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## NRSC-2A-2024: OFFICE OF THE SECRETARY

The Office of the Secretary working group was tasked with reviewing the DENR Secretary's Office and its included divisions. The working group identified two key areas requiring attention: restructuring of the legal division and the absence of strategic planning within DENR. The State Energy Office, Oilfield Site Restoration program, and Technology Assessment Office were previously housed in the Office of the Secretary, but all functions related to these programs are being proposed under a different structure. As such, no report will be included in this review on those matters.

### *Legal Consolidation*

Currently, DENR's legal team is dispersed across various offices, resulting in inefficiencies and potential inconsistencies in providing legal support for the department's natural resources management. During the June 18th meeting, the Office of the Secretary working group recommended adopting a governance structure similar to the Solicitor's Office within the Department of the Interior (DOI). The NRSC agrees with this approach and recommends consolidating DENR's legal positions into a single centralized Legal Office to streamline operations and improve legal oversight.

Under this DOI-like structure, the Legal Office would provide specialized legal services, including litigation, administrative law, and general counsel functions through clear Standard Operating Procedures (SOPs). One of the key functions of the office will be drafting advisory opinions, which will serve as the formal legal basis upon which the agency acts. These advisory opinions will provide a structured framework to guide DENR's decision-making processes, ensuring that the agency's actions are supported by clear and legally sound reasoning. Advisory opinions will act as a foundation for agency policies and decisions, helping the department navigate complex regulatory matters.

Additionally, the NRSC recommends DENR explore establishing an appellate procedure providing impacted parties with a way to challenge an advisory opinion. As a preliminary step, DENR should consider protocols where the agency's process aligns with practices of the Attorney General's Office. This alignment would allow any DENR work product to be factored into the drafting of an Advisory Opinion, which could affirm, modify, or overturn the legal basis established by the DENR Legal Office. An oversight mechanism would be necessary to ensure accountability and that all legal interpretations and actions are in line with broader state legal framework.

By centralizing the legal advice process and establishing formal advisory opinions, DENR can ensure that all divisions operate on consistent legal footing, minimizing confusion and reducing the risk of legal challenges. This structure enhances the clarity and transparency of the legal guidance provided to all stakeholders within the department.

Additionally, the NRSC recommends the inclusion of a cross-agency collaboration framework and the development of alternative dispute resolution (ADR) mechanisms. ADR would provide a specialized venue for resolving disputes related to regulated activities, offering a more efficient and cost-effective alternative to traditional litigation. Although this is not a typical function within legal offices, the inclusion of ADR would strengthen DENR's ability to manage disputes efficiently.

Lastly, the NRSC recommends further evaluation with reporting under EO-13 on whether some or all of the proposed legal functions, including ADR, should be performed in consultation and collaboration with the Attorney General, focusing on efficient administration of oversight, coordination, and technical expertise. Further investigation is required to assess the feasibility of such a move, ensuring input from all affected agencies.

### *Strategic Planning*

The absence of strategic planning within DENR has significantly held the agency back from innovation and growth. Without a structured approach akin to CPRA's continuous planning process—comprising a Master Plan, 5-Year Plan, and Annual Plan—DENR lacks the forward-thinking framework necessary to navigate the complex landscape of natural resource management effectively. This gap inhibits the agency's ability to adapt to emerging challenges, collaborate across divisions, and pursue long-term goals.

Currently, the strategic planning policies administered by the Division of Administration offer limited involvement by the Legislature, leaving DENR without a robust process to drive innovation. In contrast, CPRA and GOCA have shown how a well-integrated planning process at the intersection of the Executive and Legislative branches can provide strategic oversight and growth opportunities. By not adopting a similar approach, DENR is missing a critical opportunity to align its regulatory actions with both legislative priorities and executive direction, which is crucial for fostering innovation and adaptability in its policies and programs.

The lack of a formal planning structure has also led to blurred lines between policy development and implementation. This ambiguity restricts DENR from clearly defining its initiatives, resulting in inefficiencies and confusion that prevent the agency from reaching its full potential. A well-defined strategic planning process would create a more intuitive regulatory framework, allowing the Legislature to appropriate funding based on actual, forward-looking needs, while enabling DENR to act decisively and with clear authority, even when immediate funding is unavailable.

By not establishing a continuous planning process similar to CPRA's, DENR has missed opportunities to innovate and grow within the constraints of its complex legal and regulatory environment. The NRSC recommends that DENR adopt a strategic planning process modeled on CPRA's successful integration of Executive and Legislative oversight, to create actionable, long-term strategies that provide a path for innovation and sustainable growth.

To further ensure stability, the NRSC suggests that DENR's strategic planning functions could be housed in a more permanent structure, such as an administrative office. This would help shield strategic initiatives from disruptions caused by changes in leadership and provide a consistent foundation for long-term innovation and growth.

### *Conclusion*

The lack of strategic planning has held DENR back from achieving the innovation and growth needed to meet the challenges of today's energy operating environment. By implementing a strategic planning framework similar to that used by CPRA and GOCA, DENR could unlock its potential for greater innovation, improved collaboration, and more decisive action at the intersection of the Executive and Legislative branches.

Simultaneously, centralizing legal operations within a Legal Office and integrating advisory opinions as the basis for regulatory actions will reduce legal ambiguities and provide the clarity needed to support the agency's growth. Together, these efforts will position DENR to meet future challenges with confidence and improved capacity for innovation.