

STATE OF WEST VIRGINIA

PRELIMINARY PERFORMANCE REVIEW OF THE

Geological and Economic Survey

The West Virginia Geological and Economic Survey Provides a Necessary Service for the State's Economic Development

A Large Amount of Out-of-State Travel Interferes with the State Geologist's Administrative Responsibilities and Travel that was for Personal Interests Should Not Have Been Paid for by the State

The West Virginia Geological and Economic Survey is in Violation of West Virginia Travel Rules

The State Geologist Received Incorrect and Duplicate Payments for Attending Coalbed Methane Review Board Meeting

**OFFICE OF LEGISLATIVE AUDITOR
Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex**

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Review Objective, Scope and Methodology

This Preliminary Performance Review of the West Virginia Geological and Economic Survey is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10, Section 5 of the West Virginia *Code* as amended. The West Virginia Geological and Economic Survey is responsible for examining the geology of the state, preparing maps and reports, and providing geological information upon request. This information is used by state agencies, private engineers, attorneys, surveyors, consulting geologists and individual tax payers.

Objective

This review was conducted to confirm that the Geological and Economic Survey is performing its mandate of examining, mapping and reporting on the geological and economic resources of the state in an effective manner, and that there continues to be a need for these services. As part of this review, travel records were examined to determine that travel was performed to benefit the agency.

Scope

The preliminary performance evaluation covers the period from 1996-2001. The Legislative Auditor examined documents provided by the agency such as annual reports, travel expenses, *Code* requirements and previous evaluations.

Methodology

This report was developed from personal interviews, past audit reports, a customer survey and the review of agency travel records. The customer survey was developed to assess the timeliness in receiving information and its usefulness. Travel records were examined due to the high dollar amount budgeted for travel and the fact that the amount was increasing each year. Every aspect of this evaluation complied with **Generally Accepted Government Auditing Standards (GAGAS)**.

Issue 1: The West Virginia Geological and Economic Survey Provides a Necessary Service for the State's Economic Development.

The West Virginia Geological and Economic Survey (GES) was created by statute in 1897. The Survey is responsible for examining the geology of the state, preparing maps and reports, and providing geological information upon request. A geologist evaluates geological and topographic maps, aerial photos, data, logs, etc., and interprets that information. The geological information is used by state agencies such as the Tax Department for mineral land valuation, the Division of Environmental Protection for oil, gas and coal data, the Economic Development Authority for siting development projects, and the Division of Highways for road development. The Survey's information is also used by private engineers, surveyors, consulting geologists, and individual property owners who need geological information about their land. **This service is ongoing and necessary to the public. An abolishment of this agency would have adverse effects on the state's economic development given the unique geological information the agency develops.**

GES Information Timely, Useful and Accurate

Customers of the Survey frequently represent industry, government and education in addition to property owners, and those with general geological questions. The Legislative Auditor conducted a systematic sample of 20 customers from a list of 114 customers of the Survey. The telephone inquiry asked six questions. They were:

1. What Survey products do you use, and how do you use them?
2. How often do you obtain products from the Survey?
3. Are the products you receive timely, accurate and useful?
4. If you paid for the products, were they reasonably priced?
5. Are the products available from any other source?
6. Additional comments.

All respondents to the Legislative Auditor answered that the Survey information is timely, useful, and generally accurate.¹ The frequency of use varied. Six customers reported that they contacted the Survey once a week. Four stated they contacted the Survey once a month, and the rest stated several times a year. Two customers noted that their ability to get into the field determines the frequency with which they contact the Survey. In the summer they contact the Survey more frequently than in the winter.

A Virginia geologist who uses publications, maps and databases for oil and gas exploration commented that the West Virginia Geological Survey is:

More timely and useful than other state Surveys. Their information is current, and

¹Geological accuracy is sometimes a function of available information regarding mineral deposits, and so the Survey must rely on information it has been given by private industry.

accessible by computer. They have done a better job than most Surveys. The “pipeline” database makes information accessible to anyone in West Virginia to encourage development.

A West Virginia oil and gas geologist who owns his own business and uses Survey maps, well permits, and logs, and contacts the Survey about once a week, stated:

I don't know what I would do without them - I would be “dead in the water”. I use a tremendous amount of information.

A customer from a West Virginia engineering firm who uses Survey mining resources data such as coal data, old mine records and topographic maps, and contacts the Survey at least once a month, stated:

I have dealt with the Survey for 20 years, and I have always found them to be very useful. Without the Survey there would be a big gap in terms of information. They are helping to stimulate the economic development of West Virginia through making information available for mining, general industry and land development.

Majority Believe Prices Reasonable

Nine customers felt that the products were reasonably priced. Six customers commented that the prices were “very reasonable”. One of these customers expanded by stating:

Charges for these products are low. We are very fortunate to have such a wealth of information at such a reasonable cost.

Three customers had no opinion because products either are not purchased (another state agency), or paid by a company account. One West Virginia customer felt that all on-line computer data should be free, and one out-of-state customer felt that the charge for well data should be provided at cost instead of \$0.05 per well.

The Survey is Often a Unique Source of Information

The West Virginia Geological Survey provides geological information in many different forms, and also offers maps from the United States Geological Survey. USGS maps can be obtained from many other sources. Some customers queried use old records and photographs which are available only through the Survey. The following comment is typical of statements received to the question of whether products are available from any other source:

While some information sought might be available from a private company, it is doubtful whether the company would release the information. In other cases, the

only place to obtain the information would be through old records archived at the Geological and Economic Survey.

Many customers commented that they had not tried to obtain information specific to West Virginia from any other source.

Service From Staff Receives Praise

The State Geologist commented: “The purpose of applied research is to provide service to the people.” During the Legislative Auditor’s customer survey, several customers unanimously praised the level of service received from the Survey staff. A West Virginia land surveyor stated:

Survey personnel are very helpful. They are always willing to take time out and offer assistance to us. They discuss our needs, and help us to avoid unnecessary purchases. They will mail out information if needed.

An out-of-state GIS technician noted:

The staff is very easy to work with. They are extremely cooperative, and will go out of their way to do extra things such as locate specific well production data.

In addition to the positive comments, customers mentioned individual employees by name and praised their knowledge and ability to assist them. An environmental consultant summed up the customers’ statements by saying:

They provide a good service for people in the state - a very positive service.

Concerns Raised by Customers

In addition to commenting on the high level of service, and the often unique information provided by the Survey, several customers raised concerns:

- *The facility needs improvement and updating. It is crowded, and the office environment is old. Disorganization is apparent in some sections, perhaps due to limited space. There should be better integration of information, and a computer system should be utilized. Some staff need to learn to use technology. - WV land planner*
- *I have noticed that some of their equipment is old, and that it would benefit from being updated. Copies taken from old files on film need three or four tries to get a proper contrast. This refers to microfilm copies of coal mine maps which are photographically enlarged as needed.- WV consulting engineer*

- *I believe the staff is overworked, and the people are spread pretty thin.* - PA surveyor
- *They need more room, and could use an upgrade on their facility.* - WV engineering firm

Concerns of the Legislative Auditor

Despite the positive comments received through the customer survey, the Legislative Auditor has a few concerns. The first concern is the declining sales of the Survey's information and customer inquiries. In 1996, the Survey received 8,673 customer service requests. In FY 2000, there were a total of 7,854 service requests. Some of these service requests do not result in a fee being charged despite providing information. In FY 1996, the Survey received \$168,281 from publications and geological and analytic services sales. In FY 2000, the Survey reported a total of \$103,303 in revenue from these sources. **This represents a decline of \$64,978 in revenues and also a decline of over 819 service requests.**

The drop in service requests and sales could be a decline in demand, a cyclical phenomenon, a lack of public awareness of the Survey's information, an inconsistent application of charging for services, or the result of information now being provided through the agency's web site. The Survey should evaluate this decline in requests and sales to determine if it is the result of an inconsistent application of charging for information or a drop in public awareness of its information.

A second concern is that the Survey does not maintain a centralized customer list. This was also noted in a 1996 performance audit by the Legislative Auditor. In order to locate customers to interview, the Legislative Auditor asked the agency for a list of customers served. Some sections of the agency took several weeks to respond, and provided duplicated and incomplete information. Of 137 names submitted, six were duplicates, and five did not have adequate information to be contacted. One list of 20 customers was handwritten. A list of 13 names was submitted after the inquiry had started, and so was not included. Although one geologist, who works full time answering questions and service requests, stated that 60% of his service is to property owners, no property owners were discovered on lists for contact by the Legislative Auditor. **The lack of a centralized database containing customer information does not facilitate an adequate accounting of the funds received by the agency, and it creates a risk of fraudulent activity of funds received.** Also, the agency may find it useful to have complete customer information (names, address, telephone numbers, information requested, etc.) to solicit feedback through consumer surveys on the adequacy of the Survey's service.

The Legislative Auditor agrees with customers concerned about the old furnishings, the apparent disorganization in some of the agency's service areas, and the need to make greater use of technology in sections of the agency. As an example, the Legislative Auditor's office received the agency's *Service Request Log* which records the number and type of requests from the public for each month and for the year. While this Log is useful, it is completely handwritten including the construction of the table (see Appendix B). This is surprising in that the agency is engaged in highly complex, technologically sophisticated processes involving digitizing information in some sections

for other projects. Organizing information is important to avoid loss and misplacement of information, as well as to avoid inefficient retrieval. Over two-thirds of the staff have been with the agency 15 years or longer so they are familiar with where information is located. The Legislative Auditor is concerned that unless information is organized, it will be difficult to find, or may be “lost” when new employees must replace long-term staff members. The appearance of some areas is one of dilapidation as observed by an auditor of the Legislative Auditor’s Office. In addition, some equipment needs to be evaluated and probably replaced in order to produce acceptable quality reproductions of information for customers.

Conclusion

The West Virginia Economic and Geological Survey provides a necessary and valuable service to the people of West Virginia. Geological information for the economic development of the state is routinely sought by companies deciding where to explore for economic minerals such as oil, gas and coal. West Virginia property owners also rely on the Survey for mineral assessment and information about mine subsidence. Unique archives of old mine records, maps, and aerial photos are used by the public in many ways.

The Legislative Auditor has several concerns that relate to the utilization and provision of services. Since 1996 there has been a significant decline in both service requests, and revenues from geological analytic services. The lack of a centralized customer list may hinder accounting for revenues received, and the ability to assess the needs of customers. Finally, the Survey has certain sections in which information processing is in need of modernization.

Recommendation 1:

The Legislative Auditor recommends that the West Virginia Geological and Economic Survey be continued.

Recommendation 2:

The West Virginia Geological and Economic Survey should modernize and centralize customer record-keeping to have a complete list of all customers with relevant information. The agency should also assess reasons for declines in revenue and in service requests. The agency should consider follow-up surveys with customers to assess the adequacy of the agency’s service. Finally, the Survey should consider modernizing some areas of the customer service section and provide for improved organization of information.

Issue 2: A Large Amount of Out-of-State Travel Interferes with the State Geologist’s Administrative Responsibilities and Travel that was for Personal Interests Should Not Have Been Paid for by the State.

Travel by the State Geologist was reviewed by the Legislative Auditor to determine compliance with travel rules. During the review of submitted travel expense forms it was found that the State Geologist traveled out-of-state 110 days in FY 2000, 73 of which were weekdays representing 29% of the annual work days in the year. Forty-six days of out-of-state travel was taken in FY 2001. Some of this travel was to fulfill voluntary leadership responsibilities for national professional associations. The Legislative Auditor understands the importance of having a State Geologist who holds leadership positions in national professional organizations. However, **making voluntary commitments to assume leadership positions in national associations which results in being out-of-state a significant amount of time is a hindrance to effectively carrying out the agency’s administrative responsibilities.** All of the State Geologist’s travel is approved by subordinates within the GES instead of by the Commissioner of the Bureau of Commerce, the oversight agency of the GES. In addition, in the Legislative Auditor’s opinion **certain travel paid for by the State was more for personal interests of the State Geologist, with no direct relationship with his responsibilities as the Director of the Geological Survey. The Legislative Auditor recommends that these travel expenses be paid back by the State Geologist.** Besides interfering with administrative responsibilities, unnecessary and inappropriate travel precludes the agency’s ability to take on needed modernization of its facilities.

The State Geologist has membership in 16 professional organizations. He has held executive offices on a voluntary basis with several of these national professional organizations and he is on the Board of Directors of other organizations which are listed below:

- 1996-97, President, American Association of Petroleum Geologists, Division of Environmental Geoscience;
- 1997-98, President-elect, Association of American State Geologists;
- 1998-99, President, Association of American State Geologists;
- 1999-00, Chairman, Southeastern Section of the Geological Society of America;
- 1999-00, President-elect, American Geological Institute;
- 2000-01, President, American Geological Institute;
- Board of Directors of the Northeastern Science Foundation;
- Board of Directors of the Drake Well Foundation;
- Board of Directors of The Colonel, Inc.

The State Geologist comments that “*The presidential offices were chief executive officer positions of national or international professional organizations with typical volunteer CEO duties and responsibilities.*” Some of the State Geologist’s out-of-state travel was for the purpose of representing a national association at a conference.

Table 1 shows total travel expenses for the State Geologist from FY 1996 to FY 2001. In

FY 2000 the amount of the total that was for out-of-state travel was \$14,241.07 and for FY 2001 out-of-state travel was \$3,734.73. It was not determined how much of the total travel costs for other years were for out-of-state travel. Details of travel expenses such as location and individual trip amounts are shown in Appendix C.

Table 1					
State Geologist's Total Travel Expenses					
FY 1996	FY 1997	FY 1998	FY 1999	FY 2000*	FY 2001
\$11,884.37	\$12,836.00	\$12,163.54	\$10,818.24	\$23,388.19	\$7,221.90
<p><i>* Travel for FY 2000 includes \$7,506.94 of travel expenses that were submitted in FY 2000 but were for travel completed several years ago, some dated back to 1992 (see Issue3).</i></p>					

Some Travel Should Not Have Been Paid For By The State

There are several examples in which out-of-state travel by the State Geologist paid for by the State was for personal interests and had no connection to his responsibilities as the Director of the GES. In these cases it is quite clear that the State Geologist attends meetings and events that support and promote the objectives of non-profit organizations and educational foundations. Three affiliations, and two trips are questionable as they relate to the Director's state duties and should not have been paid for by the State. They are:

- **The Drake Well Foundation.** The State Geologist is on the Board of Directors of the Drake Well Foundation. This is a not-for-profit organization located in Titusville, Pennsylvania *“dedicated to furthering public awareness of the history of the oil industry. The main endeavor is the documentation and interpretation of the early days of oil.”* This foundation is associated with the Drake Well Museum which collects, preserves, and interprets the founding of the oil industry in Pennsylvania and how it developed into a global enterprise. The museum provides oil history exhibits, artifacts, historic photographs tracing the birth of the oil industry. The museum is a tourist attraction for the Pennsylvania area economies. Many of the Board meetings were attended on week-ends by the State Geologist. **The Legislative Auditor determines that the State should not have paid for the State Geologist to attend these meetings. In attending these meetings, the State Geologist was pursuing personal obligations that have no direct relationship to his responsibilities as the Director of the GES. His efforts were to further the cause of the Drake Well Foundation. Any benefit of these meetings to the State of West Virginia is remote.**
- **The Colonel, Inc.** is the non-profit associate group which supports the Drake Well Museum. This group employs adjunct educational, research and photographic staff; manages the Museum Shop; provides funding for exhibits; promotes events and activities on and off site, and publishes a quarterly and an annual journal. **For the same reasons given above for the**

Drake Well foundation, the Legislative Auditor determines that the State should not have paid for the State Geologist to attend these meetings.

- **The Northeastern Science Foundation** is affiliated with the Applied Geology Research Center which is affiliated with Brooklyn College and City University of New York. The mission of the Center is to further scientific knowledge in the fields of sedimentary geology and history of geology by research, publication of three journals and educational programs. Although the research of this foundation may remotely benefit the State of West Virginia, **the State Geologist’s involvement with this foundation is a personal endeavor and strictly benefits the two educational institutions of New York.**
- **Trip to the dedication of the Rapp Granary-David Dale Owen Laboratory.** In October 1999 the State Geologist took a three day trip to participate in the dedication of the Rapp Granary-David Dale Owen Laboratory in New Harmony, Indiana. This granary is the largest of its type built by German craftsmen in the United States. It is a unique architectural structure from the 1800's made of massive sandstone, brick and wood. It received preservation restoration which was completed in 1999. The facility will operate as a multi-purpose conference center offering tours, a geological museum, exhibits of the building’s use during the David Dale Owen period and exhibits reflecting its German heritage. **The Legislative Auditor finds that this trip has no relationship to the responsibilities of the State Geologist as the Director of the GES.**
- **Trip to New Harmony, Indiana.** This trip took place between July 23 and July 26, 1998. The trip was described on the state travel expense account settlement form as “*Give talk on history of state surveys*”. In addition, this travel was submitted for payment in March 2000 along with a batch of 12 vouchers of trips that were completed years ago (see Issue 3). For the same reasons given for the Rapp Granary, this trip should not have been paid for by the State.

Table 2 shows the total cost to the state for trips by the State Geologist to these organizations in FY2000-FY2001 was \$2,518.44. All of these trips were signed by a subordinate of the State Geologist instead of being approved by the Commissioner of the Bureau of Commerce, the GES oversight agency. **The Legislative Auditor recommends that the State Geologist should pay back travel costs to the State in the amount of \$2,518.44.**

<p style="text-align: center;">Table 2 Questionable Travel Expenses by State Geologist FY2000-FY2001</p>
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Organization	Trips	Number of Travel Days	Cost
Drake Well Foundation	9	21	\$1,227.22
The Colonel, Inc.	2	4	\$235.29
Northeastern Science Foundation	1	2	\$345.18
Rapp Granary Dedication Trip	1	3	\$252.50
New Harmony, Indiana Trip	1	4	\$449.25
Totals	14	34	\$2,518.44
<i>Source: West Virginia Expense Vouchers</i>			

Travel Approval From the Oversight Agency is Needed

The Legislative Auditor does not question the need for the State Geologist to attend meetings out-of-state particularly when they have a direct benefit to the state. Attending national associations for the geologic profession is valuable and necessary for the State Geologist to stay abreast in the field. This facilitates achieving the objectives of the Geologic Survey. Although such travel is beneficial to the state, oversight is necessary to determine if the amount of this travel is appropriate and if assuming several voluntary leadership positions in these associations is wise given the amount of time away from agency responsibilities. All of the travel taken by the State Geologist was approved and signed by a subordinate within the Survey, not by the Commissioner of the Bureau of Commerce, the GES oversight agency.

Out-of-State Travel Hinders State Responsibilities

The State Geologist is accountable for the total operation of the agency, including planning, organizing and directing the work of managerial, professional, technical and support personnel. He also plans and administers the agency's budget and coordinates activities with multi-jurisdictional and multi-level officials at the local, state and federal level. Being out-of-state frequently, hinders fulfilling administrative responsibilities within the agency. In addition he is a member of several state boards, commissions and councils. They are:

- Archives and History Commission (ex-officio member)
- Coalbed Methane Review Board (voting member)
- Council to Research Surface Mining Operations

Table 3 shows the attendance of the State Geologist at state meetings for FY 2000 and FY 2001. This table shows that the State Geologist attended approximately one-third of the meetings held during the last two years. There is no record that someone from the GES represented the State

Geologist at meetings he missed.

Table 3 Meeting Attendance of the State Geologist FY 2000 & FY 2001		
Appointed Memberships	Total Meetings Held	Attended By State Geologist
Coalbed Methane Review Board	9	3
Archives and History Commission	6	2
Council to Research Surface Mining	18	8
Totals	33	13

Conclusion

The Legislative Auditor does not question the need for the State Geologist to attend national organization meetings and that there is some benefit to the state. However, there are several concerns about the travel. The first concern is the use of state funds to pay for travel that is unrelated to the State Geologist's responsibilities as the Director of the GES. In fact, the Board of Director's meetings the State Geologist has attended are strictly to further the objectives of organizations in other states. It is the Legislative Auditor's opinion that several trips taken by the State Geologist were to fulfill personal obligations and interests at the State's expenses.

A second concern is that for the State Geologist to assume voluntary responsibilities in national organizations to the point where significant time is spent out-of-state takes away from the effectiveness of overseeing a state agency and fulfilling other state obligations. The cost of such travel may have also taken needed financial support away from an agency that demonstrates areas which need modernization. There is a need for the agency to follow proper protocol by having the Director's travel reviewed and approved by the Commissioner of the Bureau of Commerce.

Recommendation 3:

The State Geologist should pay back travel costs to the State for personal travel in the amount of \$2,518.44.

Recommendation 4:

The Bureau of Commerce, as the oversight agency of the Geological Survey, should review the travel commitments by the State Geologist in order to follow proper protocol, ensure that travel

is appropriate, and ensure that the amount of out-of-state travel is appropriate.

Recommendation 5:

The State Geologist should arrange his schedule to spend more time in his office.

Issue 3: The West Virginia Geological and Economic Survey is in Violation of West Virginia Travel Rules.

In FY 2000, the Geological Survey submitted 12 travel expense account settlement forms for travel completed 1 to 8 years ago by the State Geologist. These vouchers totaled \$7,506.94 and were paid to the State Geologist. While the funds were available through a re-appropriated revolving fund, and the documentation accompanying the forms was original, **the submission of travel forms after 15 days of the completion of travel is in violation of West Virginia Purchasing Division Travel Management Unit travel rules.** Table 4 shows the travel dates, the submission dates of the travel forms, travel location, and the travel expense amounts.

Table 4			
1992-1998 Travel Expense Account Settlement Submitted In FY 2000			
Travel Dates	Date Prepared	Location of Travel	Amount
Sept-Oct, 1992	3/30/00	Lake Tahoe, Nevada	\$1,051.00
Nov-Dec, 1992	2/04/00	Washington, DC	\$335.35
December, 1992	2/04/00	Washington, DC	\$274.66
June, 1993	4/03/00	Unknown*	\$776.00
January, 1996	3/09/00	Charleston, WV	\$130.35
January, 1996	3/08/00	Charleston, WV	\$531.75
October, 1996	4/03/00	Denver, Colorado	\$1,334.05
February, 1997	3/16/00	Boulder, Colorado	\$450.55
March, 1997	3/09/00	Washington, DC	\$495.20
March, 1997	3/09/00	Charleston, WV	\$219.08
September, 1997	3/20/00	Washington, DC	\$655.20
July, 1998	3/09/00	Las Vegas, Nevada; New Harmony, Ind.	\$1,253.75
Total			\$7,506.94

**Auditor's office does not have destination information on this date.*

Travel Rules Require Submission of Travel Within 15 Days

The scope of the Purchasing Division Travel Rules governs instate, out-of-state and international travel for state officials and employees and non-employees. Exceptions are those in the legislative and judicial branches of state government, and the Attorney General, Auditor, Secretary of State, Treasurer, Board of Investments and Commissioner of Agriculture and their employees. In Section Two, which explains delegation of authority and responsibilities, the rule states:

*2.5 The responsibility to audit a traveler's expense account settlement lies with the state agency. ... The state agency shall audit and submit an accurate expense account settlement for reimbursement to the State Auditor's Office **within 15 days after completion of travel.** [emphasis added]*

In all agencies, there are situations where travel is submitted late. Travel submitted after 15 days requires an explanation to the manager of the Travel Management Unit who may require a detailed written explanation of why travel was submitted "late". No explanation, written or verbal, accompanied any of the 12 settlement forms submitted by the Geological Survey years after the travel had been completed.

GES Subordinates Should Not Be Approving Director's Travel

The Survey has followed the same procedure in approving travel settlement forms for the State Geologist that it employs for all other agency employees. This procedure allows either the agency financial officer, or the deputy director to approve travel for the agency director. Both are in a subordinate position within the agency. The proper procedure, according to the Chief Operating Officer of the Governor's Office, is for travel by the State Geologist to be approved by the Commissioner of the Bureau of Commerce, the oversight agency for the Geological Survey. The Commissioner (or designee) should sign off on all of the State Geologist's travel vouchers.

Conclusion

In FY 2000, the State Geologist received over \$7,500 for travel that occurred years in the past. This is in violation of state travel rules. Because the State Geologist travels extensively, it is important that state travel rules and proper procedures are followed. Furthermore, the State Geologist's travel should not be approved by subordinate staff within the agency. Instead, the proper procedure is for the State Geologist's travel to be approved by the Commissioner of the Bureau of Commerce which is the oversight agency of the GES.

Recommendation 6:

The West Virginia Geological and Economic Survey should follow the West Virginia Travel Rules by auditing and submitting traveler's expense account settlements within 15 days of travel completion, and providing an explanation when travel expenses are submitted late. As already stated in Recommendation 3, the State Geologist should follow the protocol of submitting his travel for approval to the Commissioner of the Bureau of Commerce.

Issue 4: The State Geologist Received Incorrect and Duplicate Payments for Attending Coalbed Methane Review Board Meeting.

The State Geologist is named by statute (§22-21-2) as a member of the Coalbed Methane Review Board. The seven member board conducts hearings and resolves disputes regarding permit applications to establish coalbed methane gas drilling units. The State Geologist is one of two members of the board who are state employees. **Documentation shows that the State Geologist received duplicate payments for attending the same meeting.** In addition, part of the amounts received included per diem payments. **It is a violation of the Ethics Act for a state employee who is being paid through his or her salary to also receive per diem payments for attending a state agency meeting.**

The State Geologist attended the Board's November 9, 1999 meeting. Following the meeting, the State Geologist was issued a per diem and travel payment voucher by the Office of Oil and Gas in the amount of \$185 which he signed. This voucher was submitted and payment was issued to the State Geologist. Several days later, Oil and Gas mistakenly issued a second voucher in the amount of \$145 for the same meeting which the State Geologist also signed. The lower amount reflected that no travel expense reimbursement was warranted because the State Geologist drove to the meeting in a state vehicle. Both vouchers were issued for the same meeting. **The Auditor's office shows that both amounts, totalling \$330, were paid to the State Geologist.**

The procedure used for per diem payment of members of the Coalbed Methane Review Board is that vouchers are prepared by the clerical staff of the Office of Oil and Gas, and distributed to members of the Review Board who are in attendance. The Review Board does not have its own budget. Expenses are paid through the Office of Oil and Gas, within the Division of Environmental Protection, which handles all of the Board's finances. The per diem payment was accepted by the State Geologist.

The Office of Oil and Gas became aware of the duplicate payment through the Legislative Auditor's review. The Office of Oil and Gas has no record of either requesting that the incorrect per diem or duplicate payment be returned. There also is no record that the per diem or duplicate payments were voluntarily returned by the State Geologist.

Per Diem Payments to the State Geologist not Allowed

Most of the Coalbed Methane Review Board members are citizens, and are entitled to receive a per diem payment plus travel, and meal expenses. **State employees do not have the same entitlement to per diem payments.** A 1998 Advisory Opinion by the West Virginia Ethics Commission determined that:

The Ethics Act contains a ban against "double dipping." This provision prohibits

*public servants from accepting compensation from any governmental entity **if they are already paid for that same work.** [emphasis added]*

This opinion was rendered to answer a question asked by a state official:

Is it a violation of the Ethics Act if a State Official accepts a statutory per diem for ex-officio service on a State Commission?

The Ethics Commission found that as a public official, the salary was established by statute. Since the official serves on the state commission as an ex officio member, such service would be considered part of the official responsibilities for which compensation is already established by law. Therefore, the public official would violate WV Code 6B-2-5(k) if he accepted the per diem payment for service on the state commission. The State Geologist's salary is established by statute and he is a voting member of the Coalbed Methane Review Board.

Conclusion

The Coalbed Methane Review Board held 13 meetings and hearings between July 21, 1998 and March 15, 2001. The State Geologist attended three of the meetings held. The duplicate per diem payments to him are only documented for the November 9, 1999 meeting. There is no record that either the total duplicate payment, or the per diem payments were returned by the State Geologist. It may have been an oversight on the part of the GES or the State Geologist in not returning the duplicate payment. It is also understandable that the Office of Oil and Gas, the GES and the State Geologist were not aware of the Ethics Commission's opinion a year and a half earlier. Nevertheless, records show that two checks were issued to the State Geologist for the same meeting. The check in the amount of \$185 should be paid back by the State Geologist. In addition, the check in the amount of \$145 included per diem of \$100, which should not have been paid according to the Ethics Commission. Therefore, the State Geologist should pay the State back the amount of \$285. **By authority of West Virginia Code §4-2-5, the Legislative Auditor intends to review all of the State Geologist's travel dating back to the earliest date for which records are available.**

Recommendation 7:

The State Geologist should pay back to the Office of Oil and Gas the amount of \$285.