agencies can work at cross purposes or subvert each other's efforts. Agencies may not be able to agree on solutions to problems. If such an approach results in an absence of communication and coordination, agencies may duplicate each other's activities or implement conflicting policies. Such a situation, besides being inefficient, can confuse the public and the local agencies that are affected by state programs and policies.[3]

Many people inside and outside government acknowledge the confusion in the system that exists in 1993. However, each agency has its own political constituency, and the agencies and interest groups are concerned about structure reorganization and service delivery reforms. Both agencies and private organizations are worried about unknown consequences that may result from reforms designed to accelerate decision making and improve customer satisfaction.

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[1]Office of the Legislative Auditor, *Water Quality Monitoring* (St. Paul: Office of the Legislative Auditor, February 1987), p. 23.

[2]Ibid.

[3]Ibid.

Centralized decision making

Finding No. 2: The environmental system relies too heavily upon centralized decision making, which has produced significant alienation in nonmetropolitan counties. Many rural citizens are dissatisfied with their interactions with the centralized bureaucracy and perplexed as to why agencies do not assign more authority to their regional offices.

Dispersed customers, centralized bureaucracy

Minnesota's 4.4 million residents are scattered across 84,000 square miles, but the people who administer the state's environmental policies are concentrated in St. Paul.

That concentration of authority angers citizens and local government officials who live outside the seven-county metropolitan area. At 1992 regional meetings of the Association of Minnesota Counties and the EQB, rural residents expressed their displeasure over what they perceive to be a sluggish and unresponsive environmental bureaucracy.

In New Ulm, a county commissioner said, "Let St. Paul people do what they do best. Let people in rural areas do what they do best." In a nonmetropolitan EQB hearing, an agency commissioner acknowledged that there is a "trust problem" between his agency's central and regional offices. In Detroit Lakes, a citizen complained that many people in regional offices have their hands tied by the bureaucratic layers within an agency. That perception was echoed by two others who argued that regional offices should have the authority to issue permits.

In 10 nonmetropolitan meetings attended by CORE staff, the message was clear. The state's environmental customers who live outside the metropolitan area believe that the centralized bureaucracy takes too long to make decisions and that environmental agency staff are so far removed from nonmetropolitan counties that they do not understand the differing needs of various parts of the state.

Current system

Seven agencies have major responsibilities in implementing Minnesota's environmental policies. Four agencies have staff assigned to regional offices. They are: the Department of Natural Resources, the Pollution Control Agency, the Department of Health (MDH), and the Board of Water and Soil Resources (BWSR). Three agencies do not use regional offices: the Department of Agriculture (MDA), the Environmental Quality Board, and the Office of Waste Management (OWM).

Eleven Minnesota communities are home to agency regional offices. Because the service boundaries of these agencies are not coterminous, regional staff are located as follows:

Northern communities:

Bemidji (DNR, MDH, BWSR)
Brainerd (DNR, PCA, BWSR)
Detroit Lakes (PCA)
Duluth (PCA, MDH, BWSR)
Fergus Falls (MDH)
Grand Rapids (DNR)
St. Cloud (MDH)

Southern communities:

Mankato (MDH)
Marshall (PCA, MDH, BWSR)
New Ulm (DNR, BWSR)
Rochester (DNR, PCA, MDH, BWSR)

The Department of Natural Resources is decentralized, with personnel assigned to about 350 offices in cities, small towns, woods, and farming areas. About two-thirds of the DNR's full-time employees and nearly all of its seasonal workers are located near the resources they manage.

Despite this large dispersal of employees, DNR regional offices are limited in their power. Major policy and program decisions are made in St. Paul by the commissioner, his top appointees, and the directors of the divisions of Forestry, Fish and Wildlife, Parks and Recreation, Minerals, Trails and Waterways, Enforcement, and Waters.

The allocation of DNR power has been the subject of many executive and legislative debates and was addressed about 20 years ago by a precursor of CORE. The Loaned Executive Action Program (LEAP) studied the DNR in 1973 and concluded that it was operating as a "loose coalition of independent divisions." The DNR's divisions had operated as independent agencies until 1931, and LEAP determined that DNR's divisions were still functioning quite autonomously more than 40 years later. LEAP recommended a major change in DNR's operating structure that emphasized shifting power to regional offices.

A 1986 Touche Ross & Co. report provides some useful history. It said that LEAP "recommended a highly decentralized field structure with regional administrators reporting directly to the Commissioner. Line authority was removed from division directors with the division directors serving only in a planning and advisory role."[4] The report continued:

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[4]Touche Ross & Co., *Organization and Management Study of the Department of Natural Resources*, a report prepared under contract to the Legislative Commission on Minnesota Resources, December 1986, p. 1.

> According to the LEAP report, the reorganization would improve public responsiveness, improve interdivisional cooperation and improve cost effectiveness. The LEAP recommendations were implemented in 1973 and 1974.
>
> In 1978, an internal task force of DNR managers concluded that the agency had serious problems with public responsiveness and in the accountability of field operations. The DNR was reorganized, restoring line authority for field operations to each division. The reorganization, however, retained the regional structure for Administration and Field Services (fleet and facilities management).
>
> In 1983, the Legislature directed the Department of Administration to study the regional organization of the DNR. This study recommended that line authority for field operations be retained by the divisions. The study, however, recommended strengthening the Regional Administrator's role in departmental decision-making.
>
> In 1986, legislation was introduced to reorganize and decentralize the DNR. This reorganization plan would have restored line authority for field operations to the Regional Administrators. The objective of this reorganization was to improve coordination among divisions, improve public responsiveness, reassign central office functions to the field and increase the DNR's sensitivity to local needs and concerns.[5]

The reorganization legislation did not pass, but the legislature authorized the study by Touche Ross, which concluded that "improvements can be made in the DNR's delivery of public services without major reorganization." The DNR still operates with the major powers vested in the divisions in the central office.

On a smaller scale, the Board of Water and Soil Resources assigns a majority of its 49 employees to six regional offices. The BWSR is primarily a service agency, and its clients are local governments, including counties, soil and water conservation districts, watershed districts, and water management organizations.

In contrast, the Pollution Control Agency is highly centralized. According to a January 1992 PCA report, the agency had 661 employees based in the central office in St. Paul and 42 in its five regional offices.[6] As with the DNR, the major PCA program authority lies in St. Paul with the commissioner, his staff, and the directors of the divisions of Air Quality, Water Quality, Ground Water and Solid Waste, and Hazardous Waste.

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[5]Ibid.

[6]Minnesota Pollution Control Agency, *The Role of the MPCA Regions: An Evolving Strategy for Program Delivery* (St. Paul: PCA, January 1992), p. 3.

The PCA's leadership and an internal regional roles work group have concluded that the PCA must decentralize its operations. In its 1992 report, the agency said, "In the initial stages of program development, a centralized staff is essential. However, as procedures are established, regulatory roles are identified, and the regulated community is defined, program representatives must be located to reflect the geographic distribution of client groups."[7]

The PCA hopes to achieve four objectives by implementing this regionalization:

1. Provide the general public and the regulated community with greater accessibility to PCA staff;

2. Achieve faster response to inquiries from the public and the regulated community;

3. Achieve a greater level of effort in reaching and maintaining compliance with environmental regulations; and

4. Provide greater emphasis on environmental issues unique to specific geographic areas of the state.

The PCA is gradually moving personnel to regional offices, which includes filling some vacant positions in St. Paul by shifting them to regional offices.

In the Minnesota Department of Health, about 185 people are assigned to the Division of Environmental Health, which provides water supply, well management, and environmental field services, among other activities. About one-fourth of the division's staff are assigned to regional offices; however, their program supervisors are based in Minneapolis.

The Environmental Quality Board, which plays a coordinating function for the state's environmental system, has about eight staff people from the Office of Strategic and Long-Range Planning (Minnesota Planning) to assist with its research, planning, and policy analysis functions.

The Department of Agriculture does not have regional offices in the state, and its program staff who supervise environmental regulatory activities are based in St. Paul. Twelve of the agency's field staff are located outside the Twin Cities; the rest are based in St. Paul but travel extensively to perform their duties. The MDA is responsible for regulating the use of pesticides and fertilizers. About 50 of its supervisory, professional, and technical positions in St. Paul are dedicated to environmental programs.

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[7]Ibid., p. 1.

The Office of Waste Management has about 55 employees, all based in St. Paul. OWM staff provide financial and technical assistance to counties, businesses, and local units of government to help them prevent pollution and practice proper management of both solid and hazardous wastes. This entails a great deal of travel to outlying regions, particularly for the local government assistance staff.

Minnesota's environmental agencies vary in their degree of decentralization. All of them, however, set policy and make major program decisions in the Twin Cities. This centralization of authority appears to slow decision making and limit the impact of increased cooperation and communication among environmental agencies at the regional level because regional personnel do not have the power to make many critical decisions.

Customer service

Finding No. 3: The current environmental system relies upon the customer to coordinate among the agencies, instead of the agencies presenting a coordinated response to the customer.

> *The citizen should not have to coordinate between two permitting agencies. Two agencies should not argue on my client's time.* — Attorney

> *I asked once, when I had to test my well. The answer was, "Well, it depends . . . . Depends on why you're testing: health, pollution, aquifer, wetland . . . ." You need to talk to several different agencies to get answers.* — Administrator

> *We just had a project that needed nine permits. It's driving people wild.* — Government engineer

Relief from the burden of permits required by multiple agencies for multiple programs was the most frequent request to CORE staff. The frustration expressed focused on the following issues:

- The number of permits required;
- The length of time required to process the permits;
- The costs of the permits; and
- The number of government units that required permits for the same or similar activities.

In the mid-1970s, the legislature passed the Minnesota Environmental Coordination Procedures Act to "provide better coordination and understanding between state and local

agencies in the administration of the various programs relating to air, water, and land resources" and established an environmental permits coordination unit in what is now the Department of Trade and Economic Development (DTED).[8] According to DTED, information requests to the unit tend to come from large businesses. The provision designed to help a customer navigate the state system to secure the required permits and complete the various types of paperwork has not been used.

Current system

Despite efforts by agencies to integrate programs across media and agency boundaries, the environmental system is perceived by the customer as compartmentalized and lacking coordination within, between, and among agencies at different levels of government. While agencies understand the division of responsibilities among themselves and use such instruments as memoranda of agreement and committees to coordinate among themselves, this coordination is not perceived at the level of interaction with the customer. The customer does not define environmental responsibilities in terms of agencies but rather in terms of environmental concerns or activities that affect the environment (for example, wetlands, wells, shoreland).

While the public perceives the environment broadly, agency programs operate with specificity, seemingly isolated from each other, with each program aware only of its own objective. Each agency can provide information about its program but may not or cannot provide information to the citizen on a related program in another agency. The customer must contact all agencies individually. One citizen said, "All agencies should practice what they preach, demonstrate by their own actions what they expect everyone else to do. Some policies conflict within agencies. When the public perceives these conflicts, it creates problems . . . . Citizens have to make too many phone calls, are subject to too much shuffling . . . . It's exhausting."

Particularly frustrating problems develop when there are conflicts of opinion, perspective, or objective among the agencies. Citizens complain about being given conflicting information and needing to organize meetings between the staffs of various agencies to resolve uncoordinated responses. Disputes between agencies can delay the processing of a permit indefinitely, even though the customer has supplied all the information required by the agencies. A county administrator said: "Your main concern is certainty about who and when and that the decision will be made." Yet citizens perceive that they have a limited ability to affect agency decisions. One citizen characterized this as a need for accountability: "The state demands information quickly, yet when the state is asked to respond, it takes forever."

The lack of coordination between agencies is evident to the customer seeking information

[8]M.S. 116C.23.

on an environmental activity or concern. Access to data collected by the agencies is described as difficult at best. Agencies maintain separate data bases and records that are not conveniently accessible to the public. Again, each agency must be contacted separately, and little assistance may be available to retrieve the information.

The most frequent requests from customers were for "one-stop shopping" for permits and one number to call to report an environmental problem or receive all needed information on a regulated environmental area or activity.

Conflict management

Finding No. 4: The multilayered and fragmented environmental advocacy system makes it difficult to manage conflicts among competing interests in a timely manner.

Conflicts are natural and unavoidable in the environmental system. A basic principle of ecology is that everything is interconnected. In an area that touches aspects of everyone's lives and in a population that is diverse, there will be different perspectives on the use of land and resources and different interests in them, both public and private. Several forums have been established to address the conflicts and competing interests, and they have had mixed success.

Administrative Law Judge Phyllis A. Reha summarized the obstacles to conflict resolution:

A. There are no standard procedures for convening the parties for face-to-face discussions to resolve their differences. The government agency is the logical convener, but it is not seen as a disinterested third party by business or the public. The influence of government on the way conflict is handled is complicated by uncertainty as to which level of government or which agency within one level has responsibility for resolving the problem.

B. Enforcement of agreements is also done on a case-by-case basis . . . .

C. A complex system of federal, state and local rules and regulations influences efforts to deal with public problems. For example, some procedural rules mandate public hearings before a decision can be made. *Ex parte* contact rules prevent discussion between parties and regulators. There are obligatory public comment periods and other regulations governing the way decisions are made which exist to protect the public interests. Oftentimes, they can constrain discussion and restrict the search for new options.

D. Each party brings its own set of facts and figures into the discussion, and all sides must agree on a common data base before solutions can be

developed. Parties rarely have equal access to all relevant information or equal ability to understand or use the figures . . . .

E. Nearly all environmental controversies involve divergent beliefs about what is right and what is wrong, and what is just and what is unjust.[9]

Consideration of competing perspectives

Environmental Quality Board

As described earlier, each major agency advocates for a specific perspective. In fact, the staffing of each agency is based on technical specialization for that perspective. This technical specialization and advocacy mission can impair consideration by each agency of other perspectives and broader societal and nontechnical factors.

The task of resolving conflicts between agencies was delegated by the legislature to the EQB in M.S. 116C.04, Subd. 2(c):

> The board may review environmental rules and criteria for granting and denying permits by state agencies and may resolve conflicts involving state agencies with regard to programs, rules, permits and procedures significantly affecting the environment, provided that such resolution of conflicts is consistent with state environmental policy.

Although it has this responsibility, the EQB does not appear to have used it formally. No specific process is set up for conflict resolution, and no specific authority compels compliance with the resolution. In addition, the standard of providing that the resolution of conflicts is "consistent with environmental policy" can be unclear due to statutory ambiguity, which allows multiple interpretations. For example, the Minnesota Environmental Policy Act (M.S. 116D.02, Subd. 1) declares that

> . . . [I]t is the continuing policy of the state government, in cooperation with federal and local governments and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of the state's people.

It is difficult to know all the social, economic, and environmental needs, let alone to meet

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[9]Phyllis A. Reha, "Mediation in Environmental Cases," *Environmental Law in the 1990s* (Minneapolis: Minnesota State Bar Association, Continuing Legal Education, March 1990), pp. 5-6.

them simultaneously, for today and tomorrow. When these needs conflict, which controls? This unclear direction, together with an unclear process, makes it difficult to know how the EQB would handle conflicts in these needs. This may in part explain why citizens or affected parties have not appealed conflicts to the EQB but rather to the courts or to the legislature.

Board of Water and Soil Resources dispute resolution

The BWSR has a committee for dispute resolution established by M.S. 103B.101, Subd. 10. By statute, BWSR can act as both mediator and adjudicator in resolving resource management conflicts between people, local governments, and agencies. It also can recommend procedures to avoid future conflict. The specific conflicts BWSR is authorized to act on involve comprehensive county water plans, watershed district decisions, metropolitan water management organization projects, and water policy.

Despite the existence of this authority, only a few conflicts have come to the BWSR. The board hears about three cases annually, almost entirely appeals from watershed district decisions. In some cases, the BWSR is authorized to make recommendations; in others, its decision is binding. One obstacle has been the lack of rules describing the conflict resolution process; rules are now being prepared.

Office of Dispute Resolution

The Office of Dispute Resolution was established in 1985 to promote the use of means other than litigation for resolving disputes affecting the public interest. Now housed in the Department of Administration, this office has increasingly been called upon to mediate and facilitate environmental issues or to recommend mediation services. It has mediated disputes between two local governments over the siting of a controversial wastewater treatment project and between affected parties on the siting of a solid waste incinerator. It has helped facilitate public meetings to generate comment on environmental impact statements and permit renewal standards, as well as negotiated rule-making sessions in which a consensus-building process was used.

The results of mediations by this office have been mixed. Some have led to settlement at significant savings; other settlement proposals have been rejected by one of the parties and the disputes continued to litigation. Even in these cases, however, the mediation clarified and led to modifications of initial positions and concerns.

PCA Board

The PCA Board provides a unique opportunity for public input before a final decision is made. Composed of citizen members, this board has policy and administrative responsibility for the PCA. Many multifaceted issues come before the board because it is an open, accessible forum in which dissenting views can be raised, in contrast to an agency headed

by a commissioner; this process helps reduce litigation. The board also moderates the narrow technical perspective of staff and tempers it with social, political, and economic concerns.

The board appears to some extent to serve a conflict resolution function. The board is authorized by M.S. 115.071, Subd. 1, to enforce its decisions relating to:

> . . . all rules, standards, orders, stipulation agreements, schedules of compliance, and permits adopted or issued by the agency thereunder or under any other law now in force or hereafter enacted for the prevention, control or abatement of pollution . . . .

During CORE's research, a number of concerns were raised about the board, including:

- The dispersal of authority makes it difficult to establish accountability in the executive branch's delivery of environmental services. With board–commissioner administration, the system lacks direct lines of authority for PCA managers.

- The PCA Board, and other such boards, competes with the legislature in making policy.

- Board members serve part-time and turnover is regular. At times, some members may lack the understanding of complex problems to make good decisions.

Administrative Procedures Act and the Office of Administrative Hearings

The Administrative Procedures Act (Minnesota Statutes, Chapter 14) dictates the procedure for resolving conflicts over policies established by agencies in rules and disputes over permitting, disciplinary actions, and other agency decisions. The scope of the issue that the administrative law judge can address and the application of the judge's findings are somewhat limited. In contested cases, the dispute must be over facts, not the law. The Office of Administrative Hearings has no independent authority to initiate a contested-case hearing. The office must initiate one only when it is required by law.

The procedures for rule making and contested-case hearings vary somewhat, but in both, the administrative law judge makes recommendations to the agency before the agency makes a final decision. Although the agency can decide to proceed differently from the recommendations, its decision must be made in writing and based on the hearing record. Final decisions by the agency are appealable to the Court of Appeals and from there to the Supreme Court.

Hearings before an administrative law judge are formal and legalistic. They can be expensive, and several months can pass between the decision to schedule a hearing and the receipt of the judge's report.

The courts

The adversarial process of litigation has been widely used to resolve conflicts in the environmental system. The legislature has provided powerful tools for the use of the courts in the penalties and standards established in environmental law. For example, the Minnesota Environmental Rights Act (Minnesota Statutes, Chapter 116B) grants broad authority to any person to maintain a civil action in district court for "relief in the name of the state of Minnesota against any person, for the protection of the air, water, land, or other natural resources located within the state, whether publicly or privately owned, for pollution, impairment or destruction." While the courts have been useful in clarifying ambiguities and policy direction in specific controversies, litigation is a costly, slow, and divisive way to resolve conflicts and set policy.

The legislature

More than 20 years ago, William Walton and David Hills wrote about the use of the courts to settle issues:

> There is no reason that the judiciary should be the ultimate guardian of the public interest. In the ideal world, legislatures are the most representative and responsive public agencies; and to the extent that judicial intervention moves legislatures toward that idea, the citizenry is well served.[10]

The ultimate forum for resolving disputes between competing interests is the legislature. The environmental area is one in which the legislature spends a significant amount of time hearing competing concerns. More than 11 percent of all bills introduced into the 1991-92 session dealt directly with environmental and natural resource issues. Many more contained provisions addressing environmental issues. To hear and weigh the competing concerns, the legislature has created a number of committees and commissions:

- Legislative Commission on Minnesota Resources, Legislative Commission on Waste Management and Legislative Water Commission, all three of which have members from both the House and the Senate;
- House and Senate Environment and Natural Resources Committees; and
- House Environment and Natural Resources Finance Committee and Senate Environmental and Natural Resources Finance Division.

Through the process of hearings by different committees, policy and administrative

[10]William Walton and David Hills, *Water and Related Resources, State Administration, Legislative Process and Policies in Minnesota, 1970* (Minneapolis: University of Minnesota, Water Resources Research Center, January 1971), p. 41.

conflicts may be identified and resolved. Not infrequently, conflicts not resolved administratively are ultimately settled by the legislature, and some are referred back to administrative agencies.

Conclusions

Multiparty conflicts are most likely to erupt in the areas of rule making, permit issuance, and environmental review. Conflicts involving individual agencies occur in the enforcement or application of laws. Intergovernmental conflicts can occur over overlapping authority and differing perspectives.

Many conflicts are resolved successfully through skillful agency staff intervention and negotiation. Planning processes that provide time to uncover and discuss potential policy conflicts also act to reduce conflicts. When the competing interests are seemingly irreconcilable or participants have beliefs that are so strongly held they cannot be compromised, however, conflict will continue regardless of the number or types of forums.

Ann Cohen, a special assistant attorney general, used an analogy that seems to describe well the quagmire of conflict that can occur when values clash in particularly difficult cases:

> *No Exit* is the title of a famous Jean Paul Sartre play in which three people, formerly strangers, suddenly find themselves sharing a single room after death. As the play progresses, you realize that the three have been chosen to share the room because each has the power to drive the others crazy. Finally, as there is no getting away from the situation, you realize that this is Hell.
>
> Permittees, interested citizens and the MPCA are trapped in the same room when it comes to permit issues. Obtaining a permit from the MPCA in the face of citizen opposition isn't necessarily a "no exit" situation — but it sometimes seems that way.[9]

Although a number of systems have been designed to prevent a "no exit" situation, they have not been especially effective or have intensified the conflict by being overwhelmingly costly in time and money. The system is characterized by largely adversarial procedures, narrowly focused advocates, and a rigid command-and-control mentality.

David Mazmanian and David Morell call for a new attitude and shift in focus from sporadic pollution abatement to comprehensive environmental management, marked by cooperation:

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[9]Ann E. Cohen, "Contested Permits: 'No Exit' Comes to State Government." Presentation at Minnesota Institute of Legal Education seminar, June 1992.

> Successful environmental policy in the 1990s will need to build everyone's appreciation of the unacceptable costs to industry, public health, and the environment of continuing policy gridlock and superficial implementation of major existing statutory initiatives. During the new decade, each competing interest group needs to agree that no single interest can expect to dictate policy into the future . . . . Genuine progress can be made in the 1990s only with the concurrence of business, environmental, health, and local community interests.[10]

While conflict in the environmental system cannot be eliminated, it can be better managed by increasing the effectiveness of formal and informal dispute resolution procedures, redesigning the system to reduce dependence on procedures that tend to promote conflict, and establishing procedures that may prevent or minimize conflicts in the first place.

Fragmentation and specialization

Finding No. 5: Minnesota's government structure in environmental services over the past several decades has developed through a process of addition, fragmentation, and specialization, rather than by 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.

Organizational evolution

Each agency's creation or the assignment or reassignment of a responsibility to a particular agency reflects the political, cultural, and operational dynamics that resulted in that decision. Direct citizen participation in all aspects of government in Minnesota is supported by strong historical and cultural traditions.

Many of the agencies with environmental responsibilities were created for the specific purpose of providing direct popular representation of local governments and specific constituency interests in government policy making and administration (for example, the BWSR, the Petroleum Tank Release Compensation Board, and the Agricultural Chemical Response Compensation Board).[11] Others were created to provide a separate and identifiable organizational focus for a particular policy or program, such as the OWM. The responsibilities for environmental programs assigned to the MDH reflect its long

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[10]Daniel A. Mazmanian and David L. Morell, "EPA: Coping with the New Political Economic Order," *Environmental Law* 21 (1991): 1484-85.

[11]An exception to this expansion trend was the creation of the Board of Water and Soil Resources, which was the result of a merger in 1987 of the Soil and Water Conservation Board, the Water Resources Board, and the Southern Minnesota River Basins Council.

history in "environmental sanitation." The MDA's involvement in fertilizer and agricultural chemical regulation also has historical roots and constituency support.

One legislative response to the pervasiveness of environmental issues across most of state government has been the creation of a number of bodies that have overlapping or interlocking memberships of agency heads. The purpose of these relationships is to facilitate policy and program coordination among departments with related activities and to draw upon the expertise of diverse scientific, technical, program, and constituent orientations. The agency with the most central role in this process is the EQB, which has as members the commissioners of the MDA, the MDH, the DNR, the PCA, and the departments of Transportation and Public Service, the directors of the OWM and Minnesota Planning, and the chair of the BWSR.

Perhaps the most perplexing issue relating to the organizational structure is the relationship between resource-management and regulatory responsibilities. A related issue is the organizational separation of functions that involve advocacy, promotion, and the provision of technical assistance from those of compliance and enforcement.

Most agencies are involved to varying degrees in both activities. The DNR's programs in forestry, minerals, parks, trails, and fish and wildlife involve promotion and advocacy, while its water-related activities involve regulation (for example, water appropriation and wetland permits) and advocacy (for example, partnerships with volunteer lake associations and its lake advocates program). The PCA is primarily a regulatory agency, but it also is involved extensively in technical assistance and grant programs (for example, the Clean Water Partnership and the citizen lake monitoring program). In addition, lines between functions that used to be clear are becoming increasingly blurred. The BWSR's role has been predominantly advocacy and technical assistance. But its evolving role in wetlands programs includes a regulatory dimension.

Many constituent interests argue that the separation of regulation and enforcement from technical assistance and advocacy leads to better working relationships between those needing and those providing assistance. They also maintain that getting assistance from the regulator and enforcer is a little like going to the police station to ask if you have broken a law rather than asking a lawyer. The most complete separation in state government is in solid waste management, where advocacy and technical assistance are located in a separate agency — the OWM.[12] No other cabinet-level agency has been established to deal with a single environmental services issue.

Those who argue for integrating these functions in one agency point out that a separation

[12]The origin of the OWM goes back to 1980, when the Waste Management Board was established with primary responsibility for "siting" a hazardous waste facility in Minnesota. In 1988, it was dissolved by executive order, and its responsibilities were transferred to the PCA. In 1989, the legislature reestablished it as a separate office but did not provide for the creation of a board.

of advocacy from regulation can be maintained by assigning responsibility to different organizational units and different people. They maintain that these functions are already integrated in several departments, particularly in the DNR, and that increased efficiency can best be achieved when problem identification, technical assistance, and service delivery are closely linked organizationally. They also note that efforts to develop an organizational focus on prevention (rather than just enforcement and compliance) would be enhanced by eliminating this separation where possible. If the agency has responsibility for both technical assistance and enforcement, they argue, it can merge the two activities into more effective prevention programs and thus encourage integrated resource management.

The legislature has delegated considerable policy-making responsibility to administrative agencies. This authority includes both the formulation of rules and the use of quasi-judicial and quasi-legislative powers. One result has been the creation of citizen boards that are responsible for:

- The administration of agencies (for example, the PCA Board);
- Approving the expenditure of funds to provide grants to carry out specific environmental programs (for example, the BWSR and the Public Facilities Authority); and
- Providing compensation or reimbursement for pollution clean-up (for example, the Harmful Substances Compensation, Agricultural Chemical Response Compensation, and Petroleum Tank Release Compensation Boards).

The PCA Board is unique in state government in that it determines the responsibilities of the commissioner and the agency staff. The commissioner, however, is appointed by the governor and has some specific powers granted by the legislature. In contrast, the DNR, which also has extensive quasi-legislative and quasi-judicial powers, has no such citizen board.

It has been argued that agencies making decisions on grants and compensation should be administratively separate from those that identify problems, enforce regulations, and monitor compliance. This is somewhat analogous to the general accounting principle that insists on the separation of responsibility for collecting money from that of spending it. Problem identification, enforcement, and compliance are primarily the responsibility of the PCA. The approval of grants, compensation, and reimbursement is vested in boards that are based in other agencies (the MDH, the MDA, and the departments of Commerce and Trade and Economic Development). Again, as noted above, the membership of these boards includes representatives of directly affected constituents.

The organizational structure of environmental services agencies has evolved as a result of several factors:

- The strong political and cultural tradition in Minnesota, which encourages direct citizen participation in government.

- Efforts to ensure a direct role in policy formulation for constituent groups that are specifically affected by government decisions.

- Efforts to obtain certain technical and scientific expertise in policy making.

- A desire to keep responsibilities for regulation, enforcement, and compliance organizationally separate from those for advocacy, promotion, and technical assistance.

- Efforts to keep the authority for awarding grants and approving compensation and reimbursement for selected activities separate from the agency that identifies the problem to be addressed by the funds and that enforces and monitors compliance with regulations.

- A preference for vesting quasi-legislative and quasi-judicial powers in citizen boards rather than in a single appointed administrative official.

These factors are not uniformly influential throughout state government; exceptions can be found in every case.

Functional, technical, and scientific specialization

As discussed in Finding No. 1, the organization of environmental services agencies in many respects follows advocacy lines. Related to this is the strong emphasis in the environmental field on functional, technical, and scientific specialization. This is particularly evident in individual organizations' internal structure and division of responsibilities.

Specialization usually follows "media" lines (for example, air, water, solid waste, groundwater, and resource areas, such as forestry and minerals). A continuing effort has been made over the past several decades to break down these lines of specialization and to foster integrated resource management.

Throughout the nation, policies and organizational structure by and large follow these lines of specialization. In an analysis of state environmental management, Barry G. Rabe has noted:

> Governments have long chopped policy problems into small pieces, eschewing comprehensive solutions in favor of more incremental approaches. The narrower the focus, it has been widely argued, the more manageable problems become. Indeed, some analysts have gone so far as to suggest that the more

> comprehensive efforts in public policy are not viable intellectually, politically, or administratively . . . .
>
> What facilitates intellectual, political, and administrative convenience may not facilitate sound environmental management, however. Pollutants regularly defy the single-medium barriers that have been established, with the ongoing transfer, transport, and transformation of pollutants *across* media leaving our existing network of medium based laws and regulatory agencies as porous as the Maginot line of an earlier era . . . .
>
> More effective environmental management may require policy innovation that is neither incremental nor comprehensive (non-incremental) in nature.[13]

In his classic treatise written more than 40 years ago, *Breaking New Ground*, the noted environmentalist Gifford Pinchot summarized the issue as follows:

> Suddenly the idea flashed through my head that there was a unity in the complication — that the relation of one resource to another was not the end of the story. Here were no longer a lot of different, independent, and other antagonistic questions, each on its own separate island, as we had been in the habit of thinking. In place of them, there was one single question with many parts. Seen in this new light, all these separate questions fitted into and made up one great central problem of the use of the earth for the good of man.[14]

Federal and state governments have struggled for decades over these questions of how best to organizationally address the delivery of environmental services. And there are almost as many approaches as there are governments. Some general patterns have emerged, however. These efforts occurred in two phases: 1) organizational integration and 2) permit coordination.

The principal effort at consolidation involved an abandonment of environmental sanitation as the organizing focus. Environmental activities relating to the protection of public health date back more than a hundred years, their focus being on the provision of safe drinking water and the elimination of disease-producing environmental hazards. State health departments had the responsibility for these programs. Initially, new environmental programs were often assigned to health departments, but this approach is now used in only 15 states. Still, most health departments, including Minnesota's, continue to have major responsibilities for environmental services programs.

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[13]Barry G. Rabe, *Fragmentation and Integration in State Environmental Management* (Washington, D.C.: Conservation Foundation, 1986), pp. xiii-xiv.

[14]Quoted as headnote in ibid., p. 3.

By 1982, 15 states had consolidated pollution control functions into one environmental superagency (defined as having responsibility for air, water, solid waste management, and at least one conservation or resource management program). Using another approach, 12 states, including Minnesota, attempted to mirror the federal pattern represented by the U.S. Environmental Protection Agency (EPA) and created "little EPAs." Virtually all states also have some boards and commissions in selected areas.

The second phase grew out of a flurry of activity in the 1970s to streamline the permitting process. By 1982, 26 states, including Minnesota, had enacted legislation establishing permit coordination procedures.

Minnesota's organizational structure is more typical of the pattern in many states than an exception to the rule. Although some states have a structure considerably more integrated than Minnesota's, others have one that is more fragmented.

In Minnesota's structure, the most fragmented area involves water resources and water management. Significant responsibilities are vested in the DNR, the PCA, the MDH, the MDA, and the BWSR. Solid waste management responsibilities are divided primarily between the OWM and the PCA. In addition, as noted above, several independent boards and commissions have responsibilities that relate directly to those of other agencies.

In summary, the question of organizational structure has two dimensions. First, there is the issue of whether the various environmental services programs should be integrated into fewer agencies. Second is the question of transferring and integrating the various functions within agencies, regardless of the number of separate organizational entities involved.

Planning and coordination barriers

Finding No. 6: Several barriers have prevented the Environmental Quality Board from exercising strong leadership in planning, coordinating, and overseeing the environmental services system.

When the EQB was created in 1973, it was charged with ensuring the implementation of the broad policy goals of the Minnesota Environmental Policy Act. During CORE research interviews, the board's composition, funding levels, and role were discussed, and many people, including some EQB members, argued that the EQB has not fully achieved the vital role its founders conceived for it. Several opinions were expressed on how to strengthen the EQB and clarify its mission.

The evaluation of the EQB extends to the board itself, which held a retreat in September 1992 to develop a new mission statement. According to its new mission statement, the "Environmental Quality Board will lead Minnesota's environmental policy by anticipating

and responding to key issues, by providing appropriate oversight, by serving as a public forum, and by developing long-range strategies to sustain and enhance Minnesota's environmental quality."

This mission embraces sustainable development, which is economic development in concert with environmental protection. In a strategic planning effort led by Rod Sando, EQB planning chair and DNR commissioner, the EQB intends to spend the next year looking at ways to incorporate the sustainable development philosophy into the activities of all state environmental agencies.

EQB Chairman Robert Dunn, who addressed the CORE Working Committee in June 1992, said the 1973 Environmental Policy Act provided a framework and a philosophy for sustainable development in Minnesota. With the adoption of the new EQB mission statement, the EQB appears to be focusing on its historic roots.

Role of the EQB

The EQB attempts to serve four distinct constituencies:

- The public, by providing a citizens' forum to discuss state policies and administrative decisions made by agencies;
- Agencies, by giving them a vehicle through which to communicate on issues that have broad environmental impact;
- The legislature, which is looking for multiagency oversight and results on specific environmental programs assigned to the EQB; and
- The governor, who is seeking cooperation among his environmental agencies and substantive information that can be used for setting policy directions.

EQB has functioned as a hybrid agency that plays the following roles:

- Watchdog over the Minnesota Environmental Policy Act
- Planner and policy analyst for the governor and the legislature
- Interagency coordinator
- Dispute-resolution manager
- Forum for citizens who want to affect policy development or appeal an agency decision

- Operating agency for siting power plants and pipelines and regulating genetically engineered organisms

The EQB's oversight authority is delineated in Minnesota Statutes, Chapter 116C. The law specifies the board's role in long-term planning regarding future population and settlement patterns, air and water resources and quality, solid waste management, transportation and utility corridors, economically productive open space, energy policy and need, growth and development, and land use.

The law also specifies that the EQB be involved in environmental review, the power plant siting program, timber harvest generic impact statements, the critical areas program, pipeline routing, water planning, genetically engineered organisms regulation, and the high-level radioactive waste program.

EQB composition

By statute, the EQB has 15 members, including five citizen members and a chair appointed by the governor. The nine other members are the commissioners of the departments of Agriculture, Health, Natural Resources, Transportation, and Public Service and the Pollution Control Agency; the director of Minnesota Planning; the chair of the Board of Water and Soil Resources; and the director of the Office of Waste Management.

The EQB's composition has generated some criticism. Because the majority of its members represent agencies, some observers feel that the EQB is a way for these representatives to protect their own programs by affirming each other's positions on issues. Others say that the EQB is too unwieldy with 15 members and that it should have few members and stress its long-range planning role. Under this scenario, the EQB would no longer hear appeals from citizens who disagree with agency decisions. Such complaints would have to be heard in another forum in the executive or legislative branch.

At the same time, some support exists for expanding EQB membership to include the commissioner of the Department of Trade and Economic Development because economic activity affects the environment and environmental regulation affects the business climate.

In 1985, a Governor's Task Force on the Role and Functions of the Environmental Quality Board made some recommendations about the membership of the board. The 17-member task force consisted of two legislators, an agency commissioner, and representatives of local governments, environmental groups, business associations, regulated utilities, and citizens.

The task force concluded that the EQB should be composed of equal numbers of government and citizen members, and it proposed that board membership be expanded

from 12 to 15, consisting of seven citizens, the heads of six agencies, a county commissioner, and a chair appointed by the governor.

Since that 1985 recommendation, the EQB has grown to 15 members through the addition of agency members, not citizens or a local government representative. A newly defined role for the EQB would likely be the main factor in determining who should sit on the board.

If the EQB is primarily a mechanism for agencies to plan and coordinate, then equal citizen representation is less important. If it is a lead forum for citizen access, then major citizen membership on the board is critical.

The 1985 task force report contained some interesting analysis on this question. The report said that an equally balanced citizen-government EQB membership would provide for improved public participation in decisions made by the EQB, would encourage agencies to be more responsive to citizen concerns, and would cause more active agency participation in EQB matters.

At the same time, however, the report said that agency administrators, because of their specific regulatory responsibilities, may feel that a board with equal citizen-agency membership would not be sensitive to individual agency positions and problems. It was feared that agencies would seek mechanisms other than the EQB to develop and implement environmental policy.

In addition, the report stated that equal citizen-agency representation on the EQB might make it difficult for the governor to use the EQB as his "environmental subcabinet."

Under Gov. Rudy Perpich, an "energy, environment, and resources subcabinet" developed policy and advised the governor. In the Carlson administration, it is called an "environmental cluster." The EQB is not a member of this group.

In his remarks before the CORE Working Committee, Chairman Dunn noted the need for EQB to have a closer association with the governor's office. He suggested that EQB become a subcabinet or cluster agency. Dunn was appointed to the EQB by former Gov. Perpich and named chair by Gov. Carlson.

Budget and staffing

The EQB has an annual budget of about $320,000. Eight employees — an all-time low — from Minnesota Planning are assigned to perform EQB work, and staff from other agencies provide some assistance on EQB projects. In Fiscal Years 1980-1981, EQB's staffing level hit a high of 32 people, although 15 of those positions were devoted to power plant siting. EQB still is responsible for siting, but activity is reduced.

Dunn told CORE that the EQB's budget is insufficient to carry out its broad responsibilities. He said that the EQB is no longer a specific line item in the Minnesota Planning appropriation, which creates some unpredictability in resource levels. Dunn recommended that the EQB have its own staff and budget. Others argue that based on the size of the EQB's operation and its major role in planning, it is appropriate for EQB to continue its long-term relationship with Minnesota Planning.

The current arrangement is complex, because the staff of the EQB are not employees of the board. This situation requires a cooperative working relationship between the EQB chair, EQB board members, and the Minnesota Planning director.

Conclusions

The EQB's effectiveness has been limited by the fact that its responsibilities are broad and its staff is small. Some specific programs, such as genetically engineered organisms regulation, do not require the attention of the nine agency heads who sit on the board. At the same time, the majority domination by agency representatives on the board makes it difficult for citizens who disagree with decisions or policy directions set by a member agency of the EQB. In such instances, it appears the public would be better served by an EQB that had equal or majority membership of citizens.

Since the EQB was created 20 years ago, the legislature has preserved the statutes that assign EQB a watchdog role in the environmental system. Yet it has also given EQB specific program responsibilities. A number of demands are placed on EQB, making it difficult for the board to have a sharply defined identity and demonstrate its accomplishments in specific areas. The EQB cannot be all things to all people.

The EQB's primary customer is unclear, because it serves agencies, the governor, the legislature, and the public. It is essential to determine whether EQB should serve primarily an internal constituency (agencies, governor, legislature) or an external one (the general public).

From the citizen's perspective, the EQB gives citizens an opportunity to raise their concerns in a public forum before a collection of citizens and agency administrators. If the EQB or a new body plays a major role in facilitating conflict resolution in the environmental system, then it may be appropriate for that board to be controlled by citizen members.

In summary, it is difficult for the EQB to excel with its current responsibilities, structure, and staffing level. Because of its nature, this board, its role, and its future should not be considered in isolation. The EQB must be evaluated in the context of a rational systemwide redesign of environmental services.

Command and control

Finding No. 7: The environmental services system relies heavily on command-and-control regulatory processes to achieve compliance with goals rather than using a balanced mix of diverse approaches.

> *Throughout the regulatory agencies, you are dealing with a mind set that is in favor of command and control. They grew up in the agencies and have developed a set of values which is very command and control-oriented.* — Local government official
>
> *The agencies are in the business of managing permits, not water.* — State planner
>
> *We've gone about as far as we can with command and control.* — PCA manager

"Command and control" is a shorthand phrase for a regulatory process designed to achieve compliance with environmental policies by the use of fixed standards or prohibitions described in rules and permits. Most commonly, the rule specifies the general standard applicable, while the permit applies to a specific facility or site, that is, the permit makes the general rule very specific. Rule and permit violations are enforced through the use of legal proceedings, including administrative, civil, and criminal law, and a system of compliance orders, penalties, fines, and jail sentences. All forms of government (federal, state, and local) depend heavily on this method to implement environmental policy goals. Its selection as the method of choice is dictated in the language of laws, the funding of approaches, and the resources devoted to its use.

Frequently mentioned alternatives to command and control to achieve compliance are: education and training, technical assistance, various economic incentives, or some combination of the above. These approaches have been used minimally. While command and control has led to measurable environmental improvement, it also has generated highly complex and prescriptive rules; long times to process the large numbers of permits required; enforcement that is often perceived as acrimonious, arbitrary, or inadequate; and lengthy, costly litigation.

Development of command-and-control standards

Before the late 1960s, most environmental problems were dealt with by local and state government officials who were concerned with regulating land uses and mitigating a "public nuisance." Nuisances were tackled on a case-by-case basis. But by the late '60s, environmental pollution nuisances were becoming far too numerous and serious and were clearly spreading beyond local and state government boundaries, jeopardizing the ability

of legal authorities to deal with their mitigation. Thus, a new federal environmental framework was developed to prevent and mitigate pollution, which was perceived to be a threat to human health and the environment.

The federal framework began with passage of the National Environmental Policy Act in 1969, followed by the Clean Air Act in 1970. Ten major federal laws now form the basis for the federal environmental program. In developing this regulatory framework, Congress used different criteria for mitigating the pollutants, each of them imperfect.

- *Health-based approach.* The main criterion was protection of the public health. This meant limiting pollutants to those levels that would have no impact on the public health. The difficulty with this approach was the wide variability in vulnerability to pollutants among the population. For some pollutants, only no discharge could truly protect all the public.

- *Cost-benefit approach.* The main criterion was balancing the benefit of controlling the pollution with the cost of control. This approach had a measurement problem. The costs for control were relatively concrete and simple to specify; the benefits were more abstract and value-laden.

- *Technology-based approach.* The main criterion was the use of the "best available technology." While this focused discussion on fairly quantifiable issues (the efficiency, effectiveness, and costs of the technology) and provided some assured level of treatment, it sometimes led to "treatment for treatment's sake," with costly treatment being required that offered little environmental benefit.

Whatever the approach used, the rules and regulations that aim to control pollution, if they do not totally prohibit the production of a pollutant, use the following types of standards:

- *Ambient.* These standards place limits on the amount of pollutant that can be found in an environmental medium (for example, air or water) so as not to endanger its use or users. These are the benchmarks that describe the optimum limits of desired environmental conditions. They are not usually directly enforced but influence the discharge or operation standards or permit conditions. An example of an ambient standard from Minnesota Rules (formal state rules that have the force and effect of law) is:

  > The quality of this class of the waters of the state shall be such as to permit the propagation and maintenance of cool or warm water sport or commercial fishes and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the water are:

Dissolved oxygen*	Not less than 5 milligrams per liter at all times (instantaneous minimum concentration)[15]

- *Emission or discharge.* These standards place limits on the amount of pollutant that can be discharged or emitted from a facility. An example of an emission or discharge standard from the rules is:

> . . . the following effluent standards may be applied without any allowance for dilution where stream flow or other factors are such as to prevent adequate dilution, or where it is otherwise necessary to protect the waters of the state for the stated uses: . . .

5-day carbonaceous biochemical oxygen demand	5 milligrams per liter (arithmetic mean of all samples taken during any calendar month)[16]

- *Equipment or operation.* These standards require the use of certain equipment, construction, or operation techniques to limit pollutants. An example of an equipment or operation standard from the rules is:

> It is herein established that the agency shall require secondary treatment as a minimum for all municipal sewage and biodegradable industrial or other wastes to meet the adopted water quality standards.[17]

These standards are applied to specific situations through the issuance of permits for various activities that specify limitations and required monitoring and reporting. Depending on the program, the state may issue state permits, may be authorized to issue federal permits, may issue both types simultaneously, or may distinguish between activities that need a state permit and those that need a federal permit. For certain activities, local governments may require permits in lieu of or in addition to state permits, again depending on the law regulating the activity.

The following example shows the detail and specificity of a permit issued by the PCA:

> . . . THE CITY OF ELK RIVER . . . is authorized by the Minnesota Pollution Control Agency (MPCA), to discharge from the municipal wastewater treatment

[15]Minn. Rules, Part 7050.0220, Subp. 3B.

[16]Minn. Rules, Part 7050.0210, Subp. 8.

[17]Minn. Rules, Part 7050.0210, Subp. 6.

facility located in the N 1/2 of the NE 1/4 of the NE 1/4 of Section 3, T32N, R26W, City of Elk River, Sherburne County, to receiving water named the Mississippi River, in accordance with effluent limitations, monitoring requirements and other conditions set forth in PARTS I, II, III and IV hereof . . . .

EFFLUENT LIMITATIONS
During the period beginning on the effective date of this Permit and lasting until June 30, 1996, the Permittee is authorized to discharge from outfall serial number 010.

This discharge shall be limited by the Permittee as specified below using a flow of 1.04 mgd for calculating kilograms per day.

EFFLUENT CHARACTERISTICS LIMITATIONS	CONTINUOUS DISCHARGE
5-day Carbonaceous Biochemical Oxygen Demand (CBOD5)	Calendar Month Average 25 mg/l (98.3 kg/day) 85% Removal[18]

Federal-state relationship

In enacting environmental laws, Congress usually directs the EPA to administer the program. The EPA then may delegate that responsibility to the state in a process called "primacy" or "authorization." Primacy means the state is primarily responsible for operating and enforcing the program. In general, to obtain primacy, a state must have a plan for implementing the program, law in place providing state authority to conduct program activities, and funding and personnel to match federal grants for program operation.

Minnesota has obtained primacy or become authorized for implementing nearly all federal programs. Thus, the standards and approach present in the federal law and regulations are mirrored and, to some extent, modified in Minnesota Rules because state rules that implement state law in primacy programs must be no less stringent than the federal regulations.

Minnesota does not generally adopt federal regulations "as is" but rather tailors them to meet Minnesota conditions. This may mean the Minnesota Rules expand into areas the federal regulations do not address or set standards that are more stringent than federal standards. An example of state standards that are more stringent than the federal ones can be found in the water quality toxics standards. Lesser amounts of toxic compounds are allowed in Minnesota waters because Minnesota has a very active sport angler population that reports consuming more fish than the national average.

[18]NPDES Permit No. MN 0020788.

Enforcement of rules and permits

Although the state may have primacy for a program, the EPA typically retains the right to directly enforce a permit condition or standard, either at its discretion or after a notice period to the state. While this independent authority to enforce can serve as a check on inadequate enforcement, it can also produce conflicts with the state and concerns from the regulated party that deter settlement, prolonging an environmental risk. A different approach of more recent legislation is the use of cooperative agreements between the EPA and the state in which the EPA designates the state as an agent of EPA to enforce federal law.

The major federal and state environmental laws are inconsistent in the enforcement approaches they sanction. The types of enforcement tools used generally include:

- *Notices of violation.* These are formal notices sent by an agency to a permittee describing a violation and requiring a response to correct the violation.
- *Stipulation agreements.* These are legally enforceable documents negotiated between the agency and the permittee that resolve a violation by requiring actions designed to bring the permittee into compliance within a specified time period. They may contain penalties if penalties are authorized in statute.
- *Administrative orders and penalties.* Administrative orders issued by the agency require the permittee to perform activities to remedy noncompliance within a set time. Penalty authority allows the agency to impose monetary penalties of fixed amounts or up to a limit set in law for noncompliance.
- *Civil court actions*
- *Criminal court actions*

Difficulties of command and control

The regulatory system of rules and permits is scientifically, legally, politically, and technologically complex. This complexity is costly in time, resources, development, and maintenance both for the government that must operate it and the person who must comply with it. Two recent highly controversial rules in the environmental area cost the PCA $125,000 and $250,000, respectively, to promulgate. "Federal environmental policy is 'poorly designed' and 'absurdly inefficient' . . . and the cost is anywhere from $150 billion to $340 billion a year of lost gross domestic product."[19]

An attorney, testifying at an EQB hearing in August 1992, expressed concern that a

[19]Dick Youngblood, "Federal Environmental Policy Unnaturally Costly, Inefficient," *Star Tribune*, May 18, 1992, p. 2D, quoting Robert Crandall, senior fellow at the Brookings Institution.

recent law was "too complex to be enforced." The numbers of permits that must be processed and tracked are high. (For example, the PCA estimates that 1,500 facilities in Minnesota require air permits, and there are 1,000 NPDES[20] water permits.) The complexity and quantity of specified rules may exceed the ability of many persons to comply and the ability of government to administer effectively. In addition, inconsistencies between levels of government in the administration of the programs and inconsistent enforcement policies make it difficult for persons to comply or to appreciate the consequences of noncompliance.

The specificity and extent of the control expressed in rules create the impression of inflexibility and unreasonableness. A county commissioner complained, "Minnesota is not a flat table top! We have six or seven very distinct and unique ecosystems . . . . These unique ecosystems cannot all be treated the same. Can a single set of rules apply to such a diverse landscape and yet deal fairly and equally [with] everyone affected?"

CORE heard dissatisfaction from many diverse people, not with the environmental goals, but with the current costly and inefficient system to achieve them. Many addressed the need to develop a more balanced and effective mix of approaches to achieve environmental goals. A county commissioner said, "Of the two issues that are the most important, financing and training, I don't know which has the higher priority. I am not talking about a few field people. This needs to be more than mailing out a few pamphlets, but some serious, in-depth training." Another local official argued, "Agencies should change to outcome-based compliance, allowing flexibility in how we achieve the compliance." Finally, pleas for more technical assistance were heard in many settings. As a business owner said, "Technical experts are different in mind set from compliance enforcers . . . . We need a continuous improvement focus . . . . We need to build technical expertise to move forward."

Environmental services fees

Finding No. 8: The linkage between the fees paid for environmental programs and the achievement of environmental policy goals is confused and unclear to payers of the fees and the general public.

> *Fees: What are they? Where do they go?* — Political analyst
>
> *We promised our citizens there would be no more increases in fees and taxes this year. Then the legislature passed this water fee saying the municipalities must collect it . . . . It made us break our promise to our citizens . . . . Governments forget it's the same person who must pay all these fees.* — City council member

[20]National Pollutant Discharge Elimination System.

When an agency is heavily financed by fees, their budget doesn't get much scrutiny. — County program administrator

Concerns were raised from several perspectives about the use of fees to fund environmental programs. Customers pay a multitude of fees for permits, licenses, and plan reviews associated with environmental programs. As with the development of environmental programs, most fees appear to be created in response to specific funding questions rather than a comprehensive funding plan or in an effort to accomplish environmental policy objectives. Their use has increased over time. For example, a decade ago, the air quality program at the PCA was 100-percent funded by the general fund and federal funds; in FY 92, the program was 100-percent funded by fees and federal funds. The definition of fee is also unclear. This lack of clarity about the nature and purpose of environmental fees has generated wide-ranging criticism.

Criticism of fees

Although environmental fees are numerous and widespread, criticism focused on some fees paid for pollution control regulatory programs. Fees for natural resource recreational programs were not subject to the same criticisms. The criticisms of fees related to pollution control activities can be summarized as follows:

- *Inequity*. Fees charge the wrong users or do not distinguish between users. For example, only users of municipal water supplies pay the increased costs of monitoring for pollutants in all public water supplies, and these users do not pay according to the volume of usage.

- *Transference*. Some fees are imposed only to raise money and are unrelated to the service provided. For example, the water pumping report fee is used to fund a variety of water research and management projects unrelated to the costs of reporting.

- *Redundancy*. Sometimes multiple fees are paid to different levels of government or several agencies for the same or similar environmental programs. For example, a person installing a well may have to pay the MDH notification and plan review fees and the DNR water appropriation permit and pumping report fees, all for the same well.

- *Insufficient oversight*. Fee-based expenditures are perceived as receiving less scrutiny because raising fees is easier than raising taxes.

    - *Escalation*. Fees to individual fee payers go up if an agency must recover enough to fund the program appropriation, even though the number of fee payers is decreasing.

Fees for natural resources recreation programs

The criticisms expressed above arise from the different ways the legislature has approached the use of environmental fees. M.S. 16A.128 states in part:

> The legislature, in setting or adjusting fees, or taking actions affecting the setting or adjusting of fees, should attempt to ensure that (1) agency fees and fee adjustments include only those service-related costs that provide a primary benefit to the individual fee payer and (2) service-related costs that benefit the general community are borne by the agency.

The legislature appears to have followed this standard reasonably well in the area of fees for the recreational use of natural resources. The users and the benefits of a natural resource recreation program are clearly defined. The payers of fees for these recreational activities see clear benefit from the payment of the fee and are actively involved in the oversight of the use of these fees, sometimes making very specific demands for spending priorities. The best examples are the fees for hunting and fishing licenses.

The legislature has also given specific direction as to when a public subsidy of the fee is appropriate because a program has benefits beyond those to the primary users; for example, state park fees do not cover the entire costs of operating the parks because the legislature recognizes that the parks provide tourism and associated economic benefits. The debate on costs of fees for these resource uses focuses on the users and what is a reasonable cost for the user to bear. Thus, the customer is clearly identified, and the customer perceives clear benefits.

Fees for pollution control regulatory programs

Fees imposed for pollution control activities do not follow the same legislative standard. Fees are imposed to pay the administrative costs of some regulatory programs to control or monitor pollution. Who benefits from such regulation (and therefore who should pay) depends on one's perspective. The perspectives can be summarized as: "make the polluter pay" and "everybody benefits if pollution is controlled so everyone should pay." As Marcia Gelpe, former PCA Board member and a law professor, explained:

> There are two basic reasons for pollution . . . . First, pollution is a classic externalities problem. The people who produce pollution do not have to bear the full cost of the harm it produces. Therefore, they produce more than they would if they incurred all the harm themselves. Second, sometimes even those who bear the harm of pollution do not recognize its cost, due to deficits in information, so they do not make informed choices about how much pollution to produce or to tolerate.[21]

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[21]Marcia Gelpe, "Organizing Themes of Environmental Law," *William Mitchell Law Review*, 16 (1990): 898-99.

Permit fees for air, water, and hazardous wastes are an attempt to get at the costs of pollution because one cost to the public (in addition to others related to the degradation of the resource and economic and health effects) is that of regulating the discharge of pollutants.

But instead of being directly linked to the discharge of pollutants, the fees are based on the administrative costs involved in writing and enforcing permits. "Only public regulatory costs are charged, and then only some of those costs," says Gelpe. "The costs of developing the regulatory programs, for example, are not included. Moreover, the relationship between costs caused by an individual source and the amount it must pay is loose."[22]

With air quality permits, some clarification of the purpose of fees has begun. In response to the 1990 amendments to the federal Clean Air Act, the air quality permit fee is being replaced by a fee based on the tonnage of regulated pollutants emitted. The air permits are also explicitly exempted from the services-benefit language of the law.

Who benefits from pollution control activities and who should pay are questions with less clear answers. This is not an easy standard to ascertain. Insufficient information exists to determine the costs that benefit the "general community." Paying to be regulated is clearly not perceived as a benefit to the payee. In addition, the focus of the fee calculation is usually administrative costs. The costs are considered first, then the fee is allocated among the "users" of the regulation "service." These objectives do not fit the perception of user benefit.

It is clear, however, who benefits when pollution is discharged rather than prevented or controlled. The method of calculating pollution permit fees currently misdirects the focus to administrative costs and weakens the policy of "making the polluter pay." It emphasizes the costs of regulating pollution rather than focusing on reducing or preventing it.

The criticism of fees for pollution control activities appears to be related to the fact that the fees often have multiple, unclear, or competing objectives: to increase revenue, to internalize the costs of pollution, and to recoup administrative costs. The Department of Finance is attempting to clarify what is meant by fees. In its instructions to agencies for preparing the 1994-95 Departmental Earnings Report, it suggests several categories of fees. Some that appear relevant to this discussion are:

- *Service and user charges.* These are any charges for goods or services provided by an agency to an individual, business, or other entity, provided that the *primary* benefit is private and tangible and that the purchase is discretionary (that is, the purchaser is not effectively compelled to make a purchase or pay for a service).

[22]Ibid, p. 906.

- *Business or regulatory charges.* These are any charges imposed by the state on a business, industry, or other public or private enterprise for the purpose of controlling, directing, or otherwise limiting its economic or productive activities. Typically, charges of this type serve a predominately public (as opposed to a private) interest.

- *Special taxes and assessments.* These are any charges imposed by the state on a business, industry, individual, or other entity *primarily* to raise revenue for a public — yet special or targeted — purpose. Unlike regulatory or licensure charges, special tax or assessment revenues, while earmarked for special rather than general purposes, are not necessarily restricted or dedicated to the support of specific programs and activities of interest to the paying entity (for example, a pollution "fee" levied against selected industries but used to support statewide air quality programs should be treated as a special tax rather than a regulatory charge).

The criticisms CORE heard emphasize the need for clarification and communication about the nature of environmental fees, as well as the relationship of fees to the implementation of policy goals.

Intergovernmental complexity

Finding No. 9: Environmental services programs in Minnesota are carried out by a complex and fragmented maze of federal, state, and local agencies. This government complexity results in:

- **Unclear, overlapping, and redundant lines of authority, responsibility, and accountability;**

- **Increased cost to the customer and taxpayer; and**

- **Customer dissatisfaction.**

CORE staff met with hundreds of individuals who indicated that environmental services programs, rules, and regulations, along with federal–state–local relations, were becoming so complicated that they often had trouble determining which unit of government and which agency was responsible for which particular program.

Concerns were frequently voiced that there were too many agencies and governments involved in environmental programs, too many laws and rules, and too much state control. These were described in terms of "overlap and duplication," "multiple permitting," "multiple fees," and "layering." Also cited was the propensity of state government to establish statewide policies and rules without adequately considering local and regional differences. Finally, 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.

Vertical complexity — federal–state–local relations

The complexity of intergovernmental relations is heightened by the fact that the state has relied upon local governments to implement many state policies and programs. In addition to 87 counties, 856 cities, and more than 1,800 organized township governments, the state has created (or provided for the creation of) soil and water conservation districts, watershed districts, watershed management organizations, lake improvement districts, solid waste management districts, and numerous regional special districts.

This does not automatically make for a delivery system that is decentralized. Instead, the system might more appropriately be called "localized." A system that is truly decentralized is one in which commensurate decision-making authority is delegated along with the responsibility for policy implementation. In many cases of state mandated–locally administered services, responsibility, authority, and accountability have been neither clearly nor closely linked.

Another factor contributing to the intergovernmental complexity is the fact that the state has established a distinct and separate system of regional governance and enacted separate laws, particularly in the area of environmental services, that are unique to the seven-county metropolitan area. The most distinguishing feature of this system is the existence of several regional special districts that function as public corporations and political subdivisions of the state. As a result, in no part of the state are intergovernmental relations more complicated than in the Twin Cities area.

Finally, it would be difficult to overstate the importance of the role of the federal government in environmental services. Federal law is paramount, and federal agencies (for example, the Department of Interior, the U.S. Army Corps of Engineers, and the EPA) are active participants in many decisions made at the state level. Customers must often deal with both state and federal agencies and comply with separate federal and state regulations.

In addition, Minnesota law, policies, and rules must at least meet minimum thresholds established by federal law and regulations. A concern frequently voiced during CORE research was the existence of parallel and duplicative regulations and regulatory systems and the degree to which Minnesota law, policies, and rules exceed thresholds established by federal law.

Related to the federal role is the interstate and international dimension of environmental programs and policies. Minnesota is a party to several interstate compacts and multinational agreements that affect state policies and responsibilities. Moreover, the existence of several Indian reservations within the boundaries of Minnesota creates a unique set of complicated government relationships. Because of the tribes' status as sovereign nations, the state must, in collaboration with the U.S. Bureau of Indian Affairs and Indian Health Service, conduct separate negotiations with Indian tribal councils regarding any state

involvement in environmental services within the reservations. This interaction has been considerable recently in connection with numerous environmental protection issues, including fishing and hunting rights, the management of solid and hazardous wastes, and problems related to rapid land and facilities development connected with casino gambling within the reservations.

Horizontal complexity — state interagency relationships

The vertical complexity of intergovernmental relations is paralleled by a horizontal complexity at the state government level. Environmental responsibilities are vested primarily in five cabinet-level agencies: the DNR, the PCA, the MDA, the MDH, and the OWM. In addition, important but less extensive responsibilities are assigned by law to the departments of Transportation (MnDOT), Public Safety, Public Service, and Commerce, and Minnesota Planning, along with several boards, commissions, and committees. The two most prominent boards are the EQB and the BWSR. In all, about 30 agencies have responsibility for environmental services programs.

In addition to executive-branch agencies, three legislative commissions have a variety of oversight and funding responsibilities: the Legislative Commission on Minnesota Resources, the Legislative Commission on Waste Management, and the Legislative Water Commission. Several regular legislative committees also have divisions that deal with environmental services in addition to the Environment and Natural Resources committees in both the Senate and the House.

The cabinet-level departments are the administrative responsibility of commissioners appointed by the governor and confirmed by the Senate. The EQB is composed of 15 members (all appointed by the governor), including the chair, five citizen members, and the commissioners of the DNR, the PCA, the MDA, the MDH, MnDOT, and Public Service, the directors of Minnesota Planning and the OWM, and the chair of the BWSR.

The BWSR has 12 members, including three county commissioners, three soil and water conservation district supervisors, three watershed district or watershed management organization representatives, and three "unaffiliated" citizens. At least three, but no more than five, members must come from the seven-county metropolitan area. The board also has nonvoting representatives from the University of Minnesota, the MDA, MDH, DNR, and PCA.

The PCA's governing board is composed of nine citizens and headed by a commissioner, all of which are appointed by the governor; the law requires that at least one member be "knowledgeable in the field of agriculture." Other key boards appointed by the governor include: the Agricultural Chemical Response Compensation Board, the Harmful Substances Compensation Board, the Public Facilities Authority, and the Petroleum Tank Release Compensation Board. Although each has independent authority, these four boards are administratively based, respectively, in the departments of Agriculture, Health, Trade and Economic Development, and Commerce.

Finally, a number of advisory committees exist. One of the most active recently has been the Wetland Heritage Advisory Committee. This committee was established in 1991 to provide advice to agencies on the implementation of the wetlands statute and rules being promulgated in connection with that new law. It consists of nine members appointed by the governor. The law specifies that in addition to the commissioners of Agriculture and Natural Resources (or their designees), members will include a county commissioner; a representative each of a statewide sporting group, a statewide conservation organization, and an agricultural commodity group; one faculty member of an institution of higher education with expertise in the natural sciences; and one representative each from two statewide farm organizations.

Some key points relating to the fragmentation of authority and accountability are illustrated by the composition and responsibilities of these agencies and other bodies. The composition of the various boards and commissions reflects the strong tradition in Minnesota for direct citizen involvement and participation in government, the diversity of interests in the environmental field, and the legislature's desire to ensure that these interests are directly represented, along with particular specialties and areas of expertise. The overlapping and interlocking memberships on boards and commissions are designed to provide balance and to ensure multi-interest and disciplinary representation, but this situation also seriously complicates the appointment process and lines of executive accountability.

In addition, numerous provisions in the law acknowledge the close interrelationships of the various responsibilities and programs of different departments and divisions and mandate that activities among departments be coordinated. The overlapping and interlocking advisory committee and board memberships are intended to foster this coordination. More important, the EQB — itself representative of the various interests — is mandated by law to ensure this coordination.

Metropolitan complexity — special districts and regional governance

The legislature has created a system of governance within the metropolitan area that has a unique central actor, the Metropolitan Council. The council is responsible for regional planning, whereas in other metropolitan areas, regional planning is often carried out by "councils of governments" — usually creations, if not creatures, of local government. The council also differs from other systems in that it has taxing and tax redistribution authority and is responsible for implementing state law and policy and for overseeing large, complex metropolitan enterprises, such as waste water treatment and transportation.

The Metropolitan Council and the regional agencies with which it interacts have been the subjects of periodic examination and review. They have also undergone frequent modification, both in powers and structure. Each of the regional agencies has a slightly different structure creating slightly different lines of accountability.

The Metropolitan Council is mandated by law to develop a *Metropolitan Development*

Guide and a *Metropolitan Investment Framework* containing chapters dealing with such environment-related issues as health, airports, housing, recreational open space, transportation, solid waste management, sewage disposal, surface water management, water use and availability, and law and justice.[23] The law requires that government units in the metropolitan area prepare local physical development plans consistent with these council plans for sewers, transit, highways, parks, and airports.

In conjunction with the Metropolitan Council, the Regional Transit Board is responsible for transportation planning, which is central to environmental issues, while the Metropolitan Airports Commission has a key role in determining the impact of airports on land use, transportation, noise abatement, and other aspects of the environment.

The oldest and largest operating entity associated with the council is the Metropolitan Waste Control Commission, which is responsible for the metropolitan wastewater treatment system, including major trunk line collection systems and treatment facilities. Recreational open space policy is made by the Metropolitan Council with the advice of a legislatively established and council-appointed Metropolitan Parks and Open Space Commission. The policy, however, is implemented by 10 agencies: Hennepin, Ramsey, Washington, Dakota, Anoka, and Carver counties, the Suburban Hennepin County Parks District, the Minneapolis Park Board, and the cities of St. Paul and Bloomington. Scott County operates its program through a joint-powers agreement with the Suburban Hennepin County Parks District.

Departing from the pattern of establishing regional special districts, the legislature delegated responsibility for solid waste management in the metropolitan area to county governments. Each county, along with the Metropolitan Council, must have a solid waste management plan. Generally speaking, collection is the responsibility of cities and towns — often implemented through the use of private contractors — and counties are responsible for disposal.

The Metropolitan Council and its associated agencies are central to the decision-making system in environmental services. In general, plans and permit applications from local governments and the private sector must be reviewed and approved by the Metropolitan Council before they are considered for final approval by agencies. Much of the council's "review and comment" responsibility comes from the former federal A-95 regional planning requirements.[24] Although most of these requirements no longer exist, the council continues to exercise many of these responsibilities, often through specific agreements with federal agencies. In addition, state legislation continues to delegate significant review responsibilities to the council.

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[23]Minnesota Statutes, Chapter 473.

[24]"A-95" refers to federal planning requirements largely resulting from the Office of Management and Budget's Circular No. A-95 and other specific review requirements in federal legislation.

In addition to the agencies noted above, the metropolitan area also has a separate mosquito control district and, as in other parts of the state, soil and water conservation districts, watershed districts, and two lake conservation districts (Minnetonka and White Bear) that have key roles in water planning. Unique to the metropolitan area are also 46 separate watershed management organizations, authorized by the Metropolitan Surface Water Management Act, with responsibilities for water planning. These organizations vary in their scope and character, and many are actually administered under contract by soil and water conservation districts.

The pattern of government complexity that was described earlier on a statewide basis also exists in the metropolitan area, where it is magnified by an array of regional governance mechanisms. County, city, town, and special district governments have interrelated, overlapping, and potentially duplicative and redundant functions with each other and with regional and state agencies.

An example of the complexity

It should come as no surprise in a state known as the "Land of 10,000 Lakes" that the most elaborate environmental services systems are those concerned with land use and water resource management. Minnesota law dealing with water planning, water use, and soil and water conservation was largely rewritten and recodified in 1990.[25] It assigns responsibilities to several agencies and hundreds of government entities. It provides the basis for the roles of such agencies as the EQB, the BWSR, the DNR, the Legislative Water Commission, and the Legislative Commission on Minnesota Resources. At the local level, it specifies the roles of counties, cities, towns, lake improvement districts, soil and water conservation districts, and watershed districts.

Central to the state's role in water supply management is the DNR commissioner's responsibility for ensuring adequate water supply ". . . to meet long-range seasonal requirements for domestic, municipal, industrial, agricultural, fish and wildlife, recreational, power, navigation and quality control purposes from waters of the state."[26] Except for domestic water supply purposes involving fewer than 25 persons, waters cannot be used or appropriated without a permit from the commissioner, and such a permit may not be issued unless it is ". . . consistent with state, regional, and local water and related land resources management plans."[27]

Counties, cities, and towns

The Comprehensive Local Water Management Act provides much of the basic legal

[25]Minnesota Statutes, Chapter 103A-103H.

[26]M.S. 103G.265.

[27]M.S.103G.271, Subds. 1-2.

framework for water planning in the state.[28] It defines local units of government as ". . . municipalities, towns, counties, soil and water conservation districts, watershed districts, organizations formed for the joint exercise of powers and . . . other special districts or authorities exercising authority in water and related land resources management at the local level."

Counties are encouraged to develop and implement a comprehensive water plan, but they may delegate its preparation to a local unit of government, a regional development commission, or a resource conservation and development committee. Once a comprehensive water plan is completed but before it is approved, it must be submitted to: 1) all local units of government wholly or partly within the county, 2) the applicable regional development commission, 3) each contiguous county or watershed management organization, and 4) other counties or watershed management organizations within the same watershed unit and groundwater system that may be affected by proposals in the comprehensive water plan.[29]

The BWSR is responsible for developing guidelines and coordinating the development of local water plans. The law provides that the board must use a local advisory committee consisting of persons representing counties, soil and water conservation districts, municipalities, and townships, as well as persons interested in water planning, to assist in the planning process.

At the state level, coordination of water resources planning is the responsibility of the EQB. In addition, the board also must ". . . coordinate water planning activities of local, regional, and federal bodies with state water planning and integrate these plans with state strategies."[30]

This litany of coordinating responsibilities is repeated throughout Minnesota law relating to water resources planning (and to environmental services in general). Other examples can be cited:

- Regarding lake improvement districts, the law directs the DNR commissioner to coordinate and supervise a ". . . local-state program for the establishment of lake improvement districts by counties . . . based on state, regional, and local plans where the plans exist."[31]

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[28]M.S. 103B.301-103B.355.

[29]M.S. 103B.305, Subd. 4, defines "groundwater system" as the 14 principal aquifers of the state as defined by the U.S. Geological Survey.

[30]M.S. 103B.151, Subd. 3.

[31]M.S. 103B.511.

- Regarding watershed management plans, managers must send a copy ". . . to the county auditor of each county affected by the watershed district, the secretary of the board [BWSR], the commissioner [DNR], the director [of the Waters Division of the DNR], the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district."[32]

- Regarding water permits, the DNR commissioner has authority ". . . to delegate public waters work permit authority to the appropriate county or municipality."[33] The commissioner is prohibited from issuing a permit ". . . if a project does not conform to state, regional, and local water and related land resources management plans."[34]

- Regarding Eurasian water milfoil education and management, the DNR commissioner is directed to ". . . coordinate a control program . . . with appropriate local units of government, special purpose districts, and lakeshore associations."[35]

Understanding this pattern of interrelationships is paramount to understanding the complexity of environmental policy development, decision making, and administration in Minnesota.

Soil and water conservation districts

Among the oldest local special-purpose governments in environmental services are soil and water conservation districts, which date back to the mid-1930s. Although interest in soil conservation in Minnesota was already growing by then, the impetus for creating the districts was the Federal Soil Erosion Service (now the Soil Conservation Service). The Minnesota Soil Conservation Districts Law, passed in 1937, created these districts. A major reason for their creation was a recognition that soil erosion problems more closely followed the boundaries of natural watersheds than the political boundaries of counties. However, the provisions for establishing the districts required landowner and electoral data that was available only on the basis of county boundaries. Ultimately, the primary boundary used to define soil and water conservation districts (SWCDs) was that of the county. Ironically, the state would later create a separate and independent system of districts, the boundaries of which would be organized on the basis of watersheds.

The state has 91 soil and water conservation districts. Their boundaries are coterminous

[32]M.S. 103D.401, Subd. 2.

[33]M.S. 103G.245, Subd. 5.

[34]Ibid., Subd. 6.

[35]M.S. 103G.617, Subd. 4.

with those of counties, except in four cases.[36] SWCDs are governed by five-person boards of supervisors elected for six-year, overlapping terms. The territory of the SWCD is divided into nomination districts for purposes of both nomination and election.[37] These organizations have a variety of responsibilities, including preparing comprehensive soil and water conservation plans, administering cost-share funds, providing technical assistance to landowners in securing funds, and carrying out soil erosion and water conservation projects.

Coordination of SWCD activities at the state level is the responsibility of the BWSR. The board establishes rules and policies, provides technical assistance to SWCD supervisors, reviews plans and programs relating to the use of state funds, and generally coordinates soil and water conservation improvement projects.

Watershed districts

A second type of local district provided by state law is the watershed district. These government entities date to 1955, but their roots are in state drainage and flood control legislation enacted shortly after the turn of the century. The law says that the purpose of these organizations is ". . . to conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources."[38]

Watershed districts are governed by boards of managers that can be no smaller than three and no larger than nine. They are appointed by county commissioners from those counties in which the district's boundaries are located. Except in the case of soil and water conservation district supervisors, persons who are public officers of county, state, and federal governments are not eligible to be appointed as watershed district managers. In contrast to soil and water conservation districts, watershed districts perform substantial regulatory functions and have the powers of both eminent domain and taxation independent of county authorization.

The boundaries of these districts are determined on a hydrologic basis, that is, they follow the natural boundaries of watersheds. Forty-one watershed districts have been established in the state. Their boundaries are officially defined and may be modified by the BWSR

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[36]St. Louis County districts are divided on a north-south basis, those in Polk and Otter Tail on an east-west basis, and there is a joint district consisting of portions of Beltrami and Marshall Counties, in addition to separate districts for these two counties.

[37]State law provides for appointment of supervisors by tribal governing bodies when a nomination district is ". . . entirely within lands of an American Indian tribe or band to which county election laws do not apply" (M.S. 103C.305, Subd. 5).

[38]M.S. 103D.201, Subd. 1.

according to procedures specified in the law. The BWSR also has authority to redistribute power, to appoint district managers among counties, to increase the number of managers, to review and comment on proposed watershed district projects, and generally to coordinate water planning activities by the districts.

Lake improvement districts

State law also provides for the establishment of lake improvement districts by county boards.[39] Districts are established upon petition by landowners in the proposed district to boards of county commissioners. In the event a petition is not approved by one county in a proposed district that would include more than one county, the DNR commissioner may by order create (or deny the creation of) the district after following legally prescribed hearing procedures. The origin of these districts is in the 1930s, when the law provided for landowners to petition the commissioner of conservation to take steps to ensure uniform lake water levels. The legislature subsequently authorized the establishment of lake improvement districts in 1973 to address this issue.

The composition of the boards of directors of lake improvement districts as well as their authority are determined by the county board or boards. The law provides, however, that their programs and services must be consistent with the statewide water and related land resources plan prepared by the DNR commissioner and with regional water and related land resources plans.

Other programs

Numerous other programs exist under this general topic of land and water use and conservation. Those included in Minnesota Statutes, Chapter 103, under the heading "Protection of Water Resources" are: Floodplain Management Policy, the Southern Minnesota Rivers Basin Area II Program, Shoreland Development, Municipal Shoreland Management, the Minnesota Wild and Scenic Rivers Act, the Lower St. Croix Wild and Scenic Rivers Act, the Mississippi Headwaters Planning and Management Program, Project Riverbend (a land and water use planning program for that part of the Minnesota River between the cities of Franklin in Renville County and LeSeuer in LeSeuer County), the Reinvest in Minnesota Resources Act, the Water Bank Program, the Clean Water Partnership, and the Lake Preservation and Protection Program. These programs, in varying ways, assign responsibilities to state and local agencies and separate boards to plan, coordinate, and implement water resources policies.

Wetlands protection

Closely related to the water resources programs discussed above are wetlands protection

[39]M.S. 103B.501.

programs.[40] Along with its thousands of lakes, Minnesota has thousands of acres of wetlands that are of enormous importance from several environmental and economic perspectives. They offer shelter and breeding grounds for fish and wildlife, provide water for irrigation, and play a key role in replenishing the ground water supplies on which the state depends for much of its drinking water. Many of the natural wetlands have disappeared — much in the same way as have the native prairies. Parts of the state are now literally devoid of wetlands, while other areas have plenty.

The law provides that the wetlands cannot be drained unless they are replaced (usually referred to as mitigated) by wetlands that will have equal or greater public value. Limited exceptions are provided in the law for draining wetlands for agricultural use.

The responsibility for wetlands regulation is vested in the commissioner of the DNR. The BWSR coordinates the development of rules relating to wetland regulation in cooperation and with the advice of the Wetlands Heritage Advisory Committee. The most recent legislation dealing with wetlands modified the role of the BWSR and vested it with a significant role in wetlands regulation. As in the area of water resources planning, management, and coordination, issues involving wetlands also directly affect cities, towns, soil and water conservation districts, and watershed districts.

Securing the necessary permits to drain wetlands often becomes one of the most complicated and time-consuming components of both public and private development projects.

As noted earlier, wetlands are not evenly distributed across the state. However, state law and proposed regulations require that wetlands be replaced, in some cases on a two-for-one basis. In other words, for every parcel of wetland that is lost or drained, one of equal value (or twice that if the two-for-one rule applies) must be developed, replaced, or mitigated. Local officials in some parts of the state — those richly endowed with wetlands — argue that there are enough or more than enough wetlands in their counties and that it violates common sense to require them to mitigate all wetland losses. Others in areas deficient in wetlands argue that, given the nature of land use, topography, and hydrologic factors, it does not make sense to try to produce new wetlands. Minnesota's policy is one of "no net loss."

CORE staff found, in discussions with local officials and other interested parties, that the overlapping responsibilities of several units of government and agencies in the administration of wetlands laws was a major concern. People did not question the value of wetlands and the need to protect and preserve them. However, considerable concern was expressed about the complexity of procedures and the application of uniform standards to widely differing situations.

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[40]Defining wetlands has become a legal, technical, and scientific process. Many people commonly define a wetland as a marsh or bog. The law distinguishes wetlands from "public waters" in that they are waters not confined but spread and diffused over the land. See M.S. 108G.005.

Conclusion

These nine findings describe the most significant stress points in Minnesota's environmental services system. From these, CORE has developed six major recommendations to reform the system to provide the best possible service to the state's citizens and to protect its invaluable natural resources.

RECOMMENDATIONS

The nine findings presented in the previous section document the need for reform of Minnesota's environmental services delivery system. As the body of laws expanded in response to emerging environmental problems, state and local governments created a system that has grown in complexity.

CORE is recommending a package of reforms to address this structural and procedural complexity. Overall, CORE seeks to construct a system that brings the expertise and perspectives of the different state and local agencies into an integrated system that should work better for the citizens of Minnesota and should safeguard the quality of Minnesota's environment and natural resources.

CORE's six major recommendations in brief are:

1. Consolidate state environmental functions.
2. Establish a secretary of the environment.
3. Decentralize employees and expand regional services.
4. Encourage citizen input.
5. Streamline processes.
6. Reduce intergovernmental complexity.

Each recommendation is explained in full below.

Consolidate state environmental functions

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

CORE is articulating a two-agency vision in which a new Department of Resource Management emphasizes use of the natural resources in the environment, while a new Department of Environmental Protection stresses protection of the environment.

This consolidation recommendation addresses several of the CORE findings. This approach would take the state in a fundamentally new direction that is a major departure

from the current advocacy system described in Finding No. 1. At present, Minnesota has a collection of advocacy agencies, each presenting one or more differing perspectives.

Underlying this recommendation is the belief that the public is better served by a system requiring that multiple perspectives be considered within a single agency, rather than promoting a distinct advocacy role for each separate agency. This reform is not an attempt to diminish the many legitimate perspectives in the system, such as that of the environmentalist, the conservationist, the public health guardian, or the business proponent. Instead, the concerns of all of those perspectives would be seriously weighed in the new two-agency system.

This recommendation also responds to problems raised in Findings No. 3, 5, and 6 that relate to customer service, fragmentation and specialization, and planning and coordination. It reflects the position that the burden should be on the state environmental services system to provide a coordinated response to citizens, businesses, local government units, and other organizations seeking to comply with state law.

Under this reform, the customer should be able to conduct most environmental business with only one or two state agencies, instead of numerous ones. The state would continue to use the same environmental standards and regulations; but rather than the customer submitting paperwork to multiple agencies, employees within only two agencies, the Department of Environmental Protection and the Department of Resource Management, would be required to coordinate their reviews.

The following section identifies the divisions that would be housed within the two consolidated departments. 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. If CORE's two-agency proposal is adopted, the agencies' top administrators would need to identify the location of each environmental program and function.

Department of Environmental Protection

This new department would assume and expand the responsibilities of the PCA. Its staff would perform the service and regulatory functions necessary to protect and improve the quality of the state's air, land, and water, thus promoting both human health and a healthy environment.

Incorporating a public health focus into the DEP's mission is critical, because the DEP would assume some of the responsibilities now carried out by the MDH's Division of Environmental Health. It is appropriate that much of the work now performed by the PCA in protecting the quality of the air, water, and land have public health as a philosophical underpinning.

In a dramatic change, the DNR's Division of Waters would be transferred to this new department to consolidate water regulatory functions into one agency. The rationale for this change is: 1) it would clearly define DEP's role as one of protection, while the DRM would be focused on the use of resources; 2) consolidating water permits into one agency should provide better service to citizens by enabling permits to be combined or coordinated; and 3) it would bring state employees working on water regulation into a single location, which would foster better cooperation and communication.

The new Department of Environmental Protection would have the following divisions:

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

These divisions would provide compliance assistance and would work cooperatively with individuals, businesses, and local government units to attain state environmental goals and meet environmental standards. In addition, regulatory personnel would place greater emphasis on administering the state's laws in a manner that is more understandable to the affected parties and shows more flexibility than exists in the present system. This can be achieved, in part, through streamlined rules emphasizing ambient/outcome standards and well-defined and consistent enforcement protocols.

Given the concerns of business and local government units about bringing advocacy, technical assistance, and regulatory functions into a single agency, CORE recognized the need to design the internal DEP structure so that these customers would have ready access to services. Because compliance assistance in the form of grants, technical assistance, and training should be segregated from regulatory functions, such as inspections, permitting, and enforcement, these functions would be in separate sections within each of the divisions. CORE emphasizes the need for both service and regulatory sections within divisions to have adequate resources.

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 the PCA's Hazardous Waste and Solid Waste Divisions would be assigned to this new DEP division. In addition, employees from the OWM, including those involved with solid waste planning, source reduction, and capital grants, would move to this division, along with the hazardous waste functions now housed in OWM.

The SCORE recycling program also would be assumed by the new division.

OWM provides technical assistance in the waste area, and the PCA has permit and enforcement authority. This change would bring the service and regulatory functions into one division within one state agency. It is emphasized, however, that this transfer of OWM functions is designed to keep OWM's service functions independent of the regulatory functions in the Waste Division.

Functions would be shifted to this division from other state agencies. The medical waste program in the MDH would be transferred, along with the EQB's high-level radioactive waste program, which involves monitoring a federal siting process.

Division of Air Quality

This division would be very similar to the PCA's Air Quality Division. It would administer state and federal air pollution laws, and its sections would include program development and air analysis, permits, enforcement, and compliance assistance.

Division of Surface Water

This 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 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 PCA 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

Four state agencies' programs would be integrated into this division. It would build on the PCA's current water quality responsibilities and assume the MDH's public water supply, wellhead protection, and well management programs. The issuance of water appropriation permits would be transferred from the DNR to this division, along with the BWSR's ground water responsibilities, including local water plan review. Also housed in this division would be the PCA's feedlot program and other service and regulatory programs dealing with nonpoint source pollution ground water.

Division of Environmental Clean-up

This division would have sections dealing with tanks and spills, the state and federal

Superfund programs, property transfer, and closed landfill clean-up. It also would administer two boards that are now free-standing, the Harmful Substances 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 EQB, including:

- The environmental impact statement program, which provides information to the public and local government units on the environmental impacts of proposed projects before government permits and approvals are given;

- The adoption of rules requiring a permit and environmental review for any release of genetically engineered organisms into the environment and the establishment of an advisory committee;

- The critical areas program, which provides a process for the planning and management of geographic areas of regional and statewide significance; and

- The power plant siting and pipeline routing programs.

To fully implement the separation of environmental use and protection functions, it would be necessary to transfer some of the authority of DNR's Forestry and Minerals divisions — the regulation of the effects of timber harvests and mineral extraction — to this DEP division.

The Health Risk Assessment Section of the MDH, which provides expert consultation on the health impact of environmental exposure to physical or chemical agents, would also be relocated here.

Division of Support Services

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

In its plan to reorganize the executive branch into eight executive offices headed by secretaries, CORE has recommended that control of environmental agency support functions be under a secretary of the environment. Support staff would be housed within the two environmental agencies, the DEP and the DRM, to deliver services. However, a chief administrator in the secretary of the environment's office would oversee the administration of the support functions in both agencies. Consolidating the management

of these support functions within the executive office of the secretary should enable the state to eliminate some duplicate management positions.

Department of Resource Management

The Department of Resource Management (DRM) would contain many programs now in the DNR and would be structured along the following lines:

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

Division of Fisheries and Wildlife

This division would be virtually identical to the DNR's; it would manage state fish and wildlife programs and acquire land to be developed as wildlife management areas. It would also assume the BWSR's Reinvest in Minnesota program, which compensates private landowners for taking marginal agricultural land out of production for wildlife habitat.

The Ecological Services Section would provide information for use by the DEP, the DRM, and the public. The section would serve as a planning, fact-finding, monitoring, and environmental review unit. As it now does in the DNR, it would evaluate fish, wildlife, and related resources in all areas proposed for major development, such as dams, hydroelectric facilities, reservoirs, channels, mines, tailings basins, and power plants, so that these resources can be protected, mitigated, and enhanced in project plans.

As it does now, the Fisheries Section would manage the state's 3.8 million acres of fishing waters, and the Wildlife Section would implement research and management programs that affect all state wildlife species.

Division of Minerals

The DNR's Division of Minerals, which is responsible for the leasing of mineral rights and for industrial minerals and peat associated with the state-owned lands that the DNR manages, would move to the DRM.

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 have to be shifted to the DEP to separate those functions.

Division of Forestry

The DNR's Division of Forestry 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 nonindustrial private forest landowners, counties, schools, and municipalities; and assistance to wood users to improve the harvesting, use, and marketing of timber.

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 land.

Under the structure proposed by CORE, most functions would be assumed by the DRM division. Personnel who are in charge of regulating the environmental impacts of timber harvests, however, would be transferred to the DEP.

Division of Recreation

This division would consolidate two existing DNR divisions: Parks and Recreation and Trails and Waterways. It would manage the state's 66 state parks and their associated recreational programs. State park and forest trails, water access sites, and canoe and boating routes would also be handled by this division.

The outdoor recreation grant program, which is administered by the Department of Trade and Economic Development and makes grants to local units of government for parks and recreational facilities, would be shifted to this DRM division.

Division of Enforcement

This division would have the same functions it now has in the DNR. It would enforce all natural resource laws in the state and regulate commercial and sport fishing, trapping, fur buying, and hunting. It would also serve as a guardian for small and big game, fish, and migratory birds.

As they do now, conservation officers would 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 the licensing and operation of snowmobiles and all-terrain vehicles, and enforce laws dealing with alterations of beds of lakes and streams. The division would also supervise safety and training programs on the use of firearms, snowmobiles, and all-terrain vehicles.

The division would continue to do aerial pollution surveillance of lakes and rivers, survey and count moose, beaver, deer, and pheasant, and enforce all rules and statutes within state parks, campgrounds, and recreational areas that are now under the DNR's jurisdiction.

Division of Support Services

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

As noted in the DEP section, the Support Services Division would be managed by a chief administrator in the office of the secretary of the environment. Employees delivering the services would be located within the DRM.

Agencies affected by the two-agency proposal

Several agencies would be affected by this recommendation:

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

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

- The PCA Board would be eliminated and its powers transferred to the DEP.

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

- The Board of Water and Soil Resources would become the Local Government Advisory Board on Environmental Services and would advise the secretary of the

environment. The BWSR's programs and statutory responsibilities would be transferred to the DEP and the DRM.

- The Harmful Substances Compensation Board would be eliminated and its program and responsibilities transferred to the DEP.
- The Petroleum Tank Release Compensation Board would be eliminated and its program and responsibilities transferred to the DEP.
- Most functions in the MDH's Division of Environmental Health would be transferred to the DEP.
- The Department of Trade and Economic Development's outdoor recreation grant program would be transferred to the DRM.
- The EQB would be abolished and its functions transferred to the DEP.

Establish a secretary of the environment

2. Establish a secretary of the environment who would report to the governor and oversee the programs, budgets, and administration of environmental policy of the departments of Resource Management and Environmental Protection.

The secretary of the environment would be one of eight secretaries reporting to the governor under CORE's executive reorganization proposal. Under the secretary of the environment would be a deputy secretary of resource management and a deputy secretary of environmental protection; all three would be appointed by the governor. Each deputy secretary would be the chief operating officer of one of the environmental agencies described in Recommendation 1 and would be responsible for achieving the agency's goals and objectives.

Creating a secretary of the environment is critical because it would centralize accountability for the overall performance of the environmental services system. Strong leadership in this office would set the direction for improvements in customer service and conflict management, the need for which is raised in Findings No. 3 and 4. In addition, the secretary could set the parameters for a fair and understandable use of environmental fees, an issue identified in Finding No. 8. The overly prescriptive approach to achieving compliance with environmental regulation, a major concern described in Finding No. 7, would be reviewed and the systemic planning and coordination barriers detailed in Finding No. 6 would be addressed by the secretary and his or her deputies.

The major duties of the secretary of the environment are described below.

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 deputy secretaries of Resource Management and Environmental Protection about the budgetary needs of programs, the secretary would make the 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. Deputy secretaries would have control of their line-item budgets; the secretary would focus budget overview at the program level and above. The secretary would work with other cabinet secretaries to reconcile broader needs or when environmental priorities compete or conflict with priorities in other areas.

Service integration

The secretary would be responsible for ensuring coordination among the two departments to generate efficiency savings and improved customer service. Areas where oversight would be 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 the development of a standardized approach to the delegation of environmental programs, both at the national and local levels.

Conflict management

The secretary would resolve administrative, jurisdictional, operational, program, and policy conflicts between the two departments. The secretary could request the assistance of a citizen environmental appeals advisory board in resolving policy conflicts (see Recommendation 4A below). The secretary would be required to 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. The secretary also could develop additional conflict management approaches and services, such as convening stakeholders early in the process and providing mediators.

Mission development and strategic planning

The secretary would have the highly visible role of policy spokesperson for the governor on environmental issues. Broadly, this responsibility includes speeches, legislative and congressional coordination and testimony, and contacts with other states. The secretary would work with the two deputy secretaries to create an environmental vision through strategic planning and mission development for the two agencies. The deputy secretaries

would be accountable to the secretary for their administrative, fiscal, and program actions. Each deputy would advocate for the mission of his or her department but would work with the secretary to achieve the mission statement and implement the strategic plan for the whole environmental area. The secretary would be accountable to the governor and the legislature for achieving the outcomes expressed in the mission statement and for implementing the policies and programs set by the legislature.

Legislation and rule development and implementation

The secretary would have substantial control over policy through coordinating legislation and overseeing rule development and implementation. While the deputy secretaries would propose many 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 deputy secretaries would be required to justify exceeding those standards. The secretary would develop a standardized process and establish the criteria for waiver/variance requests from environmental rules of both agencies; he or she would periodically review this 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. This information would be used to ensure that waivers were being granted if justified and to determine whether rule changes might be needed.

To reduce the regulatory burden of rules, the secretary would hold the deputy secretaries responsible for: 1) preparing at least biennially 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) developing a uniform environmental code that comprehensively addresses the obligations of regulated parties and emphasizes compliance requirements based on outcome measures or ambient standards; and 3) monitoring the overall progress of rule-making responsibilities and reporting of delays. The deputy secretaries also would be required to develop alternatives to achieving policy objectives before requesting rule-making authority as part of legislation.

Decentralize employees and expand regional services

This recommendation is designed to provide better service to citizens and to locate state employees closer to the resources they are managing and the entities they are regulating. It directly responds to Finding No. 2, which described the dominance of centralized decision making in the current system and the frustration of citizens outside the Twin Cities area who would like to see more service provided through the state's regional offices.

3A. Deliver state services on the basis of ecoregions and decentralize the state's environmental employees to the extent possible. Co-located ecoregion offices would be established and headed by regional DRM and DEP directors, who would report to agency deputy secretaries. 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 deputy secretary and secretary levels.

Ecoregions represent areas that are similar throughout in climate, soils, geology, topography, vegetation types, and land use. Minnesota's tremendous natural diversity has led scientists to identify seven distinct regions in the state that differ in environmental characteristics. Each of these ecoregions has different industries and resources, along with unique environmental problems. (See Appendix A for a Minnesota ecoregion map.)

The seven natural ecoregions in the state are: northern lakes and forests (northeast), northern Minnesota wetlands (north central), Red River valley (northwest), north central hardwood forest (diagonal mass cuts from northwest to southeast), northern glaciated plains (southwest strip), western cornbelt plains (south central), and driftless area (southeast).

In addition, the Twin Cities metropolitan area would be designated as an eighth service delivery unit called the urban ecoregion. Although the metropolitan area lies within the hardwood forest natural ecoregion, it is reasonable to place it in a separate ecoregion. The Twin Cities area has unique challenges and needs based on the high level of development and heavy population density, which necessitates a separate service delivery unit.

It is unclear precisely how many employees would be shifted outside of the Twin Cities with this change. CORE estimates that 250 positions would be transferred to regional offices. The DNR and the 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 in the new DEP.

The PCA has roughly 700 employees, less than 10 percent of whom are decentralized. While this is the biggest employee pool for decentralization, some OWM and MDH employees also could be placed in regions.

3B. Assign regional office location decisions to a two-agency task force of the DRM and the DEP that would make recommendations to provide for regional offices within all ecoregions and would consult with county governments to solicit input on county boundaries. The legislature should set a deadline for completion of this work, and the task force should include employee representation from the agency programs being merged into the DRM and the DEP. Regional directors should be authorized to rent storefronts and buy or lease used office equipment and furniture in the cities selected to house the ecoregion offices.

Four state agencies currently have staff with environmental responsibilities based in regional offices in 11 cities. Those locations should be examined as part of the task force's study. However, each ecoregion should have an office. Three ecoregions do not have regional offices within their boundaries; they are the Red River valley, the northern Minnesota wetlands, and the driftless area.

Under CORE's recommendation, an office would be located in each ecoregion and would have appropriate staff to meet the needs of the particular ecoregion. To maximize administrative efficiency, however, one DRM or DEP regional director may serve as the chief administrator for two ecoregions.

To support local communities and save state tax dollars, space should be leased in existing buildings as an alternative to new construction to the extent possible. In addition, regional directors should be able to buy or lease used equipment and furniture, instead of being required to purchase new goods from an approved state vendor list.

3C. Increase the authority of the regional directors by assigning them primary responsibility for the performance of the employees under their supervision.

State employees based in regional and field offices now have two supervisors: they report to a regional director for administrative and personnel matters and to a division director or designee in St. Paul for program accountability. Under this system, regional directors have no authority to oversee effective program implementation and thus cannot be held accountable for substantive performance in their regions. Changing this situation is important to increase the effectiveness and impact of regional offices.

3D. The secretary, two deputy secretaries, and other central office managers should interpret state law and make decisions with major statewide implications. Execution of policy and programs should be carried out as close to the customer or citizen as possible.

CORE supports an increase in the number of permitting decisions that are made in regional offices. However, it is clear that some permitting decisions also have the effect of policy making. 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.

This policy will provide good customer service, efficient use of specialized expertise on complex permits, insulation of regional offices from political pressures, and consistent and effective administration of state law.

Encourage citizen input

4A. Create an environmental appeals advisory board composed of nine citizens with recognized environmental expertise and independent, objective judgment. The governor should appoint members to serve staggered terms, and no governor should appoint more than half the members during his or her 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 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. The secretary should make staff available as requested by the board to assist it. Recommendations of the board should be sent to both the secretary and the legislature. The secretary should justify in writing any departure from the advisory board's recommendations.

This recommendation addresses concerns raised in Finding No. 4 that the existing multilayered and fragmented environmental advocacy system makes it difficult to manage conflicts among competing interests in a timely fashion. CORE wants to promote a conflict management system that fairly considers the arguments of competing interests and resolves disputes openly and promptly. The new two-agency system could be expected

to promote the distillation of controversies into conflicts between the use of and the protection of the environment. Both the DRM and the DEP would naturally advocate for their different perspectives. When disputes arise between these two perspectives, the secretary, prior to resolving the dispute, should seek the advice of this citizen environmental appeals advisory board.

Such a board would provide a forum for considering controversial policy decisions involving conflicts between the advocates for the use of natural resources and the advocates for environmental protection. The board would focus on policy issues, hearing and balancing all perspectives to achieve environmentally sustainable use and development. It would make recommendations to the secretary as to appropriate policy where current policy is unclear or for changes in law or rules where current policy is inconsistent with the balance needed for sustainable development.

This conflict management system would not affect and is different from the existing administrative law system for resolving individual contested cases involving agency administrative decisions. The two forums can be distinguished as follows:

The contested case process is formal and legalistic. An administrative law judge hears the facts in dispute. The judge's authority is limited to the finding of fact and the application of the law to a particular case. The judge does not determine the appropriateness or desirability of the law or investigate situations other than the one being heard.

In considering conflicts between environmental use and protection, the citizen board would not consider the facts of an individual case, nor would it make recommendations on a specific case. It would consider whether a law or policy is appropriate, desirable, or necessary, and it would judge from many perspectives and for many possible situations what balance of perspectives promotes the general public interest. It would do this in a less formal process than an administrative law hearing, and it would seek broad policy applicability. Its mission would be to weigh values expressed in the Environmental Policy Act, rather than to find facts.

The two systems also are distinguished by timing. As mentioned earlier, when faced with a policy conflict between the deputy secretaries, the secretary should seek the advice of the citizen board before a decision is made on a permit, environmental review, or rule that would incorporate the chosen policy. A contested case hearing is available only after a decision has been made. If the board becomes involved in considering a policy that also arises during a contested case hearing, its recommendations could apply only to future administrative decisions, not to the case currently being reviewed.

The board's recommendations would be advisory, and the final decision 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 to make the secretary accountable for any decision that deviated from or rejected the board's recommendations. The

secretary should be required to explain in writing the rationale for departing from the board's recommendations.

The secretary or any citizen could appeal a policy conflict to the board. A majority of board members or a committee of the board would be empowered to accept or reject the request. The requester would have to state in writing the nature of the policy conflict. The secretary should assist the board in its deliberations by making staff available from the agencies or the secretary's office.

While recommendations must be based on an appreciation and understanding of the scientific and technical concerns underlying the conflicts, the conflicts that result between the use of natural resources and the protection and conservation of the environment are often less about science and more 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 diverse demands in the public interest, consistent with the policies set forth in the Environmental Policy Act.

4B. Convert the Board of Water and Soil Resources to a permanent advisory board to the secretary of the environment. Change the BWSR's name to the Local Government Advisory Board on Environmental Services.

The rationale for this recommendation is the acknowledgment that local government units have major responsibility for administering many environmental laws and programs, and it addresses issues raised in Finding No. 9 on intergovernmental complexity. To promote an effective partnership with local governments, the secretary would need to hear regularly from them, since they are 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 4C reflects CORE's belief that citizens must have good access to the state's environmental services system and should have input on issue identification, customer service, and program development and implementation. Findings No. 2 and 3 on the current centralized decision-making process and customer service issues document the need for such citizen input.

Regional councils would reduce conflict by providing early identification of concerns and

4C. Direct the secretary of environment to establish regional environmental councils, which would be convened by the regional directors of the DEP and the DRM. These councils would allow the agency administrators to stay in touch with the concerns of citizens and constituency groups in each region, to gauge the effectiveness of service delivery, and to develop and evaluate programs.

quick involvement of affected parties in developing remedies. These citizen councils would be in a good position to suggest how a new program could be effectively implemented for the region and how to improve delivery of programs for that region.

Streamline processes

The effective operation of the environmental services system depends in large part on the procedures, processes, and approaches used to implement state policies. Following are several recommendations for improving and streamlining compliance processes that should make the system more efficient for its customers and more effective at protecting the quality of Minnesota's environment. These recommendations specifically address some of the command-and-control regulatory processes described in Finding No. 7.

5A. Improve the command-and-control approach by standardizing the process of delegating programs to local government and the enforcement tools available in all programs to achieve compliance.

Such standardization would promote clear understanding of responsibilities and consequences for noncompliance.

The federal government delegates enforcement of programs to the state, and the state delegates enforcement of some state and federal programs to local governments. However, there is no consistent pattern, procedure, or format available for a standardized process of delegation at either the federal or the state level. Delegation arrangements and review of operations now vary from program to program.

The terms and procedures for delegation should be developed to streamline the process and improve accountability. Once delegated, the delegating party should not interfere in operation of the program, unless program outcomes are not met. Criteria would need to be developed for rescinding delegation.

Enforcement tools in all programs should also be standardized. The piecemeal development of environmental programs over time has led to agencies having different

authorities to address environmental problems. For example, some agencies lack authority to issue administrative penalty orders, and some have discretion to set administrative penalties, while others do not. Civil and criminal penalties may vary significantly. Although not every tool needs to be used in every situation, each agency should have access to every tool and a similar ability to enforce compliance.

This reform would give agencies an array of tools, so that they could use the most effective one for a given situation. It also would clarify the enforcement process for both the regulators and the regulated parties, making it more understandable and equitable, especially for multiple permittees. The secretary of the environment and his or her deputies would be responsible for carrying out this recommendation.

5B. Implement a variety of reforms in environmental rules that will increase flexibility and decrease the costs of compliance while maintaining environmental protection.

This recommendation involves five key steps:

1. *Create a uniform environmental code that bases compliance requirements on outcome measures.*

   Rules and statutes relating to environmental protection and natural resources are scattered throughout the authorities of several state agencies and local governments. Compiling them into one environmental code could ease compliance and expedite repeal of obsolete and inconsistent directives. Although some compilation initiatives have been made in certain areas, a comprehensive review has not been undertaken.

   Ambient standards specify the desired outcome or environmental quality to be protected or achieved. Equipment, operation, or discharge standards detail the specific methodology required. Developing specific technological standards imposes a significant burden for both the regulated and the regulators. Technology may not anticipate every problem, may overcorrect, or may be unavailable, unproven, or unsuitable. Familiarity with operation of the technology may be uneven among regulators and the regulated community, and monitoring to verify its use and maintenance is difficult. Whenever possible, new rules should emphasize outcomes and accountability of the permittee for achieving ambient standards.

   This change would provide flexibility to choose the most cost-effective compliance option, which would reduce the economic burden of compliance and allow for innovation in control technology. Finally, it could create an incentive for better operation and maintenance, because the choice of technology would be made by the people who will operate it.

2. *Allow regional directors to grant waivers to rules.*

   This reform connects to the emphasis on service delivery through ecoregion offices. Because of the differences between ecoregions, it may make sense to grant waivers from some state rules.

   The regional administrator should be able to waive a prescriptive rule for a trial period to evaluate its need or to design an alternative approach. This should be the case when the purpose of the rule is clear and the party affected by the rule or the regulator enforcing the rule can demonstrate in writing a sound rationale for a waiver. It must be shown that waiving the rule would not: 1) hinder the accomplishment of the environmental purpose or 2) seriously impair the accomplishment of another, equally important environmental purpose.

   Achieving this reform could eliminate unnecessary economic burdens, allow for experimentation and innovation, and promote the integration of rules and environmental objectives.

3. *Focus the rule scope to target the most common hazards, rather than every possible hazard.*

   Too often, rules are driven by extraordinary incidents or operations that cause the creation of an excessively stringent standard to apply to everyone. Rules should seek to address the most common situations or operations, rather than unusual or rare situations. This reform could significantly decrease the economic burden, while effectively addressing situations creating the majority of environmental problems.

   In addition, the scope of rules should be targeted to the risks of the hazard being regulated. The most comprehensive scope should be reserved for the situations that pose the greatest risk.

4. *At least biennially, the secretary should propose lists of rules that should be repealed because they are obsolete or unnecessary.*

   Rule housekeeping tends to be ignored by agencies due to the cumbersome process involved. The use of a convenient vehicle to repeal unneeded rules, similar to the revisor's bill to clean up statutes, could reduce the rule clutter. This change would make it easier for affected parties to understand what is required for compliance.

5. *Provide more scrutiny and justification for rules that exceed federal standards.*

   Under Recommendation 2, the secretary would review all rules proposed to exceed federal standards, and the deputy secretaries would be required to justify exceeding the standards. It costs parties to comply with a multitude of different regulations. The

costs should be weighed against other societal goals and economic factors. Such weighing is most appropriately done by the legislature. When rules are developed from federal regulations, the legislature should decide if and when exceeding federal minimum standards is desirable.

5C. Develop alternative approaches to achieving environmental compliance, including the exploration of market incentives, broader public accountability mechanisms, and expanded training and technical assistance.

CORE sees an advantage in creating a mix of approaches to achieving environmental compliance in the state. The following actions would create this mix:

1. *Analyze the applicability of market approaches, such as a pollution charge system, fees and taxes, and marketable permits.*

   Market approaches are a needed tool to achieving environmental compliance. How and when they can be implemented should be part of the analysis that agencies use to determine how to achieve environmental compliance. Increased awareness of the importance of the environment, acceptance of environmental constraints, and recognition of the limits of the command-and-control system are factors that will facilitate the transition to using market approaches.

   In regard to pollution charges, Finding No. 8 reported that the linkage between the fees paid for environmental programs and the achievement of environmental policy goals is confusing and unclear to fee payers and the general public. It stressed the need for clarification and communication about the nature of environmental fees. Most of what are called fees are actually better described as pollution charges, regulatory charges, or special taxes. Unfortunately, multiple or competing uses for the revenue from these fees have negatively affected the willingness of fee payers to pay.

   The legislature should clearly delineate the purpose of these fees: 1) direct user-benefit fees, 2) charges to promote compliance through internalizing pollution costs, or 3) special taxes to raise revenue for public, but targeted, environmental purposes. Fees should only be used for their defined purposes. Where appropriate, the use of direct charges on pollution should be increased, similar to the charge assessed on air emissions.

   In regard to marketable permits, emissions trading has been applied mostly in the air pollution area, but increasing attention is being paid to the applicability of permit

trading in other media, such as water and solid waste disposal. Although difficulties exist in terms of information and multiple users of the same resource, it is an effort that warrants examination. Agencies should be encouraged to develop and implement a marketable permits concept for environmental media, subject to ongoing review and evaluation.

2. *Use the marketplace to enforce environmentally desirable choices by developing mechanisms for using the news media to provide information to consumers about products and violators.*

   The choices of individuals fundamentally create incentives to pollute or to protect the environment. The education of and provision of more information to consumers could bring the powerful forces of the marketplace and public opinion to bear on environmental violators, prompting potentially quicker responses than generated by the enforcement of rules. Two approaches to using this power of choice are:

   - Create a review commission to evaluate the environmental safety of products and provide a "seal" of safety. This approach is being used with government-established commissions in Canada and Germany, and some voluntary systems are being developed in the United States, though their use is limited.

   - Increase recognition and publicity for both permit violators and environmental innovators who go beyond the requirements for compliance. Use funds from administrative fines to provide rewards for outstanding environmental performance.

3. *Focus on pollution prevention by allocating more staff to training and technical assistance.*

   Finding No. 7 reported the desire of many persons to have a more balanced mix of tools available to achieve environmental compliance; training and technical assistance were frequently mentioned methods.

   In recommending the consolidation of environmental functions into two agencies, CORE emphasized the need for a strong commitment to well-funded programs for compliance assistance. In addition to proposing that compliance assistance and enforcement functions be organizationally separate, CORE strongly recommended that the legislature and the secretary of the environment ensure that staff and resources adequate to meet the demand for training and technical assistance are provided. An investment in these functions would prevent pollution and reduce the need for enforcement efforts.

Reduce intergovernmental complexity

6. Establish a process for clarifying and simplifying intergovernmental relations in the delivery of *all* environmental services.

The following steps should be part of this process for reducing government complexity at the substate level, a problem identified in Finding No. 9.

1. *Ecoregions should be the focus and organizing principle for the delivery of environmental services by both the state and local governments.* The boundaries of ecoregions should be adjusted for county boundaries and established by a task force consisting of representatives from the new state departments and local governments.

   Minnesota is complex ecologically. It has seven ecoregions that can be identified by variations in climate, soil, topography, water, and land use. Diversity characterizes its natural environment.

   Minnesota is also complex governmentally. It has 87 counties, 856 municipalities, and 1,801 townships. In the Twin Cities area, the Metropolitan Council adds another dimension of complexity. In the environmental services area, Minnesota has several special-purpose governments, including 91 soil and water conservation districts and 41 watershed districts. Multiplicity characterizes its government environment.

   Environmental and natural resource problems do not recognize political borders and are not conveniently compartmentalized: a deer does not know when it crosses a county line; an air pollution problem may be linked to a water problem or to a waste problem.

   Special-purpose governments have been created because existing government units do not coincide with the environmental units of concern, be they watersheds, forests, or plains. Yet, environmental problems are often connected to the uses made of the land by people, and how people are allowed to use the land is decided by their local governments. The necessity of meeting the needs of people accustomed to seeking service from general-purpose governments and the needs of the environment, which transcends boundaries and causes the creation of special-purpose governments, explains a great deal of the intergovernmental complexity.

   CORE believes this complexity should be simplified to reduce both costs and confusion for the citizen. All counties in an ecoregion would share similar environmental concerns and natural resources; therefore, planning and service resources should be maximized by being shared or coordinated across an ecoregion organiza-

tion created by local governments. Although ecoregions are not the ideal planning and service framework for every environmental concern, they are a good compromise for integrating planning for all environmental media. CORE anticipates that cost savings would follow from such integrated planning and service delivery, as well as a reduction in the number of special-purpose governments.

Because the boundaries between ecoregions are in many cases indistinct, political and natural boundaries can be adjusted to coincide. A team of professionals from the two state environmental departments and representatives from local government should serve on a task force to designate the boundaries. The task force would balance the need to have regions that are environmentally similar with the need to create regions that are easily identifiable and convenient for citizens.

2. *The existing local water planning process should be used both to examine service overlap and duplication and to establish needed regional interactions.* Planning for media other than water should follow and be incorporated into the regional organizational structure designed through water planning.

Water is without a doubt the most complicated environmental area. Water literally defines Minnesota and is used by every citizen of the state. It has both essential and recreational uses. Because of its many uses, water is regulated from many perspectives, for many purposes, and by many levels of government. Many of the environmental special-purpose governments deal with water.

To establish some order in the management of water by local governments, the legislature passed in 1985 the Comprehensive Local Water Management Act (M.S. 103B.301-103B.355). Its goal was to encourage counties to develop and implement a comprehensive water plan and to coordinate with contiguous counties and other local units of government. The plans were to address problems in the context of watershed units and ground water systems and to be based on principles of hydrology, environmental protection, and efficient management. They also required a description of land use and anticipated development. Thus, the local planning process initiated a process that required thinking about interrelationships and beyond isolated political boundaries.

The planning process has been a useful tool for catalyzing cooperative partnerships between adjoining counties and between state agencies and counties. Several counties have joint powers agreements to share water planning efforts. Although nonmetropolitan counties are only encouraged by law to participate in water planning, most have prepared plans, many are actively pursuing implementation, and the remainder are engaged in some form of planning. The seven-county metropolitan area is required by state law to engage in the planning process, and this planning is still under way.

The plans must be updated every five years. Local governments are now beginning

to develop what are known as "second generation" water plans.

Because the process already has sparked a shift in thinking beyond borders and a focus on interrelationships of natural resources, CORE believes the process fits well with its recommendation to use ecoregions as an organizing focus. The water planning process can be used to identify ways in which planning and service delivery can be conducted and coordinated for all environmental media. Indeed, experience with shared water planning efforts should prove valuable for counties in creating an ecoregional organizational structure for cooperative planning and service delivery.

For the process to achieve the goal of reducing intergovernmental complexity, local water planning should be made a required responsibility of counties so all counties actively participate. A requirement of the planning process would be to identify and clarify government roles in implementing the plan. The plan would describe areas of overlap, duplication, or obsolescence in water management and address how they would be simplified. Currently, only plans in the metropolitan area are required to describe conflicts between watershed plans and plans of local government units; they also must identify the relationships between and the responsibilities of the planning organization, state agencies, local soil and water conservation districts, and affected counties, cities, and towns. This requirement should be expanded to *all* counties.

Once the roles are clarified in the area of water, the process should be expanded to other areas of environmental and natural resource management responsibilities, including waste and air. These responsibilities should be integrated into the ecoregional organization structure established through water planning.

3. *Regional organization structures that address regionwide environmental issues should be designed and implemented by the counties; the state should hold counties accountable so that the outcome of planning addresses ecoregion and statewide needs.* The counties should have flexibility in designing regional organizations; the state should have the ability to ensure that the plans are completed and the regional management structures implemented.

   CORE believes that a regional management structure is needed to ensure compatibility, consistency, and cooperation in planning and the delivery of environmental services by counties. Such a regional management structure already exists in the Twin Cities area and is consistent with the proposed urban ecoregion; therefore, CORE recommends that the Metropolitan Council be authorized to oversee planning and effect coordination and consideration of ecoregional planning and service delivery in the metropolitan area.

   Because of the diversity of existing interactions between local governments in other parts of the state, CORE recommends that the actual design of ecoregional organizational structures be crafted by the affected government units. The local water

planning process will promote the evolution of such an ecoregional organization, but the nature of the relationships and responsibilities may well be different from ecoregion to ecoregion. Such flexibility for local units of government is a principle CORE has advocated throughout its recommendations.

The ecoregional organization would be created by local units of government to coordinate and maximize planning and environmental service delivery for local units of government. It should have authority to require changes in local plans to the extent needed for compatibility and consistency with regional considerations. When such ecoregional cooperation does not develop, however, the state should have the ability to ensure that such planning is completed and implemented. State oversight should consist primarily of technical assistance, but when the outcome of the planning process is inadequate to meet ecoregion or statewide needs, the state should have the authority to compel affected local governments to consider those needs in the plans and to indicate how they will be met. The state also should assist counties with recommendations to the legislature on statutory changes needed to achieve simplification or to implement ecoregional organizations.

The application of the principles outlined above should reduce both costs and confusion in the intergovernmental area. By building upon existing trends and capitalizing on existing processes and relationships, a more efficient system can be crafted over time that is better for both Minnesota's environment and natural resources and for the people who use and enjoy them.

FISCAL ANALYSIS AND IMPLEMENTATION PLAN

Government spends approximately $300 million a year on protecting Minnesota's environment and managing its natural resources. In FY 1992, six agencies spent that amount from all funds available, including state appropriations, federal funds, and user fees.

More than 60 percent of the expenditures are made by the state's largest environmental agency, the Department of Natural Resources, which also has the largest number of employees in the system.

Table 1 breaks down environmental services expenditures, by agency, from FY 1991 through 1993. Table 2 lists the number of employees by agency. The DNR had 2,606 of the 3,646 environmental services employees in FY 1992.

CORE sought to design an environmental services system with two primary goals: safeguarding the environment and providing better service to the citizens of Minnesota. These goals resulted in recommendations that place a priority on improving the efficiency and effectiveness of the system.

The recommendations that advocate structural and procedural streamlining should result in better customer service and some cost savings. CORE's proposed spending reductions would occur as a result of administrative efficiencies. No proposed immediate program cuts are made in the CORE recommendations.

Cost savings

Savings would be achieved through the permanent reduction of 36 positions, including executive managers and administrative and technical support personnel. The annual savings for this cut would be $1,836,000. Such reductions would be possible because the two-agency delivery system would be more administratively efficient than the current fragmented system. It is also expected that office space costs would be reduced by $250,000 a year when about 250 employees are transferred to regional offices located in space leased for less money than would be required in the metropolitan area. Total annual savings from these two areas would be $2,086,000.

Since $450,000 a year in new funding would be needed to support a secretary of the environment and his or her seven-member staff, the net annual savings would be $1,636,000. (See Table 3 and Figure 1.)

One-time transition costs and pay-back period

Implementation of these recommendations would involve a one-time transition cost of $3,469,400. About $2 million would be spent on relocating personnel to ecoregion offices outside the Twin Cities area and consolidating other staff to the two new agencies' central offices. Other start-up costs would include moving equipment, changing the names of the agencies on signs, buildings, vehicles, and uniforms, and opening three ecoregion offices in areas currently underserved.

Based on the annual savings projected, the one-time transition costs would be recovered through savings achieved in slightly more than two years of ongoing operations.

Potential future savings

These projected savings are minimums. CORE expects that more savings will be identified by the secretary of the environment once all environmental services functions are consolidated into two agencies. Future savings should develop after the secretary and top managers closely scrutinize the administration of all environmental programs.

Benefits to Minnesota's economy

The CORE reforms should also generate significant savings for Minnesota's overall economy from the reduction of unnecessary regulatory burdens that would be accomplished by:

- *Streamlining rules.* Creating a uniform environmental code that is outcome-based, focusing rules on environmental risk, allowing waivers, and repealing obsolete rules would increase flexibility and decrease costs of compliance while maintaining environmental protection.

- *Promoting pollution prevention.* Providing more training and technical assistance would offer the chance for reduced economic and environmental liability.

- *Encouraging alternative approaches.* Using market and consumer incentives would allow environmental goals to be met without costly bureaucracy.

- *Expanding regional offices.* Making it easier to get decisions and assistance from regional offices around Minnesota would help customers save time and money.

Table 1

MINNESOTA'S ENVIRONMENTAL SERVICES SYSTEM EXPENDITURES			
Agency	**Fiscal 1991**	**Fiscal 1992**	**Fiscal 1993**
DNR	$ 184,010,000	$ 192,268,000	$ 194,524,000
PCA	54,150,000	66,409,000	80,494,000
OWM	20,508,000	21,064,000	20,971,000
MDH	10,234,000	11,163,000	13,477,000
BWSR	8,998,000	9,342,000	11,013,000
EQB	544,000	517,000	628,000
TOTAL	**$ 278,444,000**	**$ 300,763,000**	**$ 321,107,000**

Source: Minnesota Department of Finance
FY 1991 and 1992, actual figures for all except EQB, which is estimated for FY 1991.
FY 1993, estimated figures.

Table 2

NUMBER OF EMPLOYEES, FISCAL 1992	
Department of Natural Resources	2,606
Minnesota Pollution Control Agency	737
Office of Waste Management	54
Department of Health, Environmental Health Division	192
Board of Water and Soil Resources	49
Environmental Quality Board	8
Total Employees	**3,646**

Source: Minnesota Department of Finance

Table 3

ENVIRONMENTAL SERVICES Fiscal Analysis			
Activity	**Annual Savings**	**Annual Increase**	**One-Time Transition**
Two-agency consolidation			
Eliminate 36 positions	($ 1,836,000)		
Move equipment			$ 44,400
Change names			$ 750,000
Establish office of the secretary			
Add eight positions		$ 450,000	
Decentralize to regional offices			
Move equipment			$ 75,000
Relocate personnel			$ 2,000,000
Set up three new offices			$ 600,000
Space savings	($ 250,000)		
TOTAL	($ 2,086,000)	$ 450,000	$ 3,469,400

Note: Net savings for five years: 5 ($2,086,000 - $450,000) - $3,469,400 = $4,710,600.

Figure 1

SUMMARY FISCAL ANALYSIS OF ENVIRONMENTAL RECOMMENDATIONS

1. Consolidate into two agencies

SALARY SAVINGS: $1,836,000 (annual)

Assumes reduction of 36 positions in the following categories:

- Executive managers: 10 positions, $713,000 (assumes two new agencies have no more than four executive managers each)
- Clerical support to executive managers: 5 positions, $177,500
- Administrative support: 10 positions, $403,500 (includes accounting, public information, data managers)
- Technical support: 11 positions, $542,000 (includes planning, agency coordination, supervisory duplication)

MOVING COSTS: $44,400 (one-time)

Assumes a $300 cost to move equipment and a 148-staff move within the metropolitan area.

NAME CHANGE COSTS: $750,000 (one-time)

Assumes immediate replacement of signs, uniforms, etc. Does not include an estimate for integration of electronic data management systems. Assumes this integration is needed whether or not consolidation occurs and is not a cost of consolidation.

2. Create a secretary of the environment

COSTS: $450,000 (annual)

Assumes secretary has seven staff.

3. Decentralize to regional offices

COSTS: $2,675,000 (one-time)

SAVINGS: $250,000 (annual)

Assumes that 250 positions will be transferred to regional offices. Twenty percent of

these will be vacant and will not require relocation costs. Relocation costs are estimated at $10,000 per person. Assumes a differential of $7 per square foot on leased space between metropolitan area and Greater Minnesota locations. Estimates costs for start-up of a 10-person regional office to be $200,000.

4. Encourage citizen input

REVENUE NEUTRAL

Assumes that costs of per diem and travel remain the same to obtain citizen input. Number of advisory boards created approximately replaces the current number of boards.

5. Streamline processes

REVENUE NEUTRAL

These recommendations build upon ongoing activities in local program delegation, rule making, public information, and enforcement. They can be initiated immediately by changing emphasis and focus. Some recommendations would require new money, but their implementation would be financed through reallocating funds from other activities.

6. Reduce intergovernmental complexity

REVENUE NEUTRAL

Assumes using an existing process that is phased in over time.

Note: The savings and costs outlined above would come from several different funds, including the state's general and dedicated funds, as well as federal funds.

CORE ENVIRONMENTAL SERVICES IMPLEMENTATION TIME LINE

RECOMMENDATION	1993	1994-1995	1996-1997	1998-2000
1. Consolidate state environmental functions into two agencies				
Create the departments of Resource Management & Environmental Protection.	CORE introduces a bill creating new agencies and transferring functions from nine existing agencies.	Bill passes. Staff relocated into new agencies and organizational structure.		
2. Establish a secretary of the environment				
Create the position of secretary to oversee the two agencies' programs, budgets, and policy implementation.	CORE introduces a bill creating secretary position and defining authorities and responsibilities.	Bill passes. Secretary appointed and oversees reorganization of environmental agencies into two departments.	Secretary develops strategic plan and begins implementation of recommendations for streamlining processes and procedures.	Reforms fully implemented. Progress on strategic plan evaluated.
3. Decentralize employees and expand regional services				
Co-locate regional offices in natural ecoregions.	Begin evaluating possible locations for shared regional offices. Set membership of task force to establish ecoregion boundaries; collect information and establish process for setting boundaries.	Task force establishes ecoregion boundaries and location of regional offices. Legislature appropriates funds. Space acquired.	Co-located regional offices fully implemented.	
Allocate more staff to regional offices.	Evaluate programs for potential decentralization. Evaluate position vacancies for reallocation to regional offices.	Regional directors appointed. Existing staff begin relocation to regional offices.	Regional offices fully staffed.	
4. Encourage citizen input				
Establish environmental appeals advisory board.	Introduce bill authorizing creation and establishing membership and appointment process.	Bill passes. Members appointed by governor.	Board actively recommends resolutions of policy conflicts to secretary and legislature.	Board continues active advisory role.

RECOMMENDATION	1993	1994-1995	1996-1997	1998-2000
Establish local government advisory board on environmental services.	Introduce bill converting BWSR to local government advisory board.	Bill passes. Board established and members appointed.	Secretary actively seeks advice, especially on reducing intergovernmental complexity.	Board continues active advisory role.
Establish regional environmental councils to advise regional directors.		Regional directors establish councils to advise on operation and organization of regional offices.	Regional councils assist regional directors with evaluating programs and identifying and resolving regional concerns.	Councils continue active advisory roles.
5. Streamline processes				
Standardize the process of delegating programs to local government.	All agencies analyze programs that could be delegated, list authorities, and analyze effectiveness of existing delegation mechanisms.	Agencies develop a standardized process for delegation of programs, standards for evaluation, and criteria for rescinding. Draft needed legislation. Bill passes.	Agencies assist local governments with implementing delegated programs; evaluate program performance.	Ongoing delegation, assistance, and evaluation.
Standardize enforcement tools available to program managers.	Agencies and attorney general analyze programs and propose standardized tools. Prepare bill.	Bill passes. Agencies and attorney general provide training for uniform understanding and use of tools.	Training continues for both staff and regulated community.	
Develop a uniform environmental code.	Bill introduced requiring revisor to compile listing of all environmental rules from all agencies.	Bill passes. Secretary directs analysis of categorized rules for comprehensiveness and ease of use.	Code development completed.	Ongoing updates and repeal to code.
Permit regional directors to grant waivers from existing rules.		Secretary's office writes rule for waiver review process and standards. Based on requests, agencies identify state and federal rules that need revision.	Agencies write any state bills and work with the EPA to change federal rules or laws necessary to fully implement this recommendation.	Analysis of waivers and need for rule changes ongoing.
Secretary should propose list of rules for repeal.	Agencies begin evaluating rules as to need and effectiveness.	Secretary submits first list of obsolete rules for repeal in revisor's bill.	Secretary submits list of obsolete rules for repeal.	Repeal lists continue to be submitted biennially.

RECOMMENDATION	1993	1994-1995	1996-1997	1998-2000
Develop alternative approaches for compliance, including market incentives, public accountability mechanisms, and pollution prevention.	Before requesting rule-making authority, agencies consider whether alternative approaches might be used to implement desired programmatic goal. Begin to develop incentives.	Secretary ensures adequate resources devoted to training and technical assistance in reorganization. Staff deployed to regional offices as needed. Staff encouraged in efforts to develop market and consumer incentives.	Marketable permits available for some water and waste programs.	Balanced mix of approaches, including command and control, market and consumer incentives, training, and technical assistance used to achieve compliance.
6. Establish a process for simplifying intergovernmental relations				
Focus on ecoregions for the delivery of all environmental services.	Local government units begin considering how ecoregions might be defined and used by them for planning and coordination.	Local governments participate in task force to establish ecoregion boundaries. Begin to consider ecoregions in planning.	State regional offices provide counties with technical assistance for using ecoregions.	Cooperative use of ecoregions for planning and service delivery by both state and local governments.
Use local water planning process to propose reductions in complexity.	CORE introduces bill to require counties to submit water plans and to report areas of overlap and duplication among government units.	Bill passes. Counties actively involved in water planning process.	Counties continue water planning, identifying areas of overlap, and noting regional needs.	Work proceeds on planning for programs other than water.
Develop ecoregional organization structures.	CORE introduces bill to require the development of ecoregional organization structures.	Bill passes. Counties discuss how regional organizations might function and operate. Legislation developed if needed to implement.	State assists with implementation, ensuring the law and funding needed to implement are available.	Most regional organizations operating.

CONCLUSION

The state's environmental services system affects the lives of every Minnesotan. Many levels of government share responsibility for managing, using, and protecting Minnesota's environment and natural resources. These responsibilities have grown over time, and the balance of demands for use and protection has also changed. New uses for natural resources have been found, and new threats to human health and environmental stability have emerged. Government has expanded to meet both of these challenges.

Reforms have been made periodically over the years to respond to changing demands and to promote integrated approaches to environmental management. The fragmentation and compartmentalization present in the current environmental system and the resulting citizen confusion demonstrate that a new period of reform is needed. The system has been largely successful in implementing sound, and many times innovative, environmental protection and natural resource management policies; however, it would benefit from a reduction in cumbersome processes and confusing organizational structures.

CORE's recommendations for the system are designed to make it healthier, more efficient, and more effective. Consolidation of state functions into two agencies would address fragmentation, while clearly assigning accountability to administrators would expedite decision making, reducing the cost of compliance in both time and money. Decentralizing employees and delivering services on an ecoregion basis would provide improved customer service and better environmental protection and management, while creating ways for citizens to advise administrators would increase government responsiveness. Streamlining processes and developing alternative approaches would increase flexibility and decrease regulatory burdens while safeguarding environmental quality. Finally, intergovernmental complexity would be reduced by promoting cooperation and coordination among all levels of government and in all programs.

These recommendations would enhance Minnesota's existing strong environmental services system, make it easier for the citizens who use and enjoy the state's environment and natural resources to actively participate in its protection, and equip the state to deal with the demand for an environmentally sustainable future.

APPENDICES

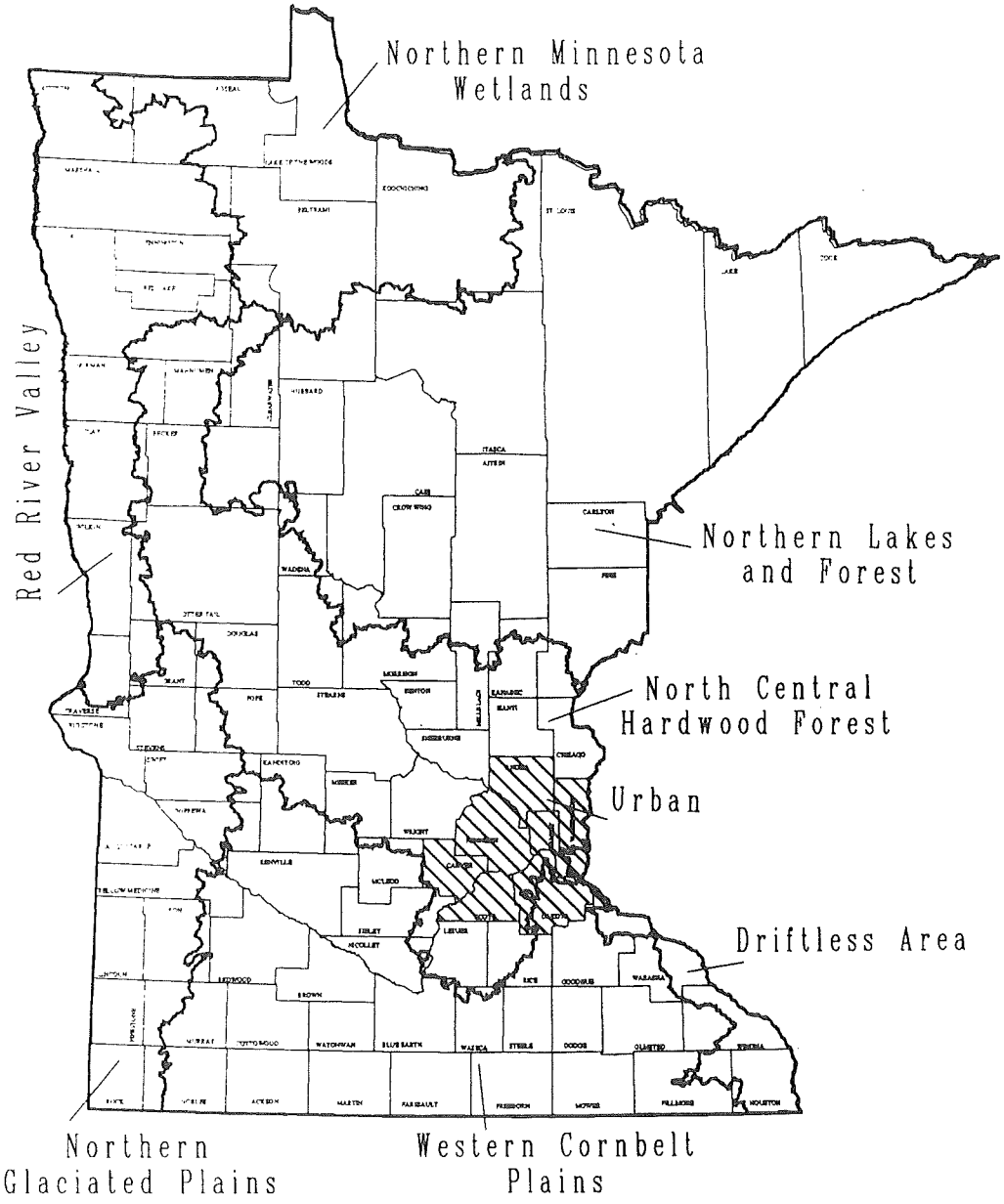
A: Ecoregion map

B: Public input

C: Acknowledgments

APPENDIX A

Minnesota Counties and Ecoregions



APPENDIX B

PUBLIC INPUT

CORE consulted widely with people in the public and private sectors to define the problems in the environmental services system and to develop alternative structures and procedures.

Presentations to the CORE Working Committee

In the early stages of the CORE project, the working committee invited the heads of seven major state agencies to address CORE on the status of the current system and opportunities for reform. Appearing before the committee were: Robert Dunn, chairman of the Environmental Quality Board; Marlene Marschall, commissioner of the Department of Health; Jim Nielsen, chairman, and Ron Harnack, executive director, of the Board of Water and Soil Resources; Elton Redalen, commissioner of the Department of Agriculture; Dottie Rietow, former director of the Office of Waste Management; Rod Sando, commissioner of the Department of Natural Resources; and Chuck Williams, commissioner of the Pollution Control Agency.

Sen. Steve Morse and former House Speaker Robert Vanasek spoke to the committee in July 1992 about their recommendations on reforming the environmental services system.

Environmental Quality Board hearings

In late August and early September 1992, the EQB hosted a series of seven hearings around the state to gather public testimony on the strengths and weaknesses of the environmental services system. Members of the EQB conducted the meetings, and CORE staff and working committee members were in attendance to hear citizens' concerns. The meetings were held in St. Cloud, Grand Rapids, New Ulm, Detroit Lakes, Marshall, Rochester, and St. Paul. About 350 to 375 people attended the hearings, and a cross-section of citizens testified.

CORE group meetings and individual interviews

CORE staff spent considerable time soliciting input on problems and possible solutions through individual interviews and group meetings. Meetings were conducted with executive branch agencies, including the departments of Agriculture, Health, Natural Resources, Public Safety, Public Service, Trade and Economic Development, and Transportation; the Agriculture Chemical Response Compensation Board; the Board of

Water and Soil Resources; the EQB; the Harmful Substances Compensation Board; the Metropolitan Council; the Office of Dispute Resolution; the Office of Strategic and Long-Range Planning; the Office of Waste Management; the Petroleum Release Compensation Board; and the Pollution Control Agency.

CORE also had contact with the Legislative Commission on Minnesota Resources, the Legislative Water Commission, the Legislative Commission on Waste Management, House Research, Senate Counsel and Research, the Attorney General's Office, the Dyrstad Commission on Local and State Government Relations, the Governor's Office, and the environmental cluster of the executive branch agencies.

Several meetings were held with local government officials and organizations, including: the Association of Minnesota Counties, the Association of Soil and Water Conservation Districts, the League of Minnesota Cities, the Minnesota Association of Townships, the Minnesota Association of Watershed Districts, the City of Blaine, the City of Marshall, Dakota County, Hennepin County, and the Community Health Services Advisory Committee of the Minnesota Department of Health, which includes representatives of county government.

A number of meetings were held with environmental organizations, business associations, and other groups with interests and insights on the environmental services system. These organizations included: the Citizens League, the Indian Affairs Council, the Minnesota Business Partnership, the Minnesota Chamber of Commerce, the Minnesota State Bar Association, the Nature Conservancy, the Sierra Club, and private consulting firms. CORE staff also met with a range of people at the Minnesota Environmental Initiative conference in October 1992, which focused on state agency organization structures.

Written public input

After the CORE Working Committee made preliminary recommendations in December 1992, it solicited written public comment. Fifty-four letters were received; nine from affected state agencies, three from state employees, 12 from local government units, 21 from agribusiness groups and individual businesses, six from environmental groups and citizens, and three from public health organizations.

APPENDIX C

ACKNOWLEDGMENTS

CORE would like to thank Robert Dunn, chairman, and Mike Sullivan, executive director, of the Environmental Quality Board for planning and conducting the seven EQB hearings in the fall of 1992 that provided valuable citizen input into the CORE research process.

CORE also appreciates the Minnesotans in government and private organizations who took the time to be interviewed by staff, attend CORE Working Committee meetings, and critique the preliminary recommendations.

In addition, CORE acknowledges the contribution of Robert Wider, an attorney who researched and wrote a detailed working paper titled "Market Approaches to Environmental Regulations." The paper explored the current literature on market incentives to assess their applicability in Minnesota. It was used by CORE staff as background for major sections of this report. Wider's work for CORE was an in-kind contribution from the Minnesota Mutual Life Insurance Co., St. Paul.

The CORE Environmental Services Project was directed by Nancy Feldman. Her staff members for the project were Virginia Reiner, Liz Fedor, and Jim Cox.

For further information on this report, contact the Commission on Reform and Efficiency, Department of Administration, Management Analysis Division, 203 Administration Building, 50 Sherburne Ave., St. Paul 55155, telephone (612) 296-7041.

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