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GOVERNOR WENDELL R. ANDERSON SPECIAL MESSAGE

RESTORING AND PRESERVING MINNESOTA'S ENVIRONMENT

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STATE OF MINNESOTA

APR 1 1971



To the 67th Session of the Legislature of Minnesota

April 1, 1971

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Never have our people known so much about the needs and the possibilities of a free society. As never before, they see beyond a quantitative standard of living; they are concerned as well with the quality of life that each individual can lead. . . .

Our insights and our readiness must not be less than theirs. . . .

. . . our first concern must be the preservation of what we have left of the natural resources that sustain our very lives.

INAUGURAL ADDRESS
January 6, 1971

From now as far into the future as we can see, we must protect and preserve. . . . The fight will last as long as man remains in Minnesota.

SPECIAL MESSAGE on
Constitutional
Convention,
March 3, 1971

Mr. Speaker, Mr. President, Members of the 67th Session of the Minnesota Legislature, and fellow citizens of Minnesota:

There is no shortage of proposals before this Legislature to restore, protect, and preserve Minnesota's environment, and use the natural resources of the state more wisely.

Nor is there any question of the need for substantive action in this session. Our water, land, and air have been damaged and continue to be damaged. Our future health as citizens, our possibilities for pleasure in the beauty and recreational resources of the state, our livelihoods in a state economy substantially based on harnessing the giants in our earth, the future quality and perhaps even the preservation of our lives--all of these depend on action now to recognize the fundamental change that has taken place in our human relationships with our natural environment.

We are no longer in a position to exploit our resources without regard to the immediate and long-range

effects of that exploitation. As long as man remains in Minnesota, we will have to fight to repair and prevent his damage to the natural environment that sustains his life.

There is no need here to repeat the story of environmental deterioration in Minnesota. Nor do we need to search for villains. The damage done to our environment has not been the sinister work of evil men. Nor has it been the inevitable by-product of a thoughtless technology or a population mushrooming out of control.

Nor can the burden be assigned to business and industry alone in Minnesota. The economic difficulties that go with repairing previous mistakes are real, and they are problems for all of us. Nothing is to be gained from discouraging business and industrial development in Minnesota, or driving our economic resources out of the state.

Our environmental problems are primarily a result of our continuous failure to take into account the full consequences of our actions. We must begin to do that now. All of us must begin to do it - in government, in business and industry, and in our daily work and living.

I have already outlined in a previous message our need to commit the state to a changed relationship with

our environment, through an amendment to our state Constitution that establishes an environmental bill of rights for Minnesotans. In addition, I have recommended funds for a substantial increase in the staff and resources of the Pollution Control Agency to carry out the policies to which we are already committed as a state.

I have also indicated my strong support for the establishment of Voyageurs National Park and my strong opposition to continued discharge of taconite tailings into Lake Superior. I am hopeful that enabling legislation to establish Voyageurs Park will pass in this session of the Legislature. I am also hopeful that Federal administrative action will soon bring an end to the use of Lake Superior as a garbage can for taconite wastes.

My further recommendations today, including support of several proposals already before the Legislature, will help to restore, protect, and preserve Minnesota's environment. The problems we have are not ours alone. But we must make the best use we can of Federal and state authority and resources that are available to us if we are to solve them.

I believe that my previous recommendations and my recommendations today correspond to the level of resources available to the state and the level of insight and readiness of our people to act. As I indicated in my Inaugural Address, the people saw the problem first and their deep concern remains unserved.

AN ENVIRONMENTAL POLICY ACT

In addition to constitutional establishment of an Environmental Bill of Rights, Minnesota must take action at the state level to avoid governmental decisions that damage the environment.

The location of a ditch, the routing of a highway, the placement of a school or other public building, the selection of a heating method--all of these are decisions with environmental consequences. State, regional, and local units of government should be required by law to consider the environmental effects of every decision that directly or indirectly affects the physical surroundings.

Furthermore, their considerations should be reported to appropriate state policy-making bodies, even though individual units retain their decision-making power; and criteria for guiding decisions should be provided by the state.

In this way, consideration of environmental impact can become a visible and regular part of the governmental process. Decision-makers will become sensitized to the need to protect the environment and more thoughtful of the consequences of their actions.

I therefore recommend the passage of an Environmental Policy Act by this session of the Legislature. It should:

--require consideration of environmental impact as a step in the decision-making process in every executive agency of state government;

--require the same consideration in every regional or local decision-making process that affects the physical surroundings;

--require reporting of environmental impact through statements to each parent regional and state agency and the Minnesota Pollution Control Agency; and

--establish the Minnesota Pollution Control Agency as the state coordinating unit to establish criteria and guidelines for consideration of environmental impact.

This Environmental Policy Act should not be considered a substitute for the constitutional amendment which I have already proposed. Instead it is a basic step in focusing attention on the environmental consequences of actions at all levels of government. It will also supplement Federal environmental policy legislation.

CITIZEN ACTION AND BURDEN OF PROOF LEGISLATION

In order to enlarge the basis for action against pollution, both under present laws and under the recommendations in this message, the Legislature should take steps to put pollution on the defensive in Minnesota.

First, I recommend that the Legislature adopt legislation providing that the Attorney General, a municipality, or any individual citizen can take action in district court against any polluter.

Second, I recommend that state laws provide, in all actions maintained under such legislation, that the defendant have the burden of proving that its conduct is not polluting or will not pollute air, water, land, or other natural resources, whenever the plaintiff has made a prima facie showing that such pollution is taking place or will take place, and has thus established a case against the defendant. I do not favor the dilution of this provision that is presently under consideration by the Legislature.

This legislation will give Minnesota citizens a direct and powerful role in saving the environment for future generations. These new environmental rights are urgently needed, and I urge the Legislature to provide them in this session.

A STATE BONDING PROGRAM TO ASSIST MUNICIPAL
SEWAGE TREATMENT IMPROVEMENTS

Minnesota also needs a state program to provide substantial assistance to municipalities in improving their capacity to treat sewage, in order to protect and improve the water quality of lakes and waterways in the state and prevent contamination of our land and water resources. The best use of available Federal funds for this effort can be made only if the state becomes directly involved.

Minnesota is presently the only state in the Federal region served by the Chicago office of the Environmental Protection Agency that does not provide a state share for the Federal Construction Grants Program that assists municipalities in the development of sewage treatment facilities. The result is that municipalities in Minnesota must provide 67 to 70 percent of the construction costs for such facilities, with a 30 to 33 percent Federal share. In Iowa, Wisconsin, Illinois and Michigan, where the states participate in the program, municipalities provide up to 25 percent, the state provides 25 percent, or more, and the Federal government provides 50 to 55 percent.

Participation by those states thus places sewage facilities construction within the reach of a large proportion of municipalities. That has not been the case in Minnesota.

The state's only involvement in assistance to municipalities at present is the Crystal Waters program passed by the last Legislature. Under that program, the state limits its participation to the payment of interest on funds borrowed by municipalities in anticipation of repayment of the Federal share. To date, none of the funds appropriated for this purpose have been used. There has not been a single application; the Crystal Waters Program as now administered does not provide sufficient incentive to municipalities to undertake facilities programs. Many of them simply cannot afford to do so and the interest repayment program is of little value to them.

If the state participates, a municipality can receive combined Federal and state assistance totalling at least 75 percent of the construction costs--80 percent if there is a regional treatment plan, still more if the state share is increased above 25 percent. The difference in incentives is obvious, and the total possible incentive is limited only by the degree that the state determines to participate.

There are only two ways to provide a state share -- through direct state appropriations or a bonding program.

Iowa's participation in the program is through the appropriation route; Michigan, Illinois, and Wisconsin have bonding programs.

Simply to provide the state's share in matching funds for the coming fiscal year on the basis of Federal funds assumed to be available would require an appropriation of \$7.5 million--or \$15 million for the biennium if the amount available at the Federal level remains constant for the two-year period. Proposals to increase that amount are under consideration in the Congress.

Operating as we are in a state "liquidity" crisis, faced as we are with an uncertain amount of Federally available funds and no opportunity to revise our funding after the end of the legislative session, and faced with a real need for municipal sewage systems that goes far beyond the funds available by participation in the Federal program, I believe that a state bonding program is the appropriate way to provide funds for this purpose.

First, it is no secret that the state is short of funds to provide needed state services. My finance and budget recommendations are well known. The use of bonding methods to finance capital construction is a

well-established principle. In my judgment, it would be unwise to use appropriations for that purpose in this session of the Legislature.

Second, bonding up to a specified limit gives the state the flexibility it needs in responding to this developing Federal program. It promises a sustained effort to local communities and the Federal administrators beyond a single biennium. It does not tie up funds in order to keep them available in case Federal funds are increased, and it does make them available if that should happen. The unspent Crystal Waters appropriation is a good example of the way in which appropriations funds can lose their usefulness if the demand for them does not develop. The Maximum Effort School Fund, on the other hand, is a good example of the way in which state bonding can create a useful and flexible mechanism for meeting fluctuating demands. Adjustments in bonding limits can easily be made by the Legislature to anticipate increasing needs, without tying up funds. Appropriations are not so flexible.

Third, the need for sewage facilities in the state surpasses the total amount that current Federal funding makes available, and the state also needs to provide a means for municipalities with serious fiscal problems to

participate in the program. In my judgment the need to get programs under way now at a higher level of effort than the sharing program provides is great enough to justify assistance from the state to municipalities whether or not there are enough Federal funds available. Some municipalities, in addition, will need loan assistance in providing the local share of funds for the Federal program. Finally, there will be a few municipalities for which the 25 percent share is simply too high.

According to a report prepared in January 1971 for the Minnesota Pollution Control Agency, about \$640 million will be required between now and 1990 to meet Minnesota's needs for municipal sewage facilities. Assuming 50 percent Federal participation, state and local shares would total \$320 million and the state share at 25 percent would be \$160 million for this 20-year period.

In order to provide sufficient funds for the state's projected share, to allow the state to go beyond a 25 percent share when necessary, and to provide further loan assistance as needed, I recommend that the Legislature establish a special Municipal Sewage Facilities Assistance Fund, with

a maximum limit of \$185 million in general obligations bonds of the state providing the capital, including funds for loan assistance and possible state shares in excess of 25%.

In order to repay principal and interest on these obligations without encumbering future state appropriations, I further recommend that a statewide waste discharge fee be established, assessing each waste discharger in the state according to the volume of waste discharged. Municipalities or other sewage governing units should retain the responsibility for determining a basis for assessing these charges equitably against the users of their systems.

In order to provide start-up costs and insure that adequate funds are available to provide repayment of principal and interest that may come due in the second year of the biennium on bonds issued in fiscal 1971, I further recommend that the Legislature amend the 1969 legislation which provided an unused portion in the Municipal Sewage Facilities Assistance Fund. Once the proposed waste discharge fee is in full operation, there should be no need for further appropriated funds. Since the Crystal Waters appropriation

was intended to serve a purpose for which the Municipal Sewage Facilities Assistance Fund is recommended, this is an appropriate use of these funds.

Finally, I recommend that the legislation authorizing the establishment of the Municipal Sewage Facilities Assistance Fund be made effective before July 1, 1971, in order to make several projects already undertaken eligible for the increased federal share from funds approved for the current fiscal year.

In my judgment the state must act in this session of the Legislature to stimulate the construction of badly needed municipal sewage facilities, in the interest of public health and the repair and prevention of long-range damage to the environment of the state. A state bonding program with a payback feature based on the volume of industrial and municipal waste discharges is an effective means of meeting this necessity.

CONSIDERATION OF ENVIRONMENTAL EFFECTS IN
LAND USE DECISIONS IN MINNESOTA

Decisions about the use of land have major impact on the quality of our environment.

When a decision is made to build a new power plant, for example, other decisions are directly and indirectly made about the future quality of the air, the condition of rivers and streams, and capacity for future economic development, that may go far beyond the immediate location of the plant.

When a city allows the construction of a new high-rise apartment or development of a new area of the community for industrial or residential use, it is also making decisions about scenic beauty, the use of water resources, the possible deterioration of parks and open spaces, and the possible loss of wildlife habitat.

When the state locates new or rebuilt highways, our agricultural, wilderness, recreational, or residential land may be diminished, people may be displaced, noise may increase, air quality may be affected, and plant life in the area may be damaged or destroyed.

In short, decisions to put land to certain kinds of public and private uses can measurably affect the quality

and quantity of natural resources, not only in the location where development takes place but elsewhere in the state as well.

Many such decisions are made without adequate consideration of their overall impact. For the most part, policy toward land use and development is made exclusively at local levels. Local governments and private developers make decisions on the basis of local criteria; policies may be formulated unconsciously or with a view toward only one aspect of the welfare of the local area. The sum of the resulting decisions may have negative effects on other aspects of life in the local community or the rest of the state.

Several major land use decisions, with significant environmental implications, are on the horizon in Minnesota in the next few years: the construction of 15 "new generation" power plants; the location of a major airport in the metropolitan area; several hundred miles of additional freeways and expressways, and others. Because of their size and nature, these developments are capable of causing damage both to humans and to the natural environment. They are too important to the state as a whole to be left exclusively to local decision-making. Discretion must

be vested in state authority to regulate the location of developments that may substantially affect the environment.

In order to provide the framework for state participation in such decision-making, I recommend legislation to develop a State Land Use Policy. The purpose of the policy will be to encourage local governments to plan for, and regulate, major developments that affect the growth and use of critical land areas, and to require local governments to keep the general welfare of the local community and the state clearly in mind.

This legislation should allow state government, in consultation with appropriate state and local agencies, to insure that developments will be located where their adverse effects on the natural environment will be minimal. I further recommend that the responsibility of developing and administering such a policy be placed in the Department of Natural Resources, and that the Commissioner of Natural Resources be instructed to make recommendations to the 1973 Legislature for the necessary authorizations, resources, and manpower to carry it out.

MORATORIUM ON CONSTRUCTION OF NUCLEAR
POWER PLANTS IN MINNESOTA

One remedy for environmental ills is the development of new energy sources, particularly for the generation of electric power.

Nuclear fission reactors are now being built in Minnesota and elsewhere to provide electric power sources. If successful, they could greatly increase available electric power.

But a cloud hangs over the fission reactor. Nuclear technology is very complex and very difficult. Engineering practices have so far not been sufficient to prevent accidents.

Furthermore, nuclear accidents are not ordinary accidents. They are extremely dangerous and extremely expensive to clean up. There have already been several accidents and near accidents with nuclear reactors in the United States, and a number of scientists have warned against the severe and possibly fatal consequences of such accidents, especially at plants located near urban areas.

Because of the possibility of such accidents, the serious human and environmental damage they might bring, and the routine problems of waste containment and

radioactive emissions associated with nuclear reactors, I believe the safety of all our citizens requires a moratorium on the construction of new nuclear power plants in Minnesota. This moratorium, of course, cannot apply to plants now under construction or completed.

New, safer technology may soon become available in the atomic power field. In the meantime, a moratorium should be of indefinite duration, lasting until the Pollution Control Agency certifies, under appropriate legislative standards, that risks have been eliminated and new development can safely begin.

I recommend that the Legislature adopt legislation now under consideration to provide such a moratorium.

ADMINISTRATIVE FINES FOR POLLUTERS

Earlier in this message I recommended a state bonding program to provide funds to enable municipalities to build municipal sewage treatment plants.

Better municipal facilities will be of great assistance in reducing pollution and will help reduce industrial pollution where industries discharge their wastes through such treatment plants. But the state also needs more effective means of enforcing the standards and regulations that control waste discharges into waterways in the state.

Fortunately, Minnesota's regulations concerning industrial waste discharges are strict, and our standards for acceptable discharges are high. However, enforcement is limited because of the inability of the Pollution Control Agency to impose fines easily when violations occur.

I therefore recommend that the Executive Director of the Pollution Control Agency be authorized to impose administrative civil fines of up to \$10,000 per day for violation of PCA regulations and standards, subject to the Administrative Procedure Act, Chapter 15 of Minnesota Statutes.

Passage of such legislation will enhance the ability of the state to prevent pollution, and the rights

of those charged with violations will be adequately protected. Our waters will never be clean unless we are as thorough as possible in establishing and enforcing our regulations. Such legislation would fill one of the remaining gaps in our enforcement process.

CONTROL OF POLLUTION FROM AGRICULTURAL SOURCES

Perhaps the most difficult pollution to deal with is that which originates from agricultural sources. Among them are animal wastes, eroded soil, fertilizers, and pesticides.

Effective solutions to these problems will take time and will require mutual understanding and full cooperation of all of those involved in the processes of agricultural production. Any solution to the problems created by chemical fertilizers and pesticides, for example, must take into account the continuing need to increase supplies of food and fiber for basic human needs.

I support the actions that have already been taken to regulate concentrated animal feedlots and restrict the use of such pesticides as DDT, DDD, Dieldrin, Endrin, Heptachlor, Lindane, and Aldrin.

Considerable uncertainty surrounds the magnitude, and the sources of mercury pollution in Minnesota, but the dangers of such pollution are extremely great. I therefore recommend that the Legislature place mercury in the "permit only" category, for use only in extreme emergencies when no substitute is available. Such a step will effectively eliminate mercury from the seed treatment process except

when a state judgment is made that its use is required on an emergency basis. Such a safeguard is badly needed.

I further recommend the creation of a pesticide review board, as already proposed to the Legislature, in order to evaluate pesticide problems in the state and work out adequate solutions. I recommend that statutory provision be made for inclusion of the Minnesota Pollution Control Agency on such a board.

RECYCLING OF JUNK AUTOMOBILES

The automobile is an essential part of the lives of most Minnesotans. But the junking process for automobiles is a classic example of our long-term unwillingness to pick up after ourselves and preserve our irreplaceable metal resources.

Junkyards full of old automobiles do more than destroy the beauty of our countryside. They waste our natural resources, and that waste is a luxury that we now know we cannot afford.

Processing of junk automobiles is now technically and economically feasible. Recycling them, however, is more than a possible and desirable alternative; it is an environmental necessity.

Recent polls indicate that our people are ready to support the imposition of a special disposal fee on the purchase of each new automobile in the state. I strongly recommend the passage of the proposal now before the Legislature to require a \$3.00 fee on each such purchase, assign the proceeds to a special fund managed by the Minnesota Pollution Control Agency, and give the PCA responsibility for encouraging and implementing recycling programs.

The need for such action is clear, and the program is self-supporting. I see no reason to delay this step, and every need to proceed.

EXTENDING PCA AUTHORITY TO INCLUDE NOISE POLLUTION

Increasing attention is being paid, in Minnesota and elsewhere, to the problems of noise as they affect the environment in which we live and work.

The recent study of reactions to noises from traffic on Highway 35W through Minneapolis is one example of such attention. Clearly the noise phenomenon deserves further study. We must also work to anticipate noise problems and plan their abatement and control through guidelines, as we now do for water and air pollution.

I therefore recommend that the Legislature expand the responsibility of the Pollution Control Agency to include the regulation of noise pollution in Minnesota, in recognition of the growth of this problem. I further recommend that the Legislature appropriate \$150,000 to the Pollution Control Agency to get this effort underway.

PROHIBITING SALES OF BEVERAGES
IN NONRETURNABLE CONTAINERS

The use of nondegradable, nonreturnable beverage containers is one of the marketing phenomena of recent years.

The convenience, and therefore the popularity, of such containers is unquestionable from the immediate point of view of the purchaser. But one of the characteristics of the change in our view of the environment is that we can no longer risk taking short-range steps with undesirable long-range consequences.

Discarded beverage containers that do not decay are unsightly additions to our roadsides and costly problems for state and local governments that must remove them.

Discarded beverage containers that do not degrade are dangerous additions to our lakes and streams, where they cause injuries and create impossible disposal problems.

Discarded beverage containers are unconscionable wastes of the natural resources that are used to manufacture them.

For all of these reasons, they should be eliminated. I therefore recommend that the Legislature adopt the proposal now before it to forbid the sale of beverages in nondegradable, nonreturnable containers in Minnesota. Only action at the state level will insure that such containers are adequately controlled.

I further recommend that legislation provided for this purpose recognize the economic and production problems created for Minnesota manufacturers by such action, making the effective date far enough in the future to allow for the adjustments in the manufacturing process that must be made.

ESTABLISHMENT OF AN ENVIRONMENTAL ADVISORY COUNCIL

The environmental problems we face are deep-rooted and widespread. They can be solved only if we are willing to make a full state effort that features sound, coordinated planning and effective follow-through.

State institutions and mechanisms for dealing with the environment, with pollution, and with natural resources have developed piecemeal over the years in response to specific needs. Not all of these needs were originally perceived as they are today.

In order to study the relationships among the various state efforts that are concerned with the environment, and in order to make recommendations to eliminate duplications, overlapping, and conflicts in present missions, I recommend that the Legislature establish an Environmental Advisory Council.

This Council should report directly to the office of the Governor. Nine of its members should be appointed by the Governor from among appropriate citizen groups and individual citizens with special expertise and interest in environmental problems, with the advice and consent of the Minnesota Senate.

Four ex officio members should represent the State Planning Agency, the Department of Administration, the Department of Natural Resources, and the Pollution Control Agency as permanent members, and two other members should be

appointed by the Commissioner of Administration from other state departments and agencies on a rotating basis.

The Council should have the responsibility of appraising the programs of various state agencies and recommending ways to coordinate programs and policies and improve the quality of the environment in Minnesota. It should be provided with a small staff drawn from those agencies and departments which presently have programs dealing with soils, water, forests, wildlife, pollution, and other environmental concerns.

For the 1971-1973 biennium, I recommend an appropriation of \$50,000 to provide for the expenses of members of the Council. I further recommend that the Office of the Governor and the Department of Administration be assigned responsibility for developing a staff for the current biennium and making recommendations to the 1973 Legislature for further action, including appropriations for permanent staff if required.

If the Legislature will provide this Council, I intend to use it to bring the best coordinated effort of the state to bear on environmental problems in Minnesota. Such a Council can become the device for state coordination and cooperation which we so badly need in the state's environmental effort.

AN ENVIRONMENTAL EDUCATION PROGRAM

Legislation has been introduced to support the development of an environmental education program. In my Budget Message, I recommended that \$75,000 be provided to the Department of Education to get this program under way, and I reiterate my support for that recommendation.

I further recommend that the Legislature encourage close cooperation between the Department of Education, the Department of Natural Resources, the Pollution Control Agency, and the proposed Environmental Advisory Council in beginning this education program. Their review of the progress of this effort during the coming biennium will provide a sound basis for further recommendations to the 1973 Legislature.

SUMMARY

I have previously recommended that the Legislature amend the Minnesota Constitution to provide for an Environmental Bill of Rights, and that it substantially increase the funding of the operations of the Minnesota Pollution Control Agency. I reiterate my strong support for those recommendations.

The additional recommendations in this message include:

1. Passage of an Environmental Policy Act, to require consideration of the environmental impact of every state, regional, or local decision affecting the physical surroundings.
2. Legislation to allow citizen actions against polluters and shift the burden of proof in such actions to the defendant.
3. Establishment of a \$180 million Municipal Sewage Facilities Assistance Fund through the use of state bonding authority, to provide the state's share of federal-state-local support for construction of municipal sewage treatment facilities, and to provide further assistance as needed; with repayment through a statewide waste discharge fee.

4. Legislation to develop a State Land Use Policy to improve state and local planning and regulation of developments that affect the use of critical land areas in the state.

5. A moratorium on further construction of new nuclear power plants in Minnesota, until such time as the Minnesota Pollution Control Agency certifies that new development can safely begin.

6. Administrative fines of up to \$10,000 per day to improve the enforcement of standards and regulations governing the discharge of industrial wastes, under the provisions of the Administrative Procedure Act.

7. Strict state controls on the use of mercury, and the establishment of a pesticide review board, in order to improve control of pollution from agricultural sources.

8. Enactment of a \$3.00 disposal fee for the purchase of new automobiles, and assignment of responsibility to the Pollution Control Agency for encouraging and implementing recycling programs for junk automobiles.

9. Extension of the authority of the Minnesota Pollution Control Agency to include the regulation of noise pollution.

10. Prohibition of the sale of beverages in nonreturnable, nondegradable containers.

11. Establishment of an Environmental Advisory Council with citizen and departmental representation, to appraise state environmental programs and recommend ways to coordinate them.

12. Establishment of an Environmental Education program in the Minnesota Department of Education, as provided in my budget recommendations, with an appropriation of \$75,000 for the coming biennium.

Much of the legislation which makes up this program has already been introduced in some form in the Legislature. I will be forwarding other proposed legislation as soon as possible.

In my judgment, the efforts I recommend today will strengthen the ability of the State of Minnesota to restore, protect, preserve, and properly use its environment, and they lay a foundation for expanded future efforts as well. I urge the Legislature to consider these recommendations carefully, and I welcome your responses and further suggestions.

We must act in this session, I believe, if we are to respond to the insights of our citizens and serve the future of the state.