



FINANCIAL AUDIT DIVISION REPORT

**Department of Natural
Resources and the 2007
North American Wildlife
Enforcement Officers
Association Conference**

Special Review

August 28, 2008

Report 08-21

FINANCIAL AUDIT DIVISION

Centennial Building – Suite 140

658 Cedar Street – Saint Paul, MN 55155

Telephone: 651-296-4708 • Fax: 651-296-4712

E-mail: auditor@state.mn.us • Web site: <http://www.auditor.leg.state.mn.us>

Through Minnesota Relay: 1-800-627-3529 or 7-1-1



OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

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Representative Rick Hansen, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. Mark Holsten, Commissioner
Minnesota Department of Natural Resources

This report presents the results of our special review of the Minnesota Department of Natural Resources' involvement with the North American Wildlife Enforcement Officers Association's conference held in Saint Paul, Minnesota in July 2007.

We conducted the review with assistance from David Poliseno (Audit Manager) and Jerry Foty (Auditor). The Department of Natural Resources cooperated fully with our review. We interviewed current and former department officials and employees, including nine under oath. On advice from legal counsel for the Minnesota Conservation Officers Association, three current department employees refused to be interviewed under oath. Appendix A lists the individuals we interviewed under oath and those that refused to be interviewed.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Cecile M. Ferkul

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

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Report Summary

Conclusion

The Department of Natural Resources did not adequately authorize, define, or control its involvement in the 2007 North American Wildlife Enforcement Officers Association conference ([Finding 1, page 7](#)). Rather, the department's involvement was largely controlled by Enforcement Division employees and the Minnesota Conservation Officers Association, a private organization composed of Enforcement Division employees. The department implicitly authorized fundraising for the conference but did not control fundraising activities to ensure compliance with state law and department policy ([Finding 2, page 10](#)). The department incurred approximately \$300,000 of inappropriate expenses for the conference ([Finding 3, page 14](#)) and did not follow state policies for some travel by its employees ([Finding 4, page 19](#)).

Audit Objective and Scope

Our objective was to answer the following questions:

- Was the involvement of the Department of Natural Resources in the 2007 North American Wildlife Enforcement Officers Association conference properly authorized and controlled?
- Was fundraising for the conference by department employees properly authorized and controlled, and did it comply with state law and department policy?
- Were department expenses for the conference appropriate?

Our special review covered the time period from April 2004, when Minnesota Department of Natural Resources staff initiated the bid to host the conference, through January 2008 when the department made the final payments related to the conference.

Background

On May 5, 2008, the *StarTribune* reported that the Minnesota Department of Natural Resources had provided \$196,000 to the 2007 North American Wildlife Enforcement Officers Association conference held in Saint Paul, Minnesota. In addition, the article alleged the department had committed \$187,000 of staff resources, required over 200 employees to attend, provided lodging for some staff during the conference, and encouraged staff to solicit private donations for the event.

Department of Natural Resources and the 2007 North American Wildlife Enforcement Officers Association Conference

Overview

On May 5, 2008, the *StarTribune* reported that the Minnesota Department of Natural Resources had provided \$196,000 to the North American Wildlife Enforcement Officers Association's annual conference held in Saint Paul, Minnesota, in July 2007. In addition, the article alleged the department had committed \$187,000 of staff resources, required over 200 employees to attend, provided lodging for some staff during the conference, and encouraged staff to solicit private donations for the event.

Pursuant to the Legislative Auditor's statutory authority and responsibility,¹ we conducted a special review of these allegations to determine the nature, extent, and propriety of the department's involvement with the conference. This report conveys the results of our special review.

As required by *Minnesota Statutes* 2007, 3.975, we are referring the report to the Attorney General. The Attorney General has the responsibility to recover state funds that were used inappropriately.

Objective, Methods, and Scope

Our objective was to answer the following questions:

- Was the involvement of the Department of Natural Resources in the 2007 North American Wildlife Enforcement Officers Association conference properly authorized and controlled?
- Was fundraising for the conference by department employees properly authorized and controlled, and did it comply with state law and department policy?

¹ *Minnesota Statutes* 2007, 3.971, subd. 6, says, in part: "The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance by employees of departments and agencies of the state government."

- Were department expenses for the conference appropriate?

To answer these questions, we examined documents obtained from the department and from the Minnesota Conservation Officers Association. We interviewed current and former department officials and employees, including nine under oath. On advice from legal counsel for the Minnesota Conservation Officers Association, three current department employees refused to be interviewed under oath. Appendix A lists the individuals we interviewed under oath and those that refused to be interviewed.

Our special review covered the time period from April 2004, when Minnesota Department of Natural Resources staff initiated the bid to host the conference, through January 2008 when the department made the final payments related to the conference.

Independent of our special review, the Department of Natural Resources hired a private firm to investigate the department's involvement in the 2007 North American Wildlife Enforcement Officers Association conference.

Background

The **Minnesota Department of Natural Resources (DNR)** states that its mission is to work with citizens to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial use of natural resources in a way that creates a sustainable quality of life. The department's Enforcement Division is responsible for enforcing the state's natural resources laws, including laws related to hunting and fishing, use of boats and snowmobiles, protection of streams and wetlands, and laws governing the harvest of Minnesota's wild rice crop. Minnesota's approximately 200 conservation officers generally work from their homes and conduct their duties with limited direct supervision.

Conservation officers are peace officers licensed through the Minnesota Peace Officers Standards and Training Board. To obtain a license, applicants must meet training requirements and pass an examination. Licenses are valid for a three-year period, and renewal requires the completion of 48 hours of board-approved continuing education. The department supports conservation officers in maintaining their licenses by providing or paying for training that meets the requirements of the licensing board.

The **Minnesota Conservation Officers Association (MCOA)** states on its web site that it is a "recognized union of law enforcement officers dedicated to the protection of the natural resources of the State of Minnesota." Regular members of the association are nonsupervisory conservation officers who either are or were employed by the Department of Natural Resources. As a union, the association

represents its members when disputes arise with the department about policies or practices and in disciplinary actions taken by the department against one of its members.

The union's bargaining agreement with the state limits union activity to lunch and break periods; requires the state to provide an official bulletin board for the union to post notices of meetings, elections, minutes, and newsletters; and allows for unpaid leaves of absence for employees elected to an MCOA office or selected by MCOA to do work that takes them away from their duties as conservation officers.

The **North American Wildlife Enforcement Officers Association (NAWEOA)** is an 8,000-member organization of wildlife and fisheries enforcement officers from across North America. The association is committed to wildlife protection and to the public it serves. It supports the activities of many major conservation organizations through membership and active participation. Regular membership is open to any provincial, state, or federal enforcement agency or member of that agency on the North American continent which has the lead role within their area of responsibility for enforcing regulations pertaining to wildlife and/or fisheries. Its annual conference is a source of training for conservation officers. The association has regional districts; Minnesota is a part of Region 5, based in Nebraska.

The association holds its annual conference at a site selected through an application process. At its 2005 annual conference, NAWEOA accepted Minnesota's bid to host the 2007 annual conference.

Conclusion

The Department of Natural Resources did not adequately authorize, define, or control its involvement in the 2007 North American Wildlife Enforcement Officers Association conference. Rather, the department's involvement was largely controlled by Enforcement Division employees and the Minnesota Conservation Officers Association, a private organization composed of Enforcement Division employees.

The department implicitly authorized fundraising for the conference but did not control fundraising activities or ensure compliance with state law and department policy.

The department incurred approximately \$300,000 of inappropriate expenses for the conference and did not follow state policies for some travel by its employees.

Findings and Recommendations

The Minnesota Department of Natural Resources did not adequately authorize, define, or control its involvement in the 2007 North American Wildlife Enforcement Officers Association conference.

Finding 1

The Minnesota Department of Natural Resources (DNR) never developed a written document that authorized and defined the nature and extent to which it, as a state agency, would participate in the annual conference of the North American Wildlife Enforcement Officers Association (NAWEOA), a private organization. The department's involvement was largely controlled by its Enforcement Division employees, some of whom worked on planning and hosting the conference as representatives of the Minnesota Conservation Officers Association (MCOA), also a private organization. The only formal agreement for hosting the 2007 NAWEOA conference was between MCOA and NAWEOA. Nevertheless, Enforcement Division employees used a significant amount of department resources (money, time, and equipment) to plan and host the conference.

Several current and former DNR officials we interviewed characterized the department's management approach as informal and decentralized, with significant discretion at the division level. However, that approach does not diminish the commissioner's responsibility to control the use of the department's resources. *Minnesota Statutes 2007*, 84.081, clearly says the department's divisions shall operate under the immediate control of a director "*subject to the supervision and control of the commissioner.*" Supervision and control by the commissioner's office was especially needed for the NAWEOA conference because of the intertwined relationship between the Enforcement Division and MCOA.

MCOA is composed of current and former conservation officers employed in DNR's Enforcement Division. Colonel Michael Hamm, Director of the Enforcement Division, is a past president of MCOA and told us, "I grew up in that organization." Since becoming a supervisor he cannot participate directly in MCOA, but he remains an associate member. In talking with us, he emphasized the close connection between MCOA and the Enforcement Division. When asked to identify circumstances when a conservation officer would be acting as a member of MCOA and not as a DNR employee, Colonel Hamm said, "I don't know that I know of any."

But there are important distinctions between MCOA and DNR. Unlike DNR (and its Enforcement Division), MCOA is a private organization. It is the union that represents nonsupervisory DNR conservation officers in the Enforcement

Division, and its interests and objectives can be in conflict with those of the department. Yet, throughout the conference planning and hosting process, MCOA and the Enforcement Division became virtually indistinguishable.

In 2004, the Enforcement Division, including employees who were MCOA officials, began planning to host the 2007 NAWEOA conference. Their presentation during the 2005 conference in British Columbia resulted in NAWEOA selecting Minnesota as the site for its 2007 conference. The written agreement detailing a host's responsibilities was signed by an Enforcement Division employee, but he signed as an officer of MCOA. There never was a written agreement between DNR and NAWEOA, or DNR and MCOA, for DNR to host (or co-host, or even participate in) the conference. Nevertheless, throughout the conference planning and hosting process, DNR was noted as a co-host with MCOA, and state time, money, and other resources were the principal support for the conference.

Gene Merriam, who was DNR Commissioner from 2002 through 2006, told us he first learned that DNR was involved in bringing the NAWEOA conference to Minnesota after the commitment had been made (in the summer of 2005). He told us that his initial reaction to the news was positive, but thought the department's participation and costs would be limited to using the conference as a training opportunity for the department's conservation officers. According to former Commissioner Merriam, his only explicit decision about the department's financial commitment to the conference occurred several weeks after he learned the 2007 NAWEOA conference would be held in Minnesota. He told us:

... I just remember Brad [Moore, DNR Assistant Commissioner] asking -- mentioning that Mike Hamm [DNR Director of Enforcement] had asked about the state's involvement as a sponsor. I remember discussing that. And I remember saying that, you know, first of all, what does that mean? And Brad's understanding was that all that meant, that we would kick in some money and be listed as a sponsor on the program. And I recall saying, you know, I don't feel very comfortable doing that. How do I justify the allocation -- the allocation of public resources to a private organization in that respect, and the decision was, no, we're not going to do that.

Yet, DNR did provide a substantial amount of public money and state time beyond what was needed to obtain training for its conservation officers. This happened in part because the department never developed a formal document authorizing and defining its involvement. Commissioner Merriam's decision against the department being a sponsor of the conference was only informally communicated to DNR's Director of Enforcement, Colonel Hamm, and it did not trigger a broader and more formal statement on how the department would—and would not—be involved in the conference.

Planning and spending for the conference was almost completely under the control of employees in the Enforcement Division, including members of MCOA. Enforcement Division personnel told us under oath they believed their involvement with the conference was authorized and known to officials in the commissioner's office. They pointed, for example, to the authorizations to attend the 2005 NAWEOA conference that were signed by a DNR assistant commissioner.² These documents stated:

Minnesota is planning to host this event in 2007, the Enforcement Division needs to send officers to this conference to gather important hands on information about the process of running this large of a conference as well as learning valuable information which the conference itself will provide in the areas of Wildlife [sic] Law Enforcement. When this event comes to Saint Paul, Minnesota, it will be the first time in years the event will be held in the United States, it is anticipated there could be 450-650 delegates in Minnesota in 2007.

In addition, they pointed to a draft fundraising letter (discussed in Finding 2) reviewed and approved in late 2005 by officials in the commissioner's office. It clearly stated that the "Minnesota DNR and the Minnesota Conservation Officers Association is hosting a conference for the North American Wildlife Enforcement Officers Association." The draft had comments and approval by Assistant Commissioner Brad Moore, then responsible for supervision of the Enforcement Division, as well as notes that seem to indicate that the draft had also been provided to Commissioner Merriam for review. Finally, they pointed to the fact that department officials outside of the Enforcement Division were aware of and approved a \$159,364 "special expense" request for the conference and a \$35,500 grant to MCOA to help pay certain conference expenses.

Approval of these expenses was inconsistent with Commissioner Merriam's position that the department's involvement in the conference should be limited. However, Commissioner Merriam's position was never fully developed in a document (memorandum, budget, statement, etc.) that authorized, defined, and controlled the nature and extent of the department's involvement in the 2007 NAWEOA conference. As a result, the department's involvement and financial commitment went far beyond Commissioner Merriam's concept that the conference would simply be a training opportunity for conservation officers.

² The *Out-Of-State Travel Authorization* and the *Request for Approval of Special Expenses* authorized \$3,710 for travel, lodging, meals, and registration fees for two Enforcement Division representatives at the 2005 NAWEOA annual conference held in British Columbia on July 12 through July 17, 2005.

Recommendation

- *The department should establish policies and procedures that require written authorization and adequate controls when its resources are used to host, sponsor, or otherwise support a conference or similar event.*

Finding 2

The department did not control fundraising for the conference to ensure it complied with state law and department policy.

DNR Enforcement Division employees used their state positions and state financial resources to raise approximately \$51,000 in cash and \$65,000 in merchandise ostensibly to support the conference.³ The commissioner's office implicitly authorized the fundraising, but did not ensure fundraising activities were appropriate and donations were used for their intended purpose.

Members of the conference steering committee knew in 2005 that fundraising from private sources was a host's responsibility and that its purpose was to benefit MCOA and NAWEOA. The hosting agreement for the 2007 conference (signed in 2005 by MCOA and NAWEOA) had several provisions concerning "Fundraising and Promotional Items," including the following statement:

Host should make it their goal to solicit sufficient financial sponsorship to cover (when combined with registration fees) basic convention costs. This will ensure that moneys raised from auctions, raffles, and promotional items should be clear conference profits.

According to MCOA's financial records,⁴ the conference did achieve a profit of \$76,626. Based on the "profit sharing" formula in the hosting agreement between NAWEOA and MCOA, NAWEOA received \$50,813 from this amount and MCOA received \$25,813.

The fundraising efforts were directed by a committee of Enforcement Division employees. In addition to encouraging their fellow conservation officers to solicit money and goods from private companies and individuals, the committee identified potential targets for fundraising and developed documents titled "How to Write Successful Fundraising Letters" and "Fundraising Script-Tips for Contacting Donors."

The commissioner's office reviewed and approved a draft fundraising letter. The text of the letter said the 2007 NAWEOA conference was being hosted by both "the Minnesota DNR and the Minnesota Conservation Officers Association." It

³ These amounts are reflected in records kept by MCOA.

⁴ We did not audit MCOA's financial records.

laid out several levels of sponsorship and said: “We need your help! Most attending are field level officers who are coming at their own expense, as such we need to keep the registration costs as reasonable as possible. Your sponsorship is vital to make this happen.”

The commissioner’s office required that the letter be on Minnesota Conservation Officers Association letterhead rather than DNR letterhead. However, the return address in the letterhead remained a DNR office address in Saint Paul, and the DNR Director of Enforcement was authorized by the commissioner’s office to sign the letter and use the title “Chief Conservation Officer.”

In addition to sending a fundraising letter to selected businesses, conservation officers also made face-to-face solicitations. We obtained the slides from the presentation that was part of a solicitation to a major outdoor sporting goods retailer. In addition to several levels of sponsorship, the presentation offered an “Exclusive Sponsorship” level that could be purchased for \$10,000 to \$50,000 depending on the event being sponsored. In return, the business would receive the following: naming rights to the event, a recognition banner at the event, two tickets to the event, an opportunity to speak at the event, an ad in NAWEOA’s magazine, and a trade show booth at the conference hotel.

Similar to the fundraising letter, the presentation slides said the conference was a “joint partnership being jointly hosted by the Minnesota Conservation Officers Association and the Department of Natural Resources.” The Enforcement Division employee who made the presentation acknowledged to us that the presentation was made “in uniform” and on state-paid time. Nevertheless, the money and products donated by the retailer⁵ did not become state resources and were not used to offset state costs for the conference. Donations were sent to a DNR address but considered the property of MCOA.⁶ Conference planners took this approach based on advice from an official in DNR’s Office of Management and Budget Services.

According to MCOA’s records, merchandise donations included a large number of items of relatively modest to moderate value (t-shirts, jackets, sweatshirts, life vests, decoys, prints, fishing gear, etc.). But among the donations were such items as a resort gift certificate valued at \$1,890, a houseboat trip valued at \$2,510, and a boat valued at \$16,995. Some items, particularly wildlife prints, were donated by conservation officers.

According to MCOA records, all of the merchandise was used to generate money through raffles and auctions at the conference. MCOA records do not show how

⁵ According to MCOA records, the business involved in this solicitation contributed \$11,000 in cash and \$14,000 in products.

⁶ Technically, MCOA members created a 501c(3) nonprofit organization called the Minnesota Game Warden Foundation to provide receipts so the donation would qualify as charitable donations for tax purposes.

the money was used; as noted previously, the host agreement called for money generated from raffles and auctions to be used for conference profit to the benefit of MCOA and NAWEOA.

The conservation officers we interviewed about fundraising told us they believed they were operating with approval and authority from the commissioner's office. To support their position, they pointed to the fundraising letter reviewed and approved by the commissioner's office. They also pointed to Department of Natural Resources Operational Order No. 101, *Working with Partners, Sponsors, and Donors*, and said their efforts for the NAWEOA conference were similar to other department efforts to raise money from private sources.

While we did not review other department fundraising efforts as a point of comparison, we concluded that fundraising for the 2007 NAWEOA conference was not consistent with DNR Operational Order No. 101 or the statutory authority on which it is based. According to the order itself, its fundraising portion is based on the authority stated in *Minnesota Statutes* 2007, 84.085, subd. 1, which states:

The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, devise, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted....

While DNR has used this statutory language as a basis for fundraising, the law does not, in fact, authorize fundraising. It only authorizes the commissioner to accept gifts. Moreover, in the case of fundraising for the 2007 NAWEOA conference, the "gifts" were not accepted by the commissioner "on behalf of the state," but they were accepted by Enforcement Division employees and became the property of MCOA and used for purposes specified in the hosting agreement between NAWEOA and MCOA.

In addition, fundraising for the 2007 NAWEOA conference constituted a conflict of interest as defined by *Minnesota Statutes* 2007, 43A.38, subd. 5, which says in part:

The following actions by an employee in the executive branch shall be deemed a conflict of interest... (a) use or attempted use of the employee's official position to secure benefits, privileges, exemptions or advantages for the employee or the employee's immediate family or an organization with which the employee is associated which are different from those available to the general public....[emphasis added]

This statutory provision is amplified in training material prepared by the Minnesota Department of Employee Relations for state supervisors. In a question and answer format, it says:

Question: Can I solicit gifts or contributions from businesses for employee special events, etc.?

Answer: No, this would be using your employment with the state to secure benefits or privileges not available to the general public. A business could see this type of solicitation as pressure. They might construe the solicitation as a requirement to do business with the state even if attempts are made to make the gift voluntary....

The commissioner's office had opportunities to assert this position and reinforce the restrictions of *Minnesota Statutes* 2007, 43A.38, subd. 5, but did not. As noted previously, the commissioner's office approved a solicitation letter that presented fundraising—and the conference—as a joint partnership between DNR and MCOA, but allowed MCOA to control the money or goods that were donated for the conference. In fact, after depositing a \$200 donation in a state gift account, an official in the DNR's Office of Management and Budget Services advised Enforcement Division employees working on the conference that money and proceeds from donated goods could be deposited in an outside bank account, thus avoiding restrictions on how the funds could be used.

In addition, department officials never established a clear understanding of whether it was appropriate for conservation officers to use state time for fundraising and be reimbursed for travel and meal expenses while fundraising. The three conservation officers we interviewed who were actively involved in planning and hosting the conference, including the director of the Enforcement Division, thought the use of state resources for conference fundraising was appropriate, authorized by DNR Operational Order No. 101, and consistent with DNR's other fundraising practices. However, when Jerry Hampel, an official in DNR's Office of Management and Budget Services, was presented with a conference fundraising travel reimbursement request, he said in an e-mail:

Sorry I took so long but I needed to find out where the Commissioner's office is on this. It is now clear, Brad [Moore, DNR Assistant Commissioner] told me Gene [Merriam, DNR Commissioner] said after a discussion of the issue. This expense is not a DNR obligation. If it gets reimbursed it should be by the Conservation Officers Association. State time should not be used for fund raising. This is state policy and we must follow the rules. Mike [Hamm, DNR Director of the Enforcement Division] is aware of the commissioner's position.

A response e-mail from Director Hamm indicates his awareness of the position in the e-mail from Jerry Hampel. However, in his interview with us, Director Hamm

disputed that Mr. Hampel's e-mail accurately reflected Commissioner Merriam's position or DNR policy.

The department's mixed messages, informal communications, and conflicting interpretations of department policy resulted in Enforcement Division employees using their positions and state resources in ways that created conflicts of interest and benefited MCOA and NAWEOA.

Recommendation

- *The Department of Natural Resources should clarify its policies, procedures, and guidance to ensure its employees comply with the state's code of conduct contained in Minnesota Statutes 2007, 43A.38, particularly in fundraising activities.*

Finding 3

The department incurred approximately \$300,000 of inappropriate expenses related to the conference.

As shown in the following table, the department incurred approximately \$300,000 of inappropriate expenses out of over \$387,000 identified as conference-related costs.

Table 1
DNR costs related to the 2007 NAWEOA Annual Conference

	<u>Expended Amount</u>	<u>Inappropriate Amount</u>
Employee payroll costs ¹	\$187,000	\$187,000
Grant to MCOA	35,500	35,500
Conference registration fees	64,110	28,235
Meals, lodging, and parking	82,992	21,660
Other costs	<u>18,227</u>	<u>17,252</u>
Total	<u>\$387,829</u>	<u>\$289,647</u>

¹This amount is the payroll costs identified by the department and reported in the *StarTribune* article. It represents the department's estimate of payroll costs related to employee time at the conference not claimed as training. We believe this is a reasonable estimate of this amount. However, payroll costs for time used to plan for the conference are not included in this estimate because DNR failed to direct its employees to track conference planning payroll costs. It is not now possible to determine or reasonably estimate the department's payroll costs associated with planning for the conference.

Source: Minnesota Accounting and Procurement System and agency payroll records, as of January 2008.

These costs were mainly inappropriate because they did not sufficiently relate to the department's statutory responsibilities. The department's costs should have been limited to those necessary to obtain training for its conservation officers.

While the NAWEOA conference provided some training needed by the department's conservation officers,⁷ the conference cost the department significantly more than its annual in-service training that the conference replaced. For example, the department paid Camp Ripley about \$23,000 to use that facility for its 2006 annual in-service training. This amount covered lodging, meeting rooms, and meals, but does not account for payroll or travel costs.

Several of the conservation officers we interviewed justified the added costs of the NAWEOA conference by pointing to the higher-quality speakers that an "international conference" like the NAWEOA conference is able to afford. However, the fees and travel costs paid to speakers for the 2007 NAWEOA conference totaled approximately \$16,000, a small part of the overall costs DNR incurred for the conference. In fact, the cost to bring the one speaker often cited as making the conference "worth the cost" was less than \$5,000. If these "higher-quality" speakers could be obtained for these relatively modest amounts, clearly, the department did not need to spend over \$387,000 to host the NAWEOA conference as a way to bring these speakers to Minnesota.

Following are specific inappropriate costs:

Employee Payroll Costs – The department inappropriately allowed its employees to charge work time for coordinating and executing nontraining conference events. During the pay period that included the week of the conference, the department estimated it paid 225 employees about \$187,000 for nontraining hours related to the conference.

The three days leading up to the training portion of the conference focused on recreational tours and social activities, and included a fishing trip, a golf outing,⁸ and a 5K run that raised over \$12,000 for the national Game Warden's Museum. For example, beginning on Sunday, July 15, 2007, the department paid department employees, including managers, professional and support staff, and conservation officers, to perform the following conference duties:

- staff the conference registration table at the hotel and provide conference information to attendees and their families;
- accompany conference attendees on a variety of social activities, such as a fishing trip on Mille Lacs Lake and a golf outing, to ensure that the events ran smoothly and to serve as host representatives for the events;
- provide security for children attending the conference with their families; and
- drive vans to provide a shuttle service between the airport and the hotel.

⁷ According to the Minnesota Police Officers Standards and Training Board, the maximum number of training hours a conservation officer could have obtained from attending the 2007 NAWEOA conference was 10.5 hours.

⁸ Conference registration fees did not cover participation in these recreational and social events. Participants paid separately for each event. We saw no evidence that DNR paid event fees for its employees or that it directly paid for these events.

In addition to the employee payroll costs in Table 1 and discussed above, the department incurred other payroll costs we were not able to quantify. Clearly, department employees spent a large number of hours planning and organizing the conference. The conference steering committee formed at least 20 subcommittees to plan various aspects of the conference. For example, the Warden Skills Day subcommittee consisted of nearly 90 department employees and involved a trial run of the planned skills games.⁹ Because the department did not direct these employees to identify their conference planning time on their timesheets, we could not determine the amount of time employees spent planning the conference.

Several of the Enforcement Division managers we interviewed defended the use of state time to plan and execute all aspects of the conference, including the recreational and social activities. They claimed the work provided “leadership training” for conservation officers, but also noted it was simply necessary for the success of the conference. For example, in his interview with us, Colonel Mike Hamm, Director of the Enforcement Division, said:

Well, one thing that I did know that would require a fair amount of energy and time, and that's staff time, straight up staff time to be able to make this thing successful. You could read about that in previous conferences that were held in other states or provinces where the comment was always, if we didn't have the support of the – the head, these conferences just couldn't happen. I mean, it takes a lot of staff time, preparation. And it's all work related. The type of staff time that they're putting into this thing has to do with the training component. And – and I felt at that time and I still feel today that it is work related.

Well, my understanding is I knew it would take a vast amount of resources to be able to make this a success. . . this is a great opportunity to showcase the state of Minnesota, and we should – we should do this. Not all chiefs will step up to the plate in all states and/or provinces to be able to make this thing happen.

While recreational and social activities may have been expected by NAWEOA and conference attendees, they were not the responsibility of DNR as a state agency. Rather, they were the responsibility of MCOA and its members using nonstate time.

Grant to MCOA – *Minnesota Statutes* 2007, 84.0846, allows the department to advance funds to organizations holding conferences related to natural resource issues and management. Based on this authority, in May 2007, the department awarded a \$35,500 grant to MCOA to supplement the department's direct financial support for the conference. According to the grant, the money provided by DNR was supposed to be used by MCOA to cover certain conference costs.

⁹ Warden Skills Day involved competitive games, such as canoe portage races.

The grant was inappropriate because of the close relationship between the Enforcement Division employees who initiated the grant and MCOA – the grant was not based on an “arm’s length transaction.” According to the testimony we obtained, the grant was to ensure MCOA had enough revenue to cover conference costs and to allow those costs to be covered without having to follow all of the state’s procurement requirements.¹⁰

Conference Registration Fees – The department and its employees benefited from attendance at the conference because of the training it provided for its licensed conservation officers. Because the registration fee covered the cost of the conference’s training components, the department’s payment of the conference registration fee for its conservation officers is a legitimate state expense. However, the department paid a higher conference registration fee for its conservation officers than stated in the conference brochure. Although the conference brochure stated that the fee for conservation officers was \$175, the department actually paid \$260 for each of its 205 conservation officers, providing MCOA and NAWEOA with \$17,425 of additional financial resources.

In addition, the conference steering committee did not use a \$25,000 conference fee waiver it negotiated with NAWEOA. Captain Cathy Hamm, a member of the steering committee, said they did not use the waiver because they were concerned that the conference was not going to cover its costs.

The department also paid a \$200 conference registration fee for each of the 26 other Enforcement Division employees who worked at the conference, providing an additional \$5,200 in conference revenue for MCOA and NAWEOA. Because these employees were not conservation officers and could not directly benefit from the training aspects of the conference, and because these employees worked at, rather than attended, the conference, the department should not have paid a registration fee for them.

Finally, the department paid the registration fee for DNR employees’ spouses and children who volunteered to help with the execution of the conference, including the recreational and social events. The department paid a \$110 registration fee for each of the 51 volunteers – a total of \$5,610. While state and department policies authorize DNR to pay for incidental expenses, such as meals, of its volunteers,¹¹ the payment of the conference fee served mainly to provide additional financial resources for the conference. Having these volunteers work at the conference also exposed the department to unnecessary liability, since statutes hold DNR

¹⁰ Captain Cathy Hamm, a member of the conference steering committee, told us that when she realized MCOA would retain revenues beyond its cost for the conference, she suggested that MCOA not claim the grant money from DNR. Her suggestion was not followed, and MCOA claimed the full amount of the grant.

¹¹ *Minnesota Statutes* 2007, 84.089, subd. 2, states that the DNR commissioner may provide for the incidental expenses of a volunteer, such as transportation, uniforms, lodging, and subsistence.

accountable as the employer for any workers' compensation injuries its volunteers may incur.¹²

The conference summary report submitted by the MCOA to NAWEOA stated that, "If Minnesota had not paid the registration fees for all of its staff, this conference would not have been successful."

Lodging, Meals, and Parking – The department paid for lodging, meals, and parking related to nontraining aspects of the conference and for employees assigned to the metro area and were not in travel status.¹³

The department paid about \$21,200 in inappropriate lodging costs. It paid for Enforcement Division employees who worked at the conference to coordinate recreational and social activities. Nonconservation officers who worked at the conference did not directly benefit from the training provided at the conference but helped ensure that the conference ran smoothly. By paying for the lodging costs for employees who worked at the conference, the department again defrayed the MCOA's conference costs. Therefore, these lodging costs should not have been paid by the state. In addition, the department paid lodging costs for employees based in the Twin Cities metropolitan area to attend the conference. Some of the lodging costs were for the entire week, even though the training part of the conference began on Thursday. The department documented its authorization for these lodging expenses using a special expense form.

The special expense form also authorized some meals and parking for the entire conference period, not just for the last three days of the conference when the training occurred. In addition, the department reimbursed about \$400 to some employees for meals, even though meals were provided as part of the conference registration fee.

Other Expenses – The department authorized and/or paid other inappropriate expenses related to the conference. For example:

- The department paid about \$12,000 for printing costs that should have been paid with conference resources. The department paid for conference programs, banners, promotional DVDs, web site support, and copier rental that should have been paid with conference resources generated by registration fees or fundraising. By paying these costs directly, DNR increased the conference's profit.
- The department authorized approximately \$9,000 for several department employees to attend two winter NAWEOA board meetings (in Arizona and Nevada) and the 2006 NAWEOA conference held in Quebec.

¹² *Minnesota Statutes* 2007, 84.089, subd. 2, states that a DNR volunteer is a state employee for the purposes of section 176.011, subdivision 9, and the provisions of chapter 176, relating to workers' compensation.

¹³ We did not question lodging costs for conservation officers who live outside the Twin Cities metropolitan area related to their attendance at the training components of the conference.

Because these trips were mainly designed to ensure that MCOA met the expectations and requirements of the NAWEOA board, the travel costs should not have been authorized by the department. We were told that significantly less was actually spent for the trips but were unable to verify the exact amount in DNR records.

- The department paid approximately \$5,600 to repair six DNR vehicles damaged during the conference. The damage occurred at one of the conference parking ramps as a direct result of a hazard created by a DNR employee.

The department incurred significant costs related to the conference—a large part of which were inappropriate costs. Yet, MCOA and NAWEOA split a profit of \$76,626 from their participation in the conference.¹⁴

Recommendations

- *The department should work with the Attorney General's Office to obtain the \$76,626 in profit MCOA and NAWEOA received from the conference to offset expenses it incurred for costs unrelated to its statutory responsibilities.*
- *The department should establish policies and procedures to ensure that all costs it incurs from conferences or similar events are directly related to its statutory responsibilities.*

The department did not follow state policies for some travel by its employees.

Finding 4

In addition to the inappropriate expenses identified above, the department did not follow state policies for some travel by its employees. Specifically:

- The department did not authorize international travel for several employees representing MCOA who accompanied authorized department employees to the 2006 NAWEOA conference. The MCOA paid all of the costs for six Enforcement Division employees to attend the 2006 NAWEOA conference in Canada. However, the department did not document its approval for these employees to travel internationally while on state time. Department of Finance policy Pay0021 requires, “An Appointing Authority Designee shall authorize in advance and in accordance with all policies and procedures, all travel at state expense when such travel is necessary to conduct state business. All out-of-state travel requires advance written approval.”

¹⁴ As noted previously, we did not audit the financial records of the Minnesota Conservation Officers Association. Therefore, we cannot substantiate the accuracy of the conference profit that MCOA reported to and shared with NAWEOA.

In addition, the department did not comply with state policy Pay0021, which regulates the payment of a state employee's business expenses by an organization other than the employer. The policy requires that a state employee's business expenses be paid by his/her agency and then be billed to the organization. By allowing MCOA to directly pay the travel costs, the department had no assurance that the employees' travel expenses complied with state regulations and bargaining agreements.

- The department did not require a conference agenda for employees traveling out-of-state as part of the authorization process. State policy Pay0021 further states, "A copy of the conference agenda must be attached to the out-of-state travel authorization form to assist in approval decisions." Without reviewing the agenda, the department could not ensure that the trip was necessary to conduct state business.
- The department exceeded its authority for approving special expenses. The special expense authorizations related to the conference covered expenses such as lodging, meals, parking, and registrations for the entire week of the conference, which included both training and entertainment activities. However, these types of expenses exceeded DNR's special expense authority, and it should have submitted the request to the Department of Employee Relations for that approval.¹⁵

Recommendation

- *The department's policies and procedures should ensure that all travel by its employees complies with relevant state policies, including out-of-state travel and special expense policies.*

¹⁵ Department of Employee Relations' administrative procedure 4.4 - Special Expenses.

Appendix A

Individuals Interviewed by OLA Under Oath

- Mark Holsten, Commissioner, DNR
- Eugene Merriam, Former Commissioner, DNR
- Bradley Moore, Former Assistant Commissioner, DNR
- Jerry Hampel, Assistant Administrator, Office of Management and Budget Services, DNR
- Colonel Michael Hamm, Director, Enforcement Division, DNR
- Major Allen Heidebrink (Retired), Former Enforcement Operations Major, DNR
- Captain Cathy Hamm, Regional Manager, Enforcement Division, DNR
- John Hunt, Regional Manager, Enforcement Division, DNR
- Robert Raiolo, Business Manager, Enforcement Division, DNR

The interviews were recorded and transcribed.

Individuals Who Refused to be Interviewed by OLA Under Oath

Three DNR employees refused to be interviewed under oath for this special review. By refusing to cooperate with OLA's review, these state employees did not comply with *Minnesota Statutes* 2007, 3.978, subd. 2, which says:

All public officials and their deputies and employees... shall at all times afford reasonable facilities for examinations by the legislative auditor, make returns and reports required by the legislative auditor, attend and answer under oath the legislative auditor's lawful inquiries, produce and exhibit all books, accounts, documents, data of any classification, and property that the legislative auditor may need to inspect, and in all things aid the legislative auditor in the performance of [his] duties.

We could have sought a court order to compel these three state employees to cooperate but decided we had enough evidence from other sources to complete

our review. In addition, we decided that OLA should not be required to expend additional time and money obtaining court orders to compel state employees to obey the law.

The following three employees refused to be interviewed under oath:

- Dean M. Olson, Former President, Minnesota Conservation Officers Association, and District Supervisor, Enforcement Division, DNR
 - Robert Mlynar, Treasurer, Minnesota Conservation Officers Association, and Conservation Officer, DNR. In addition, he did not respond to our written questions about the involvement of his food concession business with the conference.
 - Christopher Vinton, Member, Minnesota Conservation Officers Association, and Conservation Officer, DNR
-

Minnesota Department of Natural Resources

500 Lafayette Road · Saint Paul, Minnesota · 55155-4037

Office of the Commissioner

651-259-5555



August 25, 2008

Mr. James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
658 Cedar Street
St. Paul, Minnesota 55155

Dear Mr. Nobles:

Thank you for the opportunity to respond to the findings of the special review of the 2007 North American Wildlife Enforcement Officers Association's Conference (NAWEOA).

The Minnesota Department of Natural Resources (DNR) is committed to maintaining the public's trust and confidence as our agency fulfills its mission of conserving and managing the state's natural resources, providing outdoor recreation opportunities, and ensuring commercial uses of natural resources in a way that creates a sustainable quality of life.

The findings and recommendations of this review will help improve and strengthen the internal controls and procedures for our agency, especially as they pertain to events similar in nature to the NAWEOA conference. In addition, the agency's internal investigation regarding this matter will provide the necessary detail to determine what corrective action is warranted.

Below is DNR's response to the specific audit findings and recommendations.

Audit Finding 1: The Department of Natural Resources did not adequately authorize, define, or control its involvement in the 2007 North American Wildlife Enforcement Officers Association's conference.

DNR Response

The DNR agrees with this finding. While the agency did not commit to participating in the NAWEOA in writing, staff was orally directed not to use public resources to support a private organization. Agency staff is expected to abide by all organizational and state policies relevant to participating in any conference.

Audit Recommendation: The department should establish policies and procedures that require written authorization and adequate controls when its resources are used to host, sponsor, or otherwise support a conference or similar event.

DNR Response

The DNR is reviewing and strengthening its existing policies and procedures to ensure that:

- a) additional direction is provided to all staff regarding the nature and extent of their authority to commit the department's resources to events;
 - b) the departmental requirement for full documentation of proposed commitments are met; and
 - c) there is full compliance with the Commissioner's Office pre-commitment approval process.
- This review will be completed by October 1, 2008.

In addition, DNR will consult with the departments of Administration and Finance and Employee Relations regarding any applicable statewide policy to ensure that the DNR is in compliance and to update that policy if necessary.

Audit Finding 2: The department did not control fundraising for the conference to ensure it complied with state law and department policy.

DNR Response

The DNR agrees with this finding. The agency's policy regarding fundraising is that staff may engage in this activity during work hours only if it benefits the public. In the case of the NAWEOA conference, this policy was not followed, nor was there compliance with the agency's operational order that directs departmental fundraising activities.

Audit Recommendation: The Department of Natural Resources should clarify its policies, procedures, and guidance to ensure its employees comply with the state's code of conduct, contained in Minnesota Statutes 2007, 43A.38, particularly in fundraising activities:

DNR Response

The Department of Natural Resources is currently consulting with the Attorney General's Office regarding any necessary revisions to Operational Order 101, *Working with Sponsors, Partners, and Donors*, to ensure that it complies with all statutory requirements, the order will be clarified as needed so that the language contained in the operational order regarding the department's authority to engage in fundraising is clear and consistent with the Code of Ethics for Employees in the Executive Branch (Minn. Stat. Ch. 43A.38) and the department's statutory authority to accept gifts. The Commissioner's Office will ensure the revision of Operational Order 101 and any related forms by October 1, 2008.

Audit Finding 3: The department incurred approximately \$300,000 of inappropriate expenses related to the conference.

DNR Response

DNR division directors currently have the authority to allocate funds for staff training and education. The Commissioner's Office will review its delegated authorities, and where necessary, add internal controls to ensure compliance with all policies.

Audit Recommendation: The department should work with the Attorney General's Office to obtain \$76,627 in profit MCOA and NAWEOA received from the conference to offset expenses it incurred for costs unrelated to its statutory responsibility.

DNR Response

With the assistance and cooperation of the Attorney General's Office, the DNR will immediately determine the potential for recovering the profit MCOA and NAWEOA received from the conference.

Audit Recommendation: The department should establish policies and procedures to ensure that all costs it incurs from conferences or similar events are directly related to its statutory responsibilities.

DNR Response

The Department of Natural Resources will ensure that its policies and procedures adequately address conference planning. New procedures will direct any future conference planning by:

- a) identifying all potential costs;
- b) ensuring that the conference directly relates to departmental statutory authority;
- c) verifying that all events have Commissioner's Office approval prior to the commitment of any resources and
- d) monitoring resource commitments associated with events.

Audit Finding 4: The department did not follow state policies for some travel by its employees.

DNR Response

The DNR agrees with this finding. The agency's Office of Management and Budget Services has implemented new travel procedures that better ensure compliance with state policies.

Audit Recommendation: The department's policies and procedures should ensure that all travel by its employees complies with relevant state policies, including out-of-state travel and special expense policies.

DNR Response

The Employee Business Expense policy has been revised and now requires that conference agendas and/or itineraries be submitted with special expense forms prior to receiving approval.

The out-of-state travel authorization form has also been revised to more clearly indicate that international travel requires approval by both the Commissioner of Finance and Employee Relations (FER) and the DNR Commissioner's Office.

The DNR also now requires that the special expense form created by the Department of Finance and Employee Relations (which contains instructions) be used for all authorization requests to incur special expenses.

In addition, DNR will ensure compliance with department policies and procedures by directly distributing the revised travel, special expense and special events policies to all staff. The department will require all senior managers to immediately review these revised policies and fully understand their role in guaranteeing strict departmental compliance. The Commissioner's

Office will be responsible for ensuring the distribution of these policies to DNR personnel by October 1, 2008.

Also, the department has revised its Transaction Review policy and procedure and reassigned responsibility for these periodic reviews to its internal audit unit in order to increase the frequency and scope of these assessments.

As the Commissioner of the DNR, I accept responsibility for the management of the department as a whole, including the oversights noted above. I can assure you that DNR has and will immediately review and improve our policies, procedures, and practices to better manage agency operations. The citizens we serve deserve no less.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Holsten". The signature is written in a cursive, somewhat stylized font.

Mark Holsten
Commissioner