PERFORMANCE AUDIT

COMMISSION ON THE ARIZONA ENVIRONMENT

Report to the Arizona Legislature
By the Auditor General
January 1990
90-1

AUDITOR GENERAL REPORT SUMMARY

January 1990 Report No. 90-1

The Office of the Auditor General has conducted a performance audit of the Commission on the Arizona Environment (CAE). This performance audit was conducted in response to Chapter 311, Subdivision 92 of the 1989 Session Laws which directs the Auditor General to prepare an evaluation of CAE and present conclusions and recommendations relating to the effectiveness and need for the agency.

The Commission on the Arizona Environment was established by the Legislature in 1986 and succeeds the Governor's Commission on the Arizona Environment which was originally created by executive order in 1965. The commission has 11 members and works with an advisory council consisting of State environmental and natural resource agency heads as well as conservation and business groups having an interest in environmental affairs. CAE's enabling legislation directs it to make recommendations on environmental matters and to facilitate the coordination of public awareness of environmental issues. The commission's primary activity involves a series of quarterly workshops on selected topics.

The Role of the Commission on the Arizona Environment Should Be Revised or Else the Commission Should Be Terminated

The need for the commission, as it currently functions, is difficult to justify. The commission's role should be revised to focus on what many see as its primary benefit - providing forums for discussion of environmental issues.

Commission statutes require the commission to develop recommendations and to facilitate the coordination of public awareness programs. However, commission recommendations and efforts to coordinate public awareness have limited impact on Arizona environmental policy. Although the commission has made 29 recommendations on environmental issues during the past two years, observers (including key legislators, legislative staff, and heads of State environmental and natural resource agencies) do not consider the recommendations to be a significant contribution to environmental policymaking. Observers also discount CAE efforts to coordinate public awareness; most indicated that their organizations'

efforts took place without influence by CAE. However, most observers feel the commission provides benefits through its workshops. Commission workshops and meetings provide a forum for discussion, particularly about emerging environmental issues.

The commission's ineffectiveness results from the lack of a clearly defined role and inadequate direction of its staff. After three years as an agency, commission members are still trying to define its appropriate role and function. In addition, the commission has not been able to ensure that its major activity - workshops - are relevant and productive to environmental policymaking in Arizona or that its staff provide adequate support for workshop activities.

If the Legislature continues the commission, it should consider changing the commission's enabling legislation to focus efforts in this direction. The commission needs to define and justify the staff needed for this purpose and should monitor staff activities to ensure that they are consistent with this purpose.

The Commission on the Arizona Environment Needs to Improve Its Financial Management

CAE has exhibited questionable spending practices of State monies, some of which may violate State law. The agency made what appear to be improper allocations to its revolving fund to avoid overspending its general fund appropriation during fiscal years 1988 and 1989. A review of selected expenditures during fiscal year 1989 identified a pattern of payments for meals, an office party, and other expenditures that are questionable, imprudent and may violate State law. Other expenditures - such as the hiring of relatives for small jobs - may not only violate the law but may create the appearance of impropriety. In addition, some expenditures seem imprudent. For example, the executive director traveled to an out-of-state conference two weeks after being informed that the agency would be unable to stay within its fiscal year appropriation.

Although many of the expenditures we found are small amounts, we believe the pattern established indicates a clear need for stronger fiscal controls to ensure better financial management of commission resources. Needed controls include meaningful review of expenditures by commission members, statutory revisions to more clearly specify how the commission's revolving fund may be used, and a change to a line-item appropriation of the commission's general funds. The commission concurs with the need for greater commission oversight of expenditures, and is currently revising its procedures.

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

LINDA J. BLESSING, CPA
DEPUTY AUDITOR GENERAL

January 26, 1990

Members of the Arizona Legislature
The Honorable Rose Mofford, Governor
Ms. Susan Lofgren, Chairman
Commission on the Arizona Environment

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Commission on the Arizona Environment. This report is in response to Chapter 311, Subdivision 92 of the 1989 Session Laws which directs the Auditor General to evaluate the effectiveness and need for the commission.

The report concludes that the need for the Commission on the Arizona Environment, as it currently functions, is difficult to justify. Commission recommendations and efforts to coordinate public awareness have a limited impact on Arizona environmental policy. However, many policy-makers feel that the commission provides benefits through its workshops which provide opportunities for persons of diverse backgrounds and interests to discuss environmental issues. If the Legislature continues the commission, it should consider changing the commission's enabling legislation to focus efforts toward serving as a forum for discussion, particularly regarding emerging environmental issues.

We also found that the commission has not managed it fiscal resources in a responsible manner. Commission expenditures have been imprudent and, in some cases, may have violated State law. This pattern of expenditures clearly indicates a need for stronger fiscal controls.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Douglas R. Norton

Douglas R. Norton
Auditor General

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SUMMARY

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The Role of the Commission on the Arizona Environment Should Be Revised or Else the Commission Should Be Terminated **(see pages 7 - 14)**

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The Commission on the Arizona Environment Needs to Improve Its Financial Management **(see pages 15 - 20)**

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Commission on the Arizona Environment (CAE). This performance audit was conducted in response to Chapter 311, Subdivision 92 of the 1989 Session Laws which directs the Auditor General to prepare an evaluation of CAE and present conclusions and recommendations relating to the effectiveness and need for the agency.

The commission was originally created by executive order in 1965 as the Governor's Commission on Arizona Beauty. The name was later changed to the Governor's Commission on the Arizona Environment. Then, in 1986 the Commission on the Arizona Environment was established by the Legislature. Prior to 1986 CAE was housed in the Arizona Department of Transportation which also provided the commission with a variety of administrative support services.

Commission Organization and Activities

The commission consists of 11 members appointed by the Governor. Commission members are to be appointed based on their "demonstrated competence, experience and an interest" in the Arizona environment. Commission members are not compensated for their efforts.

The commission's enabling legislation also establishes an advisory council "to provide guidance and otherwise assist the commission in fulfilling its duties." By law, the advisory council must include representatives from 11 specified State agencies. Other council members are selected by the commission and represent business and professional organizations, citizen and conservation groups, the academic community, and various governmental entities. The council currently has 106 members who, like the commissioners, are not compensated for their efforts.

The legislation creating CAE directs the commission to:

> "Actively develop and provide recommendations regarding the social, economic, recreational and ecological aspects of the Arizona environment through public education programs.
>
> Facilitate the coordination of public awareness programs regarding the social, economic, recreational and ecological aspects of the Arizona environment.
>
> Communicate with a broad range of citizens of this state, including members of the business and academic communities, so that conclusions developed by the Commission represent, as nearly as possible, a cross section of thought on environmental issues."

The commission attempts to fulfill its legal responsibilities mainly through quarterly workshops. At these workshops, the commission assembles its advisory council and invites the general public to discuss various environmental issues facing the State. From these discussions, the advisory council formulates conclusions and makes recommendations to the commission for their consideration. Recommendations approved by the commission are forwarded to the Governor and Legislature. Issues discussed at these quarterly forums have included: environmental planning, outdoor recreation, and the impact of urban growth on the environment.

Operations and Staffing

CAE manages its operations through a series of standing committees. Commission management and general operations are directed by three committees. The administrative committee oversees council membership, staff/personnel matters, office functions, and policies. The operations committee manages finances, budgets, administrative rules, and operating guidelines. The program committee selects and implements workshop topics, and reviews CAE's goals and objectives each year.

The advisory council participates in CAE activities primarily through four resource committees: the growth, transportation, and energy committee; the solid waste, air, and hazardous materials committee; the

land committee; and the water committee. Each committee is responsible for addressing workshop topics and for tracking developments and issues pertaining to its specific area of concern.

The commission retains a staff of three including an executive director. The staff works with the program committee to assist in planning, organizing, and implementing the quarterly workshops. In addition, the executive director and her staff are responsible for recording the minutes of commission business meetings, transmitting all CAE recommendations and reports to appropriate parties, and performing other tasks as requested by the commission. The executive director may also represent the commission at official functions.

Revenues and Expenditures

CAE operations are funded by general fund appropriations and through a revolving fund. General fund monies are used to finance CAE staff, personal services, and some of the commission's other operating expenses. For fiscal year 1990, $111,200 in general fund monies were approved (see Table 1, page 5).

A.R.S. §49-124 establishes a revolving fund which permits CAE to accept grants and donations, to assess fees for its workshops, and to collect monies for publications. Fund monies are to be used for commission surveys, studies, publications, internship programs, workshops, and workshop equipment. Monies collected are not subject to reversion unless the fund balance at the end of the fiscal year is greater than $25,000. If this occurs, monies in excess of that amount are reverted to the general fund. During fiscal year 1989, the fund had a beginning balance of $944, $40,389 was collected, and $41,254 was expended (see Table 2, page 6).

Audit Scope and Purpose

As directed by the Session Law, our audit of the Commission on the Arizona Environment addressed the need for the commission and its

effectiveness in meeting those needs. In addition, during the course of the audit, questions arose which led us to review selected expenditures made during fiscal year 1988-89 to determine CAE's compliance with applicable statutes and procedures. The audit report presents findings in two areas:

- The need for, and the effectiveness of, the commission, and

- The level of fiscal responsibility exercised by the commission over certain expenditures.

In response to a legislative request, the report also presents information on the costs of participation in CAE activities by other State agencies (see Other Pertinent Information, page 21).

Much of the information collected on the need for, and effectiveness of, the commission was gathered through structured interviews and a mail survey. The methodology used for these activities is described in Finding I.

This audit was conducted in accordance with generally accepted governmental auditing standards.

The Auditor General and staff express appreciation to the Commission on the Arizona Environment, the advisory council, and the commission staff for their cooperation and assistance during the audit.

TABLE 1

COMMISSION ON THE ARIZONA ENVIRONMENT
GENERAL FUND
STATEMENT OF FTEs AND ACTUAL AND BUDGETED EXPENDITURES
FISCAL YEARS 1987-88, 1988-89, AND 1989-90

	1987-88 (Actual)	1988-89 (Actual)	1989-90 (Budgeted)
FTEs	3	3	3
Personal services	$ 61,837	$ 69,470	$ 70,900
Employee-related	12,081	14,354	14,000
Prof. & outside services	463	1,889	-0-
Travel, in-state	3,666	3,066	4,700
out-of-state	1,833	2,108	500
Equipment	1,915	-0-	-0-
Other operating	36,370	22,813	21,100
TOTAL	$118,165	$113,700	$111,200

Source: Arizona Financial Information Systems and the State of Arizona Appropriations Report for the Fiscal Year Ending June 30, 1990

TABLE 2

COMMISSION ON THE ARIZONA ENVIRONMENT
REVOLVING FUND
STATEMENT OF ACTUAL EXPENDITURES
FISCAL YEARS 1987-88 AND 1988-89

	1987-88 (Actual)	1988-89 (Actual)
Personal services	$ -0-	$ -0-
Employee-related	-0-	-0-
Prof. & outside services	21,821	17,026
Travel, in-state	-0-	-0-
out-of-state	-0-	-0-
Equipment	-0-	-0-
Other operating	4,663	24,228
TOTAL	$26,484	$41,254

Source: Arizona Financial Information Systems and the State of Arizona, Appropriations Report for the Fiscal Year Ending June 30, 1990

FINDING I

THE ROLE OF THE COMMISSION ON THE ARIZONA ENVIRONMENT SHOULD BE REVISED OR ELSE THE COMMISSION SHOULD BE TERMINATED

The need for the Arizona Commission on the Environment, as it currently functions, is difficult to justify. Although statutes require the commission to develop recommendations and to facilitate coordination of public awareness programs, commission efforts in these areas have had limited impact. Instead, the benefit of the commission appears to be its workshops. The workshops are seen as valuable forums for discussing environmental issues. However, an unclear role and poor direction of staff have kept the commission from focusing on these forums. If the commission is continued, its role should be revised to focus on the workshops.

Workshops Are Primary Benefit

The primary benefit of CAE is its workshops. Recommendations made by CAE have little impact on legislation or the actions of CAE's member agencies. CAE has also had little impact on public awareness programs. However, many persons believe the commission's workshops are a unique forum for discussion of environmental issues.

Commission recommendations - CAE's enabling legislation requires the agency to make recommendations on environmental matters and report annually to the Governor and Legislature. To do this, CAE: 1) assembles an advisory council consisting of government officials, business and professional interests, educators, and conservationists; and 2) convenes quarterly workshops to identify and address environmental concerns. During the past two years, CAE made 29 separate recommendations dealing with environmental issues such as water transfers, trespass on State land, off-road vehicles, air quality, and native plant protection.

Implementation of these recommendations is listed as a commission priority.[1] However, these recommendations generally have not had a major impact on environmental legislation, on the actions taken by executive branch officials, or on activities of its own advisory council.[2]

- **Legislators and legislative research staff** - Key legislators did not credit the CAE recommendations with having a strong impact on environmental legislation.[3] Only one of the seven legislators interviewed credited the commission with having a significant impact on legislation.

  We also reviewed the 29 commission recommendations with legislative staff to assess CAE impact on recent legislation. Staff members identified very few recommendations that contributed significantly to legislation. One staff person stated that CAE has not been active in the discussion of legislative initiatives, while another described the commission's input as "worthless."

- **Executive branch officials** - The consensus among these officials is that most of the CAE's recommendations did not contribute to the discussion or affect the outcome of pertinent environmental issues. To assess the impact of CAE recommendations on State agencies, we reviewed recommendations that specifically addressed the agencies' areas of responsibility. All but one of the twelve officials interviewed stated that CAE recommendations had little or no impact on decision making. For example, in November 1987, the commission made several recommendations related to water transfer issues. According to the Department of Water Resources' representative on the commission's own advisory council, CAE positions were "not even considered" by the agency or other participants involved in policy discussions or legislative proposals. The commissioner of the State Land Department described CAE recommendations as having "little impact" on actions taken by his agency.

- **Advisory council** - Only 11 percent of the commission's 62 advisory council members who responded to our survey report that CAE

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(1) Minutes of the December 5, 1988 commission meeting state "The number two priority of the Commission will be to follow up on its recommendations to insure that they are implemented. As a part of this, staff will track all environmental bills through the Legislature."

(2) We interviewed the directors and/or other high level officials of eight executive agencies including the Departments of Environmental Quality, Game and Fish, Water Resources, State Land, Education, Transportation, State Parks, and the Commission of Agriculture and Horticulture. A representative from the Governor's Office was also interviewed. A mail survey was conducted to solicit input from all 106 members of the commission's advisory council. Sixty-two council members returned the survey for a response rate of 58 percent.

(3) We contacted the committee chairmen and ranking minority members of House and Senate environmental and natural resources committees. A total of 7 legislators were contacted.

recommendations had a significant impact on actions taken by their affiliated groups. In contrast, almost 40 percent stated CAE has not had a significant impact.

There are several reasons why CAE recommendations frequently do not affect environmental decision making. Very often the recommendations are vague, and do not address questions such as how they will be implemented, by whom, and at what cost. For example, the commission recommended that parties seeking to transfer water demonstrate need for the transfer and show that they attempted to conserve existing water supplies. The recommendation, however, did not identify who would be responsible for evaluating the requests or the basis for the evaluation. In other cases, CAE recommendations lack value simply because they are already being acted upon. In 1988 the commission issued a series of recommendations about alternative fuels. According to DEQ and ADOT officials, many of these proposals were already being implemented, and thus, CAE's involvement was of no consequence.

Public awareness programs - CAE efforts to comply with its statute by coordinating public awareness programs have had a limited impact at best. Survey respondents report that CAE is generally not having a wide effect on public awareness. Some respondents, however, credit the agency for implementing several public awareness programs.

State agency officials and council members report that CAE is not having a wide impact on efforts to educate the public. By law, the commission is required to "facilitate the coordination of public awareness programs." However, only 24 percent of the council members responding to our survey report that CAE has played a role in the programs sponsored by their groups. In addition, only 23 percent report that their organization has participated in programs sponsored by other groups as a result of encouragement from CAE. All of the groups sponsoring public awareness programs (approximately 60 percent of the respondents) said that they coordinate their activities with groups other than the commission. Thus, CAE may not be needed to coordinate public awareness since many of the groups are doing this on their own.

Some survey respondents credited the commission for conducting the Take Pride in America Program (TPIA). The commission is the State coordinator of this federal awards program which recognizes volunteer work performed on public lands. Commission staff encourage television and radio stations to air public service announcements provided by the TPIA program. The staff also solicits and processes applications for awards. This year, in addition to administering the awards program, the commission organized its own TPIA project, a trail-building event at Lake Pleasant, as part of "Public Lands Month."

Respondents also identified the VANDALS Hotline as a significant CAE public awareness activity. However, this program has provided little benefit. The VANDALS Hotline is a toll-free number which allows the public to report acts of vandalism on public lands. Although there is no way of knowing whether the hotline has prevented vandalism during fiscal year 1989, only 12 reports of vandalism were received as a result of the hotline, at a cost to the State of $122 per call. According to the director of the Arizona Game and Fish Department, whose staff answer the phones, the 800-VANDALS line is not cost-effective.

In addition, although CAE staff has participated in a variety of workshops, field trips, and other environmental events to promote public awareness, few of these were listed by the survey respondents when discussing benefits provided by the commission.

Forums - Although CAE's policy impacts and public awareness programs were not seen as significant, legislators, agency heads and advisory council members did note that CAE workshops provide a unique and valuable forum for discussion of environmental concerns. The commission's enabling legislation requires CAE to communicate with a broad range of citizens in order to discuss environmental issues. Most individuals contacted feel that the quarterly workshops provide a forum where people of diverse interests and affiliations can meet and discuss environmental issues, particularly emerging issues that are not yet major concerns of public agencies.

In addition, workshop participants report they are able to establish contact with a variety of public and private organizations that deal with environmental issues. Such contacts have lead to the discussion and resolution of conflicts between various agencies and groups. One legislator noted that this benefit is particularly helpful in the legislative process because groups can work out differences prior to coming before the Legislature, thereby increasing the chances for successful legislative action. Finally, CAE workshops feature speakers, panel presentations, and discussions that educate participants and heighten their awareness of particular environmental issues.

An Unclear Role and Weak Oversight of Its Staff Activities Have Impaired the Commission's Effectiveness

Inadequate leadership and the lack of a clearly defined role have diminished CAE's effectiveness. Although CAE has been an agency since 1986, the commission has thus far failed to clearly define its role and function or set up an adequate process to meet its workshop objectives. In addition, weak oversight of its staff's activities affects the commission's success.

Role and Function - Despite being a State agency for more than three years, the commission has not yet decided upon an appropriate role. First raised at a September 1986 business meeting, the issue of the commission's role and function was still being debated at their August and September 1989 business meetings. Both the chairman and vice-chairman of CAE admitted the agency lacked direction. Another commission member added "we don't know what . . . we are (or) what we're supposed to do."

Workshops - As noted previously, the commission attempts to fulfill its statutory responsibilities largely through its workshops. However, advisory council members and executive agency officials have commented that the workshops are not always relevant and productive. These problems appear to occur because the commission has failed to establish an adequate process for accomplishing workshop objectives as shown in the following:

- Commissioners agree that CAE lacks effective procedures for selecting workshop topics and for evaluating the workshops. CAE has been criticized for selecting topics which lack relevance for many of their membership, and for failing to adequately focus workshops on manageable topics. Though legislators, and executive agency officials agreed that CAE could be most effective dealing with emerging issues, CAE has selected some topics which had already been addressed by other groups. For example, the 1986 workshop on air quality may not have been a productive use of participants' time because the issues discussed had been studied by other groups. The result was that CAE endorsed recommendations previously made by the Governor's Urban Air Quality Task Force, the Maricopa Association of Governments, and the Center for Law in the Public Interest.

- The commission has not effectively balanced the membership of its advisory council. Membership is not accurately tracked to ensure adequate representation of interests and geographic areas. In addition, CAE does not actively recruit members to balance the membership.

Oversight of CAE staff - The commission's lack of effectiveness is also attributable to its failure to direct its staff. Despite being instructed to concentrate their activities on the quarterly workshops - the agency's number one priority - staff continue to focus their attention on other projects. A review of the executive director's activities for the last six months indicates that little of her time is spent on workshop-related activities. For example, much of the staff time is spent on the public awareness programs such as Take Pride in America. Public awareness programs are clearly designated by the commission as a lower priority than the workshops. The executive director also devotes time to activities which seem minimally related to CAE, such as the Arizona/Mexico Commission. In fact, three commissioners told us the executive director had been asked to stop participating in this activity.

Because staff are working on activities which are not commission priorities, they are unable to provide the preparation and follow-up work needed to ensure effective workshops and support other commission

activities. Some commission members cited a lack of staff support for commission activities as a problem. We also noted instances where staff support was weak or not evident.

- Program committee members had to restart the topic selection process at the August 1989 meeting because staff failed to prepare summaries of the previous meetings.
- Despite volunteer assistance from the City of Mesa, CAE staff did not complete the August 1989 workshop report on time.
- Two weeks prior to the December 1989 workshop, staff had not arranged for speakers, prepared business meeting agenda packets, prepared agendas for the resource committee meeting, or paid for the workshop reception.

Adequate staff support is critical to the success of commission activities. Commission and council members are unpaid volunteers. Both the CAE chairman and vice-chairman agree that it is unrealistic to expect these volunteer workers to contribute the time and effort necessary to ensure effective workshops.

If the Commission Is Continued, Its Role Should Be Revised

There is not a strong, apparent need to continue the commission as it presently functions. The value of commission activities is derived from its role in bringing together diverse interests to explore and discuss environmental issues. However, these forums have suffered because much of the commission's limited resources have been directed to other activities.

If the commission is continued, its statutory role should be more narrowly focused on serving as a forum for discussion. Although most observers contacted during the audit felt that CAE has not had a significant impact on environmental policy in Arizona, they see the commission's workshops as a major benefit. Legislators, agency heads and advisory council members generally characterized the workshops as a forum for discussing environmental questions and exchanging ideas. A number of

respondents felt that the commission could be particularly effective if its workshops addressed emerging issues that were not yet the focus of policy or agency activity.

Serving as a forum will require CAE to drop some of its current activities that have diverted resources from this role. As noted above, the CAE staff involvement in projects such as a Take Pride in America and the Arizona-Mexico Commission reduced CAE's ability to organize and conduct effective workshops. Since these other activities provide limited benefit, CAE should curtail its involvement in them in order to focus its limited resources on conducting workshops.

The commission will also need to clearly define and justify the staff and other resources needed to effectively carry out this role. In recent years, much of its staff time was directed to other activities. Although this would seem to suggest that the commission could function effectively with fewer staff, the concerns about the quality of the workshops suggest that staff time diverted to other activities may be needed even if the commission's scope is narrowed.

Recommendations

1. The Legislature should consider either terminating the commission or revising its role to focus on providing forums for discussion of environmental issues.

2. If the Legislature continues the commission with a narrower role, the Legislature should review the staffing and budget needed to support the narrower role.

3. If continued, the Commission on the Arizona Environment should establish clear priorities for staff activities. The priorities should reflect the need to present workshops for discussion of critical environmental policies. The commission should also monitor staff activities to ensure that they are consistent with commission priorities.

FINDING II

THE COMMISSION ON THE ARIZONA ENVIRONMENT NEEDS TO IMPROVE ITS FINANCIAL MANAGEMENT

The Commission on the Arizona Environment needs to improve the management of its financial resources. The agency has exhibited questionable spending practices of State monies, some of which may violate State law. Stronger fiscal controls are necessary to ensure better management of CAE's resources.

CAE has two funding sources. The agency receives a lump-sum appropriation from the general fund as well as nonappropriated monies from a special revolving fund. Most of its general fund appropriation (approximately $85,000 out a total appropriation of $111,200 for FY 1990) is allocated to personnel costs for the three FTE staff. CAE also has a special revolving fund established by A.R.S. §49-124. This fund allows the commission to use monies collected from private and public sources to fund costs such as surveys, studies, publications, and workshop-related activities that exceed its general fund appropriation. The commission has wide discretion in using these monies. The commission collected approximately $40,000 during FY 1989 to subsidize its activities.

CAE Spent State Monies Excessively and in Possible Violation of State Law

It appears the commission inappropriately allocated expenditures to its revolving fund - either because it was confused about or misunderstood the appropriate allocation of expenditures between the general fund appropriations and the revolving fund. If the expenditures had been appropriately allocated, the commission probably would have overspent its appropriation in two consecutive fiscal years. A review of selected expenditures during FY 1989 shows that imprudent spending of State monies contributed to the overspending.[1]

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(1) The legislation authorizing this audit directed the Auditor General to evaluate the need for and effectiveness of the commission. Although a review of specific expenditures was not part of the original legislative charge, we examined selected expenditures after questions about CAE expenditures arose during the course of our audit work.

Fiscal year 1988 - CAE used FY 1989 appropriations to pay expenditures from the previous fiscal year. $2,200 in expenses for FY 1988, such as the agency's monthly phone bill, printing costs, and State Motor Pool charges were paid with monies appropriated for FY 1989 since FY 1988 appropriations had been spent.(1)

Fiscal year 1989 - Again, $2,200 in expenses from 1989 were paid with FY 1990 appropriations because the appropriations for the prior year (1989) had been spent.(2) Our review also identified a series of imprudent and possibly unlawful expenditures as documented by the following examples.

- **Lunches and Dinners**
  Between September 1988 and March 1989, CAE spent over $260 from its revolving fund for staff lunches and dinners not associated or in conjunction with its statutorially charged workshops or conferences. None of these events occurred when agency staff were on travel status. In almost all of the cases we question, CAE staff paid for their own meals with State monies, and often paid for the meals of those with whom they were meeting for lunch or dinner, including CAE commissioners, advisory council members, and State officials. For example, in January 1989, the CAE executive director used commission funds to buy lunch for herself and the new director of another State agency.

  Comment: These expenditures are imprudent, at best, and may be unlawful. CAE staff should not have paid for most, or for possibly any, of the meals of those with whom they were meeting for lunch or dinner. CAE's enabling legislation precludes using State funds for the reimbursement of expenses for commissioners or advisory council members.

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(1) These claims against the FY 1989 appropriation were processed improperly. Expenses exceeding $300 cannot be paid in the following year's appropriation without prior approval. In the absence of such approval, a special appropriations is required. CAE did not seek prior approval of the Department of Administration (DOA) to pay the FY 1988 expenses with the following year's appropriation, as required by A.R.S. §35-191.D, and DOA did not detect these improper claims. One of the undetected claims was a $621 expenditure, which according to DOA could have been approved if the proper procedures were followed, but, under the circumstances should not have been approved.

(2) DOA authorized payment for most of these expenses from CAE's FY 1990 appropriation, but refused to approve an expenditure exceeding $300. According to DOA, CAE should have sought a supplemental appropriation from the Legislature to pay this expense or approval prior to the expenditure. Instead of using either process, CAE paid this expense from funds remaining in its revolving fund. According to DOA, by transferring this expense to its revolving fund, CAE bypassed the process.

- **Coffee, Soda & Snacks**
  During the course of FY 1989 and continuing into FY 1990, CAE staff made frequent purchases from the coffee shop located at its headquarters and from local supermarkets for numerous small items such as coffee, soda, sandwiches, candy, cookies, chips, and fruit. In many cases, these purchases appear to have been made for agency staff, council members, commissioners, and other State employees and were not purchased in conjunction with workshops or conferences. These purchases totaled approximately $227 in State monies.

  Comment: As with the business lunches and dinners, these purchases appear to be improper, imprudent and may be a violation of State law.

- **Christmas Party**
  The agency spent over $260 from its revolving fund for a Christmas party in December 1988. Those attending included commissioners, CAE staff, advisory council members, and various other State officials. The CAE chairman stated that the commission traditionally hosts an annual Christmas party to thank those who have worked with the commission throughout the year.

  Comment: While this might have been a thoughtful gesture on CAE's part, this expenditure is imprudent and may violate State law. Although CAE has broad authority in the permissible use of its revolving fund, CAE's legislative mandate does not appear to authorize expenditures of this type.

The following expenditures, while they do not appear to be unlawful, are in our opinion imprudent and of questionable judgement.

- **Workshop Expenses**
  Agency staff exceeded normal limitations in spending State funds during at least two CAE workshops. For example, during a three-day workshop held in Mesa in May 1989, CAE's executive director was reimbursed $72 for expenses incurred on the second day of the workshop. Personal expenses incurred that one day included almost $54 in meals and $9.50 for laundry. (If she had been on travel status, the executive director's per diem that day would have been $14.) During the same workshop, the executive director and a contract employee also charged the State $12 for a pair of theater tickets.

  Comment: Ironically, in these instances CAE staff were able to exceed normal meal costs and other expenses because they were not on travel status. Both workshops described above were held within 35 miles of CAE's duty post, so staff were not eligible to be reimbursed for travel expenses. Instead, these expenses were charged to the agency's revolving fund as conference-related expenses.

- **Arizona/Mexico Commission**
  The activity in this commission was identified as a low agency priority (see also page 12 in Finding 1). However, CAE spent over $1,900 for activities related to the Arizona/Mexico Commission. These costs included:

  - $135 for one dinner - the claim states the purpose as "entertained Arizona/Mexico exchange program";

  - $150 for a stuffed quail - as a good will gesture to a Mexican official; and

  - $879 in expenses for the executive director to travel to Mexico three times.

  The remaining expenses included telephone calls, registration fees, membership dues and motor pool charges.

  Comment: To avoid overexpending its budget two years in a row, the commission needed to cut $2,200 from its FY 1989 budget. This activity represents one area that CAE could have cut significantly in order to meet that objective, without impacting its higher priorities.

- **Colorado Trip**
  The executive director incurred more than $400 for out-of-state travel at a time when the agency knew that fiscal year appropriations had been expended. On June 5, 1989, agency staff calculated that the CAE would have to limit its expenditures to "nothing but payroll" and that staff would have to take five days leave without pay in order to stay within appropriated limits. Two weeks later, however, the executive director traveled to Durango, Colorado, to give a presentation to the American Planning Association on behalf of the CAE Water Committee.

  Comment: This trip represents a questionable use of commission funds. The agency was already aware of its expenditures and the trip's purpose does not appear to have been essential to the commission's statutory mandates.

Our review also identified other, small expenditures that reflect a pattern of questionable and imprudent fiscal actions. For example, the executive director hired her son and her nephew for small jobs at the commission. Although the amounts paid to them are small ($21 and $124, respectively), both actions give the appearance of possible impropriety and hiring the son may violate State law.

Stronger Fiscal Controls Needed to Control CAE's Excessive Spending

Stronger fiscal controls are necessary to ensure better financial management of commission resources. The lack of responsible management has three primary causes: lack of commission member oversight of funds for which CAE is responsible, vagueness in the wording of the commission's revolving fund statute, and failure by agency staff to responsibly manage a lump-sum budget.

Commission oversight - CAE is currently revising its procedures to provide greater control over agency finances. Both the chairman and vice-chairman of the commission agree that CAE has not adequately monitored agency expenditures in order to ensure they are spent prudently. Although commission members receive monthly financial reports from the staff, neither the chairman nor the vice-chairman was aware of the agency's overexpenditures during fiscal year 1989. The commission has developed new financial reporting procedures that require the finance committee chairman to review agency spending monthly. However, more specific procedures may be needed to ensure that the review is a meaningful one, such as exception reporting to identify potential problems and proposals for addressing expected shortfalls.

Broad special fund authority - The statute creating the commission's special fund also provides opportunities for excessive spending. A.R.S. §49-124.B identifies specific activities for which the fund may be used but also allows the funds to be used for carrying out the various other broad provisions of the commission's enabling legislation. Many of the questionable and potentially illegal expenditures described above were made from the special fund. Special funds were also used to bypass expenditure controls on CAE's FY 1989 budget. This has occurred in part because the current law gives the agency broad discretionary powers in using the fund. The Legislature may wish to more specifically stipulate how the special funds may be used.

Lump-sum budget - Additional limitations on the use of the commission's general fund appropriations may also be in order. The pattern of

expenditures described above suggests that the agency has not responsibly exercised the management discretion allowed by its lump-sum appropriation. Therefore, the Legislature may wish to change CAE's appropriation from a lump-sum appropriation to a line-item appropriation.

Recommendations

1. The Legislature should consider:

   - Amending A.R.S. §49-124.B to more clearly specify the purposes for which the revolving fund may be used.

   - Changing CAE's general fund appropriation from a lump-sum appropriation to a line-item appropriation.

2. The Commission on the Arizona Environment should continue its efforts to revise procedures to ensure the adequate financial oversight of State funds for which it is responsible. The procedures should apply to the agency's general funds and special funds, and should ensure that commission members receive a) regular reports on the overall financial status for each source of funding, b) exception reports for areas where expenditures exceed anticipated levels, and c) proposals for addressing expected shortfalls.

OTHER PERTINENT INFORMATION

During the course of the audit we were asked by a legislator to estimate the costs to the State of CAE activities that are not reflected in the commission's budget. Specific concern focused on costs incurred by State agencies participating in commission activities. To determine these costs we reviewed requests for reimbursement submitted by agency personnel attending the four CAE conferences held from September 1988 to September 1989. We did not estimate the value of the time devoted to the conferences by the various individuals.

Contacts with agency staff indicate that agency personnel were reimbursed almost $5,700 for conference-related expenses (see Table 3). This total includes $1,909 for lodging, $1,764 for conference registration, $1,055 for mileage, $851 for meals and $7 for miscellaneous expenses ($113 was not broken down by category). Although not all attendees submitted travel claims for conference expenses, reimbursement was paid on 43 claims.

TABLE 3

TRAVEL CLAIMS FOR STATE AGENCY PERSONNEL ATTENDING CAE CONFERENCES FROM SEPTEMBER 1988 TO SEPTEMBER 1989

Agency	Claims Paid	Amount Paid
University of Arizona	7	$1,398
Arizona State University	3	598
Department of Water Resources	6	558
Department of Environmental Quality	6	519
Department of Commerce	3	474
Northern Arizona University	2	463
Department of Transportation	3	440
Office of Tourism	1	352
Game & Fish Department	3	261
State Land Department	2	175
Department of Mines and Mineral Resources	1	140
Energy Office	1	117
State Parks	2	83
Department of Health Services	1	49
Commission of Agriculture and Horticulture	1	40
Radiation Regulatory Agency	1	32
TOTAL	43	$5,699

COMMISSION ON THE ARIZONA ENVIRONMENT

1645 West Jefferson • Suite 416 • Phoenix, Arizona 85007 • Phone (602) 542-2102

January 25, 1990

Douglas R. Norton, Auditor General
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Phoenix, Arizona 85004

Re: Performance Audit of the Commission on the Arizona Environment

Dear Mr. Norton:

The Commission on the Arizona Environment has reviewed your audit report and enclosed is our response to your findings.

It appears that the audit report still reflects a lack of understanding of the Commission's legislative mandate and direction. We feel that our actions to date are in keeping with the expectations of the legislators who drafted the enabling act and that your basic conclusions are therefore incorrect.

We do, however, appreciate being made aware of where we can improve in both our procedures and organizational activities and have initiated steps to do so.

We request that our response will follow each of your sections--Summary, Finding 1, Finding 2, Other Pertinent Information.

Thank you for your courtesy.

Sincerely,

Sue Lofgren

Sue Lofgren, Chairperson
Commission on the Arizona Environment

Enclosure

SUMMARY

The Role of the Commission on the Arizona Environment Should Be Revised or Else the Commission Should Be Terminated

The performance audit of the Commission on the Arizona Environment by the Office of the Auditor General appears to be formulated on the premise that the Commission's primary legislative mandate is to impact environmental policy in Arizona. This was reflected in the interviews and questionnaires on which the audit is based.

The Commission strongly disagrees with the audit's interpretation of the Commission's legislative mandate. The Commission was created as a free standing agency in order to continue the valuable and unique function it had carried out effectively for a quarter of a century under executive order --- providing a forum for the discussion of sensitive environmental issues for a broad segment of interests in Arizona. This has always been its primary mandate.

The Commission function was never to focus on environmental policymaking. This was made very clear to the Commission by the legislators who sponsored the enabling legislation. Our major focus is on providing the dialogue that will enable more knowledgeable decisions to be made on environmental issues..

We disagree, therefore, with the first finding. The Commission's primary role does not need to be revised nor should it be terminated.

We do agree and have already shifted staff to totally support our workshop activities.

The Commission on the Arizona Environment Needs to Improve Its Financial Management

We acknowledge that there has not been sufficient oversight on the part of the Commissioners in the agency's fiscal management. We had already begun to put in place more stringent procedures before the audit began.

The audit process has brought to our attention financial problems within the Commission which were primarily due to the misunderstanding of the uses of the revolving fund. The fund was, by legislative intent, to have been a continuation of the special fund the Commission maintained under the administration of the Department of Transportation. It appears now that a revolving fund is more limiting than the unique fund the Commission maintained previously.

We do agree with the second finding and, as previously stated, have already proceeded in establishing appropriate procedures.

Specific Comments (pp. 7-21)

FINDING 1

THE ROLE OF THE COMMISSION SHOULD BE REVISED OR ELSE THE COMMISSION TERMINATED

1. The Commission provides Arizona a unique opportunity to have environmental issues examined and discussed in a non-confrontational arena. This has always been our focus. We take issue with the conclusion in regard to the Commission's impact on environmental legislation or agencies actions (pp. 7-8). Our legislative mandate does not give us the directive to impact environmental policy. We are being held accountable for something that was not communicated as our role. In fact, we were specifically told not to undertake an advocacy role by the legislators who drafted our enabling legislation. Our mandate is to provide recommendations through public education. The law does not put us in an advisory capacity to the Legislature, the Governor, or any agency.

Our impact on environmental policy has been limited to providing the Legislature, the Governor, and State agencies our recommendations and information which has emerged as a result of our workshop activities. We do act as a conduit of further information on those recommendations when feasible.

2. Our recommendations have, however, resulted in some major policy impacts not noted in the report. For example: the recommendations on riparian habitat, formulated in the fall of 1988, were subsequently endorsed by the State Parks SCORP process and the Arizona Riparian Council. The recommendations to the Governor were implemented almost word for word by her Executive Order 89-16. The legislative recommendations were incorporated in the water transfer legislation that failed for other reasons. At the same time, the process for discussion of the riparian habitat issues resulted in significantly increased public awareness of these issues --- including several TV and radio programs, as well as a number of news articles on the subject.

3. We agree that on occasion our recommendations may be viewed as vague. We are taking steps to ensure a form and process that will strengthen them. However, we disagree that our recommendations lack value if some type of action is already being taken by others. In those areas described in the report, the Commission's efforts actually supported the activities of the other agencies by ensuring that a large number of people from very diverse viewpoints discussed the issues and made recommendations. This process fulfilled both an educational and supportive purpose for those "actions" to be implemented.

4. We agree with the audit in regard to the Commission's limited impact on facilitating public awareness of environmental issues beyond that resulting from the workshop activities. We do not have the staff or expertise for an active "out reach" program.

5. The Take Pride in America program (TPIA) (p. 10) has been very effective in enhancing environmental awareness throughout the state, reaching into the small communities as well as the metropolitan areas. However, the Commission is presently asking the Governor to consider delegating this responsibility to another agency, since the staff time that has been devoted to it has taken away from staffing for workshop activities.

6. The VANDAL hotline (p.10) has probably declined in utilization this past year due to lack of money available for continued publicizing of the Hotline. Both state and federal agencies are funding it this year and there may be sufficient money in that account for other materials to publicize it. A number of agencies are putting the Hotline number on their literature and posters. The Commission is evaluating the program and plans to investigate whether another agency can take over this program, if it is to continue.

7. The audit report has failed to point out a number of other outreach activities. For example:

- At the request of the Governor's Office, the Commission coordinated a joint meeting between the natural resources agencies of Arizona and Sonora, Mexico which resulted in the first State to State agreement signed by both governors. Staff also coordinated and drafted the agreement.

- At the request of a major sand and gravel company, the Commission coordinated and facilitated a meeting between the company, federal and state natural resources agencies, and local community leaders.

- At the request of the Governor's Office, the Commission facilitated the first wildlife exchange between Arizona and Sonora, Mexico.

AN UNCLEAR ROLE AND WEAK OVERSIGHT OF ITS STAFF ACTIVITIES HAVE IMPAIRED THE COMMISSION'S EFFECTIVENESS

The Commission through the years has provided Arizona with a unique forum for discussion of sensitive environmental issues. This has always been our <u>designated</u> role.

1. The discussions at the August and September meetings (p. 11) referenced in the report in regard to questioning our appropriate role centered on how to translate our recommendations into action. We established an Action Committee to more effectively convert recommendations to action, keeping in mind the Commission's mission is primarily to inform and not to lobby.

The quotation, in the report, of a remark of one of the new Commissioners questioning what the role of the Commission was reflects the fact that in our 3 years as a Commission we have had a turnover of 16 Commissioners, appointed by 3 different governors. We recognize the need for more thorough briefing of all new members and we are developing a more comprehensive indoctrination program.

2. Workshops. - The Commission has had difficulty in selecting viable workshop topics far enough in advance to adequately prepare for the forums and yet be in the forefront of emerging issues. For that reason we have developed a format that was to be tried for a period of time and then evaluated. This evaluation was to have take place at the Commission's January meeting.

We have, however, attempted to assure that our forums serve as an arena for discussion of subjects that would assist the Legislature, the Governor and State agencies in addressing environmental issues. We met with the chairs of environmental committees of both houses to identify topics that they felt needed to be addressed. We did the same with each of the Governor's under which we have served. In addition, during our resource committee meetings, we have provided state agencies the opportunities to have their priority issues discussed.

The Commission's 1989's theme topic, "The Impact of Urban Growth on the Environment", resulted from that legislative input. The Governor chose our summer conference to deliver her environmental program for the State. At the Governor's request, this fall's workshop provided her agencies heads the opportunity to present their priority environmental legislative needs. It also provided legislators and public interests, the same opportunity.

We disagree with the conclusion that just because a topic had been studied by another group, the Commission should not deal with it, too. The three studies referenced in the report (p.12) had been done with input from a very limited number of participants and did not cover the topic to the degree and from the perspective of the speakers at our workshop. As stated earlier, the value is in such a large, diverse group of individuals being informed and discussing the issues and then starting the rippling effect of sharing that knowledge with others.

We do agree that the commission needs a good process for evaluating the workshops and will address this as we look at other organizational restructuring.

3. The Commission has sought at all times for a balance of membership for what is now the Advisory Council, long before the Commission was established as a free standing agency. We have always worked to maintain a balance both geographically and by interests and look for new members accordingly.

We recognize that we do not have a large a percentage of public interest/environmental groups on the Advisory Council. It causes us continued concern. Most representatives of environmental or other civic organizations have to take time away from their regular employment to attend our meetings. This means a personal sacrifice of time and money, as is true for all members of the Commission and Council who are not in a salaried position where their expenses are paid by their organization, something this report fails to appreciate. This makes it difficult to maintain as large a representation from these groups as we would like to have.

4. Oversight of CAE staff. - We agree that there has been a lack of consistent oversight of staff. As stated earlier, there has been a considerable change in Commission membership in the past 3 years. It is difficult to develop and maintain a viable management organization with this much turnover. We are taking steps to rectify this problem as indicated by our refocussing all staff time to the workshops and proceeding to eliminate other programs.

It should be noted that the Executive Director was never told by the Chairman or by a vote of the Commission to stop participating in the Arizona/Mexico Commission, only that it was a low priority for the Commission.

IF THE COMMISSION IS CONTINUED, ITS ROLE SHOULD BE REVISED

1. We disagree with the audit's conclusion that there is a need for statutory change to redirect the Commission or that it should be discontinued. We always have assumed that our primary role is to provide forums for discussion of environmental issues and in spite of some deficiencies, have served the state well.

We do agree that the Commission should drop some of its current activities considering its limited funds and have already initiated steps to do so. We recognized the need for staff's full attention to the workshops to ensure that all support services are available for them. However, we do not agree with the implied lack of quality of our past workshops.

2. Our primary role has always been to provide forums for discussion of environmental issues and to expect the Commission to be able to function with a further reduced budget is to program it for failure.

RECOMMENDATIONS

1. We disagree that the Commission should be terminated or that its role needs to be revised.

2. We disagree that we can function with a reduced budget and staff.

3. We agree that the Commission should establish clear priorities and we are already taking necessary steps.

FINDING 2

THE COMMISSION ON THE ARIZONA ENVIRONMENT NEEDS TO IMPROVE ITS FINANCIAL MANAGEMENT

Any expenditures made by the Commission on Arizona Environment were made with the understanding that they were in compliance with state law.

Fiscal Years 1988 and 1989

We acknowledge that there has not been sufficient oversight on the part of the Commissioners to prevent expenditures that appear to be poor fiscal management. We recognized this before the audit began. Procedures have now been put in place to assure that the Commission will be kept fully aware of the financial picture and that deficit spending will not occur.

Staff was not aware that bills for services incurred in June, that did not become due until July, could not be paid out of the new fiscal year. The FY 1988 deficit spending was not noted by DOA and only when the same situation occurred at the end of FY 1989 was it called to staff's attention. Steps have been taken to assure that FY 1990 will be in keeping with the budget.

Specific Expenditures

Having been made aware by the audit of the problems within the Commission's financial process, we share the concern expressed in the audit and have instituted steps to rectify them. If staff spent funds improperly or in violation of state law, it was certainly due to misinterpretation and not by intent.

The staff assumed that the revolving fund set up in the enabling legislation was comparable to the special fund of the Commission before it became a free standing agency. The need for continuing the same type of fund was discussed, when the enabling legislation was drafted, with the Chairman of the Senate Appropriation Committee and he agreed. He had his staff draft the language for the fund. It appears now that a revolving fund is more limiting and to allow for the same types of expenditures as of the past, a unique fund designation would have been the appropriate one.

Staff acted under guidance of the Department of Administration in setting up the present fund structure and assumed that the same type of expenditures, as allowed when the Commission was housed in Arizona Department of Transportation, were appropriate.

It should also be noted that some of the expenses questioned in the report were incurred in conjunction with planning and

carrying out projects that were part of the Commission's public awareness programs.

RECOMMENDATIONS

1. We agree that there is a need for clarification relating the uses of the revolving fund.

We do not see that it would be useful to change the general fund appropriation to a line-item.

2. We agree and have already incorporated steps to ensure adequate fiscal oversight.

OTHER PERTINENT INFORMATION

We cannot be held accountable for costs to the state by agencies not mandated to attend our meetings nor can we comment on the amounts spent by any agency. Nevertheless, we assume that agencies view the benefits they derive from the opportunities to meet with individuals that represent a cross section of the state, as well as other governmental agencies, well worth the costs incurred.

What information was apparently not requested but should be included is the fact that the Commissioners, Advisory Council members and other attendees donate over a quarter of a million dollars of their time and expenses on behalf of Arizona to enhance our environment.

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HAND-DELIVERED

January 26, 1990

Mr. Douglas R. Norton, Auditor General
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Phoenix, Arizona 85004

Re: Comments on Draft Performance Audit of the Commission on the Arizona Environment

Dear Mr. Norton:

On January 8, 1990, I sent you the enclosed comments on your office's initial draft of a Performance Audit of the Commission on the Arizona Environment. In subsequent drafts of the Performance Audit, my comments were reflected to a limited degree, but I did not feel my concerns were adequately addressed. Therefore I would request that my January 8 letter be included in the final Performance Audit.

Thank you for your cooperation.

Very truly yours,

Roger Ferland

Roger K. Ferland

RKF:slm
Enclosure

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January 8, 1990

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Re: Comments on Draft Performance Audit of the Commission on the Arizona Environment

Dear Mr. Norton:

This is written in response to your letter of December 20, 1989 soliciting comments on the draft performance audit of the Commission on the Arizona Environment ("CAE") performed by your agency. I am a member of the Commission and responded to your earlier questionnaire on the Commission's activities.

Before examining the contents of the performance audit, I would briefly note my qualifications to comment on the work your staff has done.

Although I have been a member of the CAE less than two years, I have worked with the CAE or its predecessor entity for the last eight years. Therefore, I think I have an intimate knowledge of the Commission's strengths and shortcomings. Moreover, I have been practicing environmental law for about thirteen years. About half of that time was spent as a state employee with the Attorney General's office and the other half has been spent in private practice. I am a primary author of the State's Environmental Quality Act and Administrative Procedure Act as well as most of the State's air pollution control regulations. I am currently Chairperson of the State Water Quality Advisory Council and Arizona Chamber of Commerce Air Quality Subcommittee. I was the private sector representative on the screening committee to select the current Director of the Department of Environmental Quality. I also belong to a number of professional organizations

connected with environmental matters. In short, I feel I know how environmental decisionmaking occurs in this state and my evaluation of the effectiveness of the CAE and your analysis of that effectiveness is based upon that knowledge.

My comments on the draft performance are limited to Finding I. I lack the expertise to determine the validity of the CAE's current financial management procedures and practices.

FINDING I.

A. General Observations.

The draft performance audit concludes that the CAE "has not effectively carried out its statutory mandate." The audit bases that conclusion on what are, in effect, two findings:

1. **The CAE has only a limited impact on environmental policy; and**

2. **The CAE has only a limited impact on public awareness of environmental issues.**

I have bifurcated what the audit classifies as a single finding because that finding is really two entirely separate findings and only the second finding directly relates to the CAE's statutory mandate. Under A.R.S. §49-121.G, the CAE is given three substantive duties. Only the first of those duties relates to the impact of the CAE recommendation on environmental policy.[1] That impact is, however, limited by statute to seeking action on CAE recommendations by a single means -- "through public education programs." The other two substantive duties given the CAE are similarly limited to implementation through public education.

The fact that the statute authorizes the CAE to seek implementation of its recommendations through the extremely narrow and inherently only marginally effective means of public education has not been adequately considered in the audit. The law does not

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[1] Under A.R.S. §49-121.G.1, the CAE is required to "(A)ctively develop and provide recommendations regarding the social, economic, recreational and ecological aspects of the Arizona environment through public education programs." (emphasis added).

authorize the CAE to lobby for implementation of its recommendations with either the legislative or executive branches of government. Nor does the law cast the CAE in even an advisory capacity to either the Legislature or the Governor on environmental issues. Thus, contrary to the bottom line conclusions of the audit, the reason the CAE has only a limited impact on environmental policy is not because of an ineffectiveness in carrying out its statutory mandate. Rather, CAE's statutory mandate is so restrictive that the CAE cannot effectively impact Arizona's environmental policy. In this critical regard I would contrast the restrictive authority given the CAE with the authority given similar bodies in other states. In every case of which I am aware, environmental commissions in other states are given, at a minimum, formal status as advisory bodies to the legislature, governor, or both. In other words, the performance audit has fingered the wrong culprit in rightly concluding that the CAE had only had a limited impact on environmental policy.

A second general observation is that the limited effectiveness of the CAE as far as fulfilling public awareness role is somewhat overstated. In its two-and-a-half year existence, the CAE has made the public aware of such issues as the destruction of riparian habitat that are of major environmental significance but had received little public attention. CAE has, however, failed to develop the relationship with the press and education establishment that would have made the Commission a significantly more effective communicator of the State's environmental problems and issues.

B. Specific Comments.

1. I would question the weight that should be given the comments of legislators on the effectiveness of CAE activities. None of what the audit calls "key legislators" have been in their capacities as committee chairmen or ranking minority members of House and Senate environmental and natural committees for any more than a year. Therefore, it is unlikely that these legislators would have knowledge of the past activities of the CAE regarding environmental legislation. Moreover, there was virtually no environmental legislation enacted in 1989, so it is difficult to believe that any group had much influence on legislation. Also, I would repeat my earlier comment that, since its enabling legislation provides no authority for the CAE to lobby on behalf of its recommendations, lack of perceived impact on the legislation is not surprising.

2. The lack of impact on executive branch decision-making is similarly predictable. The CAE has no formal advisory

function. Therefore, the degree to which the CAE influences the executive branch's formulation of its environmental agenda is entirely up to the Governor. This Governor has decided to allow agency heads to develop her environmental agenda without CAE input. That is a decision that is certainly within her purview, but should not to be viewed as a reflection of the ineffectiveness of the CAE in performing its sole statutory duty, i.e., public education. Indeed, the Governor chose the CAE's summer workshop to declare her overall environmental program for the State and the CAE's fall workshop to have her agency heads describe their specific environmental legislative proposals. Thus, at least with respect to the executive branch, the CAE does fulfill its narrow legislative mandate and performs the function the Governor wants it to perform.

3. I absolutely agree with the audit's description of the CAE's recommendations as being "vague, and do not address questions such as how they will be implemented, by whom, and at what cost." Even if its enabling legislation gave the CAE greater ability to influence the implementation of its recommendations, the recommendations are so badly articulated that they are typically close to worthless. There are exceptions. The riparian habitat recommendations were generally well done and useful. This was because volunteer staff put the time in to draft them in a usable format. The current structure of the workshops and the manner in which the Commission interfaces with the workshop makes inarticulate recommendations inevitable. Below, I suggest a means of addressing this problem.

4. I would again emphasize the statements made in the questionnaire about the workshops -- they are extremely valuable and the only forum for allowing a wide range of interests to debate and discuss environmental issues. While I am a member of the Arizona Academy and strongly advocate the Arizona Town Hall's structure for conducting workshops on controversial issues, the Arizona Academy is viewed as biased toward the private sector, establishment position on environmental issues and simply cannot perform the "honest broker of information and debate" function that the CAE is uniquely qualified to perform.

5. I also agree that the Commission has not done a particularly good job overseeing Commission staff or providing the staff with clear direction and priorities. This lack of leadership on our part is indicated by the comments on pages 11 and 12 of the draft audit regarding the workshops. Those comments are accurate and perceptive. Below I recommend some changes to deal with the deficiencies in the current structure.

RECOMMENDATIONS.

1. The Commission serves an invaluable and unique role as a vehicle for discussion of environmental issues. If it is terminated, the cause of rational environmental decisionmaking in this State will suffer. On the other hand, the audit is absolutely correct when it criticizes the ineffectiveness of the CAE in many respects. Where I partially disagree with the audit is in its identification of the cause of the CAE's lack of effectiveness. The law creating the CAE simply does not give the Commission sufficient authority to have much influence on environmental decisionmaking. The audit should recommend that the Commission's enabling legislation be amended to provide, at a minimum, that the Commission serve as an advisory body to the Governor on environmental issues.

2. The audit is right in identifying the area in which the Commission has been most effective -- its conduct of workshops. However, the workshop structure and particularly the procedures for developing recommendations from the workshops should be substantially revised. In this regard, I would recommend the following:

A. There should be two workshops, not four, and the workshops should consider a single, well-defined topic. The model should be the Arizona Town Hall. The staff of the Arizona Academy and volunteers prepare for the workshop topic thoroughly before the workshop. Issues raised by the topic are identified in detail and in advance for focused discussion at the Town Hall. There is no reason that the same sort of procedure could not be followed for CAE proceedings.

B. An advantage to limiting the workshops to two a year is that this gives the Commission sufficient time between workshops to adequately plan and structure future workshops and, perhaps more importantly, provides an adequate opportunity to identify relevant workshop topics. Identification of topics needs to be done on a much more systematic basis. State leaders (political, business and public interest) need to be polled on the topics on which they feel there is a need for a workshop and follow-up needs to be done to determine whether the recommendations that resulted from the workshops adequately address the identified needs.

C. The process by which the Commission develops its recommendations is substantially deficient. As a substitute, I would again recommend the Arizona Town Hall model. The results of the workshop sessions at the Town Hall are a coherent set of

recommendations with a defined procedure for implementation. The reason the Town Hall produces more usable recommendations is because its structure ensures that the recommendations are well drafted. Specifically, trained volunteer "reporters" (usually lawyers) actually draft the results of the workshop sessions as they occur and trained discussion leaders move the sessions along toward issue identification and proposed resolution or at least a description of issues on which the participants agree to disagree. On the evening of the workshop the reporters meet to combine and edit their results for an organized written presentation to the Arizona Academy the final day of the Town Hall. This same procedure could be adopted to produce better draft recommendations for the Commission to work from. The Commission's job would be to consider, edit as appropriate, and adopt those recommendations. The recommendations would then be published and forwarded to the Governor and the Legislature for consideration as is done now. I would stress, however, that changing current procedures to produce more thoughtful, better drafted recommendations, is valueless if there is no statutory mechanism to ensure that the recommendations are treated as a formal advisory document that must be considered by environmental decisionmakers.

3. I would take issue with the audit's suggestions that the resources available to the CAE be cut. In a time of fiscal austerity there is always a tendency to target programs that do not offer direct services to the public for elimination, but such an action in this case would be short-sighted. The audit rightly complains about the lack of staff support for CAE workshops. One of the reasons for that lack of support is simply lack of resources. The new workshop procedures I have proposed, while reducing the number of workshops by half, will require significantly greater staff advance work to provide the issue identification, research papers, training, etc. to make the biannual workshops successful. Also, the follow-up required to track the formalization, transmittal and implementation of the recommendations will necessitate a great deal more staff time. The audit notes that the members of the Commission are appointees for whom Commission membership is an extracurricular activity. Therefore, for the CAE to function, the day-to-day responsibilities must be carried out by a professional staff that is adequately compensated.

The foregoing are my thoughts and recommendations regarding the first finding in your draft performance audit. I would stress that they are my thoughts alone and do not necessarily reflect the views of any other Commission member. Should you or your staff have any questions regarding the contents

of this letter or my position on the statements made in the draft audit, please call me.

Very truly yours,

Roger Ferland

Roger K. Ferland

RKF:slm

cc: William Fisher