PERFORMANCE AUDIT

COMMISSION ON THE ARIZONA ENVIRONMENT

Report to the Arizona Legislature
By the Auditor General
October 1995
Report #95-6

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October 19, 1995

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Mr. Steve Wheeler, 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 a May 5, 1993, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review set forth in A.R.S. §§41-2951 through 41-2957.

The report recommends that the Legislature consider sunsetting the Commission. The Commission has hosted several worthwhile conferences on environmental issues; however, its usefulness to policy makers has been limited, and has not had a significant impact on policy decisions. We believe, in answer to the sunset criteria, that termination of the Commission would not pose any significant harm to the public health, safety, or welfare. If needed, other agencies and the private sector can host conferences, or the Legislature can establish ad hoc committees for the purpose of receiving input on specific environmental issues.

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

This report will be released to the public on October 20, 1995.

Sincerely,

Douglas R. Norton
Auditor General

DRN:cb

Enclosures

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SUMMARY

The Office of the Auditor General has conducted a performance audit and sunset review of the Commission on the Arizona Environment, pursuant to a May 5, 1993, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review as set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Commission on the Arizona Environment was established by the Legislature in 1986 and succeeded 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 of approximately 85 representatives of business groups, conservation organizations, and state environmental and natural resource agencies. CAE's enabling legislation directs it to make recommendations on environmental matters and to facilitate the coordination of public awareness programs regarding environmental issues. The commission develops and hosts two to three environmental conferences per year as its primary means of addressing its statutory mandates.

The Commission Should Be Sunsetted or Changes Should Be Made to Improve Its Impact (See pages 5 through 11)

Although CAE's strength lies in hosting forums for discussion of environmental issues, we found continuing the Agency difficult to justify. Most people we interviewed were pleased with the quality of the conferences held by CAE. Many believe the conferences provided a forum for people with diverse viewpoints to discuss relevant and timely environmental issues. However, in considering whether an agency should be continued, the Sunset Law requires an assessment of "The extent to which the termination of the agency would significantly harm the public health, safety, or welfare." No such harm would result if CAE were terminated.

We found CAE should be sunsetted for the following reasons. First, as we found in our previous audit of the Agency, CAE's activities have not had a significant impact on environmental policy decisions. While CAE's conferences may provide a forum for discussion, the discussions produce few, if any, results. Second, although we found no single other entity that exactly duplicates the functions of CAE, there are numerous private and public agencies, such as the Arizona Department of Environmental Quality and the Game and Fish Department, that perform functions overlapping the duties of CAE. Finally, as an alternative to an ongoing, independent agency, the State could use ad hoc committees, with diverse perspectives represented, to study and develop recommendations on specific environmental issues on an as-needed basis.

However, if the Legislature decides to keep CAE as an independent agency, changes are needed to improve its effectiveness. Several changes in the planning and structure of CAE's conferences, as well as in CAE's follow-up to conferences, might improve its impact and visibility in environmental policy decisions.

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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), pursuant to a May 5, 1993, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review as set forth in A.R.S. §§41-2951 through 41-2957.

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. In 1986, the Commission on the Arizona Environment was established by the Legislature.

Commission Organization and Activities

The commission consists of 11 members appointed by the Governor, based on their "demonstrated competence, experience and an interest" in the Arizona environment. In addition, 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.[1] Other council members are selected by the commission and represent business and professional organizations, citizen and environmental groups, the academic community, and various governmental entities. The council currently has about 85 members.

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, (and)*
>
> *Communicate with a broad range of the 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."*

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[1] The following agencies are represented on CAE's advisory council: Department of Education, Game and Fish Department, Department of Health Services, State Land Department, State Parks Board, Department of Water Resources, Department of Transportation, Office of Tourism, Commission on Agriculture and Horticulture, and the Department of Environmental Quality.

The commission attempts to fulfill its statutory mandates primarily through hosting two to three environmental conferences per year. The commission invites its advisory council, government and industry representatives, environmental groups, and 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 affected parties; for example, the Governor, legislators, or other government agencies. Issues discussed at CAE's conferences have recently included the future of Arizona's forests, riparian area conservation, and the role of environmental risk assessment.

Staffing and Budget

The commission retains a staff equivalent to two and a-half full-time employees, including an executive director. The staff works with committees of advisory council members to assist in planning, organizing, and implementing the conferences.

CAE operations are funded by general fund appropriations and through a revolving fund. General fund monies are used to finance CAE staff, and some of the commission's other operating expenses. For fiscal year 1995, $101,200 in general fund monies were appropriated.

A.R.S. §§49-124 establishes a revolving fund that permits CAE to accept grants and donations, to assess fees for its conferences, and to collect monies for publications. Fund monies are to be used for commission surveys, studies, publications, internship programs, conferences, and conference equipment. The beginning balance of the revolving fund for fiscal year 1995 was approximately $33,700.

CAE received a general fund appropriation of $105,900 in fiscal year 1996. However, the Legislature has not funded the commission for fiscal year 1997. It is the intent of the Legislature that *"the Auditor General... examine... (CAE's) functions and activities, and... compare those with other state agencies to determine any areas of overlap or duplication."* The Legislature may reconsider funding the agency based on its review of this audit report.

Audit Scope and Methodology

Our audit of the Commission on the Arizona Environment presents one finding addressing the need for the Agency and possible ways to improve its impact on environmental policy formulation, should the agency not be sunsetted. In addition, we present a response to the 12 Sunset Factors (see pages 13 through 15).

Much of the information collected on the need for and effectiveness of the commission was gathered through interviews of over 70 representatives of the Legislature, Governor's Office, conservation groups, CAE commissioners, and advisory council members. We also collected and reviewed documentation from those organizations and agencies regarding

their activities that are similar to CAE's. In addition, we attended and made direct observations of CAE's last two conferences, and reviewed and analyzed conference materials and resulting recommendations for eight conferences held between September 1991 and March 1995.

This audit was conducted in accordance with generally accepted government 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.

FINDING I

THE COMMISSION SHOULD BE SUNSETTED OR CHANGES SHOULD BE MADE TO IMPROVE ITS IMPACT

The Commission on the Arizona Environment (CAE) is credited with hosting unique forums for people with various perspectives to discuss environmental issues. Nevertheless, we believe the Agency should be sunsetted due to its lack of effectiveness and overlap with other agencies. However, if the Legislature decides to continue the Agency, several changes could increase CAE's impact and usefulness.

CAE Should Be Sunsetted Due to Lack of Impact, Overlap with Other Agencies, and Use of Ad Hoc Committees

The Sunset Law sets forth a stringent test to be used in determining whether an agency should be continued. The test imposed by the Sunset Law is *"The extent to which the termination of the agency would significantly harm the public health, safety or welfare."* This is a stringent test because it goes beyond determining whether an agency is well managed, complying with its mandates, or can cite positive accomplishments. Instead, the Sunset Law asks whether the agency is truly necessary as measured by its impact on public health, safety or welfare. The Commission on the Arizona Environment does not pass this test.

Although CAE's strength lies in hosting forums for discussion of environmental issues, we believe that the Agency should be allowed to expire under the Sunset Law. We found CAE should be sunsetted because its forums continue to have no significant impact on environmental policy, its activities overlap with several other public and private entities within Arizona, and the State could use ad hoc committees to develop policy recommendations that represent diverse perspectives on environmental issues.

Conferences interesting, but continue to lack results — Most of the people interviewed during this audit were pleased with the quality of the conferences held by CAE. Conference participants believe that the CAE director and staff work very hard and develop good conferences with the resources they are given. In general, many believed that the conferences involved timely and relevant topics, and presented a variety of different perspectives on the topics. The conferences are perceived by many as providing the general public with an opportunity to express their views on environmental issues. Moreover, these conferences are viewed as a neutral forum for raising the public's

awareness of environmental issues and of the people and agencies involved in these issues. Some believe that attending the conferences allows them to impact state environmental policy.

However, as concluded in our previous report in 1990 (Auditor General Report 90-1), "the need for the commission, as it currently functions, is difficult to justify." In 1990, we found that the commission had little impact in its roles of producing policy recommendations and facilitating and coordinating public awareness programs. This lack of impact was attributed, in part, to the Agency's failure to focus its activities on what was then the commission's highest priority – producing environmental conferences. CAE develops its recommendations through the issues discussed in these conferences. In 1990, we found no "strong, apparent need to continue the commission..." However, recognizing the potential value in obtaining diverse input into policy decisions, we recommended that the Legislature, "...consider either terminating the commission or revising its role to focus on providing forums for discussion of environmental issues." While the Legislature did not revise the Agency's mandates, CAE has reduced its activities to publishing an annual resource directory and hosting conferences.

Although CAE has focused its efforts on providing these forums since 1990, the conferences have produced relatively few recommendations, and the usefulness of these to policy makers has been minimal. Our analysis of CAE's recommendations over the last five years found that CAE produced recommendations from only four of the last nine conferences.[1] A total of 23 recommendations were produced during this three and one-half year period. CAE recently stated in its 1995 strategic plan that it has downplayed its role of developing recommendations because of "difficulties encountered in conducting this process within the agency." Specifically these difficulties include the lack of a mechanism for advocacy and dissemination of its recommendations.

Moreover, the recommendations that CAE has produced often revisit issues already addressed by others or are too broad to be useful. Of the total 23 recommendations produced, 8 involved an endorsement of the status quo in existing policy, and 9 were too general to be implementable. For example, one recommendation resulting from a conference on forestry issues stated that the Governor's Strategic Partnership for Economic Development (GSPED), Forest Service Research, and the Department of Commerce "investigate the possibilities of producing non-traditional forest and other industry products." Legislative analysts and environmental policy makers echoed our conclusion, stating that the recommendations that resulted from CAE's conferences are not useful, and that CAE's conferences involve esoteric discussions that rarely result in hard findings and recommendations.

Some of those interviewed questioned whether public funds should be used to support an agency whose primary activity is that of putting on conferences. One agency representative stated that CAE should be self-supported. Another said that even though

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[1] According to the CAE director, recommendations for the most recent conference of June 1995 are currently being developed.

CAE's conferences provide a forum for diverse groups to discuss environmental issues, the conferences do not accomplish anything. There is no resolution, nor does CAE move forward on the issues. CAE merely gives the appearance that if different people talk about an issue then something is being resolved. A representative of a conservation group said that CAE "doesn't produce anything people rely on." Several of the state agency representatives that we interviewed also said that the CAE conferences they attended were not useful to their agencies. A legislator said that CAE is the "pomp and circumstance" of environmental policy making, and that it is the other environmental and natural resource agencies with whom the policymakers work on environmental issues.

Overlap with other agencies — Although we found no single other entity that exactly duplicated the functions of CAE, there are numerous public and private agencies performing functions that overlap CAE's duties. We interviewed representatives from 35 state agencies, ad hoc committees, private organizations, the academic community, and national associations, and gathered information regarding their activities that were similar to those of CAE. Twenty-four of these entities provided environmental education or awareness programs, 7 coordinated their efforts with other agencies, 20 of the agencies developed environmental policy recommendations, and 21 held forums for the presentation and discussion of environmental topics.

There would be little direct consequence if CAE ceased to exist, because all its mandates would continue to be met through the overlapping activities of these other organizations. Representatives in the Governor's Office and the Legislature named the Arizona Department of Environmental Quality, Game and Fish Department, the Department of Commerce, the Land Department, the Department of Water Resources, State Parks Department, and the Agriculture Department as entities having greater impact on environmental policy decisions. These agencies have an impact either through their sponsorship of legislation or because they are called upon for their expertise in dealing with specific environmental issues. In addition to their contributions in environmental policy, these agencies are also involved in hosting conferences or other discussion forums, and/or play a role in raising public awareness on environmental issues. For example:

- ADEQ maintains an extensive library of environmental information. In addition, ADEQ hosts seminars and workshops, and provides opportunities for public input on air, water, and waste issues. In May 1995 alone, ADEQ hosted at least 21 of these forums.

- The Energy Office within the Department of Commerce produces several publications focusing on environmental issues related to energy. In addition, this Office hosts monthly discussion luncheons and an annual conference on issues such as recycling and air quality.

- The Game and Fish Department produces publications and holds public hearings to receive public input on the preservation and harvest of wildlife in Arizona.

Other states and the federal government do not elevate CAE's functions to the status of an independent agency. We interviewed legislative staff in ten randomly selected states[1] to determine how other states structure the functions performed by CAE. None of the ten currently have an independent agency performing functions similar to CAE's.[2] Instead, these functions were housed within regulatory or health agencies that were considered to play a lead role in formulating environmental policy. Nine of the ten states provide state-sponsored conferences and eight provide educational materials on environmental issues through these regulatory and health agencies.

Use of committees — Finally, there are more direct and effective ways to develop environmental recommendations based on diverse input. Temporary committees could be used to study and develop recommendations on specific environmental issues on an as-needed basis. Ad hoc committees can be structured to provide the benefits of obtaining input from people with diverse perspectives. For example, the Riparian Area Advisory Committee (RAAC) is comprised of 7 environmental and resource agency representatives; 19 governor-appointed representatives of various perspectives, such as counties and municipalities; an Indian tribe; various industries; conservation organizations in rural and metropolitan counties; agricultural improvement districts; and a recreational users' organization. In addition, the statutes for this committee appoint ex- officio members from eight federal agencies. RAAC was in effect between November 1993 and December 1994. The purpose of the committee was to study and develop recommendations for the State's riparian area protection program. RAAC's 59-page report, issued December 30, 1994, details an in-depth analysis of policy issues related to riparian area management. The report also provides legislators and the Governor's Office with 29 pages of specific recommendations and discussion of issues relating to Arizona's management and protection of its riparian areas. By contrast, CAE's 1991 conference on riparian area issues resulted in two recommendations related to riparian areas. The first involved some wording changes to a document produced by the Governor's Riparian Areas Coordinating Council. Second, CAE sent a letter to the United States Environmental Protection Agency (EPA) recommending that EPA either "include... Arizona's unique environmental conditions" in its revisions of a manual regarding wetlands regulations, or else retain the pre-1989 regulations.

CAE disagrees with our recommendation that it should be sunsetted. It contends its productivity is adversely affected by inadequate state funding and by the "unmeasurable" nature of the impact of much of its work. In addition, CAE argues that with its hundreds of volunteers it provides "a leveraged resource for the State that can easily be refocused, but cannot be easily reestablished," if sunsetted. CAE further believes it does not duplicate the activities of other public and private agencies because its conferences are

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(1) The ten other states surveyed were Alabama, Arkansas, Florida, Georgia, Hawaii, Idaho, Indiana, Maryland, New Mexico, and North Dakota.

(2) Hawaii is currently awaiting its Governor's signature on a bill that would create a new office under its Department of Land and Natural Resources. This new office would be responsible for making policy recommendations, educating the public on environmental issues, and fostering public relations with industry.

broader in scope and provide an unbiased forum for discussion. However, CAE states it has recognized that hosting conferences alone cannot justify continued state support, and has initiated plans to refocus its emphasis on the development of policy recommendations. Despite these arguments, it remains unclear that there is a fundamental need to continue CAE. Policy makers have not turned to CAE in the past as a source of information or recommendations. And, they will likely continue to rely on other agencies and ad hoc committees for advice on environmental concerns.

If CAE Is Continued, Operational Changes Should Be Made

If the Legislature decides to keep CAE as an independent agency, changes are needed to improve the Agency's effectiveness. Below, we discuss changes in the planning and structure of CAE's conferences, as well as ways for CAE to possibly improve its impact on environmental policy decisions.

Conference planning and structure — CAE's conferences could be improved by changes in the topic selection process, the scope and preparation for the conferences, and the amount of time allotted for discussion.

- **Topic selection/input process** — CAE should develop and implement a formal process for gaining input into relevant conference topics from the Governor's Office and the environmental and natural resources committee members in the Legislature. Currently, conference topics are selected by CAE's program planning committee members, and there is no standard method for obtaining input from these policy makers. Legislators on the environmental committees and their research staff said that they had never been asked for input into topic areas for CAE's conferences. To increase its impact, CAE should focus on issues that the Legislature and the Governor identify as important policy issues.

- **Narrower focus at conferences** — CAE should focus the conference topics on one specific issue in an in-depth manner, rather than trying to address too many issues at the same time. Our analysis confirmed that CAE's conferences are more productive when they focus on fewer, more specific topics. For example, CAE's recent conference that focused solely on forestry issues produced the most recommendations compared to other conferences that we reviewed, and is considered to be one of its more successful conferences. By contrast, CAE held a two-day conference in September 1992, which included discussion of 15 separate issues related to water concerns. In some cases speakers were allotted 15 minutes or less to present technical information on such topics as groundwater contamination and remedial action alternatives. This conference ultimately produced no new recommendations.

- **More information distributed prior to the conferences** — Although CAE begins its initial planning and topic selection for a conference as much as 12 to 18 months in advance, information is not distributed to the conference participants until a week or two before it is held. At that time CAE issues a press release that includes information such as date, time, location, speakers, and conference topics. CAE also sends only an invitation and registration form to selected individuals and organizations with a known interest in the conference topic. CAE could improve the outcome of these conferences by providing conference participants with an information package on the conference topics prior to the conference. This is the method used by the Arizona Town Hall.

- **More discussion time for participants** — CAE should allow more time at its conferences for audience discussion and consensus building. We attended the two most recent conferences to observe their structure and content. Most of the conference time was allotted for presentation of information by various speakers or panels of speakers. Neither conference reached consensus on the issues presented. Conference participants' evaluations of CAE's conferences concur with our observation that there was not enough time allowed in the conference for discussion of the ideas presented.

Impact of policy decisions — CAE could improve its impact on environmental policy decisions by providing more meaningful recommendations and by making itself known to legislators.

- **More meaningful recommendations** — CAE should develop recommendations that are more specific and informative. As discussed above, our analysis confirmed the statements by some policy makers that CAE's recommendations have been too broad, and are not useful in policy decisions. CAE should develop its recommendations to advocate specific actions, and should include background information, discussion of relevant issues, and the level of consensus reached in recommendations submitted.

- **Improve presence with the Legislature** — Many of the legislators, representatives of the Governor's Office, other state agencies, and environmental groups contacted felt that CAE had no impact on environmental policy and had no presence with the Legislature. Both chairs of legislative committees on Environment and Natural Resources indicated they had first become aware of CAE around the time the legislative appropriations committees recommended a zero appropriation for the Agency in fiscal year 1997. To their recollection, CAE had never testified before either committee, nor had they ever met with CAE on any environmental matters, or received any environmental policy recommendations from the Agency. Another legislator concerned with environmental issues said that she tends not to contact CAE for advice on an environmental matter because of its "low profile." Because of this lack of visibility, CAE's credibility with these legislators suffers.

RECOMMENDATIONS

1. The Legislature should consider sunsetting the Commission on the Arizona Environment due to its continued lack of impact on environmental policy, and the Agency's overlapping functions with other existing agencies. Ad hoc committees can be used to study environmental issues and recommend appropriate courses of action.

2. If the Legislature decides to continue the commission, CAE should make changes to improve the usefulness of its conferences and the impact of its recommendations.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Commission on the Arizona Environment should be continued or terminated.

1. The objective and purpose in establishing the agency.

According to A.R.S. §49-121.A., the Commission on the Arizona Environment was established to:

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

The Commission on the Arizona Environment develops and hosts conferences as the means by which it addresses its statutory mandates.

2. The effectiveness with which the agency has met its objective and purpose and the efficiency with which it has operated.

The purpose for which CAE was originally intended was to develop policy recommendations on environmental issues. We found that CAE's recommendations were ineffective in impacting environmental policy. See Finding I (pages 5 through 11) for further detail.

3. The extent to which the agency has operated within the public interest.

CAE conferences generally serve an interest of the public, in that they provide an opportunity to hear diverse perspectives on environmental issues. However, we found that a frequent complaint regarding recent conferences was that there was not enough time allotted for discussion and input from conference participants.

4. **The extent to which rules and regulations promulgated by the agency are consistent with the legislative mandate.**

This question is not applicable to the agency, because CAE has promulgated no rules.

5. **The extent to which the agency has encouraged input from the public before promulgating rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.**

The Commission on the Arizona Environment has not promulgated any rules or regulations.

6. **The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.**

This factor is not applicable because the Commission on the Arizona Environment does not have investigative or regulatory authority.

7. **The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.**

This factor is not applicable because the Commission on the Arizona Environment is not a regulatory agency with enforcement or oversight responsibilities.

8. **The extent to which the agency has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.**

In the 1995 legislative session, the Commission on the Arizona Environment proposed legislation to implement changes in commission membership and compensation. House Bill 2238 originally would have allowed for the reimbursement of commissioners' travel fees, and mandated that commission membership reflect a broad cross section of environmental perspectives. After the bill was presented, the Chairman of the Environment Committee introduced an amendment that would have broadened the language of the enabling statutes, and established the CAE as a clearinghouse to provide environmental information to various groups. However, this bill failed to pass.

CAE officials indicated that current mandates are too vague, and do not specify who will be receiving their recommendations. The CAE plans to reintroduce legislation that will narrow their statutory responsibilities, specify the recipients of CAE products, broaden the use of the revolving fund monies, and define appointments to the commission.

9. The extent to which changes are necessary in the agency's laws to adequately comply with the factors listed in the Sunset Law.

We did not identify the need for any statutory changes regarding CAE.

10. The extent to which the termination of the agency would significantly harm the public health, safety or welfare.

Termination of the agency would not significantly harm the public health, safety, or welfare. We found in our previous audit, and again in this audit, that CAE has no significant impact on environmental policy. Moreover, all of its duties could be performed through the activities of other agencies and ad hoc committees. (See Finding I, pages 5 through 11).

11. The extent to which the level of regulation exercised by the agency is appropriate and whether less or more stringent levels of regulation would be appropriate.

The Commission on the Arizona Environment is not a regulatory agency; thus, this factor does not apply.

12. The extent to which the agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

CAE uses private contractors to provide conference facilities, and when workload requires, temporary services. However, unpaid volunteers are used for most of their nonadministrative tasks. In general, they receive assistance through volunteer efforts, contributions, and in-kind donations.

Agency Response

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October 11, 1995

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RE: Performance Audit of the Commission on the Arizona Environment

Dear Mr. Norton:

Thank you very much for the opportunity to comment on the preliminary draft performance audit ("Draft Report") of the Commission on the Arizona Environment sent to me with your October 2, 1995, letter. Although we greatly appreciate the courtesy and consideration shown by your staff during the performance audit process, we most strongly disagree with the findings and conclusions expressed in the Draft Report that the Commission should be sunsetted. For the reasons set forth in more detail in the accompanying report prepared by our Executive Director, and as summarized below, we believe the Commission is an effective, well-managed organization that serves a unique and valuable function in enhancing environmental awareness at a minimal cost to the Arizona taxpayer.

A summary of the major areas of our disagreement with the Draft Report follows:

1. <u>The Commission is unfairly criticized for doing exactly what the Auditor General recommended in 1990</u>. The primary thrust of the 1995 Draft Report appears to be that the Commission should have spent less time presenting high quality conferences and discussion forums and instead focused on the development and advocacy of legislative recommendations. Yet this focus on conferences is precisely what the Auditor General recommended in its 1990 performance audit. In that report, the Auditor General stated:

> "The commission's role should be revised to focus on what many see as its primary benefit -- providing forums for discussion of environmental issues."

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The Commission accepted this recommendation and, as the Draft Report now acknowledges, it has performed quite well. The Commission is "credited with hosting unique forums for people with various perspectives to discuss environmental issues." (Page 5). More importantly, the Draft Report concluded:

> "Most of the people interviewed during this audit were pleased with the quality of the conferences held by CAE. Conference participants believe that the CAE director and staff work very hard and develop good conferences with the resources they are given. In general, many believe that the conferences involve timely and relevant topics, and presented a variety of different perspectives on the topics. The conferences are perceived by many as providing the general public with an opportunity to express their views on environmental issues. Moreover, these conferences are viewed as a neutral forum for raising the public's awareness of environmental issues and of the people and agency involved in these issues. Some believe that attending the conferences allows them to impact state environmental policy." (Page 5).

Thus, the Commission has successfully embraced the recommendations specifically advocated by the Auditor General in 1990. That very success can hardly be a reason to sunset the agency.

2. The Auditor General has applied a flawed evaluation standard. The principal reason advanced in the Draft Report for sunsetting the Commission is the draft finding that the Commission's activities "have not had a significant impact on environmental policy decisions." (Page i). Although we dispute this finding for the reasons set forth in the attached comments from our Executive Director, this finding would not, even if supported by the facts, justify sunsetting the agency. The Commission's statutory mandate does not include legislative advocacy and, as the Auditor General's Office was repeatedly told, the original drafters of the Commission's enabling legislation never anticipated that the Commission would become directly involved in policy and legislative debates. That is why the Commission's enabling legislation specifically requires the Commission to produce public programs, "facilitate the coordination of those programs," and "communicate with a broad range of

citizens of this state." (A.R.S. § 49-121.A). The Draft Report totally and inexplicably ignores the effectiveness of the Commission in its communication and public awareness programs by instead focusing on the far narrower issue of the extent to which the Commission has entered the contentious fray of environmental politics. This arbitrarily selective view of the Commission's perceived role contravenes its express statutory mandate and the clear directives of the Auditor General five years ago.

Of equal importance, the Auditor General faults the Commission for failing what it characterizes as the "stringent test" imposed by the sunset law regarding the "extent to which the termination of the agency would significantly harm the public health, safety or welfare." (Page 5). The Commission acknowledges that it was never given direct statutory mandates for the regulation of air, water or hazardous waste, nor was it delegated the police powers of the state to enforce environmental laws. Thus, it would be impossible for the agency to satisfy the Auditor General's interpretation of the sunset test. However, the Commission has been vigorously meeting its statutory mandate of public awareness programs, educational conferences and policy development, and should not be sunsetted for doing exactly what the legislature authorized it to do.

3. <u>The Draft Report's "finding" that the Commission's activities are duplicated by other state agencies is unsupported and incorrect</u>. The Draft Report's conclusion that the Commission's activities "overlap with several other public and private entities within Arizona" (Page 5) is completely unsupported by any relevant examples. The report's sweeping generalization that other state agencies hold seminars and allow public comment on issues within the agencies' mandated scope hardly demonstrates that the activities of the Commission are in any way redundant or ineffective. As the Draft Report itself notes, the Commission "is credited with hosting unique forums." (Page 5). The Commission's programs on environmental justice, risk assessment, developing legislative issues, and unfunded federal mandates have not been duplicated by any other state agency, either in content or in the diversity of views represented at the conferences. No other state agency has the ability or the statutory mandate to seek out and explore "cutting edge" environmental issues in the manner entrusted to the Commission. This point is perhaps best underscored by a review of the attendance roster at recent Commission programs, in which the Governor, the heads of major state

environmental agencies, and key members of the state legislature were all either in attendance or were keynote speakers.

4. The Draft Report's recommended substitute for the Commission -- the use of *ad hoc* committees -- is unrealistic. The Draft Report states that the state "could use *ad hoc* committees to develop policy recommendations that represent diverse perspectives on environmental issues." (Page 5). However, the report could only cite one example of a "successful" use of such an *ad hoc* committee in the past and, even then, the report fails to mention, much less evaluate, the considerable time, expense and start-up inefficiencies associated with that committee. Moreover, the report neglects to point out that the most recent example of an *ad hoc* committee, the ACERP Project, used the Commission in a supporting role to assist in administrative functions and fund-raising and has recently approached the Commission to assume a leadership role in following through on the program's recommendations. In short, the Draft Report offers no convincing rationale for dismantling a well-established, well-run agency that leverages its meager budget resources with the volunteer work of over 100 environmental professionals.

5. The report unfairly ignores recent activities of the Commission. The Draft Report either ignores or barely mentions recent activities of the Commission which clearly demonstrate its contributions to the development of environmental policy in this state and the facilitation of public awareness among a broad cross-section of the state's citizens. These activities include:

   (1) the Commission was selected by Representative Bowers, the Chairman of the House of Representatives Environment Committee, to serve as moderator at his first "Environmental Summit" among key Arizona environmental policy makers;

   (2) Governor Symington has appeared at the last two Commission seminars to make major policy announcements, including the introduction of the new Director of ADEQ;

   (3) ACERP has requested the Commission to assist in developing policy recommendations and appropriate follow through of the project's critical findings;

(4) the Commission held a first-ever environmental legislation conference this past June at which all the major advocacy groups and key legislators attended to identify and discuss upcoming environmental legislation; and

(5) the Commission has developed an internal strategic plan and proposed legislative changes that will further sharpen its focus and improve its effectiveness.

We believe an objective and balanced consideration of these recent developments demonstrates that the agency has played a visible and effective role in the environmental community of this state.

In conclusion, we do not believe the agency should be sunsetted nor do we believe the elimination of our modest budget appropriation would benefit the citizens of this state nearly as much as the activities and resources this agency can contribute to the enhancement of Arizona's environment. We do believe, however, that the legislative changes and internal administrative and structural improvements we are in the process of implementing will further enhance the agency's effectiveness.

Thank you for the opportunity to comment on the Draft Report.

Sincerely,

Steven M. Wheeler
Chairman
Commission on the Arizona Environment

SMW:DN
Enclosure

COMMISSION ON THE ARIZONA ENVIRONMENT

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RESPONSE TO THE 1995 AUDITOR GENERAL'S PERFORMANCE AUDIT

CAE POSITION

We appreciate the difficulty the Auditor General's office has in evaluating an agency mandated to perform non-critical functions for the state. It is especially frustrating to us that this difficulty has translated into a preliminary judgement based on measurements that are, we believe, entirely inconsistent with both our legislative mandate and the direction recommended by the Auditor General's office in its 1990 study. We believe we have consistently performed as directed: both under our mandate and toward full achievement of the Auditor General's 1990 recommendation. We intend to demonstrate that in this letter. We believe that this responsiveness indicates both our willingness and ability to perform as directed, if clear direction is in fact given and if that performance is then judged by those directives, rather than by a directive devised to fit the format of a more traditional state agency.

We also understand the difficulty the Auditor General's office has in evaluating programs that are still in the rudimentary stages, where their impact has not yet been noted by the "customers." However, we strongly believe that the potential value of any agency's self-analysis and redirection should be considered, especially if there has not been adequate time to demonstrate the effectiveness of its plans. The CAE began its self-evaluation in June 1993, before requested to by the state, and developed its first Strategic Plan in October 1994. We believe that this redirection indicates our willingness and ability to identify areas for our own growth and improvement and, since many of our new concepts are consistent with those suggested by the Auditor General's office, indicates our ability to resolve identified problems and challenges with both plans and action.

Finally, we believe the role of the CAE is as vital today, if not more so, than it was when the concept was first introduced. As current trends in government move toward:

- less government
- greater citizen input into decisions and policies that affect their lives
- careful consideration of the myriad of impacts environmental problems and solutions have on all segments of Arizona's population
- concerns balanced with facts, and
- better communication between citizens and their elected officials

... it becomes even more important for the Commission to:

- provide a forum where people with diverse views, interests and concerns can meet to discuss, debate and develop non-legislative solutions to divisive environmental problems

- allow a broad range of citizen input in developing environmental legislation, public policy and identification of environmental problems, and to
- educate the public on the broad range of impacts from environmental issues and legislation on Arizona's citizens, and natural and cultural resources.

In fact, as the roles of local government and the public increases, the role of the CAE is likely to be more critical to the state through the information provided to aid an increasingly broad profile of decision makers.

* * *

ISSUE OF EFFECTIVENESS

1. Historic and current value of public awareness, education and input. At the time of the Commission's inception pursuant to an Executive Order in 1965 (and its re-authorization in 1967, 1970, 1975 and 1977) and when raised to state agency status by 1986 legislation, the authors of the Commission on the Arizona Environment's statutory enabling legislation understood the value and importance of public education, awareness and input into the state's environmental policies. The problem with such mandates lies not in their importance, but in the difficulty in quantifying these functions. This does not make them unimportant. It is not reasonable to assume that the only justifiable role of government should be to regulate and enforce.

Since we have been judged by the Auditor General primarily on our effectiveness at directly impacting environmental policy, which we will address next, let us assert at the onset of this response the valuable role we believe public awareness and education continue to play in the state. As government moves to a "bottom-up" approach which we are told is inevitable, a public educated not only on specific issues, but on the various impacts of those issues and other related issues, will be better able to develop its own decisions and policies and determine alternate means to resolve problems. The Commission's unique role in providing this information and education will be addressed in the *ISSUES OF OVERLAP AND DUPLICATION* section.

2. CAE's indirect role in 'impacting' environmental policy. The most critical area of disagreement between the CAE and the Auditor General's report is that of the Commission's effectiveness at impacting environmental policy.

The Commission believes that its programs have had significant indirect impacts in many areas, most notably raising the awareness of critical riparian problems and of issues of environmental equity. In some cases we believe CAE programs have resulted in the formation of ongoing task forces (e.g. riparian issues) that focus on the issues once awareness of them has been heightened. In other instances, we have been informed that internal agency policy changes were being considered as a result of CAE recommendations (e.g. Department of Tourism, U.S. Forest Service from our Forest Management conference). We were told that information provided at the Forest Management conference was incorporated into the Governor's Arizona Land 2000 policy. In still other instances, we believe the CAE served as an unacknowledged catalyst, instigating the formation of committees in agencies and professional associations to focus on specific issues following CAE programs (e.g. environmental equity). Due to the subtle nature of such impacts and to the limited resources the CAE has to track the indirect effects of its programs, it is impossible to quantify or determine the exact impact CAE has on environmental policies.

Broad and increasing participation by state and other policy makers in CAE programs – as speakers, participants and recipients of CAE information – also belies the report's claim that we are ineffective. Policy makers from all levels and backgrounds and perspectives have participated in CAE programs, often traveling considerable distances and making special arrangements to do so: without any compensation or reimbursement for expenses. And, likewise, continued hard work and contributions of talent and expertise by our Advisory Council members and other volunteers in CAE programs reflect their belief that the agency's purposes, programs and potentials are worth considerable personal hard work and sacrifice of time and money.

3. CAE not directed to 'impact' environmental policy. In conducting a sunset audit, the Auditor General's office acknowledges that it must use barometers that go beyond "...determining whether an agency is well managed, complying with its mandates, or can cite positive accomplishments." In the case of the Commission on the Arizona Environment, the barometer has been to determine if it has directly impacted the state's environmental policy.

Phoenix attorney Roger Ferland in a response to the 1990 Auditor General's report noted that the Commission in its enabling legislation had never been directed to directly impact state environmental policy, but was, instead, directed to provide information for legislators by developing recommendations on environmental issues. This was to help them understand the broad impacts of the issues and the public's interests and concerns to aid in their decision making. Any recommendation that arguably represents the opinion of a broad cross section of constituents is likely to be moderate. And since the theory of governance can vary widely, the reality of having an ongoing and direct influence on policy is not realistic. However, providing information on interests and concerns and providing moderate recommendations is invaluable to inform policy makers so they can make the best possible decisions **given their own theory and philosophy on governing.** Even today's legislators have noted that while they welcome receiving recommendations, they offer no promise to adhere to them. The recommendations should be balanced and informational in purpose and used as each legislator sees fit.

Consistent with this somewhat passive role, from the earliest recollection, we were advised by legislators NOT to lobby our recommendations (which would be an essential activity if one is to impact policy) or to take sides on an issue, but to retain our neutrality and provide recommendations for the governor's and, later, the legislators' information. It was under this directive that the CAE operated until 1990.

4. 1990 Auditor General's report recommended that the CAE '... focus on forums for discussion of environmental issues.' Although the CAE had been identifying emerging issues, communicating with a broad cross section of Arizona's citizens, facilitating public awareness through educational programs and providing recommendations to the governor and other policy makers for 25 years prior to the 1990 audit, in the 1990 Auditor General's report, for the first time, the agency was evaluated for its effectiveness at directly impacting policy. The CAE's role in education, communication and public awareness was largely ignored because of the difficulty in measuring such subjective functions and the indirect way in which they impact environmental policy and the state's environment.

The report concluded that since we had not been effective at directly influencing policy, we should "...focus on providing forums for discussion of environmental issues." The report did not suggest we use these forums for discussion to develop recommendations, but offered this as our strength with the suggestion that it become our focus.

5. CAE responded by redirecting its programs to focus on forums for public discussion. The Commission responded to this new directive by establishing a policy (in November 1990) of focusing more on forums for public discussion of environmental issues. It was noted in this policy statement that if recommendations seemed appropriate following discussion, they would be offered, but that no particular effort would be made to develop them. **Again, this was in direct response to the Auditor General's recommendation.** As before, no effort was to be made to lobby any resultant recommendations, they were to be offered for consideration only.

The primary focuses of these more recent forums was to provide opportunities for public discussion of controversial environmental issues; to increase public awareness and understanding of the multiple impacts environmental issues have on Arizona's citizens and their environment – their quality of life, Arizona's ecology, and economy; and to educate both public and private decision makers in government, business, the general public and the environmental community about the impacts of and interests in environmental issues in Arizona.

6. CAE successful at producing forums as directed. According to the 1995 Auditor General's report, this redirected focus was effectively and successfully achieved. The quality and credibility of the CAE's programs and its unique role in offering balanced and neutral forums to benefit all who attend has been consistently noted to us by participants and in the 1995 Auditor General's study. We believe this demonstrates our effectiveness, willingness and ability to perform as directed.

Although the Commission had engaged in activities other than conferences and the Resource Directory since the 1990 report, *contrary to* a statement in the AG's 1995 report, the focus of these activities (state coordinator for the Take Pride in America Awards Program, Vice chair of the Environmental Education Fair for the Interagency Committee on Environmental Education, support for ACERP, etc.) continued to be on public awareness, input and education. It should also be noted that these were accomplished with a staff reduction from 3 authorized to 2–2½ funded FTEs and a reduction in funding for operating expenses. This reduction has impacted the number of programs CAE produces and the level of involvement the agency is able to sustain in other programs (such as ACERP).

7. 1993 CAE self-evaluation concludes that additional focus is needed. In 1993, during a self-evaluation exercise, the Commission determined that it needed to reestablish its relationship with the state's elected officials, both by improving communication and offering assistance, in the form of recommendations and other information. Wary of its prior problems in demonstrating its effectiveness at this function, the agency took the time to plan a new structure and focus that would support this effort.

8. Strategic Plan identifies restructure and expanded focus of CAE programs. In October 1994 the CAE approved a Strategic Plan for the agency that addressed most of its previously identified inadequacies. Through changes in programs, structure and focus, the CAE developed plans that should resolve all issues raised in the Auditor General's report. Then, throughout the 1995 legislative session it reviewed those newly

established plans, seeking ways to further improve its effectiveness. These plans were reported to the Auditor General's office at the onset of their study and are generally consistent with the AG's alternate recommendation in its 1995 final report.

The agency's new programs and activities include its Policy Development and Advocacy Committee (established to improve its communication with policy makers, including the issue of lobbying); a Public Outreach Component for several CAE Business Meetings annually (to improve communication with the public); Information Sheets (to provide balanced educational information on various topics); an Annual Legislative Briefing (again, to improve communication with policy makers); and Focus Committees (to study diverse issues in depth and develop various products that will address problems identified at the CAE's annual Legislative Issues Conference). Also included in the Strategic Plan were strategies to utilize its volunteers to supplement the CAE's chronic underfunding by providing services in the areas of coordinating lobbying activities, publicity, fund raising and membership. A major policy change was the agency's decision to use stakeholders, rather than its appointed commissioners, to develop policy recommendations and then advocate (lobby for) those recommendations. This again emphasized the agency's neutrality as well as enhancing the credibility of its recommendations.

9. Revised legislation to resolve historic issues. To resolve the historic problems with the Commission's legislative mandate (vague language, no recipient designated for its products) the CAE introduced amendments to its enabling legislation in the 1995 session. During the session, the CAE determined that the legislation it had introduced with Representative Bowers needed further revision. When the bill failed to pass, after becoming more ambitious in its scope than resources allowed, the CAE worked throughout the summer to make additional revisions to the language. The language approved for the agency's final version has legislative support. (see Addendum A).

These proposed legislative language changes designate a recipient for the CAE's products (creating a bond lacking since the CAE became independent of the governor's office). The changes also remove much of the ambiguity of the CAE's role (making its performance easier to measure), and strengthen the commission (requiring that some appointments to the Commission are made from the agency's Advisory Council).

10. These adjustments demonstrate CAE's ability to resolve identified problems with both plans and action. We believe that the insight utilized in recommending these internal changes demonstrates our ability to determine areas for our own growth and to develop and implement plans that resolve identified problems. We also believe it demonstrates that the CAE has made a commitment to expanding its programs from conferences as the sole means of executing its mandates and utilizing its volunteers to means beyond what were visualized prior to 1990.

11. CAE needs time to fully implement its plans and demonstrate its effectiveness. We strongly believe that our newly proposed enabling legislation (establishing a link between the agency and the legislature); our 1994 Strategic Plan (which includes changes in structure, function and focus); activities already underway (Policy Committee, June Environmental Issues forum and focus committees); and those planned for the future (Legislative Briefing) will at least in part resolve the question of the CAE's effectiveness at directly impacting the state's environmental policy. Unfortunately, what has been lacking is the time the Commission needs to implement and demonstrate the effectiveness of this recent redirection and these new programs.

12. The 1995 Auditor General's Report. In the summer of 1995, in the midst of the agency's restructuring, the Auditor General's office began the Commission's Sunset Performance Audit. Because there was insufficient time prior to the onset of the performance audit for the CAE to implement its Strategic Plan and other proposed changes, the report recommended sunsetting the agency.

The 1995 Auditor General's report ignores the recommendations from its own 1990 report and the AG's role in directing the CAE to the focus which they now so critically judge. Focusing again on directly affecting environmental policy, the 1995 report also dismisses our mandated functions of education, public awareness and input in favor of the more easily quantifiable function of directly impacting environmental policy. It also ignores the progress that the CAE has made toward identification and execution of its own remedies and the fact that many of the report's alternate recommendations include activities that the CAE, in early interviews, had reported as being recently initiated or planned activities. Finally, the report contains some omissions and inaccuracies which will be addressed in detail in Addendum B.

* * *

ISSUES OF OVERLAP AND DUPLICATION WITH OTHER ENTITIES

1. CAE is unique. We appreciate the acknowledgement in the Auditor General's report that the CAE's programs are unique within the state. We do, however, disagree that this combination could be served by other state agencies or private entities.

The Commission's statutory mandate to (1) develop and provide recommendations, (2) facilitate the coordination of public awareness programs and (3) communicate with a broad cross section of citizens gives us a unique flexibility to address current issues in a manner that "represents, as nearly as possible, a cross section of thought on environmental issues." A.R.S. 49-121(3). This independent non-partisan role substantially distinguishes us from other agencies and groups and allows us to attract the diversity of viewpoints that has given our agency credibility for unbiased activity.

Our programs provide a forum for both education and discussion among disparate groups that is not replicated elsewhere. The CAE is the only truly neutral entity, public or private, that reaches out to all audiences, believing that that broad representation gives value to our programs, products and audiences. This neutrality is widely viewed as being unique among state agencies and is highly regarded by our participants. This reputation and perspective and the trust they engender is nearly impossible to achieve by a focused committee or regulating agency.

One of our most recent conferences highlights this point. The conference on environmental risk assessment brought together the stakeholders in this most important issue in a manner no other agency or private group could have emulated. Our speakers included top EPA and ADEQ officials, the scientific and academic community, regulated businesses and, most importantly, citizens' groups who represent constituencies vitally affected by risk assessment procedures but have been traditionally under-represented in this important debate.

2. **What CAE programs offer.** The Commission on the Arizona Environment offers:

- Forums for public discussion of and education on environmental issues
- Public Outreach at CAE business meetings
- Issue Information Sheets that present all aspects and impacts of complex and contentious environmental issues
- Arizona Environmental and Resource Conservation Directory
- Forums for identification of emerging environmental issues
- Focus groups to identify problems of and resolution for environmental issues and produce products or follow-up to address the identified solutions
- Volunteers who provide their knowledge, opinions and professional expertise to the state at no charge through the CAE's Advisory Council and other programs
- 30 years of experience and institutional memory to aid in producing CAE programs
- Experienced staff, facility, equipment to support CAE's programs and products, and
- Scholarship programs that provide opportunities for future environmental professionals and decision-makers to learn about the complicated environmental problems and solutions that impact Arizona's citizens and environment.

3. **Other state agencies cannot replicate CAE role.** Virtually every other state agency has been formed primarily for the purpose of implementing and enforcing specific state or federal environmental programs, policies or positions. These agencies do not and cannot serve as "think tanks" or community outreach organizations that can act outside their narrow legislative mandate. The specificity of their role precludes them from (the reality or the public perception of) being able to objectively examine their own programs and from the ability to identify or examine tangential issues. And, the traditional/past lack of broad and balanced input into their programs limits the credibility of their products.

The reference that the other agencies do the "real work" ignores the fact that other agencies have different mandates than the Commission. These critical roles are appropriate ones for agencies with mandates to do so. However, no matter how much "real work" other agencies do, that effort and ability is no justification for down-playing the CAE's efforts, importance and impacts. The Commission's role is to communicate with a broad cross section of Arizonans and thereby improve public awareness of environmental issues and make policy recommendations. This is best served by a neutral state agency, a role no other state agency can, should or does fill, given the public's impressions, valid or not, of those other agencies' mandated and therefore self-serving functions and purposes.

Additionally, other state agencies have funding that specifically provides for staff whose chief role is to communicate that agency's position to legislators. Due to minimal funding, the CAE's staff is essentially limited to carrying out its principal programs. Penalizing the CAE for not interacting better with the legislature is, therefore, a double bind. (The CAE's Strategic Plan outlines steps to utilize volunteers to remedy this in the future.)

The CAE achieves its responsibility, effectiveness and neutral reputation by **not** being directly involved with regulatory purposes, thus not having a vested interest in any activity or regulation or being publicly perceived as having an unavoidable bias. We are therefore able to and do have a reputation for neutrally and objectively examining all issues and all stakeholders' concerns to identify impacts, problems and areas where

improvement are called for – to allow a forum for the public, businesses, the environmental community, academics and other government entities to raise their voice and concerns in a setting where all are equal and all can hear those diverse views.

4. Private entities cannot replicate CAE's role. Duplication by private entities is even less likely. While the function of providing information may be replicated, the audience private entities reach consists of constituents who support their programs and philosophy. Even those who attempt to reach a broad cross section of Arizona's citizens limit their participation either by financial charges that preclude open participation, limited topic focus, geographic limitations, or by selectivity in inclusion in their programs. Further, private entities cannot attract the participation in programs that a state agency does. And again, the lack of broad and balanced input into their programs limits the credibility of their products with Arizona's diverse citizenry.

5. Parts are not equal to the sum. Through its many programs and activities, CAE provides a unique combination of:

- opportunities for citizens to listen to and interact with their elected officials
- outreach to all stakeholders and the public
- neutrality, objectivity and proven credibility
- the level of a state agency interacting with other entities
- volunteers representing citizens' groups, businesses, government, representatives of environmental non-profits, academics and consultants
- affordable programs
- stakeholder and citizen input into the legislative process
- debate and discussion of difficult and divisive environmental issues in a facilitated setting with the practical hope and goal of reaching broad-based consensus on those issues and on respective roles and responsibilities
- opportunities through discussion by those holding opposing views for greater understanding of conflicting perspectives and controversial issues with the possibility that the need for legislation or litigation can be reduced or eliminated, or, whenever and wherever possible, support for proposed legislation can be attained
- volunteers leveraging state dollars
- recommendations, programs and other products that are broad-based, are produced by multi-disciplinary work groups and are produced and supported by many of the state's diverse interest and impact groups
- adult education that has **always** emphasized the broad impacts of environmental issues on the social, economic, ecological, recreational, and other aspects of Arizonans' lives
- adult education that explains the rationale behind, implications of and means to comply with public policy decisions, laws and regulations, and
- presentations that include personal concerns and perspectives as well as factual information (including facts that may be contrary to more widely accepted opinions) to substantiate those opinions...

... all of which cannot be replicated elsewhere and would fail to serve the legislative intent of the Commission if carried out only in part.

It is this unique combination of factors defining CAE's programs that have earned it its credibility and value. Only the Commission on the Arizona Environment can fulfill its prescribed mandate and provide the services the Commission does now. To eliminate that role is to eliminate opportunities for public awareness and education on the diverse interests and impacts of Arizona's environmental issues and of input into the legislative and resolution process of Arizona's environmental problems.

* * *

ISSUES THAT AD HOC COMMITTEES CAN DO THE COMMISSION'S WORK BETTER

The Auditor General's report suggests that ad hoc committees can do the CAE's work as well or better than the agency does now. We disagree for the following reasons:

1. CAE has many desirable attributes and characteristics that ad hoc committees lack. We strongly believe that NO independently established committee can offer the following. The Commission has:

- an established 30 year relationship with the state and the public
- an established, balanced, committed workforce of volunteers (many of whom are professionals or academicians) who aid in all aspects of the agency's activities
- a workforce that includes an institutional memory that enables continual improvement of programs while avoiding redundancy of effort
- an established credibility for neutrality and balance in all its programs
- the ongoing ability to seek outside funding and donations
- the advantage of having funds that are easily monitored
- the ability to respond to requests to study an issue as well as use participants at its programs and from its balanced membership to identify issues for further discussion
- immediate resources available – in staff, facility, equipment, etc.
- a structure that allows immediate identification of areas for discussion
- the ability to discuss topics that can broadly address any combination of federal, state, rural, business, environmental and public interests
- a role as a state agency that engenders participation by representatives from all areas and levels of government
- a broad membership and strong external support to supplement representation on any committee, workgroup or program, so that the absence of a member representing a single perspective cannot skew ad hoc committee results, and
- an ongoing identity and support system so that projects identified for action can continue until completed, and will not be prematurely abandoned due to spent funding or waning participation.

2. CAE focus committees are superior to ad hoc committees. The Commission had indicated to the Auditor General's office its plans to use focus committees to study and pursue certain identified issues. CAE's focus committees also would differ from independent ad hoc committees in the following ways. They would:

- use a non-government directed process (the CAE is an agency of volunteers, not a government entity), which can result in non-government products, which can be more efficient and economical
- provide staffing and coordination by an existing entity whose established credibility and mandated

neutrality ensures the balanced, broad representation essential to developing a viable product and engendering ongoing support for and completion of identified solutions and products

- have the ability to identify and define problems themselves when appropriate
- function under a neutral entity, not under one with already identified interests or programs
- include a strategy to complete all products that were identified at the outset as being useful to issue resolution
- identify a variety of useful products throughout the process of studying issues – varying from recommendations to education and beyond
- be supported by CAE's members' expertise to aid in the final development, advocacy and distribution of the products
- be cost effective (ad hoc committees are not free; monies to support them come from funding for other agencies' programs or from special appropriations)
- provide ongoing agency support to develop support for and advocate and disseminate information on the proposed solutions and products, and
- be committed to broad public awareness in all its activities.

3. CAE resources represent 'untapped potential.' As the CAE has identified and developed changes to best utilize its resources, so could the state better define how it would like to utilize the CAE's resources. Dismantling it, only to later establish multiple other 'task forces', etc. in its place – that might lack all the previously mentioned attributes of the agency and probably would function less efficiently and economically – would not be the best use of the state's money. Once dismantled, the periodic establishment of short term, single issue entities to perform a similar function, such as ACERP, is time consuming, inefficient, expensive and logistically difficult. In addition, the state would lose most of the long term CAE volunteers and public experts and the contributions to the state of their time and expertise.

* * *

REASONS TO KEEP THE COMMISSION ON THE ARIZONA ENVIRONMENT

The Commission on the Arizona Environment

- has demonstrated its responsiveness to redirection
- offers opportunities for interaction between elected officials and the public in a way no one else can replicate
- uses a standing body of volunteers to identify issues for action or to respond to requests for information or action
- provides an existing structure to assemble concerned citizens, experts, regulators and others to develop position documents, recommendations and educational material on environmental issues
- provides a statutorily authorized voice and forum, other than organized special interest groups, that enables citizens to impact or interact with government on environmental issues
- offers an established, user-friendly, credible, accessible, neutral and non-bureaucratic entity within state government
- has an established mandate to consider and report impacts on and concerns of a broad cross section of Arizona's environmental interests

- requires a minimal investment – approximately $100,000 – (often the price of one consultant) to gain input for the state from over 100 environmental experts plus hundreds of conference and program participants
- uses volunteers to support most of the agency's programs and activities
- has self-supporting programs (with the exception of staff and facility), and
- can fundraise to supplement its appropriation

CONCLUSION

We believe that any further evaluation of the Commission on the Arizona Environment should consider the errors contained in this report: (1) the lack of consideration of the role the 1990 Auditor General's report had on the agency's decision to focus on conferences and the Auditor General's subsequent critical judgement of that focus in its 1995 report; (2) the unfortunate need to use a faulty barometer – one calibrated to judge agencies which regulate and enforce – to judge the CAE's worth; and (3) the lack of consideration in the report of the CAE's plans and actions **already underway** to address problems it had **already** identified with solutions similar to those recommended in this 1995 Auditor General's report.

Most importantly, we hope that the final evaluation of the Commission on the Arizona Environment will consider what has been ignored in both the Auditor General's 1990 and 1995 reports – the worth and value of citizen education, awareness and input into the legislative process. While consideration of these functions may not demonstrate to the Auditor General a critical need for the agency, we believe, as have our members and participants in our programs and policy makers for 30 years, that this public involvement is as important, if not more so, today than it was 30 years ago.

With revised legislative language, time to implement its Strategic Plans and legislative support, the CAE will continue to offer an ongoing look at what issues Arizonans believe to be important about their environment and to work toward the goal of greater public awareness of the broad spectrum of values, issues, concerns, facts and opinions that make critical environmental issues so important to the state.

Addendum A

SUGGESTED CHANGES TO CAE ENABLING LEGISLATION

A.R.S. 49-121.

B. Members shall have demonstrated competence, experience and an interest in the environment of this state AND SHALL INCLUDE DIFFERING ENVIRONMENTAL INTERESTS SO THAT MEMBERSHIP ON THE COMMISSION REFLECTS A BROAD CROSS SECTION OF THIS STATE'S ENVIRONMENTAL PERSPECTIVES. AT LEAST ONE-THIRD OF THE MEMBERS SHALL BE APPOINTED FROM AMONG THE MEMBERS IN GOOD STANDING OF THE ADVISORY COUNCIL OF THE COMMISSION ON THE ARIZONA ENVIRONMENT.

A.R.S. 49-121.G. The commission shall:

1. ~~Actively~~ Develop and provide recommendations TO POLICY MAKERS AND OTHERS AS APPROPRIATE regarding the social, economic, recreational and ecological aspects of Arizona environment ~~through public education programs~~.

2. ~~Facilitate the coordination of~~ PROMOTE public awareness ~~programs~~ regarding the PERTINENT social, economic, recreational and/OR ecological aspects of the Arizona environment.

4. UPON THEIR WRITTEN REQUEST, ADVISE THE GOVERNOR OR LEGISLATIVE COMMITTEES ON THE IMPACTS OF SPECIFIC PROPOSED OR EXISTING ENVIRONMENTAL REGULATIONS, LEGISLATION, PROGRAMS OR POLICIES.

5. SUBMIT TO THE OFFICE OF THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE, THE CHAIRS OF THE SENATE'S NATURAL RESOURCES, AGRICULTURE AND ENVIRONMENT AND TRANSPORTATION COMMITTEES AND THE CHAIRS OF THE HOUSE'S NATURAL RESOURCES AND AGRICULTURE, TRANSPORTATION AND ENVIRONMENT COMMITTEES BEFORE THE START OF EACH LEGISLATIVE SESSION RECOMMENDATIONS FOR LEGISLATIVE ACTION ON ENVIRONMENTAL ISSUES.

6. Select and hire...
7. Accept grants...
8. Submit an annual...

A.R.S.49-124

B. Monies in the fund shall be used for commission surveys, studies, publications, internship programs, workshops ~~and~~ , workshop equipment, PROGRAMS, PRODUCTS AND ACTIVITIES and in carrying out the provisions of this article.

Addendum B

CORRECTIONS/OMISSIONS/ADDITIONS
TO 1995 AUDITOR GENERAL'S REPORT

Page 2, ¶ 1. The Commission provides the following programs and activities:

- Conferences, Forums and Workshops
- Executive Summaries of Conference and Conference Proceedings
- Recommendations
- Information Sheet
- Arizona's Environmental and Resource Conservation Directory
- Scholarship program
- Legislative Issues forum
- Focus Committees
- Public Outreach Component of Statewide CAE Business Meetings
- Legislative Briefing *(planned)*

Page 5, ¶ 2. We believe that government can exist for reasons other than regulation and enforcement. Education, public awareness and public input are equally valuable roles for a state agency and as government moves to empower its citizens, these functions become even more critical.

Page 6, ¶ 2 Due to the difficulty in measuring public education, awareness and input, it was difficult to measure the Commission's impact on policy decisions in 1990 and will remain so. This does not make such functions unimportant.

No mention was made in the 1990 Auditor General's report that the Commission's forums for public discussion of environmental issues was to culminate in recommendations; the report recommends that conferences be the sole focus of the Commission's activities.

The Commission did engage in other activities during the period from 1990-1995, albeit with the same focus of public education, awareness and input. These included a mandated role on the Interagency Committee on Environmental Education; chairmanship of an Environmental Education Fair hosted by that committee; state coordinator for the federal Take Pride in America awards program; and support and fund raising for Arizona's Comparative Environmental Risk Project.

Page 6, ¶ 3 The Auditor General's recommendation to focus on conferences and the importance of that entity's role in the state was the reason the Commission limited its recommendations after 1990.

There were difficulties within the agency in disseminating recommendations prior to 1990, including lobbying restrictions placed on the agency. The 1994 Strategic Plan addressed those difficulties by forming a committee to focus on recommendations and communicate with policy makers, and in utilizing stakeholders, instead of Commission members, to develop and lobby recommendations. Since the Plan's development and approval, the Commission has begun implementation of the strategies set forth in the document. Unfortunately, it has not had the time or the resources, due to other critical legislative activities (budget hearings, legislative language hearings, performance audit, sunset hearing, etc.) since October 1994 to complete the full developmental cycle.

Page 6, ¶ 4 While developing new language is to be lauded, when appropriate there is something to be gained by reviewing proposed language to resolve environmental problems. This strategy provides a starting point for discussion, which may conclude that different language is more desirable as well as providing concurrence on proposed changes. It also provides an opportunity to determine if there is support for proposed changes, and it can gain support for and provide information to those who will be impacted by such changes.

The Commission's focus groups, which were mentioned in the first staff interview with the Auditor General's office, are to be the main structure for developing recommendations. These committees are formed to discuss topics identified at the CAE's Legislative Issues conference or by legislators who wish deliberated recommendations on specific topics. The CAE's conferences, while providing opportunities for development of recommendations, have always been primarily educational in nature and, realistically, offer limited opportunities for development of recommendations on the most contentious issues.

Page 6, ¶ 5 We agree that conferences should not be the sole activity of the agency. However, as stated previously, this focus was at the direction of the 1990 Auditor General's report. And this conclusion was reached by the Commission as well in discussions beginning as early as 1993.

Page 7, ¶ 1 If the Commission was perceived as not moving forward on its recommendations in the past, this was the result of the directive to the agency not to lobby by legislators who valued the CAE's neutrality. The agency's 1994 Strategic Plan which provides opportunities for stakeholders to develop recommendations, includes a Policy Committee to coordinate the efforts of those stakeholders to lobby those CAE recommendations to legislators.

It is reasonable for legislators to rely on other agencies to provide in-depth information on the issues they regulate, etc. and on those regulations. However, no other agency can provide the broader view of constituents' opinions and concerns than the CAE because of its credibility as a neutral, objective and broad-based citizens' advisory council. In addition, while our programs have been strong, improved communication with legislators was just recently addressed in our 1994 Strategic Plan, with the formation of our Policy Committee and the CAE's planned annual Legislative Briefing.

Page 7, ¶ 2 Although other entities may provide education, conferences and recommendations, because their focus and image differs, those activities do not serve the same purpose due to: limited audience, limited perception of neutrality, limited input and impact by the public, and limited issues to address. Further, it is the combination of these functions that constitutes the value the CAE offers to the state.

Page 7, ¶ 3 Other agencies have staff paid to directly communicate with legislators; it is inevitable that they would have greater visibility. However, again, the service the CAE can offer to legislators is different, but nevertheless, valuable.

Page 7, ¶ 5,6 Although other entities may provide education, conferences and recommendations, because their focus and image differs, those activities do not serve the same purpose due to: limited audience, limited perception of neutrality, limited input and impact by the public, and limited issues to address. Further, it is the combination of these functions that constitutes the value the CAE offers to the state.

Page 8, ¶ 2 Similar programs offered by other states but housed within focused departments are not the same as CAE's programs. If one is truly seeking citizen input, the programs must be offered by an independent and neutral entity.

Page 9, ¶ 1 As stated previously, the focus on conferences was the direct result of the Auditor General's 1990 recommendations. The fact that we reviewed and revised this focus in 1993 and have implemented structural, focus and language changes to expand this limited focus is not emphasized.

The statement that policy makers will not look to the Commission in the future is surmised and based on opinion, not fact.

Page 9, ¶ 4 The CAE's Policy Committee and its annual Legislative Issues conference are part of plans already underway to improve input from policy makers to CAE programs.

Page 10, ¶ 2 Invitations to the CAE's conferences are sent to those on its mailing list and include all interested individuals who have previously participated in CAE's other programs as well as those whom stakeholders have identified as having an interest in the specific topic.

Page 10, ¶ 3 Although we included expanded time for discussion to allow consensus building at the 1995 September conference on Federal mandates, not all conferences do or will focus on developing recommendations. Education and public awareness and participation will continue to be the primary objective of CAE's conferences. The more contentious issues, as identified at the Legislative Issues conferences and requested by policy makers, that might benefit by consensus building will be addressed by focus committees. However, both the Environmental Equity Conference, April 1994, and the Forest Management Conference, November 1993, offered extensive opportunities for participants to develop recommendations through consensus building.

Page 10, ¶ 5 CAE's focus committees, already implemented, are structured to provide recommendations; Information Sheets to provide background information.

Page 10, ¶ 6 The CAE's Policy Committee and its annual Legislative Briefing will provide better personal contact with policy makers. The annual Legislative Issues Conference will continue to provide opportunities for policy makers (in public and private sector) to offer suggestions of issues CAE will address. In the past, legislators – including Arizona state senators and representatives, the governor's office, and legislative analysts – have been contacted for recommendations on issues. The Forest Management Conference, November 1993; Hazardous Waste Management Conference, December 1992; and Clean Air Act Conference, September 1991; are examples of programs that were developed based on such suggestions.

Many legislators who interacted with the CAE in the past are no longer in public service; many current legislators are newly elected for the 1995 session. Although the purpose of the CAE's Policy Committee, established in October 1994 was to interact with legislators, budget hearings, legislative language hearings, etc. took precedence during the '95 session. When the agency is no longer threatened by extinction, it can begin the "business as usual" plans as set forth in its Strategic Plan.