

RESEARCH MEMORANDUM NO. 421

MANAGEMENT REVIEW OF THE DIVISION OF WATER

Prepared by:

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and
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Legislative Research Commission
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MEMORANDUM

TO: Vic Hellard, Jr.
Director

FROM: Jeff Kell and Henry Hipkens
Program Review Staff

DATE: April 1, 1985

RE: Management Review of the Division of Water

This memo contains the results of the preliminary review of the Division of Water authorized by the Program Review and Investigations Committee on June 4, 1984. Aside from a brief introduction and background, the memo focuses on staff findings, conclusions and recommendations. Agency comments on the recommendations and final committee action, taken on February 11, 1985, are also included.

The Division of Water (DOW) is part of the Department for Environmental Protection, within the Natural Resources and Environmental Protection Cabinet. It was created in August of 1980 through the consolidation of the Division of Water Quality, the Division of Sanitary Engineering and the Division of Water Resources. These divisions were merged in an effort to minimize duplication and pool related agency resources. DOW's responsibilities include water pollution control, the promotion of safe drinking water, dam safety and floodplain management.

DOW consists of six branches, managed by a director and an assistant director.

- Permit Review Branch
- Construction Grants Branch
- Enforcement Branch
- Field Operations Branch
- Drinking Water Branch
- Program Development Branch

Several basic sources of information were used for this preliminary review.

- DOW documents, such as mission statements, budgets, program accounting and control data;
- Department of Personnel position control data;
- personal interviews with current and past employees of DOW and other agencies within the Cabinet for Natural Resources and Environmental Protection, as well as other knowledgeable and interested individuals; and
- two mail surveys, including an employee questionnaire given to all Division of Water employees and a "client" questionnaire sent to approximately two hundred individuals. These "clients" include the federal government, local government, industry or the private sector, and other interested parties.

Questionnaires were sent to the homes of all DOW employees. 72 percent were returned. Of the two hundred "client" questionnaires sent, only 25 percent were returned. Although such a low return rate for the latter group makes it difficult to generalize the results, the responses were quite evenly distributed among client groups and were very supportive of information gathered from the employee survey and personal interviews.

The remainder of this memo summarizes the review's findings, conclusions and recommendations, which fall into four general categories:

1. frequent turnover in the position of DOW Director;
2. Cabinet Office of General Counsel's working relationship with DOW;
3. extent of on-the-job employee training; and
4. DOW staffing.

Frequent Turnover in the Position of Division Director

The Division has had six directors in the last eight years. This frequency of turnover has meant shifts in program priorities, and has undermined efforts to gain employee acceptance of the division's consolidation. Interviews suggest that "turf" problems have existed at the middle and upper management level. Confusion resulting from changes in division directors has contributed to these problems. Interviews indicate that the division director's leadership position has been undermined by the assumption on the part of division employees that any director's tenure will be brief.

Another result of the turnover in directors is an adverse effect on morale. There is a widespread perception that most of the change in directors has been for political reasons. The division director position is an appointed one, not covered by the Merit System, and a director may be removed without cause. Seventy-three percent of employees completing questionnaires indicated that they felt "politics" was the primary reason for the turnover.

There is an additional perception (noted by 13% of employees) that some DOW directors were not well qualified. There are only minimum requirements for the division director position, as evidenced by the class job specifications for Division Director II, which are:

sufficient professional level administrative
experience which would assure knowledge, skills
and abilities to accomplish agency objectives.

Conclusion

Frequent change of division directors has hurt morale, confused program priorities, and undermined the consolidation of the division by precluding strong and consistent leadership. Because of the very diverse and technical nature of the division's operations and the often controversial nature of its actions, the position of director is a difficult one. It is the general perception of DOW employees as well as other individuals associated with the division that some of the former division directors have not been well qualified and that political considerations have played a significant role in the constant change in directors.

Because the division desperately needs strong, qualified and consistent leadership, steps must be taken to promote stability in the position of division director, and to help insulate that position from political factors. Additionally, formal and appropriate qualifications for the position of DOW director should be established.

Recommendation

The Secretary of the Cabinet for Natural Resources and Environmental Protection should petition the Personnel Board to make the position of DOW director a merit position, and suggest appropriate qualifications.

The Cabinet's response to this recommendation was that the deficiencies noted in the LRC staff report have been corrected through development of the Kentucky Water Management Plan, published in November, 1984. The Cabinet also felt that a non-merit position affords the management flexibility necessary to implement the agency's goals. After consideration, the Program Review and Investigations Committee rejected this recommendation at its meeting on February 11, 1985.

Office of General Counsel's Working Relationship With the Division of Water

There has been widespread dissatisfaction in the DOW with the handling of legal action initiated by Division of Water inspectors. Eighty-three percent of those responding to the employee questionnaire characterized the DOW's record in bringing legal action against habitual violators over the past five years as either fair or poor. However, almost fifty percent of employees surveyed said that in the last year things have begun to improve.

The most persistent and serious complaint is that there has been a backlog of cases in the Office of General Counsel. This situation has undermined the credibility of field inspectors who have indicated to violators that legal action will be taken against them. Others in the division have complained that they need easier access to attorneys during work activities and have suggested that at least one attorney should be located in the Division of Water (located at 18 Reilly Road in Frankfort). Presently, all Counsel attorneys are located next to the Secretary's Office in the Plaza Tower. The Counsel feels that a change in this policy would be unwise and impractical. The convenience of centrally located legal resources (e.g., computers, legal texts) and the need for Counsel attorneys and Cabinet officers to work in close proximity to ensure coordinated Cabinet policy are cited as reasons. Additionally, the Office of General Counsel believes that a reorganization of its office in 1982, creating a branch to deal primarily with water and waste management, did much to ameliorate any problems of backlog and

access. However, even these attorneys' attentions are divided. Every attorney in the Office of General Counsel is presently handling at least one surface mining case, and it is the perception of many in the Division of Water that when conflicts exist, water cases assume second priority.

Conclusion

There has been significant dissatisfaction on the part of Division of Water management and technical staff with the level of priority the Office of General Counsel has placed on water cases. However, the 1982 reorganization of the Office of General Counsel has resulted in fewer complaints. Even so, attorneys working in the Water and Waste Management Branch of the Office of General Counsel still have surface mining cases, which divides their attention and efforts. Because of the Division's historical dissatisfaction with the Office of General Counsel and the potential conflicts of divided responsibilities, it would improve productivity and morale if some of the attorneys in the Office of General Counsel were assigned to water cases exclusively.

Recommendation

The Cabinet for Natural Resources and Environmental Protection Office of General Counsel should further segregate the responsibilities of its attorneys and assign one or more to Division of Water cases exclusively.

In their response, the Cabinet agreed with the concept of this recommendation, but indicated that a recent reorganization of the Office of General Counsel has provided a substantial increase in attorney staff time available for Division of Water cases. After discussion, the Committee voted to delete the word "exclusively" from the recommendation, and adopted the amended recommendation.

Extent of On-the-job Employee Training

DOW operations encompass a variety of technically oriented activities. The consolidation of the Division in 1980 altered the job responsibilities of many employees. Field inspectors, for example, are responsible for inspections in a variety of subject areas. Some cross-training has occurred. However, interviews indicated an almost unanimous sentiment that more training was needed. Drinking water plants and dam safety were most often mentioned by inspectors as areas in which they need additional training.

While the needs of field inspectors are particularly acute, the desire for additional training exists throughout the division. Eighty-one percent of employees responding to the questionnaire expressed a need for additional training. Management personnel indicated that they were aware of the need for additional training, but that financial resources have been lacking. In some instances, however, blanket restrictions on out-of-state travel have kept employees from attending training sessions, even when funded by the federal government.

Conclusion

As a result of the DOW consolidation, many employees' job responsibilities were altered, and in the case of field inspectors, expanded. The amount of training DOW employees have received as preparation for their new duties varies greatly. Generally, employees believe it has been less than adequate, both in quantity and scope.

Training is essential to effectiveness. Employees have indicated that lack of training has hindered their performance and hurt morale.

Recommendation

The Cabinet should increase the amount of training given to DOW employees at all levels, with particular attention to the responsibilities of field inspectors in the areas of sanitary engineering and dam safety.

The Cabinet was in agreement with this recommendation, and indicated that the Division of Water has now made training an ongoing activity.

Division of Water Staffing

In August, 1980, the DOW was created by consolidating the Division of Water Quality, the Division of Sanitary Engineering and the Division of Water Resources. In November, 1979, prior to consolidation, the three separate divisions employed a total of 173 people. (This figure includes permanent full-time and Federally Funded Time Limited positions only.) In November of 1980 the consolidated Division of Water employed 169 people. By November of 1982 the number was 134, a drop of 35. The decline in the number of personnel resulted from several factors including a Cabinet reorganization and vacancies which occurred naturally and were not filled.

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>
Number of Employees*	173**	169	162	134	140	142

* Includes filled permanent full-time, Federally Funded Time Limited, provisional and probational.

** Total of three separate divisions.

The decline in the number of personnel ended in 1982. Since then, the number has increased slightly, reaching 140 in 1983 and 142 in 1984. This change represents a net decline of 25 in the number of employees from the time of consolidation to the present.

While the number of employees declined, their workload increased, as a result of new program responsibilities. Consequently, employees were sometimes spread more thinly over the various water programs. Particularly hurt by loss of staff and increasing responsibility were the field offices.

In January of 1980, prior to consolidation, the Division of Water Quality had forty-six field office employees. From these field offices inspectors monitored approximately 3,500 wastewater treatment facilities. With consolidation the field offices gained eight inspectors from the Division of Sanitary Engineering, but simultaneously gained the responsibility of monitoring 1,200 drinking water plants. Additionally, the field offices were given the responsibility of handling dam safety inspections and floodplain complaints, which had previously been handled by the Division of Water Resources from its office in Frankfort.

By November, 1981, the DOW had only forty-five field employees, one less than the Division of Water Quality had had on its own prior to consolidation. The number of field employees has remained fairly constant since 1981, but in that time their responsibilities have expanded. Specifically, on January 4, 1984, 401 KAR 5:090, which mandated the registration, permitting and inspection of up to 12,000 oil and gas wells, took effect. These duties greatly increased the workload of inspectors, particularly in eastern Kentucky.

Eighty-one percent of respondents to the DOW employee questionnaire indicated that they felt that their office was understaffed. Interviews of field inspectors revealed a virtually unanimous sentiment that field offices were severely understaffed. Sixty-three percent of the "clients" of the DOW who responded to the survey were also of the opinion that the division was understaffed. Only eight percent thought the division was overstaffed.

Conclusion

The Division of Water is understaffed. This understaffing is most critical in the field offices. As a result of consolidation, cabinet reorganizations, transfers, and retirements, the Division lost a substantial number of employees who were not replaced.

The duties and responsibilities of the division have increased, while the number of employees has not. Understaffing has contributed to the low morale of division employees. Many employees indicated that the workload of the division forced them to concentrate solely on emergencies. The staffing needs of the field offices are particularly acute. These offices, which in 1980 were expected to monitor 3,500 wastewater treatment facilities with forty-six field staff, are now expected to monitor an additional 1,200 drinking water facilities, inspect dams, handle floodplain complaints, permit and inspect thousands of oil and gas wells without any increase in staff. Without such an increase the division cannot reasonably be expected to fulfill its statutory and regulatory obligations.

Recommendation

The Division of Water should develop an overall staffing plan for headquarters and field offices that accurately reflects the needs of the programs they administer. This plan with budget requirements should be completed and submitted to the Governor's Office for Policy and Management and the Interim Committees on Appropriations and Revenue and Agriculture and Natural Resources by March 1, 1985. The Natural Resources and Environmental Protection Cabinet should recognize the staff shortage in the Division of Water and give it the highest budgetary priority during the next budget cycle.

The Cabinet responded to this recommendation by saying that the staffing shortage has been addressed in the Kentucky Water Management Plan, and that no further study of personnel needs is warranted at this time. However, the staffing needs of the Division will be reassessed as part of the regular budget building process that takes place in the summer of 1985.

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