

**Minnesota Foundational Environmental Laws
Oral History Project**

Narrator:

Peter Gove (PG)

Interviewer:

Stephanie Hemphill (SH)

Recorded:

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Stephanie Hemphill (SH): The following interview was recorded with Peter Gove on behalf of the University of Minnesota Duluth Kathryn A. Martin Library Archives for the Minnesota Foundational Environmental Laws Oral History Project. It took place in a conference room at the offices of the Friends of the Mississippi River in downtown St. Paul, on October 25, 2016. The interviewer is Stephanie Hemphill.

SH: Peter, thanks in advance for your time.

Peter Gove (PG): Happy to do it. Happy to do it.

SH: Tell me where you were born and where you grew up.

PG: I was born in Walpole, Massachusetts, outside of Boston. And my dad was from Massachusetts and he was working for Honeywell at the time, in the Massachusetts office, and he was transferred to Honeywell headquarters in Minneapolis when I was five. So I pretty much grew up in Minnesota, in St. Louis Park.

SH: And where did you go to college and what did you study?

PG: I graduated from St. Louis Park High School and then I was fortunate enough to be admitted to Princeton and have a degree in politics and history from Princeton in 1970. And then, about fifteen years later, had the opportunity to attend the Stanford University summer MBA [Master of Business Administration] program. So, I don't have an MBA per se, but I have a summer MBA. I'm very careful with that, I don't want anyone to think I'm touting a degree I don't have.

SH: [Laughs] Does that mean you can run businesses in the summertime? [Laughs]

PG: That's right, that's right. And it means I actually met a lot of interesting people in Stanford.

SH: Yes.

PG: I had a beautiful summer there.

SH: And what do you think makes you care about the environment?

PG: Well, you know, my mother's family is from Wyoming, and my mother and dad met after the war. He was a flight instructor and she was one of his students and she wanted to learn to fly. I think she basically wanted to meet my dad, because he was a navy carrier pilot—very flashy—and he and one of his buddies, who was also from Wyoming, were teaching people to fly in Wyoming. But my mother's family has a ranch in the Sierra Madre Mountains, south of Rawlins, and I spent a lot of time there growing up, in the summers. And [I] really appreciated the importance of clean water and clean air and land protection. And then, like a lot of other Minnesotans growing up in junior high or high school, I took a couple of canoe trips to the Boundary Waters Canoe Area [BWCA] with our church and also our church group went out to Yellowstone and Grand Tetons. So, when I was in junior, senior high, spending time in Wyoming on the family property, going up to northern Minnesota and just had that, sort of, in me. And then, was fortunate enough, a couple months after Wendell ["Wendy"] Anderson was elected governor to have a chance to join his staff. I was working for the city of Minneapolis at the time and one of my colleagues was working in the Anderson campaign. I was not. And he started to work in the governor's office, early on in the administration. And within a couple of months, they had a job opening for somebody to come over. In retrospect, I think, paid by Youth Employment funds. And I did that for a couple of months and one day in the staff meeting, Anderson's legendary executive secretary, Tom Kelm, said, "Well, we need somebody to keep an eye on the Pollution Control Agency [PCA] and the DNR [Department of Natural Resources]. Anyone interested?" And I raised my hand. I got the job and spent the next seven and a half years on environmental policy and regulation, working for Wendy as both governor and senator.

SH: Wow.

PG: It was one of the, I think I was, with one exception, the only person that worked the entire time for him [that] he was in statewide office. I was two months short of it; I joined the staff in March. But I went all the way through his term as governor, term and a half as governor, and then his two years in the Senate. So, it's great. I was sort of in the right place at the right time and it served me well.

SH: And obviously doing what he wanted you to do.

PG: Yes.

SH: Satisfying him.

PG: Yes, and it was really great because I started out on his staff, in fact, being the environmental assistant and I did that until the middle of 1975 and then Grant Merritt, who you've also interviewed, decided to go back to practice law, so at the ripe old age of twenty-seven, I took over as executive director, now commissioner, of the PCA. Did that for a couple years. And then when he went to Washington [DC] when Mr. [Walter] Mondale became vice-president, I went with him to Washington and was his legislative director for two short years. And then for the last two years, the Carter administration, went down to the Department of the Interior [DOI] and worked for the National Park Service [NPS], which is one reason I've been involved with National Park Service issues for my whole career since then, and most of it in the business world, but still staying involved in working on NPS issues.

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SH: Great, okay, thank you. So, you were working with the Anderson administration at the time that MERA [Minnesota Environmental Rights Act] was introduced into the legislature.

PG: You know, Wendy, as a state senator, I think in large part because of his experience and his law firm's experience representing the Save the St. Croix organization that was fighting what is now the Allen S. King plant, and he was a lawyer, he—and Grant Merritt knows this story better than I do—but he became interested in the work of a professor at the University of Michigan, who came up with this idea of an environmental rights act. And he actually introduced it, in 1969, as a state senator. And so, when he gave his inaugural address in January of '71, and he followed it within a week or two with the first of three environmental addresses to the legislature—unprecedented then, and since then, in Minnesota, for a governor to devote three special messages on environmental issues. One of the half dozen major proposals he made in that '71 message was for the legislature to pass the Environmental Rights Act. I was just coming into the portfolio at the time, and the bill passed and was signed into law by the governor in May of '71, just as I was getting up to speed on that. So, I was not that involved in the Environmental Rights Act, but Grant Merritt, who was advising then-Senator Anderson, and then became his PCA commissioner, was very involved with MERA. But we look back at this '71 session and we look at accomplishments then and on the environment and it's the Minnesota Environmental Rights Act, a state statute for Voyageurs National Park, and some of the first regulation of noise pollution in Minnesota. But the centerpiece for Anderson from an environmental standpoint was the 1973 statute. So—

SH: Well, let's concentrate on that then, since you were probably more involved with that. But, let me ask you this general question about MERA first, from your point of

view, why was that needed in Minnesota?

PG: It was needed in Minnesota, and several other states that passed it—I think Michigan was the first—and I’m not a lawyer, but clearly, what would happen is, a project would be proposed by a private entity, and citizens or citizen groups, were concerned about the potential environmental impact of that project or projects, but they didn’t have standing in a legal sense, because they really couldn’t, without putting up a huge bond, intervene and be a party to a law suit. And the Minnesota Environmental Rights Act provided a path for citizen standing and it provided a path once the case could be made that there was a potential for environmental harm that that organization, or individuals, depending on the case, was able to be a party to the case. And even later on, with some of the other provisions of MERA, allowed for the burden of proof to shift, so that the defendant, if you will, in most cases the private entity proposing the project had the burden to prove they were *not* polluting the environment, versus the citizens who always, then and now, don’t have the resources to hire all the experts, didn’t have the burden. So it provided standing and it shifted the burden, if you made the case in a court that it was a valid complaint, otherwise you’d have a lot of frivolous lawsuits. So that to me was always the most important two points of MERA. And I think, even today, you know, I live in White Bear Lake and there’s a huge case now between citizens in White Bear Lake and the Minnesota Department of Natural Resources about the regulation of water levels at White Bear Lake—and that’s a MERA case. Those citizens sued based on the Minnesota Environmental Rights Act and took on the Department of Natural Resources and it’s actually a very interesting case about water policy, surface versus ground water policy in Minnesota, and it’s a MERA case. And there have been—I don’t know the statistics—but there’ve been dozens of cases based on MERA since 1971 in Minnesota, some pretty prominent.

SH: So the White Bear Lake case is a case against the DNR, is that because one of the provisions of MERA was that you could also sue the state if their regulations weren’t strong enough to protect the environment? Is that kind of—?

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PG: That’s part of it. The White Bear Lake case fundamentally makes the point that the DNR was not properly regulating the withdrawal of ground water and it, for the first time, brought to public attention, which the experts have known for years, that surface water and ground water are related. And you know, in your own work, you know that. And what happened in White Bear Lake is a very small watershed, and it’s sort of right between the St. Croix and Mississippi watershed. I think it’s technically in the Mississippi watershed, but it’s right on the edge. And it’s a small watershed; the lake is not spring-fed, so the lake depends for recharge, in part, on the ground water level in the area. And just north of White Bear Lake, for the last twenty years, in Hugo, there’s been

tremendous residential development and there've been, not unlike the rest of the state and most states, groundwater withdrawal permits that are sort of rudimentarily approved. I mean, the DNR rarely turns down, in this state or other states, groundwater withdrawal approvals. So, these folks at White Bear Lake made the case, successfully, to a judge, there's a settlement—settlement discussions continue—it's quite complicated, very political because of the involvement of other municipalities who also withdraw groundwater from the same reservoir, underground reservoir. And it's sort of been a canary in the coalmine in Minnesota about the relationship between surface water and groundwater. And it's increasingly complicated because the solution that the plaintiffs want is that the lake be augmented by Mississippi River water through a pipeline, and the cost of the pipeline, depending on whose numbers you use, the lowest cost is twenty million dollars, the highest cost is sixty or seventy million, because you have to connect to the Mississippi River, which is not too far away in that area, because St. Paul gets its water from the Mississippi and puts it through a series of lakes that come within about three miles of White Bear Lake, but still, it would take a substantial pipeline to augment—is the term—White Bear Lake. And of course, a lot of citizen organizations, including the one whose offices we are in today, are sort of saying, "Hold it now." Yes, there is a problem with surface versus groundwater; part of it is five municipalities pump groundwater, for drinking water, from the same aquifer. Maybe they could shift to surface water first and probably ameliorate the impact on the lake. But if you're the city manager of any of these five small municipalities, groundwater, you basically don't have to treat it, just a little bit with chlorine, and you can sell it to other users, so it's, for some of these cities, it's a profit center. Then all of a sudden the state of Minnesota and the Met Council, the big, bad Met Council, comes by and says, "Hey, why don't you guys shift to Mississippi River water?" Well, A) it's expensive and B) you've got to treat it and C) you can't sell it for the profit you could before. So, that's another aspect of why this is a fascinating case. And one of the interesting aspects of it is that the very well known attorney, Mike Ciresi, grew up in White Bear Lake, so guess what law firm is pro bono supporting the citizens? Ciresi's law firm, [laughs] against the DNR and so there's a lot of interesting ramifications. But it's a MERA case; it's a MERA case.

SH: I did not know that. Well, that's one case, and you are also aware of another case that you say weakened it. Is this a good time to talk about this?

PG: Yes, yes. And I am, again, not being a lawyer, I am not the expert on this, but in maybe 2009 or '10, a small telecommunications company by the name of AT&T proposed building a fairly tall cell phone tower close to, not in, but close to the Boundary Waters Canoe Area. And you know, the whole issue, as you know in your coverage of these topics, the whole issue of how much technology impacts wilderness and the issue of, you know, emergency response and that, is certainly an ongoing discussion. But AT&T basically proposed a pretty significant cell phone tower close to the boundary of the Boundary Waters Canoe Area and it was challenged, under MERA,

by the Friends of the Boundary Waters Wilderness as having significant impact, with alternatives. And they filed a lawsuit and they actually won at the district court level under MERA; that would have forced AT&T to, I can't remember if it was both shorten it and move it farther away from the BWCA? It was a view-shed issue, you're paddling in some of the key entry-level lakes, entry lakes into the BWCA, and you look up and there's a cell phone tower. And you know, maybe in 2016 the technology of wireless would be such [that] you wouldn't need such a high tower so close to BWCA, but at the time it was proposed as such.

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PG: And the AT&T with significant legal resources, of course—global company—appealed that decision to the Minnesota Circuit Court of Appeals and they won on appeal. And the Minnesota Supreme Court refused to hear the case. So, that decision stands and the case AT&T made going back to the MERA statute in '71 is that some of the provisions of MERA—and I cannot cite the exact provision—but there are people that can that can give you more information, was vague. It was too vague in terms of “scenic protection”. And scenic protection is a big deal for citizen organizations like the Friends of the Mississippi, whose offices we're in today, looking out at the Mississippi River where there could have been a fifteen story apartment building a few years ago. And the court ruled, AT&T made the case that a certain section of MERA was vague and not enforceable and the circuit court agreed and basically voided that particular language in MERA. So I'm going to give you, I'm going to refer you to Kevin Proescholdt, the Friends of the Boundary Waters Wilderness, he was the expert witness for his organization on that and knows much more about that case than I did; but it did impact MERA. And at the time, it just seemed to me, and I tried to talk to a couple AT&T people at the time, I said, “Really? You know, I mean, AT&T taking on this sort of key state statute from a community business relations standpoint?” But I couldn't get through to anybody. So, to this day, that particular provision of MERA is not enforceable. What the consequences have been to other cases, I don't know, but there are people in the legal community that can comment on that. But it was an attack on a particular provision of MERA and it was successful.

SH: Okay. Well, let's talk about MEPA.

PG: MEPA!

SH: Minnesota Environmental Protection—

PG: Policy Act.

SH: Policy Act, thank you.

PG: Right, right.

SH: Chuck Dayton was calling it MEPA, so I have been calling it MEPA in my mind.

PG: MEPA, MEPA, yes, well, MEPA versus NEPA, so NEPA begat MEPA, right? So, in 1979, or excuse me, 1969, under the Nixon administration, very interesting, you know, as you know, several of the key statutes, federal statutes that we rely upon today, were passed by the Nixon administration. But, the federal NEPA, National Environmental Policy Act, passed in '69. It set up the National Environmental Impact Statement system. It set up the federal Council on Environmental Quality. And it led to, six months later, maybe a year later, the establishment of the Environmental Protection Agency [EPA]. The Environmental Protection Agency, I think, came in late '69 or early '70. So, here in Minnesota the governor in his, Anderson administration [Wendell Anderson], comes in, in January 1971, the governor makes a series of recommendations to the legislature in '71. But remember in '71 the legislature was controlled, both Houses, were controlled by the Conservative Party, although the Conservative Party then is not what the Minnesota GOP [Republican Party] is today. He did recommend in 1971, based on NEPA, that a similar statute for major environmental projects in Minnesota be considered. It did not pass and then, as you know, in November of 1972, the DFL [Democratic Party] became the majority party in the legislature and that set the stage for, you know, what I consider the late Governor Anderson's finest environmental message, the 1973 environmental message, where he made twenty-some major recommendations to the legislature across the board—air, water, land, solid waste, et cetera. And the centerpiece of those recommendations was a Minnesota Environmental Policy Act, and that and several other statutes, I think nine or ten of them, passed and were signed into law in the same day in the middle of May in 1973.

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PG: One of them—to digress just a bit—was the Minnesota Critical Area Act. And the Minnesota Critical Area Act, which has not been used that much in the last forty years, was the basis for the seventy mile corridor on the Mississippi River between the Crow Wing River and the confluence of the Mississippi River that became the basis of an executive order in 1976 by the governor setting up the Mississippi River Critical Area, which then became the basis, in 1988, of legislation introduced by Bruce Vento and Dave Durenberger to set up the Mississippi National River and Recreation Area [MNRRA] and, as we sit here today, we're within the boundary of MNRRA. And Friends of Mississippi was set up twenty-some years ago to be the citizens advocacy group supporting the National Park Service [NPS] here for the Mississippi River, but it was all based on another of those 1973 statutes, a dozen or so that passed. But MEPA, Minnesota Environmental Policy Act, passed in May of 1973 and it set up for state level

projects—a similar process to NEPA—where if there was a major project with significant environmental impact, the project proposer had to do an environmental impact statement and had to look at alternatives. And the management of that, at the time, was given to what was then called the Minnesota Environmental Quality Board [EQB], now renamed Environmental Quality Council¹, which still exists today. And that organization has managed the Minnesota Environmental Policy Act for forty-some years.

SH: Let's talk a little bit about how that was passed. What were the discussions? What were the arguments? Were you involved?

¹Mr. Gove has reversed the names. It was originally called the Environmental Quality Council, later changed to Board.

PG: I was involved by then. You know, that was my portfolio and many people have spoken about this, particularly when Governor Anderson passed away this summer. At the time, there was much more bipartisan support for conservation and environmental issues than there is today. I think for a number of reasons, one—the Conservatives in 1970, in the Minnesota Legislature, couldn't get through a party convention today, the Republican Party, I mean, they were center-right and pragmatic. People like Bob Dunn and others like that, Senator Bob Dunn, who is still with us and whose son George is on the board here at Friends of the Mississippi River. And so there was a lot of bipartisan support. And let's remember in the early '70s, what the backdrop was. Earth Day was only a couple of years old, the Cuyahoga River had caught on fire just a few years earlier, the Mississippi River was not a sewer, but pretty close to it. You know, CFCs—chlorofluorocarbons—had not been banned, the ozone hole was alive and well. So, there was a lot of pent up demand in the nation and here, to do something about clean air and water. I mean, I remember when I was, the first year I worked for the governor, the summer of '71, there was like a dozen ozone alerts in the Twin Cities [Minneapolis and St. Paul, MN]. I mean, the PCA was putting out alerts about air quality, mostly from, because, remember car—when was the first year that automobile admission standards were put in? It was like '71. I mean, cars were running around without any catalytic converters or anything, so there was, the public was concerned, legislators were concerned. I think, in a piece I wrote about Wendy, when he passed, I think half the bills introduced in the 1973 session were in one way or another related to clean air, clean water, nuclear power, solid waste, packaging—whatever. And so, there was a lot of opportunity, a newly elected governor who ran on an environmental platform and legislators in both the House and the Senate wanted to do something. And so, there was a lot of opportunity. And so, the Minnesota Environmental Policy Act was one of the key building blocks, if you will, of that legacy and then we can say forty-three years later, "What's the record?" And I think the record, and you've spoken to others on this, I think the record is good, not great, in that a lot of major projects—this is not just true in

Minnesota, it's been true across the country—there's always in NEPA or MEPA, sort of an entry level review; in Minnesota we call it the Environmental Assessment Worksheet [EAW], and the pragmatics are, instead of asking every project proposer to do a full blown EIS [Environmental Impact Statement], which is expensive, takes a lot of time, there's always been the ability to sort out the largest projects from the smaller projects using an Environmental Assessment Worksheet, which is faster, cheaper, easier to do.

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PG: I think those who follow the metrics of MEPA for the last forty years would probably say there've been too few EISs, too many EAWs. I think you could find examples of that, but there have been a lot of Environmental Worksheets that have led to projects being modified. And one of them, pointing out the window here to the Mississippi River, in the early '90s, a developer in St. Paul proposed to build a twelve, fifteen story apartment building just across the river from downtown St. Paul, right in the view-shed of the downriver view of the big river coming out of St. Paul. And the city required him to do an equivalent of an Environmental Assessment Worksheet, and in that worksheet, it became apparent that the views from downtown, down the river, would be severely impacted by this development, and the developer couldn't get the votes on the city council to go ahead. It was called the Bridges of St. Paul. If it had been built, as we look out the river here, there probably would have been four other towers by now, completely obscuring that view downriver. So, in that way, the EAW, the Environmental Assessment Worksheet system, worked. But you can find people that would say, "Too many worksheets, not enough EISs. Too easy to get around doing a full-blown EIS." But I don't know, I think the fundamental system has been in place. It's accepted in Minnesota, as it is under the national system, that if you're going to make a significant project proposal affecting air or water or view-shed or scenic, you've got to do an assessment, you've got to look at alternatives, you've got to be able to demonstrate to the local—whether it's city council or county board or state agency—that you've looked at alternatives and what you're proposing is satisfactory in terms of environmental impact. Not *no* environmental impact; very few cases of that. So I think you'd give the Minnesota Environmental Policy Act probably a "B", but I don't know in any state where you'd give it much more than that, maybe Michigan, maybe California, because they all have comparable statutes.

SH: I'll ask you in a minute how you think it could be improved, but you also, on the other hand, have people nowadays saying, "It's taking way too long for the state to approve projects. This is hurting economic growth." We get it especially in the mining industry.

PG: Yes. You know, that's been there since I was in state government. You know, Mark Dayton, when he came in as governor, had the PCA and DNR do a really rigorous review

of permit timelines and tightened them up. And I think, it's like, it's the 80/20 rule, I think most of the time projects—good projects that have good data—get approved in a reasonable timeframe, but there are exceptions. And the mining, the whole issue of taconite and now sulfide mining in northeastern Minnesota has been around, you know, for a long time. When I was PCA commissioner, it was copper-nickel battle number one. I mean, people talk about copper-nickel today, but we almost had an underground copper-nickel mine in Babbitt, Minnesota, in 1975. It was the first generic EIS that was done by the state of Minnesota. Very few of generic, sort of, category-based EISs have been done since then, but one was done at the time on the proposed AMAX mine, which is not too far from what we read about today—the Twin Metals—it's the same deposit as Twin Metals, it's just another piece of it. And at the time, I thought we were going to probably approve it, but then, guess what, the world price of copper went down and AMAX was out of Babbitt within two weeks; it was over. Some would say maybe that could happen again with PolyMet or Twin Metals, I don't know, but there certainly are cases where, you know, state agencies have taken too long a time, but I think you could find as many citizens groups that would raise their hand and say, "Geez, I'll show you a case where the state agency really didn't do its job." And look what we're facing today; I mean, look at 3M and the groundwater pollution from the Chemolite Plant. You know, I sometimes wonder if we were a little bit, not too attentive in the '70s on that. We knew that there was, you know, I mean, that was a principal facility for 3M to process a lot of material, and maybe we should have been a little more diligent at the time. Maybe DNR should have been a lot more diligent and they wouldn't be hauling tens of thousands of tons of affected dirt out of there and processing it, and a lot of well water issues out there. But, I sort of err on the side of being protective. But hey, Chamber [of Commerce] and the mining industry and others have continued to say it's, you know, "Things are too slow, too expensive." I don't know.

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SH: So, if you would give it a "B", do you have specific ideas about how it could be improved?

PG: Well, I think part of it is funding. I think these kind of assessments, whether it's an Environmental Assessment Worksheet or an EIS, basically require the city or the county or the state agency to do a pretty comprehensive assessment or hire a firm, I mean, there's a whole industry out there doing environmental assessments in Minnesota, a lot of engineering firms. And if there was some way to have, maybe state support or a pool of money where the township maybe doesn't have the resources to do it, so they say, "Well, we can't handle that. We don't have the resources to do it. We're not going to do it." And then there's a battle before the EQB. I think the basic structure is there, but some of my friends in the environmental community would say, "Maybe strengthen MEPA so that more full-blown EISs would be done." But that requires the EQB, which is

now, used to be part of the state planning agency, now it's an independent agency, having the resources to manage a lot more projects than they do, and they don't. They're pretty short-staffed.

SH: I thought that the project proposer was supposed to pay for the environmental review.

PG: That's what's in the statute and typically that's what would happen, but there's a lot of wiggle room. There's a lot of wiggle room as to how you define the extent of it, and how long it takes, and how many expert witnesses. So, in my experience and, you know, people in this office and in some of the statewide groups over the last twenty-five years are more, are closer to this than I am. Because in my case, after the 1980s, when I was in state and federal government, I worked in the private sector for twenty-five years, I was not involved in environmental policy, per se, other than staying involved with the Mississippi River, which has sort of been my first love during that time. And I would read in the paper about the EQB budget cut or the EQB only being able to do, you know, "X" number of Environmental Assessment Worksheets a year. So, there's been this tension over the years about funding and how tough, if you will, the EQB has been on project proposers. And there've been many examples where a vote has been taken where they didn't have to do an environmental assessment. You know, just the project permit was approved at the local level. But I'd have to refer you to, maybe somebody at the Sierra Club or Conservation Minnesota for those metrics, because I don't know them as well as others. Paul Austin at Conservation Minnesota or Margaret Levin would have a better sense of that than I would.

SH: When I asked you about the debate over MERA, you just basically said everybody was in favor of the environment in those days. [Laughs] So, was it really that easy to pass or were there some challenging aspects?

PG: Oh no, oh no. I mean, there was a lot more support than, considerably more support, as I think Chuck Dayton told you in your interview with him, that some of these bills wouldn't even get a hearing today; and he's right. Yes, every bill at that time was vetted, was heard. I remember the State Wild and Scenic Rivers Act bill in '73, which passed in this package I mentioned, you know, there was significant amendments to that in terms of the role of the state versus local units of government. I think the Critical Areas Act, the reason the Critical Areas Act has not been used that much over the past forty-plus years is that the process to designate as a state critical area was a lot more cumbersome in the final statute than what we proposed. I mean, the governor proposed a nuclear moratorium. That didn't pass. The governor proposed mandatory deposit legislation. That did not pass. The governor proposed extensive higher civil penalties and only part of that passed. So, not everything that was proposed passed. Most of the major proposals were amended, but all in all, the batting average in that '73

session was pretty high. But there were some, there were even, I think, in the '71 statute—I should have brought my special messages with me, I left them at home—but there were a couple other things that he proposed that never got a hearing.

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SH: Well, I know that some of the discussion was about the EQB, or EQC at the time, Environmental Quality Council.

PG: EQC. I was a founding member of the EQC.

SH: Founding member, okay. Because you were on the staff?

PG: At the time, I was a founding member because I was PCA commissioner.

SH: Okay. And I think that the, I don't know if you remember this or not, but I thought that the Environmental Quality Council was also included in the same bill that the Minnesota Environmental Policy Act was [in], but it was spun out into a separate bill.

PG: You know, I just don't remember how that happened.

SH: So, maybe that's not very important.

PG: Maybe it was a jurisdictional issue. But for sure, what happened is the Environmental Quality Council was both state decision makers and citizens. So, from the beginning, the governor—and I think it's even the case today—the governor made certain appointments and so I remember, actually at Wendell's reception we had after his memorial service, some people brought some pictures, and one of the pictures was of the first Environmental Quality Council meeting. And everybody was standing up and we took a group picture and between the two or three of us, we couldn't identify everybody, because there were like, seven or eight citizens and we could identify somebody from the Farmer's Union, we could identify somebody from the Chamber, we could identify somebody that worked for the AFL-CIO. So even early on, the advisory group there was representative of the broader community. And it's been that case over the years but—

SH: And why was that important?

PG: Well, I think, you know, environmental decisions have economic impact, and so to have, trying to get to a consensus, you know, with business and labor and the environmental advisers to the governor has been important. Where it's really come into play though, is not at the EQB, but it's really come into play, over the last few years, at

the PCA. Where under Grant Merritt's time and even when I was there, the citizen board of the PCA was very independent, had substantial authority. You know, I was the executive director, now they are commissioners, but the executive director at the time went to the citizen board and that was the policy board of the agency. Now, under Governor Carlson's tenure, that was changed and the role of the board became more advisory. And as you know, a couple of years ago, the board was abolished in, I think, one of the darkest days for environmental policy in Minnesota. Fortunately, the governor, under executive order authority, has set up a new advisory board since then, but it's not the same. And it was very, very disappointing when that happened and how it happened. But there's always been a desire, both for the advisory board for the Environmental Quality Council and for the PCA board to have those citizens broadly representative of major sectors in society and to try to get a consensus on things. In most cases, they do.

SH: And I thought part of the reason for wanting to have citizens on that board was the concern that state agency heads might be, sort of, cooperating with each other to keep life easy.

PG: Yes, yes. Or do, who they all work for? They all work for the same person. So yes I, what we didn't, you know, the federal Council on Environmental Quality that manages the NEPA process is mostly state agencies, even today. So in Minnesota, I think from the beginning, we wanted to have a little broader group. And I think you've hit it on the head, to have folks from other sectors. But I was involved with the EQC from '73-'74 to '76, both the governor's representative and from the PCA, and having a larger group representative of other sectors of the economy and society, ninety-five percent of the time was great. There wasn't really that much contention. Maybe a couple of times on the terms of an EIS, but very rarely did you have a split vote between the commissioners and the public, if you will, on whether to order an EIS. Many times, though, there was a debate about whether to order an EIS or to allow an Environmental Assessment Worksheet, which is, again, this sort of entry level, lower level, less expensive analysis, which has, again, come into some criticism over the years. But I don't recall, I mean, we did power lines at the time, we did Sherco [Units] 3 and 4, we did this generic EIS on copper-nickel. I don't recall any huge disagreements between the commissioner group and the public group, all appointed by the same governor, of course, you know, which is the case today.

0:40:24.1

SH: How about any legal cases involving MEPA? Do you know of any?

PG: You know, that is sort of, I think generally beyond my pay grade. I do not think there has been a fundamental legal attack on MEPA, in part because it was, I mean, if we had

the National Environmental Policy Act here and the Minnesota Environmental Policy Act here, I mean, they are very comparable. Because many states, you know, if it's a federal project, NEPA applies. If it's a state project, MEPA applies. But the process for doing an Environmental Impact Statement, you could almost slap those two together, the first three or four sections of NEPA versus MEPA and they read pretty much the same. So I don't think there's ever been a fundamental attack on the process, but there's always been litigation or disputes about what's in the EIS and it's usually the preferred alternative versus the other alternatives considered, and in many cases the preferred alternative by the proposer, the opponents, whether they be citizens or farmers or downstream interests or whatever, would say the preferred alternative is the least expensive and has more risk. But all you have to do under MEPA and NEPA is show that you have looked at a range of alternatives, and the proposed alternative is, and there's no feasible alternative to the proposed alternative, and there's a lot of wiggle room, there's a lot of wiggle room, as I'm sure you've heard from others and will hear from others on this.

SH: That's right. I think the language of both MEPA and MERA is that if you cannot show a reasonable and prudent alternative—

PG: Reasonable and prudent, right.

SH: —language like that. And it also says that economics alone cannot be a justification.

PG: Right. So a lot of wiggle room, as I call it, but still a good process. I mean, you know, the fact that for a lot of major projects in this state for the last forty-some years, there's been this kind of review versus, "Here's our proposal. Take it or leave it." And the citizens saying, "But, hold it, what about air and water?" There would have been no mechanism to consider those alternatives. And they've been considered, you know, all in all. But I'm sure, I wish I could come up with a couple, but I'm sure there have been examples where the preferred alternative was accepted, a plant or a project was built, and ten or fifteen years later some neighbor or downstream interest or citizen group is going to say, "Hey, we told you this fifteen years ago." I just don't have the database on that. But there are others that do. And I would think, what's the name of the guy that runs the Environmental Quality Board these days? Will, um, Seuffert?

SH: Seuffert. Um-hmm.

PG: Seuffert, Will Seuffert. You know, I don't know if he's on your list, but he would be the keeper of the statistics and, you know, the examples, good or bad, where the process did or did not work, and I would encourage you to sit with him and have him give you that. Because they have four decades of data and they've got to have summary, you know, how many EAWs were done, and how many times was the

preferred alternative not accepted, and how many EISs, and what's the average cost of an EIS, and how long does it take? He could probably be very helpful there.

SH: Yes, if they had the staff to analyze the data. [Laughs]

PG: Well, I think they've just got a running number, you know. I think they have that. And, you know, under the Dayton administration they've gotten, excuse me, they've received some additional resources.

SH: Right.

PG: You know, during the Pawlenty [Governor Tim Pawlenty] years there just wasn't a lot of emphasis on these kinds of issues. But under the Dayton years, that's changed.

SH: So, looking forward now, what do you see as the future of the Environmental Quality Board and the MPCA given this kind of rocky history in recent years?

PG: You know, I think I support reinstating the citizen board to its previous stature. That to have sort of a gubernatorial executive order is okay, but we should reinstate that. Grant Merritt has probably told you, he would like to go back to the pre-Arne Carlson [Governor Arne Carlson] statute, where the citizen board had the policy approval. I'm not so sure on that, you know, a good commissioner, like John Linc Stine, I think, can run the agency with integrity and with purpose, but I'd like to have the citizen board restored. And I'd like to have adequate resources to administer the Minnesota Environmental Policy Act. I don't know if that's doubling what they have today, I just don't know, but Will could tell you on that.

0:45:18.5

PG: And then the fact that we have that system in place is important. The biggest example of environmental review right now in Minnesota is a NEPA study, although the DNR was involved with the Forest Service, I guess it's a joint MEPA-NEPA study, which is PolyMet. You know, PolyMet, eight years, thousands—you've covered it—tens of thousands of comments, public hearings, a document a foot thick. And now the DNR and the Forest Service have accepted, remember an Environmental Impact Statement is a platform for decision-making, it's not the decision-making document itself. So, it'll be interesting to see how that plays out now. Because it's probably the largest, most expensive, and sophisticated environmental review that's occurred in Minnesota. I don't know of any one that's been—and most closely watched, right? The PolyMet, NorthMet proposal, certainly not during my time was any, I mean, we started a generic EIS on copper-nickel then, but then, as I said earlier, the company pulled the plug and we shelved it. But I think it's the most interesting example. So maybe a couple years from

now, once the DNR, MPCA decide if they're going to issue permits to PolyMet, and the plant in fact goes forward, how will the, it'll be a good time to say, "How did environmental review do?"

SH: You mentioned earlier, a big issue in your time at the PCA, or EQB, was power lines.

PG: Power Plant Citing Act, one of the other bills passed in 1973, which at the time said, and it was a variant of NEPA, or MEPA, it was specific to power plants and power lines. At the time, with electrical demand growing, very little conservation, no alternative energy, a debate over nuclear versus non-nuclear, I remember a study that I think the state planning agency did? We did have a state planning agency then, that showed, because I remember a good friend of mine who was a reporter for the *Star* at the time, the *Minneapolis Star*, Terry Wolkerstorfer, did a front page story on this, that Minnesota would need like, ten more base load power plants in the next twenty years and, holy Christmas, you know, people were saying, "Ten more Shercos?"

SH: This would have been when?

PG: This would have been mid-seventies, because the energy crisis is upon us, there's no conservation, there's solar and wind, "What the heck are that?" And so, that was one of the reasons the Power Plant Citing Act, which included power lines, came in and at least had a process that as I recall, layered on top of MEPA, but was more specific to electrical generation. And, you know, Paul Wellstone got his start, really, as a professor, fighting a high voltage power line. I remember when this professor came in to see us and years later when I got to know him, I was in the medical device industry at the time, and he, you know, Paul became one of our biggest advocates in the industry because of his concern for patients, and we reminisced about that and he remembered the first time he came in and here I'm this young staff member and this professor is coming in and he was loud, [laughs] and we laughed about it, but you know, I think the power line group that he represented at the time and advocated for were the first to get causation with high voltage power lines and the potential impact on animal husbandry, cows, and people living near power lines. You know, that all started then, and it was part of a study that was done for that particular high voltage line. And I can't remember the specifics of it, but it was a big, I mean, you turn the clock back and you think about it, just this last week, what did Xcel, formerly NSP [Northern States Power], decide to do to shut down, over time, two of the four Sherco [units]? I signed the permit for Sherco 1 and 2, and all of a sudden now, we don't need them? You know, because we've got conservation, we've got alternative energy; we've got cheaper natural gas, natural gas peaking plants. In the '70s, it looked like there'd be a power plant and a big stack all over Minnesota. And times have changed. To the better, I say. I mean, I wish we could get rid of that big stack on the St. Croix River, but we've made progress. You know, Riverside, and Highbridge, you could almost see Highbridge from here, um, Blackdog. You know, and I

was in state government and our kids were growing up in the Metro area, you had all these big stacks that you could find your way around. Riverside is gone, Highbridge is gone, Blackdog is gone, Sherco's, two of the Shercos are going to be gone. So—

0:50:23.2

SH: You mentioned the Allen S. King plant before, what compromises came there to get set up, or did the environmental group just lose that fight?

PG: Well, remember, the King plant was built in the mid to late '60s, prior to the National Environmental Policy Act, the federal Clean Water Act, the federal Wild and Scenic River Act, the Minnesota Environmental Policy Act [laughs], so, when the good folks running NSP at the time decided they didn't want to develop hydro in the upper river, remember, they owned—NSP owned—most of the land on both sides of the river from Taylor's Falls north for a hundred miles. Now we're all the beneficiaries of that today, because we have the St. Croix National Scenic Riverway, which was in large part because of a donation—partial sale, partial donation—by NSP. But at the time they were hedging their bets, in the '50s, as to whether they would do base load coal or hydro, and they chose coal. And they found a site on the St. Croix River that was close enough to the Mississippi so the coal barges could get there and the Corps of Engineers could dredge to get there, and they found local units of government that were just fine with the power plant there. And there was a very small citizens organization at the time, called Save the St. Croix, that opposed it, but there was no Environmental Rights Act, there was no requirement for an Environmental Impact Statement, federal or state, and where my former, late boss first got involved in the environmental issues, his law firm represented Save the St. Croix. And it was one of the reasons, I think, he got involved with the Environmental Rights Act a couple of years later because he saw these clients, they were clients of the Thuet, Todd, Anderson and Mitchell law firm coming in to them saying, "We don't want this big power plant on the beautiful St. Croix River." And they had no standing in court without putting up a, I'm sure at the time, a multi-million dollar bond, because you had NSP on the other side, with all their good attorneys. So, the plant was built and it was built over the objections of a lot of folks in the valley. And then a few years later Gaylord Nelson looks across the river from St. Paul, doesn't like what he sees at the power plant, and has been thinking about having a federal Wild and Scenic Rivers Act. And what's one of the first eight rivers he puts into the national system? The St. Croix. And then a couple of years later, the Minnesota Legislature passes MERA and the Minnesota Environmental Policy Act. And NSP at the time starts to focus on, more toward central Minnesota, from a demand standpoint of where the coal is coming by unit train. Remember, before coal had to come down to the Twin Cities, get on a barge, go all the way around, come up to the King plant. One of the reasons Sherco is where it is, it's right on the main Burlington line, right? So and then, without going into too much detail, because we've got the fiftieth anniversary of the Wild and Scenic

River coming up here and we're getting ready for it, then Gaylord Nelson and Walter Mondale passed the St. Croix National Scenic River Act, and through a series of discussions and negotiations with NSP, NSP essentially creates the Upper St. Croix Riverway by donating—partial donation, partial-sale—to the federal government and the two states, and we have this beautiful, protected, almost pristine, national river, the closest designated Wild and Scenic River to a major metropolitan area in the country. And it's sort of an ironic history. It was set aside, it wasn't all cabins, like it would have been, because NSP thought they'd put a half dozen hydro dams there, and didn't need them, because coal prices were low—this was before all the pollution control requirements came in—coal prices now are much higher, because you can't just, you have to scrub coal. It's [an] interesting story, but—

SH: Yes, it seems like there are a lot of trade offs, or a matter of luck, in some cases, about environmental progress.

PG: Yes, I think you're right. I mean, we have this beautiful Upper St. Croix Riverway today, in part because, as I said a minute ago, a private company had bought up all the land thinking they'd put hydro dams there. Instead of one hydro dam, there would have been five or six. It didn't work out that way—good for the St. Croix. But we have a base load power plant south of Stillwater, too, as a result.

0:55:24.9

SH: Hmm.

PG: But maybe one of these days that stack goes away, too. You know, with a push towards renewables, and the price of natural gas staying low, and the problems with scrubbing coal, I'm hoping before too long, that stack goes away and they burn gas there like they are here.

SH: And climate change?

PG: And climate change is a big part of it.

SH: Okay, well, let me ask you two questions now. One is, is there anything else you want to be sure to mention that I haven't asked you about? And you can think about that while I tell you the next question, which is, how do you feel about your work on all of these issues?

PG: Well, I think, onto your first question, I think—and I'm not sure who else you're going to interview for this project—but I do think the AT&T BWCA cell phone case is an important MERA case and you should investigate it. And I do think getting some better

statistics, pro and con, of how well the Minnesota Environmental Policy Act has done, is worth talking to a few more folks. And maybe some folks that are more involved in statewide conservation issues than I am, like Paul Austin, or Margaret Levin at the Sierra Club, or somebody from the Izaak Walton League, or something like that. And then, from my standpoint, I started out in government for ten years and then I spent almost thirty years in business and was detached from environmental policy for most of that time, because I was working in computer technology and medical technology, but stayed involved throughout that entire time on the Mississippi River. And I feel very good about that. I feel very good about this organization, where we're sitting today, and how well the Park Service has done, and this is the only designated section of the twenty-five hundred mile Mississippi River that's a unit of the National Park System, other than some Civil War battlefields farther south. So, we've had a nice story here and this group, working with the Park Service, has done pretty good work over the last twenty-five years for the Mississippi. So most of my work these days, and I've been a full time community volunteer for ten years since I retired from St. Jude, so I've been working with Friends of Mississippi and the St. Croix River Association on rivers, and then the Trust for Public Land on land protection, and I also work with the National Parks Conservation Association that embarrassed me with one of their awards a couple of years ago, so and I'm an honorary park ranger, which is probably the thing I'm proud of the most, for the Park Service. So that's all I've done and I've had the opportunity to retire a little early from St. Jude and so I basically spent my time volunteering and plus being in the grandchildren business.

SH: Well, congratulations on your recognitions and thank you so much for your time today.

PG: Happy to do it, Stephanie. Thank *you*.

0:58:25.4

[End of interview]