

# STATE OF MINNESOTA

## EXECUTIVE DEPARTMENT



**MARK DAYTON**  
**GOVERNOR**

### **Executive Order 11-09**

#### **Designating the Commissioners of Natural Resources and the Pollution Control Agency as Co-Trustees for Natural Resources; Rescinding Executive Order 99-17**

**I, Mark Dayton, Governor of the State of Minnesota**, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

**Whereas**, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9607(f), authorizes the State to recover damages for injury to, destruction of, or loss of natural resources resulting from a release of hazardous substances and provides that the governor of each state shall designate state officials who may act on behalf of the public as trustees for natural resources for purposes of CERCLA and the Clean Water Act, 33 U.S.C. § 1321(f); and

**Whereas**, the Oil Pollution Act of 1990, 33 U.S.C. § 2706, authorizes the State to recover damages for injury to, destruction of, loss of, or loss of use of, natural resources resulting from the discharge of oil and provides that the governor of each state shall designate state and local officials who may act on behalf of the public as trustee for natural resources under its trusteeship; and

**Whereas**, the Minnesota Environmental Response and Liability Act ("MERLA"), Minnesota Statutes § 115B.17, subd. 7, provides that the State is the trustee of the air, water and wildlife of the State for purposes of MERLA and authorizes the Attorney General to bring an action in the name of the State to recover for damage to those resources resulting from a release of hazardous substances;

**Now, Therefore,** I hereby order that:

1. The Commissioner of Natural Resources and the Commissioner of the Pollution Control Agency are designated as co-trustees for natural resources under CERCLA, 42 U.S.C. § 9607(f), the Clean Water Act, 33 U.S.C. § 1321 (f) and the Oil Pollution Act of 1990, 33 U.S.C. § 2706, and to act on behalf of the State as trustee under MERLA, Minnesota Statutes § 115B.17, subd. 7.
2. Except as provided below, any action by the Commissioner of Natural Resources and the Commissioner of the Pollution Control Agency in their capacity as co-trustees for natural resources for purposes of CERCLA, 42 U.S.C. § 9607(f), the Clean Water Act, 33 U.S.C. § 1321 (f) and the Oil Pollution Act of 1990, 33 U.S.C. § 2706, requires the concurrence of both the Commissioner of Natural Resources and the Commissioner of the Pollution Control Agency, or their designees.
3. The Commissioner of Natural Resources and the Commissioner of the Pollution Control Agency may enter into a memorandum of agreement with respect to the fulfillment of their responsibilities as co-trustees for natural resources. The memorandum may, among other things, specify actions that the Commissioner of Natural Resources or the Commissioner of the Pollution Control Agency may take independently, without the concurrence of the other Commissioner.
4. The Commissioner of Natural Resources and the Commissioner of the Pollution Control Agency shall notify the President of the United States of their designation as co-trustees for natural resources under the requirements of CERCLA, 42 U.S.C. § 9607(f) and the Oil Pollution Act of 1990, 33 U.S.C. § 2706.
5. Executive Order 99-17, as continued by Executive Order 03-04, is rescinded.

Under Minnesota Statutes, section 4.035, subdivision 2, this Executive Order is effective 15 days after publication in the State Register and filing with the Secretary of State.

**In Testimony Whereof,** I have set my hand on April 4, 2011.

  
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**Mark Dayton**  
Governor

Filed According to Law:

  
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**Mark Ritchie**  
Secretary of State

