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STATEMENT OF WAYNE H. OLSON,  
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TO THE INFORMATIONAL MEETING  
OF THE MINNESOTA POLLUTION CONTROL AGENCY  
ON ARRANGEMENTS FOR AIR POLLUTION CONTROL  
IN THE TWIN CITIES METROPOLITAN AREA

1. Introduction

Because of the extent of the problem in the Twin Cities Metropolitan Area, it may be that the most far-reaching and significant single decision the PCA is likely ever to make in the area of air quality control is the decision it makes on the arrangement for enforcing air quality standards in the metropolitan area.

The PCA now has under consideration a proposed framework for enforcement in the region. A whole set of major issues arise in connection with this proposal.

It is essential to see that this is not an "interim solution." Whatever is decided upon this summer is, in all likelihood, going to be the arrangements by which this region will operate for many years. This has been our experience with other joint powers arrangements in recent years: They are not temporary simply because they are not statutory.

The PCA should therefore -- although certainly stimulated by federal pressure -- proceed with extreme care . . . and with the view that what it sets up now is likely to represent the way in which air pollution enforcement will be carried out five, ten or even twenty years from now.

From this point of view, we commend the PCA for its decision not to let this morning's meeting be the only such meeting . . . but to schedule a second, and fuller, discussion at a later date before bringing the issue to its board. Our conversations have tended to suggest that the proposal is not widely known or understood. And we believe that it needs wide community response before final action is taken.

Our efforts today are directed mainly toward a highlighting of some of the issues we think are raised by the proposal as presently drafted. We would hope, at the subsequent meeting, and after some fuller community discussion has taken place, to return with more specific proposals for the Agency's consideration. We do not represent ourselves as experts in either the technical or legal aspects of air pollution control, but our long experience with questions about the financing of public services, the design of systems of representation in areawide bodies, and the pattern of local government organization has given us a background which we hope and believe will produce suggestions helpful to the Agency.

2. Support for the Basic Objective

It is important to say at the beginning . . . because comments directed toward a single proposal inevitably can be taken to be negative in character . . . that

we are in support of the essential objectives of the PCA, which we take to be:

- \* To pursue a vigorous enforcement policy of air quality standards.
- \* To follow a fully regional approach in handling this problem.
- \* To make the fullest use of the opportunity to carry out operating responsibilities through existing units of government.

### 3. Major Areas of Questions

The need for such a program as is outlined above says nothing, however, by itself, about the way in which that effort ought to be set up and organized. We think questions do arise about the organizational arrangements proposed which we would summarize as follows:

- \* A review of the documents leaves somewhat unclear where the responsibility for enforcement really will reside: in the individual county boards, in the Commission, in the Executive Director of the Commission, in the PCA? We are somewhat further confused, as conversations on this point seem to raise the prospect that certain decisions by the counties or the Commission would, in all cases, be subject to review by the PCA. . . and that they could be subject to review by the PCA under certain conditions. It is -- for purposes of evaluating the proposal -- useful to force the question: Who, specifically, takes responsibility for a particular decision on enforcement. If a decision needed to be challenged . . . whether it was thought to be too strict, or too lenient . . . who, specifically, is the person to see? It is not clear whether final decisions will or can be made at all by the Commission. If this is the case, why should an individual or organization seeking a permit be involved with two agencies, rather than one. If everything is appealable to the PCA, why should not the responsibility be lodged there in the beginning? In the case of the PCA, it is clear enough who is responsible for the record made by any individual member: that is, the member himself and the Governor who appointed him. In the case of the Commission, to whom is the individual member responsible?
- \* Where do the municipalities fit in? The documents contain some reference to a possible contracting for service between the municipalities and the Commission. We assume, but are not certain, that this means the municipalities might contract with the Commission to carry out what are now municipal air pollution control enforcement problems. Is this, in fact, what is meant? How do the municipalities feel about this? How do we know what they feel? As a practical matter, does the arrangement contemplate municipal programs disappearing, to be replaced by the activity of the Commission?
- \* What are the financing arrangements to be? Our general understanding is that substantial federal money will be available to help start up the enforcement program . . . but that, as the years go by, more of the financing load will be local. And even at the beginning it appears some local share will be required from local (and presumably property tax) sources.

If -- as we have been given to understand -- a uniform financing plan were to be worked out by the Commission and implemented by the counties individually, does the Commission not then (assuming the property tax is used to any extent) become, in effect, a tax levying body? If this is the case, why is it not obliged to meet the one man/one vote test imposed on the state, on municipal governments, and on a county individually.

- \* The system of membership and voting in the proposed Commission raises a number of questions in relationship to the decisions the Commission may be making. Given representation by counties . . . what kinds of questions may arise if the present preference for solid waste disposal by landfill is changed, in the future, to provide for disposal through incineration? Would not the counties then become, at the same time, dischargers and regulators of their own discharge? Also: recognizing that the enforcement of tough air pollution control regulations on existing industries can play out, in effect, as a program for the relocation of industries and industrial tax base, would it be basically fair to the members of the proposed Commission to involve them in this activity . . . recognizing that, as elected local officials, they have an (at least implicit) charge from their constituents to work for the expansion of their local tax base?
  
- \* Legislative responsibility for the pattern of governmental structure -- The proposed joint powers agreement reads as . . . and is, in effect . . . major state legislation. It provides for the creation of an important, and presumably permanent, metropolitan special district. The State Legislature has been increasingly concerned with the creation, and coordination, of these pieces of areawide governmental structure. In our observation, the Legislature has felt the proliferation of such agencies the source of a continuing problem, both for the state and for local units . . . and has therefore looked with some disfavor on the creation of such special districts (indirectly) as a result of federal regulations, and has tended to prefer to have major questions about changes in area governmental structure passed through its own appropriate committees. The PCA's concerns with respect to the proposal before it relate, of course, to concerns about adequate air pollution control enforcement, and the availability of federal funding. But the proposal would, inevitably, nevertheless, put the PCA in the position of creating one of these areawide special districts about which the Legislature has been concerned. It is not clear to us, from our reading and conversations to date, that the questions raised have been fully reviewed with the Legislature . . . or that such major action is required at this time simply to satisfy federal regulations . . . or that the nature of the federal funding procedures absolutely requires the creation of this new piece of areawide governmental structure.

#### 4. There is a Need to Evaluate Alternatives

Our experience has been that the soundest decisions are made when a whole range of alternatives is laid out and compared, and -- after full discussion -- what emerges as the superior alternative is then implemented. We urge the PCA to follow this procedure as it moves to implement the enforcement program for the Twin Cities area. Whatever this requires in additional time will, we believe, be more than returned in the soundness of the decision that results.

We're not prepared at this time, ourselves, to propose the alternatives. That is, we think, properly a function for the PCA assisted by its staff. We would be glad, then, to evaluate and to comment on these other proposals, as we have on the one proposal presently before the Agency.

Without in any way taking the position that any one of them is superior to the alternative now proposed, it is possible to indicate, roughly, a few other alternatives:

- \* One is for the PCA, as the pollution control agency in the state, for air, water and land, basically to undertake this function itself. To evaluate this option, we would need to know whether the PCA could set up a metropolitan division . . . whether the federal government would or would not refuse to fund on the three-to-one basis a regional approach of this sort which did not involve the creation of a new governmental body . . . how the local matching share would be raised . . . and how arrangements could be worked out for tagging and for court enforcement.
- \* A second would be, under the 1971 "Delegation" statute, for the PCA to set up the responsibility for enforcement in an existing regional body -- such as the Metropolitan Sewer Board.
- \* A third (perhaps in conjunction with the first) would be for the PCA to contract with individual counties . . . thus achieving a regional approach while avoiding the complications arising out of the creation of a new area-wide special district.

A parallel objective, we believe, as arrangements are developed, is not to put in jeopardy the pre-eminent position of the PCA in the whole effort to clean up and preserve the natural environment in the state. It has run an aggressive program . . . and it presumably wishes, above all, to ensure that an equally aggressive program continues.

In conclusion, we renew our urging that other organizational options be drafted, at least in outline form; be circulated to interested parties; and be reviewed and discussed at the next "informational meeting" on the question of metropolitan air pollution control. We will make every effort, for our part, to review these other proposals and reappear with comments about them, at that time.