

**DRAFT MINUTES**  
**AIR QUALITY COUNCIL**  
**February 5, 2008**  
DEQ Multipurpose Room  
707 North Robinson  
Oklahoma City, Oklahoma

For EQB February 29, 2008  
For AQC Approval April 16, 2008

**Notice of Public Meeting** The Air Quality Council convened for its special meeting at 9:00 a.m. February 5, 2008 in the Multipurpose Room at the DEQ. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 14, 2007. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101 - 2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

Sharon Myers  
David Branecky  
Jim Haught  
Laura Worthen Lodes  
Bob Lynch  
Gary Martin  
Jerry Purkaple  
Rick Treeman

**DEQ STAFF PRESENT**

Steve Thompson, Executive Director  
David Dyke, ASD Director  
Eddie Terrill, AQD Director  
Beverly Botchlet-Smith, AQD Assistant Director

**DEQ STAFF PRESENT**

Scott Thomas  
Nancy Marshment  
Matt Paque  
Dawson Lasseter  
Gail George  
Myrna Bruce

**MEMBERS ABSENT**

Don Smith

**OTHERS PRESENT**

Christy Myers, Court Reporter

**Transcripts and Attendance Sheet are attached as an official part of these Minutes**

**Approval of Minutes** Mr. Branecky called for a motion for approval of the January 19, 2008 minutes. Mr. Treeman made motion to approve and Mr. Haught made the second.

Jim Haught	Yes	Rick Treeman	Yes
Laura Lodes	Yes	Sharon Myers	Yes
Gary Martin	Yes	Jerry Purkaple	Yes
Bob Lynch	Yes	David Branecky	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

Ms. Nancy Marshment advised that this rulemaking proposal had been before the Council four times. It would increase annual operating fee for both minor facilities and Part 70 sources as additional income resulting from the fee increases is needed to cover current and anticipated staffing requirements in administering the air quality programs. Fees for both minor facilities and Part 70 sources would be adjusted automatically each year using the Consumer Price Index like the Part 70 source fees manner. The proposal remains consistent with the statutory requirement regarding the use of the CPI. All applicability determination and permit fees would double. Ms. Marshment mentioned that comments

received too late for mailing were presented at Council's table and were posted on the DEQ website.

Ms. Beverly Botchlet-Smith, Assistant Director in the Air Quality Division, provided details in a PowerPoint presentation to re-cap discussions from the previous hearings. Ms. Smith and Mr. Terrill fielded questions and comments from Council. Mr. Steve Thompson, DEQ Executive Director, provided insight on the Legislative side of the issues and encouraged public cooperation to talk to individual Legislatures about the inequity that exists between mobile sources and stationary sources in funding these programs. He explained that in the meantime there has to be funding for the current programs as proposed by staff. Council suggested that its Finance Committee continue to look at expenditures on a yearly basis.

Public comments were heard from Angie Burckhalter, Oklahoma Independent Oil Producers; Kathryn Crenwelge from Weyerhaeuser; and Mr. Jim Barnett representing the Environmental Federation of Oklahoma.

Council and staff discussed and made changes to the rule during the meeting. (Note - A copy of the changes as amended is attached as an official part of these Minutes) Mr. Purkaple moved to send to the Environmental Quality Board the language as modified, and that a detailed audit be conducted based on the Agency's commitment to fund an audit in cooperation with the Finance Committee and the Council. Dr. Lynch made the second.

transcript pages 5 - 147

Jim Haught	Yes	Rick Treeman	Yes
Laura Lodes	Yes	Sharon Myers	Yes
Gary Martin	Yes	Jerry Purkaple	Yes
Bob Lynch	Yes	David Branecky	Yes

With additional discussion from Council, it was decided that a Resolution would be forwarded to the Legislature pointing out the need for additional funding from mobile sources and that a third-party audit would be performed to verify Title V expenditures. Mr. Thompson committed to funding an audit as suggested.

After turning the meeting over to the Vice-Chair, Mr. Branecky made a motion to adopt the Resolution from the Air Quality Council as amended requesting that it be attached to the rulemaking approved today. Mr. Haught made the second.

transcript pages 109 - 156

Jim Haught	Yes	Rick Treeman	Yes
Laura Lodes	Yes	Sharon Myers	Yes
Gary Martin	Yes	Jerry Purkaple	Yes
Bob Lynch	Yes	David Branecky	Yes

The Vice-Chair turned the meeting back to the Chair. Speaking for staff, Ms. Nancy Marshment had advised that the proposed changes to Subchapter 7 and 8 would increase the fees for applicability determination for both construction and operating permit fees. Staff recommended that the Council consider continuing the proposed changes to the permitting and applicability determination fees in Subchapters 7 and 8 to the October meeting to allow additional time for evaluation and comment. Mr. Purkaple's motion was to deny staff's proposal and Mr. Treeman made the second.

transcript pages 157 - 158

Jim Haught	Yes	Rick Treeman	Yes
Laura Lodes	Yes	Sharon Myers	Yes
Gary Martin	Yes	Jerry Purkaple	Yes
Bob Lynch	Yes	David Branecky	Yes

**OAC 252:100-9 Excess Emission Reporting Requirements**

**OAC 252:100-33 Control of Emission of Nitrogen Oxides**

**OAC 252:100-44 Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units** These rules were noticed for this meeting in the *Oklahoma Register* published on January 2, 2008. At its January 17<sup>th</sup> meeting, the Council continued Subchapters 9 and 33 to the July Council meeting so that the excess emissions workgroup could continue their work on the rule. The Council continued Subchapter 44 to the April Council meeting.

**Division Director's Report** – Due to the length of the meeting, Mr. Terrill stated he did not have a detailed report but wanted thanked the Council for their time and effort on this rulemaking.

**New Business** – None

**Adjournment** -- Meeting adjourned at 11:00 a.m.

**Attachments:**

**Minutes w/Transcript**

**Attendance Sheet**

**SC 5 working document representing rule changes made during the meeting Resolution**

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE REGULARLY SCHEDULED MEETING

OF THE AIR QUALITY

ADVISORY COUNCIL

HELD ON FEBRUARY 5, 2008

AT 9:00 A. M.

AT 707 NORTH ROBINSON

OKLAHOMA CITY, OKLAHOMA

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COUNCIL MEMBERS

3

4 DAVID BRANECKY, CHAIRMAN

5 RICK TREEMAN, VICE-CHAIRMAN

6 JIM HAUGHT, MEMBER

7 DR. ROBERT LYNCH, MEMBER

8 GARY MARTIN, MEMBER

9 SHARON MYERS, MEMBER

10 JERRY PURKAPLE, MEMBER

11 LAURA LODES, MEMBER

12 DONALD SMITH, MEMBER, ABSENT

13

14

DEQ STAFF

15

16 MYRNA BRUCE

17 NANCY MARSHMENT

18 BEVERLY BOTCHLET-SMITH

19 MATT PAQUE

20 EDDIE TERRILL

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2

## MEETING

3

4

MR. BRANECKY: Good Morning.

5

Before we get started I'd like to remind

6

everyone that they should turn off their

7

cell phones, or put them on mute, or

8

vibrate.

9

And with that, Myrna would you call

10

roll please?

11

MS. BRUCE: Jim Haught.

12

MR. HAUGHT: Here.

13

MS. BRUCE: Laura Lodes.

14

MS. LODES: Here.

15

MS. BRUCE: Gary Martin.

16

MR. MARTIN: Here.

17

MS. BRUCE: Bob Lynch.

18

DR. LYNCH: Here.

19

MS. BRUCE: Rick Treeman.

20

MR. TREEMAN: Here.

21

MS. BRUCE: Sharon Myers.

22

MS. MYERS: Here.

23

MS. BRUCE: Jerry Purkaple.

24

MR. PURKAPLE: Here.

25

MS. BRUCE: David Branecky.

1 MR. BRANECKY: Here.

2 MS. BRUCE: And for the record,  
3 absent is Don Smith. We do have a quorum.

4 MR. BRANECKY: Thank you. The  
5 next item on the Agenda is the approval of  
6 the minutes from the January 17, 2007  
7 meeting. Any discussion? I'll entertain a  
8 motion.

9 MR. PURKAPLE: I move that we  
10 adopt.

11 MR. HAUGHT: I second.

12 MR. BRANECKY: I have a motion  
13 and a second.

14 Myrna, call the roll please.

15 MS. BRUCE: Mr. Haught.

16 MR. HAUGHT: Yes.

17 MS. BRUCE: Ms. Lodes.

18 MS. LODES: Yes.

19 MS. BRUCE: Mr. Martin.

20 MR. MARTIN: Yes.

21 MS. BRUCE: Dr. Lynch.

22 DR. LYNCH: Yes.

23 MS. BRUCE: Mr. Treeman.

24 MR. TREEMAN: Yes.

25 MS. BRUCE: Ms. Myers.

1 MS. MYERS: Yes.

2 MS. BRUCE: Mr. Purkaple.

3 MR. PURKAPLE: Yes.

4 MS. BRUCE: Mr. Branecky.

5 MR. BRANECKY: Yes.

6 MS. BRUCE: Motion passed.

7 MR. BRANECKY: We will now go

8 into the public hearing portion of the

9 meeting. Ms. Smith.

10 MS. BOTCHLET-SMITH: Good

11 morning. I'm Beverly Botchlet-Smith,

12 Assistant Director of the Air Quality

13 Division. As such, I'll serve as the

14 protocol officer for today's hearing.

15 The hearings will be convened by the

16 Air Quality Council in compliance with the

17 Oklahoma Administrative Procedures Act and

18 Title 40 of the Code of Federal

19 Regulations, Part 51, as well as the

20 authority of Title 27A of the Oklahoma

21 statutes, section 2-2-201, sections 2-5-101

22 through 2-5-118.

23 Notice of the February 5, 2008,

24 hearings were advertised in the Oklahoma

25 Register for the purpose of receiving

1 comments pertaining to the proposed OAC  
2 Title 252, Chapter 100 rules as listed on  
3 the Agenda and will be entered into each  
4 record along with the Oklahoma Register  
5 filing. Notice of the meeting was filed  
6 with the Secretary of State on December 14,  
7 2007. The Agenda was duly posted 24 hours  
8 prior to the meeting at this facility here  
9 at DEQ.

10 If you wish to make a statement, it  
11 is very important that you complete the  
12 form at the registration table and you will  
13 be called upon at the appropriate time.  
14 Audience members, please come to the podium  
15 and state your name before speaking.

16 At this time, we will proceed with  
17 what's marked as Agenda Item Number 4A on  
18 the Hearing Agenda. Thus, OAC 252:100-5,  
19 and OAC 252:100-7, and OAC 252:100-8.

20 Ms. Nancy Marshment of staff will  
21 give our presentation.

22 MS. MARSHMENT: Good morning.

23 Mr. Chairman, members of the  
24 Council, ladies and gentlemen.

25 The Department is a proposing to

1 amend OAC 252, Chapter 100, Subchapter 5 to  
2 increase annual operating fees for both  
3 minor facilities and Part 70 sources.  
4 Proposed changes to Subchapter 7 and 8  
5 would increase the fees for applicability  
6 determination, and for both construction  
7 and operating permit fees. Additional  
8 income resulting from the fee increases is  
9 needed to cover current and anticipated  
10 staffing requirements in administering the  
11 Departments Air Quality Programs.

12           Fees for both minor facilities and  
13 Part 70 sources would be adjusted  
14 automatically each year using the Consumer  
15 Price Index. At the present time, only  
16 Part 70 source fees are calculated in this  
17 manner. The proposal remains consistent  
18 with the statutory requirement regarding  
19 the use of the CPI. All applicability  
20 determination and permit fees would double.

21           Staff received several comments  
22 relating to the proposed Subchapter 5  
23 changes. Copies are included in your  
24 folders, and they have been posted on the  
25 DEQ website.

1                   This is the fourth time the  
2   Subchapter 5 proposal has been brought  
3   before the Council, and the first time for  
4   the changes to Subchapters 7 and 8.   Staff  
5   requests that Council members recommend the  
6   proposed annual operating fee changes in  
7   Subchapter 5, to the Environmental Quality  
8   Board.   Also, staff recommends that the  
9   Council consider continuing the proposed  
10  changes to the permitting and applicability  
11  determination fees in Subchapters 7 and 8  
12  to the October meeting, to allow additional  
13  time for evaluation and comment.

14                   Air Quality Division, Assistant  
15  Director, Beverly Botchlet-Smith, will now  
16  provide additional details for these  
17  proposals.   Thank you.

18                   MS. BOTCHLET-SMITH:   I'm going to  
19  go to the podium, and we are going to do a  
20  short PowerPoint.   So some of the members  
21  of the Council are going to need to move  
22  and we are going to need just a minute to  
23  get everything set up.

24                   Okay, I think we've got everything  
25  ready to go.   If anybody else needs to move

1 in order to see the screen this would be a  
2 good time, we've got about three seats here  
3 on the second row.

4           Okay, some of the things that we are  
5 going to present in this PowerPoint today,  
6 if you'll just be patient -- I know some of  
7 you have seen these things before, but we  
8 thought it would be helpful to just kind of  
9 recap and show it in maybe a little easier  
10 visible format.

11           This first slide is some historical  
12 information from FY 07, comparing our  
13 income and our expenses. We presented the  
14 information in a chart format in Ponca  
15 City. I think looking at it visually it  
16 becomes a little clearer that about 79  
17 percent of our expenses can actually be  
18 attributed to Title V. But if you look at  
19 our income, only 53.9 percent of our income  
20 is from Title V fees. While only 20  
21 percent of our expenses are going to  
22 Non-Title V. You can see that our income  
23 is not just coming from Non-Title V, there  
24 is 16 percent of our income from Non-Title  
25 V going to pay 21 percent of the expense,

1 but included in that number is also our  
2 state appropriations and our federal  
3 grants. Just a visual presentation of  
4 income versus expenses.

5           We've done the same thing for FY 08  
6 and you can see those percentages remain  
7 fairly constant. Actually our Title V  
8 expenses went up slightly, but our income  
9 went up slightly as well, 54, but we're at  
10 80 percent on expenses. And looking at the  
11 income for Non-Title V again, we are at 15  
12 percent income trying to cover 20 percent  
13 of the expenses. So just a visual  
14 representation of the imbalance there.

15           We've done some projections for FY  
16 09. This information was pulled from the  
17 spreadsheets that we provided to you at the  
18 last meeting. The projected expenses are  
19 actually based on where we are through  
20 12-31 of '07. So at the end of December  
21 our expenses for our current year were at  
22 72 percent. So we used that as a  
23 projection.

24           That's really kind of a skewed idea,  
25 because we do so much more work in the

1 spring, where we are out in the field. And  
2 that number could change. And again, these  
3 are just projections.

4           We looked at where we thought our  
5 income would be. We are still running  
6 under on Title V fees at 55, almost 56  
7 percent and with the UST money. And you've  
8 heard us speak of that before, where we  
9 were allowed the \$400,000 from the UST fund  
10 to help meet our own budget, our federal  
11 grants, our state appropriations, and our  
12 Non-Title V. You can see that some of  
13 those monies are helping to support the  
14 Title V program.

15           So we took a historical look back to  
16 2001, exactly where are we with Title V  
17 versus Non-Title V. You can see in 2001,  
18 this fiscal year, we actually were showing  
19 a loss in the Title V program.

20           We came in with a fee case, around  
21 2002, and in 2002 we were in the red. But  
22 in 2003 we again started showing a deficit.  
23 And that has continued since FY 03 up into  
24 FY 07. And each year, that deficit has  
25 just grown.

1           Now, if you look in the Non-Title V  
2 fee column. I want to make note of this.  
3 That is not just Non-Title V fees. That's  
4 our Non-Title V fees, that's our state  
5 appropriations including the additional  
6 money we got for toxics, that's our grant,  
7 and most recently, that would also include  
8 any monies we've received from UST.

9           So, while it does appear that the  
10 Non-Title V program is supporting the Title  
11 V program, that is not strictly from  
12 Non-Title V fees, that's from all monies  
13 that come in. That's anything that's not  
14 Title V.

15           Then along the bottom you can see  
16 how our percentage split has varied  
17 slightly over the years. But we still run  
18 at least 70 percent and usually averaging  
19 more in the neighborhood of 75 percent  
20 Title V.

21           So to just kind of recap that, Title  
22 V stopped paying for itself in FY 2003.  
23 And you might wonder why. Well, one of the  
24 things that could have effected that was  
25 the Agency's regulatory oversight

1 continuum. We used that term a lot back  
2 then. Now I think we really focus more on  
3 the activity.

4           The fact that we shift our division  
5 resources to facilities that have the  
6 greatest risk of causing environmental  
7 harm. It kind of goes back to that, put  
8 most of your effort where you can get the  
9 best bang for your buck. Our workload has  
10 increased since we began the Title V  
11 program.

12           We've had additional delegation of  
13 program's such as NSPS, NESHAPS, having to  
14 prepare 111(d) plans.

15           We've increased our modeling, both  
16 photochemical and just regional scale  
17 modeling. Modeling that we've had to do  
18 for our Regional Haze Program and to  
19 determine where we are with changes in  
20 ozone standards. Some of you may recall  
21 the OTAG program. In addition to that,  
22 there's just additional modeling that needs  
23 to be done for the permits themselves.  
24 We've increased monitoring. Since we began  
25 the Title V program. We added monitoring

1 for 2.5. We actually went from about 40 --  
2 44 monitors when Title V began, to 70  
3 monitors today.

4           We've had new national programs.  
5 We've had to get involved in things, maybe  
6 not always participating, but representing  
7 Oklahoma's interest in things like CAIR.  
8 We have CAMR coming up, and now we're  
9 hearing all kinds of talk about climate  
10 change and what our role might be required  
11 to be in that area. There's been new  
12 mandates from EPA, and then looming on the  
13 horizon, we've got potential ozone  
14 nonattainment.

15           Our resources shifted from minor  
16 sources to Title V. Part of this was  
17 because of the permit exempt rule and when  
18 we made the change from 40 tons to 5 tons,  
19 and that was in the emission's year 2005.

20           We began using more general  
21 operating permits. And all of these  
22 activities together have shifted to where  
23 we have additional time spent on Title V  
24 activities. Just again showing that this  
25 program is not paying for itself. And just

1 to remind you that Title V has been  
2 subsidized by the increased general revenue  
3 that was intended for our toxics program,  
4 since FY 06.

5           We are also asking for an increase  
6 in minor source fees and you may wonder  
7 why. Well, we have new MACT and NSPS  
8 requirements that are going to come down  
9 for engines, regardless of the horsepower.  
10 That's going to require additional work on  
11 our part.

12           EPA is planning to require public  
13 review for minor source permits, again  
14 additional workload.

15           We are anticipating some pressure  
16 from EPA to reverse our permit exempt rule  
17 and again be required to permit sources  
18 that emit 5 tons a year or more, of a  
19 criteria pollutant rather than our current  
20 40 tons.

21           We anticipate there could be  
22 increased permitting due to our oil and gas  
23 boom.

24           And even with minor sources, we can  
25 have increased work due to potential

1 nonattainment.

2 I know the slide may be a little  
3 difficult for some of you to see. This is  
4 just history of where our fees were. Many  
5 of you have seen this before, but it does  
6 show where we came in with our last fee  
7 increase in 2002. And you can see we have  
8 not had an increase since that time other  
9 than applying the CPI.

10 The last line, or the last row there  
11 does show our requested new fee of 32.30  
12 for Title V and 25.12 for Non-Title V. And  
13 on the right-hand side there, you can also  
14 tell when permit exempt came into play when  
15 it changes from 5 to 40 tons.

16 At the last meeting, we provided the  
17 Council a spreadsheet that showed our  
18 income for the Division, and what our  
19 anticipated expenses were.

20 This would be for FY 09, we would be  
21 fully staffed. It takes into account the  
22 fact that we are going to have a reduction  
23 in our 105 grant and also a reduction in  
24 the 103 grant for 2.5. It shows state  
25 income remaining constant and we also add

1 in the 400,000 that we received from the  
2 UST money. And then we've projected the  
3 fees as to what they would be at the  
4 current rate.

5           You can see our total income, and of  
6 course you see both columns, Title V and  
7 Non-Title V. But total income for the  
8 Division would be \$10,272,542.

9           But when we did projections on our  
10 expenses -- and this did include some  
11 increases in salaries, as we've said  
12 before, due to the mandate that came from  
13 the Legislature. To increases in  
14 insurance, mandated increases in  
15 retirement, and additional monies included  
16 into our travel. I think a 25 percent  
17 increase is probably pretty conservative,  
18 but that was the number that we used.  
19 Approximately 90 percent of our budget on  
20 our expense side is personnel.

21           We work very hard to keep our  
22 operational budget manageable and we try to  
23 be very good stewards of our money. But  
24 with these projections, we still show that  
25 we are going to have a shortfall of

1 \$2,361,117.

2           So we've got to try to determine how  
3 are we going to raise 2.3 million dollars,  
4 and that's why we've brought this case to  
5 the Council.

6           This is just stating that shortfall  
7 and the way that we have worked to  
8 determine what those fee increases would  
9 be.

10           We took actual income from the  
11 previous year for Title V permit fee and we  
12 estimated, assuming that they would be  
13 constant, which we have no way of  
14 predicting, but assuming they were constant  
15 and we double those fees, that would be an  
16 additional \$168,000.

17           We went ahead and applied the Title  
18 V CPI adjustment to the current fee,  
19 \$108,000.

20           We looked at our Non-Title V permit  
21 fees significantly more than Title V, and  
22 based on what we collected last year, what  
23 would the potential income be if we were to  
24 double those fees? \$300,000.

25           We assumed that a CPI adjustment

1 would be allowed for Non-Title V, and  
2 calculated that on the current fee, and  
3 that left us a shortfall of 1.7. We had  
4 requested \$2.84 per ton for minor sources  
5 or Non-Title V sources. The actual  
6 revenue, based on our 2005 emissions, would  
7 bring in an additional \$162,000 on the Non-  
8 Title V side. That left a remaining  
9 shortfall of 1.5 million dollars.  
10 \$1,594,108 to be exact.

11 We took the number of tons that we  
12 billed for the year 2005 and we divided it,  
13 and we came up with \$7.18 per ton of Title  
14 V pollutant.

15 Now if you go back to a previous  
16 slide, you will see our actual Title V  
17 shortfall is much greater than 1.5 million.  
18 But we were trying to kind of balance this  
19 out. And we looked at potential other  
20 income, including changing permit fees to  
21 see how we could keep that to a manageable  
22 level.

23 So today, again, we present to the  
24 Council an increase of \$2.84 for Non-Title  
25 V fees and \$7.18 increase for Title V fees.

1 And we also ask for the CPI to be used to  
2 adjust the Non-Title V fee on an annual  
3 basis.

4           This just shows if we were to get  
5 the income that we've asked for -- the  
6 percentage breakdown -- and you remember,  
7 we were talking about where we falling in  
8 Title V, about what our expenses -- what  
9 percentage of our program. And we have  
10 consistently run between 72 and 80 percent  
11 of our programs for Title V expenses.

12           So based on this model, we would be  
13 requesting 72 percent of that to come from  
14 Title V fees. We would request 7.94  
15 percent of the new income would be from  
16 Non-Title V for the additional new work we  
17 anticipate with minor sources. And that  
18 leaves almost 20 percent to come from  
19 another source, whether that be doubling  
20 the permit fees going to the Legislature.  
21 And I've heard some people mention -- and  
22 maybe finding additional resources in that  
23 manner. I know there are some other  
24 thoughts, you know, there's 19 percent  
25 there that we don't have.

1           And we've also mentioned and as it's  
2 written in the rule, the way it has been  
3 reworded, if it's determined that we don't  
4 need the full 32.80 for Title V, we would  
5 be able to discount that rate based on the  
6 additional monies coming in, and certainly  
7 hopeful that 19 percent might account for  
8 that.

9           We will now take questions and I  
10 believe Eddie Terrill will also be  
11 available to answer any questions the  
12 Council may have.

13           David, I think you wanted everyone  
14 to reconvene at the table; is that correct?

15                   MR. BRANECKY:    Yes.

16                   MR. PURKAPLE:    Beverly, I've got  
17 a question on the income expenses  
18 historical chart that you presented.    In  
19 fiscal year 2005, Title V income loss.    It  
20 shows only \$89,676 loss; is that a typo or  
21 is that correct?

22                   MS. BOTCHLET-SMITH:    No, I  
23 believe that is correct.

24                   MR. PURKAPLE:    So in one year we  
25 went from a deficit of \$878,528 to only 89,

1 and then we jumped back up 889 in 2006?

2 MS. BOTCHLET-SMITH: It could  
3 possibly be a function of the collections.  
4 As you know, we currently bill in April.  
5 And we start receiving money in, in June of  
6 this year. And part of the money comes in,  
7 in June and then we switch to a new fiscal  
8 year in July.

9 And so the billings that come out in  
10 April, part of it comes in this FY and part  
11 of it comes in the next FY. It really  
12 should be intended to be used in the next  
13 FY. If people pay early, that money gets  
14 shifted from one side to the other, that  
15 could have been one reason.

16 We've also had some vacancies. And  
17 because of the vacancies that -- we've lost  
18 quite a few to private industry. And that  
19 could have also been a year when we were  
20 hit a little bit harder with that and it  
21 could have caused the problem.

22 I think the main thing that we're  
23 dealing with here -- you can see how much  
24 it's jumped up so much in '07. Those  
25 collections being split over two fiscal

1 years, I think has skewed the '05 numbers.

2 MR. PURKAPLE: I have another  
3 question, then.

4 MS. BOTCHLET-SMITH: Oh, and we  
5 weren't collecting toxics money at that  
6 time. So we didn't have that additional  
7 money to help us out in the offset.

8 MR. PURKAPLE: My other question  
9 is on the Air Quality fee history beginning  
10 in the year 2005, where the fee level was  
11 40 tons.

12 You mentioned, you in your  
13 discussion about minor sources, that EPA is  
14 kind of taking an issue with what we've  
15 done there with minor sources. If that has  
16 to be changed, would that mean it would no  
17 longer be the 40 ton limit; there would be  
18 more minor sources that would be paying  
19 emission fees and that would be another  
20 revenue stream, or not?

21 MR. TERRILL: It would be another  
22 revenue stream, but it would also be  
23 additional work, because one of the  
24 purposes of excluding them was that we did  
25 not feel like we were doing anything of an

1 environmental benefit for them, other than  
2 issuing them a permit. And so we were  
3 having to spend time doing that. And we  
4 weren't gaining anything from it, so that's  
5 kind of what was driving, that.

6           Of course, EPA has got their minor  
7 source and new source review rule that they  
8 are pushing, that I understand will  
9 definitely be made final sometime either  
10 late this year or early next year. And  
11 that includes the tribal new source review  
12 rule, as well.

13           Then you've got nonattainment,  
14 whatever they do with the standard, and  
15 that's going to be a pressure to drop it.  
16 So they have not improved our SIP change,  
17 relative to this part of it. And we are  
18 still talking to them about it.

19           I still believe what we did was  
20 correct. I think it was the right thing to  
21 do at the time. But things change and  
22 there may be some value to the regulated  
23 community for them to be back in the fold  
24 at some point, if somebody else is going to  
25 do it for them, because EPA says if you

1 don't do it we will, then it might be to --  
2 advantage to have them back in.

3           But until things change, we still  
4 think that's the best thing for them, is  
5 where we're at, or we would not have done  
6 it.

7           MR. PURKAPLE:   So what you're  
8 saying is if that happens any increased  
9 revenue would offset the additional  
10 expenses you all would have in terms of  
11 managing the federal program.

12           MR. TERRILL:   Yes, because we're  
13 talking about a fairly insignificant when  
14 you look at the overall budget and you look  
15 at the overall tons that are emitted,  
16 you're not talking about a whole lot here,  
17 it's very small.   But yeah, we would have  
18 to do something for them.   And some of them  
19 will get brought back in when they look at  
20 these drops in the NSPS for the engines,  
21 that's going to be an issue.

22           MR. BRANECKY:   But then your  
23 resources will be shifted back from Title  
24 V, because you make a statement that the  
25 resources were shifted from the minor

1 sources to Title V, because of the 40 ton.

2

3           If that goes away, your resources  
4 will be shifted back to the Non-Title V and  
5 that will alleviate some of the workload on  
6 Title V, and you would decrease some of  
7 these expenses there?

8                   MR. TERRILL:   You would hope.   I  
9 mean, one of the things that I think we  
10 really -- I don't think we've emphasized  
11 enough, is we are not asking for additional  
12 FTEs.   We're just asking to keep what we've  
13 got.   And to be honest with you, we are not  
14 able to fund all the FTEs that have been  
15 allotted to us, though.   The fee case will  
16 make us fully funded, but we are never able  
17 to fully staff, because of turnover and  
18 things like that.   But there will be a lot  
19 more pressure on us to fully staff to try  
20 to do that additional work.

21                   We hope we could alleviate some of  
22 that by encouraging the use of general  
23 operating permits, and trying to figure out  
24 innovative ways to do the same thing that  
25 EPA wants.   But until we actually get there

1 it's kind of hard to say exactly how that  
2 ould allocate out.

3 MR. PURKAPLE: So the fee case  
4 presented today is based on fully staffed.  
5 And yet from based on experience you've  
6 never ever been fully staffed. You've  
7 always carried a seven percent vacancy  
8 rate.

9 MR. TERRILL: Yeah, it varies.  
10 Some years are worse than others; but that  
11 is correct.

12 MR. TREEMAN: On your income pie  
13 charts, you talk about the Non-Title V fees  
14 and the Non-Title V expenses. Those fees  
15 are generated by the Non-Title V sources;  
16 What percentage of expenses are attributed  
17 to those same sources?

18 MS. BOTCHLET-SMITH: We've always  
19 been required to track our Title V and our  
20 percentages, to make sure that the Title V  
21 program was paying for itself. So the way  
22 the bookkeeping -- and I may have to ask  
23 finance to step in -- but the way I  
24 understand the bookkeeping is set up, they  
25 calculate the Non-Title V, and then they

1 look at how we validate on our TNEs. In  
2 other words how do we work. And when we  
3 code our TNEs, we either code it as we are  
4 doing Title V work, or we are doing Non-  
5 Title V work.

6           And then there is a very small  
7 percent that gets coded directly towards  
8 the grant. When you add the grant  
9 validations from the TNE, that has a  
10 specific code and the Non-Title V together,  
11 we come up with this 21 percent. Typically  
12 -- and I don't have this in front of me --  
13 Cheryl, do you have any of your work papers  
14 with you? David, do you? Typically you're  
15 running a greater percent on the Non-Title  
16 V coding, as opposed to the grant coding.  
17 The grant is used to supplement anything  
18 Non-Title V.

19           We've also seen that the grant is  
20 used to help pay for Title V, even though  
21 we're not supposed to be doing that. Maybe  
22 I should say our state appropriations are  
23 used to supplement Title V.

24           The calculation can be done, but the  
25 way that TNE program is coded, we have to

1 specify are we working on a Title V  
2 facility, are we working on a Non-Title V  
3 facility or is this an activity, such as  
4 this meeting, that is a mix of both Title V  
5 and Non-Title V. And that receives a  
6 separate coding and then those numbers are  
7 calculated.

8           So I guess I've given you a long  
9 answer, Rick, to tell you, that while I  
10 don't have that percent in front of me, the  
11 amount that would not be Non-Title V is a  
12 very small percent of the 21 percent. It's  
13 a small part.

14           MR. TREEMAN: Could you repeat  
15 that last sentence one more time?

16           MS. BOTCHLET-SMITH: Of that 21  
17 percent slice of the pie, on the expenses  
18 for Non-Title V, a small part of that would  
19 be attributed to expenses that might go  
20 back to the grant, in particular.

21           And the other thing that I didn't  
22 bring out, to just further complicate  
23 things for you all, 2.5 is not included in  
24 any of these calculations, it's a totally  
25 separate grant.

1           We've had separate monies coming in  
2 to fund that program. And now were being  
3 required to fund that out of our federal  
4 grant. So when we start throwing that into  
5 the mix, and having to fund it from  
6 existing monies, it's going to adjust these  
7 percentages a little bit more. But I think  
8 it should be funded equally from both  
9 programs, in my opinion. But the EPA is  
10 requiring us to put it into the grant.  
11 Eddie, can you clarify what I just said?

12                   MR. TERRILL: No, I think you hit  
13 that right. But I do think I want to  
14 follow up on the question that David had  
15 about our carryover when we have unfunded  
16 positions.

17           By going to the system where we bill  
18 and collect in the same year, we're going  
19 to eliminate this problem of billing in one  
20 year and collecting in another. Or  
21 collecting in one year -- it's going to  
22 true up what we've actually got to work  
23 with. And that will allow us, at the end  
24 of the year, to take into account, if for  
25 some reason, we are running 10 or 15

1 positions that we had thought we were going  
2 to be able to fund during that year and we  
3 don't fund them, then at the end of that  
4 year we will have a carryover.

5           And that's the reason we've got the  
6 language in here about adjusting or  
7 discounting these fees in the event that we  
8 have new money. It is really not new  
9 money, it's money that we didn't spend that  
10 year; that when we are setting up our  
11 budget for the next year, we don't need to  
12 fully fund or fully bill at the same amount  
13 if we are able to discount that that we'll  
14 carryover. I can't afford to carryover  
15 money, because Legislature sees it and if  
16 it's a real problem. They will end up  
17 coming and getting it. So we've got to be  
18 careful about doing that. So that was the  
19 purpose of having this ability to discount  
20 that fee, so that we can make that  
21 adjustment, if we do have more money than  
22 we need or we are able to get more money in  
23 any Legislative session, for whatever  
24 reason, it allows us to reduce that. And  
25 we've committed to work through our finance

1 committee, to bring that to you all, so  
2 that you can see what we're doing with that  
3 money. So that's how we would address  
4 that. We would be able to discount in any  
5 one year to account for that.

6 MR. PURKAPLE: So, Eddie, at any  
7 given year, or every year then we can look  
8 forward as a Council to having some kind of  
9 a spreadsheet presentation, or something  
10 that says this is where we are financially,  
11 I mean, word from the finance committee.

12 MR. TERRILL: Yeah.

13 MR. PURKAPLE: But then we would  
14 know where we stand, what any overages  
15 there might be, or the --

16 MR. TERRILL: That's exactly  
17 right. Because again, there's no reason  
18 for us to have, at the end of the year, a  
19 surplus, that we would apply that surplus  
20 to whatever we would, because we're not  
21 billing until the end of the fiscal year.  
22 We will know what the Legislature is going  
23 to do, we will know if we've got any money.  
24 And we'll come down and sit down, and here  
25 we'll calculate your fee and you'll know it

1 can be up to -- you can prepare for the  
2 worst case scenario in your budget. But  
3 there's a good chance it will be somewhat  
4 less than that. But if we do have a one  
5 time expenditure that we need to make, we  
6 would run it through the finance committee  
7 and say we have \$400,000 of carryover this  
8 year, but we really need to do this. And  
9 we had a discussion about doing that. But  
10 yeah, you guys would know where your money  
11 was going to go, because of our ability to  
12 adjust this fee up and down within the  
13 confines of what the rules says. Plus the  
14 fact that we are billing and collecting in  
15 the same year. We really should have done  
16 that a long time ago. If we had done that  
17 a couple of three years ago, we would have  
18 seen this deficit and corrected it.

19           It was really a shock to me to have  
20 that big of a problem, but it was something  
21 that built up over time from the fact that  
22 we did get the money from Legislature to  
23 fund the things they ask us to do with  
24 benefits and pay, and sort of thing.  
25 Absolutely, we would go through the finance

1 committee and then to the Council.

2 MS. BOTCHLET-SMITH: Okay, Rick,  
3 I've got your answer.

4 For the period ending June 30, of  
5 '07, 79 percent of our validation or our  
6 expenses, was Title V, 14.7 percent was  
7 Non-Title V, and 6 percent was from the  
8 grant. It just took me a minute to find  
9 it.

10 MR. TREEMAN: I guess one of my  
11 questions on the 14 percent Non-Title V,  
12 how much of that was not attributable to  
13 the fee paying sources, i.e. mobile sources  
14 and things like that? And then on another  
15 question this goes to what you guys are  
16 wanting us to put off until next fall on  
17 the increase in permit fees.

18 If you drop the limit, or do away  
19 with the permit exempt and you drop the  
20 emission limit to 5 tons, approximately how  
21 many sources will come on-Board with that?

22 I mean, you double those fees, I  
23 mean that's a reasonably substantial  
24 number. And I look at some little  
25 ma-and-pa operations out there and they're

1 going to have to hire a consultant.  
2 They're going to have to keep up with the  
3 emissions, and the inventories and do the  
4 paperwork. And really, in all honesty, the  
5 emissions fees are not the big deal, it's  
6 doing the paperwork and submitting the  
7 inventories and some of those things that  
8 go along with it.

9           And so I guess I'd like to know what  
10 number of facilities you think would come  
11 on, from the 40 down to the 5 tons and to  
12 justify the doubling of those fees. I  
13 mean, these are just some general questions  
14 in regards to the minor sources.

15           MR. TERRILL: The points you've  
16 made are exactly the reason that we  
17 implemented the 40 ton exemption. Because  
18 we didn't feel like that the amount of work  
19 those sources were going to have to put in  
20 to just the minimal compliance  
21 requirements, were worth the environmental  
22 impact that they were having on the air  
23 shed. And I think we'll have some lead  
24 time, if this happens, so that we can make  
25 those kind of adjustments.

1           To be honest with you Rick, I don't  
2 know for sure, I didn't bring those numbers  
3 as to how many sources that they were  
4 talking about, but the overall number of  
5 tons of emissions that we've excluded were  
6 fairly small, in the overall scheme of  
7 things.

8           There were a lot of sources, but  
9 there weren't that many -- the aggregate --  
10 there wasn't that much tons per year that  
11 they emitted, I agree with you, and that's  
12 the reason we really did not want to  
13 address increasing the permit fees until we  
14 had time to think through all the  
15 ramifications of doing that.

16           But again, that's the Council's  
17 decision on how they would want to fund  
18 this. We've just got to have the 2.3  
19 million in some way or fashion, in order to  
20 continue with the programs that we've got  
21 without setting things back or not  
22 accepting new requirements from EPA, but I  
23 really would like to think through what's  
24 the fairest way to do any permitting  
25 increases, especially if we're talking

1 about more than actually doubling, but  
2 looking at that --

3           Because we would need to adjust  
4 that, based on the amount work that we  
5 actually put into it. To be honest with  
6 you though, the permit fees never pay for  
7 themselves, anyway. We always put in a lot  
8 more work to issue a permit than we  
9 actually generate, or actually get from the  
10 permit fees.

11           We've always taken the position that  
12 the permit fees should be, not the funder  
13 of the program, but the operating fees.  
14 The tons per year is what we really use to  
15 operate our program because the municipal  
16 league, the Chamber of Commerce -- the  
17 Department of Commerce, even though  
18 environment is not generally a big-ticket  
19 decision-making item of what they do. They  
20 market the fact that we have low permit  
21 fees, and modification fees, and that sort  
22 of thing, as part of their trying to  
23 attract new business.

24           So I don't know that we can really  
25 give you an answer to that, Rick, other

1 than you're exactly right, we do need to  
2 address that at some point. Because the  
3 environmental benefit of bringing those  
4 back in, to me is just not there. Now  
5 having said that, if we do have to deal  
6 with the nonattainment issue in the  
7 metropolitan areas, we are going to have to  
8 know what the overall impact of these  
9 sources are on the air shed. So that we  
10 can be as precise in our modeling and to do  
11 as little as we have to do in order to get  
12 back in compliance with the standard. But  
13 without knowing what that standard is and  
14 whether or not they are going to drop it at  
15 all, it's a little bit premature to kind of  
16 guesstimate as to what we might end up  
17 having to do with those small sources.

18 MR. HAUGHT: That's the next  
19 question -- what's the trend in tons?  
20 These numbers when you divide out this  
21 shortfall on the Title V, it's based on  
22 2005 tons; so how is 2006 looking when we  
23 actually get to billing this? It's not  
24 going to be billed on 2005 tons, so where  
25 do we stand on that?

1                   MS. BOTCHLET-SMITH:    We've got  
2    some projected numbers, and they are still  
3    in the process of doing some final quality  
4    control, but it appears that the Non-Title  
5    V sources are a few hundred tons and the  
6    Title V sources are down a few thousand  
7    tons.

8                   MR. TERRILL:    If you remember, at  
9    the last Council meeting we raised this  
10   issue about the need to -- it started a  
11   dialogue with EPA regarding exactly what  
12   you're talking about, the pressure on the  
13   sources to reduce emissions for a variety  
14   of reasons.

15                   Yet the costs of the programs are  
16   still continuing to be borne, for the most  
17   part, by the fee payers, and the state and  
18   locals, and through raising of revenues and  
19   taxes, and general revenues and what have  
20   you.

21                   And I told you that I would raise  
22   this issue, which I have done since we last  
23   met.   I've been to two meetings, one  
24   involving the National Air Directors  
25   Association and the other one involving the

1 Clean Air Act Advisory Council with which I  
2 am one of two states -- California and  
3 Oklahoma are state represented and there  
4 are two local representatives to this  
5 committee, and then the rest of them are  
6 composed of industry, academia,  
7 environmental groups, consultants and what  
8 have you.

9 I raised this very issue with the  
10 Air Director, and it did resonate. There  
11 is this concern nationally that the fee  
12 payers can't continue to bear the cost of  
13 this when you're driving the emissions  
14 down. There has to be -- something needs  
15 to change. So I think the commitment is,  
16 that's going to be part of our Agenda with  
17 the new administrator.

18 When administrations change, to  
19 bring this issue forward. And then  
20 relative to federal EPA, the CAAC agreed to  
21 form a subcommittee of the Economic  
22 Incentives and Regulatory Innovations  
23 Committee, to take a look at a number of  
24 innovative monitoring things that some of  
25 the industry folks wanted to press forward.

1           And then they've also agreed to look  
2 at funding as part of that, too. And EPA  
3 has said that they recognize that they need  
4 to figure out how we can approach Congress,  
5 or EPA can approach their own budget, to  
6 figure out how they can better support the  
7 requirements that they put off on the  
8 states.

9           And also look at the dwindling tons  
10 that are starting to become an issue  
11 nationwide, and how they're going to deal  
12 with that.

13           We did generate some interest, you  
14 know -- again it's kind of like going over  
15 to the Legislature with the mobile source  
16 issue -- states and locals can beat on  
17 Congress and EPA all they want to, but  
18 until your associations are there with us,  
19 saying our members have paid enough, we've  
20 got to figure out a better way to do this.  
21 It's not going to happen. There's no  
22 pressure on EPA to do anything different  
23 than they have already done other than  
24 their lip-service commitment to take a look  
25 at.

1

2           So I would encourage if you all are  
3 really concerned about addressing this  
4 issue nationally, that you talk to your  
5 associations and work with ECOS, Steve's  
6 national organization, and NAACA, the one I  
7 belong to, along with EPA through the CAAC.  
8 Some members of CAAC are -- Bud Brown is  
9 the boss, John McMan to is his  
10 Vice-President of regulatory affairs of  
11 AEP, is a member of this committee, 3M, Eli  
12 Lilly, Caterpillar, National Chemical  
13 Association, there's a lot of big national  
14 groups and companies that belong to this.

15           But I've got to tell you that there  
16 wasn't a lot of interest from those folks  
17 in discussing this, for whatever reason.  
18 And that's really where it needs to come  
19 from. Most of the interest came from state  
20 and local academia and environmental  
21 groups, in addressing this. Because like I  
22 said, EPA is not funding the state  
23 programs, and you're losing interest from  
24 the fee payers -- to say, we're tired of it  
25 at the national level -- it's not going to

1 change, it's just not. And so we're going  
2 to do our part, but we really need you all  
3 to encourage your associations to work with  
4 us to force EPA to have an honest dialogue  
5 about how we fund these programs,  
6 long-term.

7 MS. LODES: I've got a question  
8 on the tons. You divided by the 221,729  
9 tons, is that total tons billed last year,  
10 or is that just Title V tons?

11 MS. BOTCHLET-SMITH: That was  
12 Title V tons, and those were based on the  
13 2005 emissions. When we started putting  
14 this together for the meeting last July,  
15 that was the only numbers that we had  
16 available. So we realize now that we based  
17 this on a larger number of tons than we  
18 will have available, to bill this year.  
19 However, we are not revising what we are  
20 requesting. We are not increasing the  
21 dollar amount we are requesting per ton to  
22 account for the decrease in tons.

23 MS. LODES: How many tons are  
24 minor sources that are billed every year?

25 MS. BOTCHLET-SMITH: In the

1 neighborhood of 57 to 58,000.

2 DR. LYNCH: I've got a question  
3 along that line. Do all states have the  
4 same caps on charging fee. We don't charge  
5 out -- past 4000 tons. Is that what  
6 everybody does?

7 MR. TERRILL: No, it's somewhat  
8 different across the country. We did a  
9 quick look at the surrounding states and  
10 the only one that has a higher cap -- New  
11 Mexico charges goes up to 6,000 tons. And  
12 Missouri has a weird thing where it's 4,000  
13 per pollutant and a 12,000 ton total. But  
14 everybody else that we surveyed -- well,  
15 I'll take that back, Minnesota apparently  
16 doesn't have a cap. But everybody else,  
17 Kansas, Colorado, Arkansas, Louisiana, Iowa  
18 and Nebraska have the 4,000 ton cap that's  
19 mentioned in the clean air act.

20 But again, this was part of what we  
21 said that we would take a look at  
22 long-term, is innovative funding mechanisms  
23 that are out there. So that if we want to  
24 look at things besides Title V to fund the  
25 program, we would do that. But some of

1    them are so complicated that it would be  
2    kind of difficult to do that in this  
3    setting.    But we are committed to do that  
4    at a later Council meeting.    So that we can  
5    just devote to looking at innovative  
6    funding mechanisms; if you will.

7                   MR. BRANECKY:    Is that --  
8    something in the back of my mind that says  
9    that 4000 ton cap is set in the statute; is  
10   that right --

11                   MR. PAQUE:    Actually, what it  
12   says is, that --

13                   MR. BRANECKY:    -- in the Oklahoma  
14   statute.    The Oklahoma Clean Air Act, so  
15   that will take a statutory change to get  
16   that increased?

17                   MR. PAQUE:    Yes.

18                   DR. LYNCH:    It just seems to me  
19   that that's something we ought to explore  
20   -- if we are working to try to -- and we've  
21   talked about fees going down, because we  
22   have less to go farther.    And there is some  
23   people that don't have much incentive to  
24   produce their tonnage, because they  
25   basically get a free ride past a certain

1 point. I think that is something we ought  
2 -- do you know off hand how many people --  
3 how many entities that will effect, how  
4 many are past 4,000 tons?

5 MS. BOTCHLET-SMITH: Ten or less  
6 companies.

7 DR. LYNCH: I have one other  
8 question, Beverly. You mentioned something  
9 about the toxics program and where the  
10 funding for the toxics program fit into  
11 where we were. And I get the feeling, then  
12 that the toxics program was supporting work  
13 that wasn't toxics work.

14 MS. BOTCHLET-SMITH: Initially it  
15 was because there was a certain amount of  
16 ramp-up time that we needed for toxics. We  
17 did fund some additional staff out of that  
18 money, but a lot of the work that we do in  
19 monitoring for toxics, require some very  
20 sophisticated analysis. So we have to  
21 contract for that analysis. So the first  
22 year we had some ramp-up time to get  
23 contracts in place, to get equipment in  
24 place, and so the first year there was a  
25 large amount of that money that was

1 available to offset toxics.

2           And as the program has continued and  
3 became a little more sophisticated -- as we  
4 have grown that, it's kind of taken off.  
5 And there is less of that money available  
6 to use in other areas, such as Title V.  
7 But that being said, that's part of the  
8 reason we monitor toxics is for mobile  
9 sources, and part of the reason we monitor  
10 our stationary sources. So it is  
11 conceivable that a portion of that toxics  
12 work is setting up a monitor in a location  
13 where we're monitoring Title V facilities.  
14 So there may be some times when the actual  
15 monitoring itself can be attributable to  
16 Title V.

17           But when we last looked at our  
18 toxics budget, we were using every dime of  
19 that 800,000. And if we could do  
20 everything we wanted, we would be doing  
21 more. Right now we're limited to the sites  
22 we have in Tulsa. And at some point we're  
23 going to want to look in other areas.

24           MR. BRANECKY: Along that same  
25 line, when I can remember, I mean, I've

1 been around a long time, for several years  
2 the Title V program funded other parts of  
3 the Air Quality program. There was excess  
4 funds collected from the Title V sources,  
5 and that was used in other parts the  
6 program. So to kind of be fair, for a long  
7 time Title V funded more than their fair  
8 share.

9 MR. TREEMAN: This goes back to a  
10 question that was asked earlier on  
11 staffing. Do you have any idea at what  
12 your average FTE count or how many  
13 positions you averaged, you need to fill or  
14 you want to fill in a year. And then I  
15 guess the reason I ask that, you know, when  
16 you look at your full program needs,  
17 historically you've ran 10 percent or 15  
18 percent or something deficit, as far as  
19 full-time employees. How would that look  
20 on this verses full-time, what your  
21 historic levels have been? Do you  
22 understand what I'm saying?

23 MS. BOTCHLET-SMITH: Could you  
24 restate that for me, please?

25 MR. TREEMAN: I'm not as eloquent

1 as some people about this, but there was a  
2 statement made earlier that these things  
3 were based on full program needs, that's  
4 all your positions filled. Historically,  
5 you've not had all of your positions  
6 filled. Approximately what percent of your  
7 positions have not been filled and how will  
8 that look historically to these numbers, or  
9 close? Can you even give us a guess?

10 MS. BOTCHLET-SMITH: Okay.

11 MR. TREEMAN: Because, I mean  
12 historically if you're running 20 people  
13 short than this number, to run the program,  
14 you could conceivably run 20 people short  
15 and get a more true picture than what your  
16 full program is. I mean, it's just another  
17 way to look at it for me.

18 MS. BOTCHLET-SMITH: Okay. So,  
19 what you're really saying is -- all right,  
20 I think what I'm hearing is, if we had 10  
21 vacancies every single year what would that  
22 translate to in dollars. And that 10  
23 vacancies would be maybe \$500,000,  
24 approximately. But to say how many have we  
25 been down every year, I couldn't really

1 give you a number. I can only tell you  
2 this year we've been down close to 10,  
3 pretty much throughout the year, due to  
4 turn over, and primarily in our compliance  
5 and enforcement area.

6 MR. TERRILL: Rick, to amplify on  
7 that just a little bit, though, we call  
8 that the float, it's the term that we use  
9 for that. And were it not for that we  
10 would not have been able to make budget,  
11 the last three or four years, because we've  
12 been running this deficit. And the fact  
13 that we did have some carryover -- it's  
14 similar to what I was committing to before.

15 If at the end of the year, because  
16 we've carried these vacancies, we've got a  
17 float of \$500,000. Then that's \$500,000  
18 less fee money that we need to bill in the  
19 next year, in order to be fully funded.

20 We can't anticipate that we won't  
21 need those folks, because there are a lot  
22 of things that we get put off, we don't do  
23 them one year but we try to pick them up  
24 the next year, or that we're anticipating  
25 what's coming. And so I don't want to say

1 we don't need all these FTEs at some point,  
2 because we do.

3           But to make that fair, the  
4 commitment that I had before, that we'll be  
5 able to give an end of year carryover  
6 amount and then we would reduce the amount  
7 that we would fee during that year by what  
8 ever we carried over. Because I don't need  
9 to budget more than I actually need to fill  
10 up my positions and do my operating budget.

11           MR. BRANECKY: But won't you  
12 budget for a fully funded program each  
13 year. Even if you didn't carry 10  
14 vacancies, and at the end of next year  
15 you're still going to want to project a  
16 full program the following year. So in  
17 effect, you'd never give that money back?

18           MR. TERRILL: Well no, I don't  
19 know. Well, it would depend on how much we  
20 actually carryover, but if we're carrying  
21 over \$500,000 and we can only bill up to  
22 that amount, why wouldn't we reduce some of  
23 the amount for that?

24           MR. BRANECKY: I think the fee is  
25 based on a fully funded program.

1                   MR. TERRILL:    That's right.    If  
2   we carry money over, then we can reduce, or  
3   if we get from any other source, we reduce  
4   that.    If the Council elects not to do  
5   anything with permit fees, for instance,  
6   and then we come back a year from now, and  
7   do the adjustment of the permit fees.    Then  
8   we will adjust down what we bill, the Title  
9   V sources by whatever amount we collect.  
10   Because again, I can't budget more than I  
11   need.    I can't carry money over.    It's got  
12   to be used for something.    And if we've got  
13   that, I don't want to bill you all if I  
14   don't have a need for it and can't spend  
15   for legitimate purposes.

16                   MR. HAUGHT:    Does the finance  
17   committee see a detailed enough financial  
18   statements that they can compare the budget  
19   and see where we run as FTE, the actual  
20   complement versus what was budgeted.    And  
21   then are we going to be able to pick up, if  
22   there is an excess.    Do we see enough in  
23   the details to be able to tell that?

24                   MS. BOTCHLET-SMITH:    I think one  
25   thing that's going to make this easier for

1 the finance committee to understand this  
2 and to actually see this on paper, is  
3 switching the billing period.

4           Because we know what our state  
5 appropriations are going to be by the end  
6 of May. We start putting together our  
7 budget in June. And so we'll know how much  
8 we are going to get from appropriations by  
9 then. EPA has told us this -- we have  
10 already submitted our grant application on  
11 May 1, so we know what we're going to get  
12 from the federal government. And we know  
13 what we're going to be billing for, so we  
14 can project our fees, because we've got all  
15 the data. All the data has come in through  
16 Redbud or another source.

17           Billing it later in the year, we  
18 know exactly the amount of money that we  
19 are going to have to budget. It may take  
20 one cycle of this getting everything in  
21 that one fiscal year, but I think it will  
22 be very apparent if there's money that goes  
23 unspent because of vacancies or because  
24 money came from another source.

25           And then after that year, we'll be

1 able to see that there's "X" number of  
2 dollars that were not needed. And then  
3 that can just be applied to the next year.  
4 It can be applied in the form of a discount  
5 on the bill that goes out the beginning of  
6 our fiscal year.

7 MR. TERRILL: I'm not going to  
8 speak for the finance committee, but I know  
9 there has been a lot of frustrations with  
10 them and with us in the past about our  
11 inability to really have a good handle on  
12 where we were at any one time. But I think  
13 a lot of it became clear to me that a lot  
14 of it had to do with the fact that we were  
15 billing and collecting off of different  
16 fiscal years. There's no way to true that  
17 up and make it accurate, because you have  
18 to make too many assumptions.

19 But the way we're going to do that,  
20 I think we'll fix that. I think that we'll  
21 be able to get an accurate projection of  
22 where we are at the end of the year, and  
23 know with a pretty precise -- within a few  
24 thousand dollars or so, 5 or 10 thousand  
25 dollars, exactly what our carryover is

1 going to be, if any, so that we can adjust  
2 our fee accordingly.

3           But I'm sure that the finance  
4 committee, if they don't, we'll be able to  
5 point out what they need. And that's what  
6 we hope that they would do.

7           MR. BRANECKY: It has been very  
8 difficult in the past to try to understand,  
9 for me anyway, the states system on how it  
10 works or how it doesn't work. So I think  
11 we have been frustrated with the inability  
12 to get consistent numbers, things have  
13 changed and new information, so it's been  
14 difficult.

15           MR. HAUGHT: I've no doubt  
16 there's increased needs and increased  
17 burdens that have been put on all the state  
18 agencies from the state mandates. I think  
19 the magnitude of it in one year to go  
20 through all these fee increases -- permit  
21 increases, and the others and still have an  
22 almost 30 percent increase in the Title V  
23 fee, is where I'm trying to justify. So  
24 when I look at that now, first of all in  
25 ten FTEs, I'm not sure what their wages

1 are, but if the burden on employee expenses  
2 on salaries is as high as what we are  
3 saying it is now, if we are running 10 FTEs  
4 open a year, \$50,000 a piece is probably  
5 pretty conservative. So that \$500,000 is 30  
6 percent of this fee increase. You're  
7 asking for. But the Title V fee increase  
8 you're asking for is a million and a half  
9 dollars, essentially.

10           So if a half of a million dollars  
11 may be flexible, I guess that's the part  
12 where I'm trying to get comfortable with,  
13 that we would actually be ever able to pick  
14 that up in a twelve million dollar budget.  
15 Is the finance committee going to be able  
16 to see a half of a million dollars, that  
17 the expenditures were not there, but the  
18 revenue was, so that they will know that  
19 the fees need to be adjusted the next year.  
20 And a half of a million dollars in twelve  
21 million dollars may be a little tough to  
22 pick up. And the reality is, that's a  
23 third of the increase we are asking for.  
24 So that a half of a million dollars, we  
25 could reduce the increased by a third and

1 maybe still the Agency can come out flush  
2 on the thing. So anyway, that's kind of my  
3 concern is, are we going to be able to do  
4 it? It sounds good to say that we'll put  
5 back in any extra, but I don't know that  
6 I've ever seen that happen. So I guess I  
7 would want some assurance that -- where  
8 we'll come up with, that we're going to be  
9 able to tell that, and we have a  
10 responsibility to the fee payers to track  
11 this thing. So I do have some concerns on  
12 being able to depend much on this, if there  
13 is excess we will credit back.

14 MR. TERRILL: For one thing, I  
15 don't know if we've ever had the ability to  
16 do that. I think this will be the first  
17 time -- I know that this will be the first  
18 time in our program that we've ever had the  
19 flexibility to go up to a certain amount  
20 and not over.

21 You know, part of the problem is my  
22 fault, because we should have come to you  
23 all in 2003 with a fee increase. And I've  
24 got to tell you that the opposition that we  
25 would have had for two dollars probably

1 would have been just as great as what we  
2 are seeing in seven. It doesn't really  
3 seem to make any difference, relative to  
4 opposition, whether it's a large or a  
5 modest one. But it was a matter, to be  
6 honest with you, of the ability of a VFO  
7 and the fee payers to get the toxics money,  
8 so that we didn't have to ask for the fee  
9 payers to pay for that. And we were able  
10 to put off the fee increase. We get the  
11 UST money, and we put off the fee increase.  
12 And we should have been in here in 2003  
13 asking for a couple of dollars then. And  
14 we should have been doing it again in 2005  
15 and we should have been doing it now and so  
16 you do that three times where it's seven  
17 dollars. That's really where we are, we  
18 put it off, and put it off, because it's  
19 never a pleasant thing to do. Nobody likes  
20 to do it and I understand that.

21           But if we are going to change this  
22 cycle -- I'll go back to what I said  
23 before, we've got to do it over at the  
24 Legislature, and we've got to do it in  
25 federal government. It's not going to

1 change unless you all work with us to make  
2 it change at those two levels.

3 I agree with you a 100 percent, we  
4 need a mobile source fee increase, but  
5 we've been needing that for the last ten  
6 years. I don't know that we are any closer  
7 to that today than we were ten years ago.  
8 But we've got to make that effort the same  
9 way at the national level.

10 I think that it will be apparent, if  
11 we've got a carryover at the end of the  
12 year. I don't know how it could not be.  
13 Either we've got this amount of budget and  
14 we budget this year, we spent this much,  
15 the difference is the carryover.

16 To me, I guess if you want to  
17 deliberately hide it, you could figure out  
18 a way to do it, but I'm not smart enough to  
19 do it. And there's really no value in us  
20 doing that. I mean, if we don't do what we  
21 say we're going to do, I suspect that you  
22 all are going to punish us for that, as  
23 well as you should.

24 So there's really no incentive that  
25 we would have, not to do exactly what we

1 say we're going to, relative to this. And  
2 I don't know why that would be that  
3 difficult to define. And whether or not  
4 we'll be able to get an exact figure in  
5 April or May as compared to what it will be  
6 at the end of June, we probably can't. But  
7 if we get into June and get close to July,  
8 and we have not billed yet, we still should  
9 be able to come up with a pretty accurate  
10 figure on what we are going to carryover  
11 and what we would be able to discount that  
12 number with.

13           Again, if the finance committee  
14 needs additional information then they need  
15 to tell us and we'll get it.

16           MR. BRANECKY: I guess the  
17 concern that I have is if we continue --  
18 and I'm not necessarily saying that staff  
19 or division doesn't need the money, but if  
20 we continue to fully fund it, what  
21 incentive is there for the Legislature, or  
22 for EPA to give you any assistance?

23           MR. TERRILL: Well, that's always  
24 the catch-22. And I guess, if we want to  
25 create a crisis, then we can do that. But

1 at the end of the day it's probably not  
2 going to be us that is suffering for it is  
3 much as it is going to be the regulated  
4 community and the citizens. Because I  
5 think I've been pretty clear about what we  
6 would have to do.

7 I mean, we can run a program like  
8 they've got in Kansas and Arkansas, which  
9 they are the closest ones to what we bill.  
10 And they've got a decent program, but it's  
11 a mediocre program, and they don't do a lot  
12 of the extras and they don't have staff to  
13 do a lot of the things that probably need  
14 to be done. They have to prioritize just  
15 like we would have to do. And I would work  
16 with my staff and we would figure out what  
17 we have to do, what would be nice to do,  
18 and prioritize and what we're not going to  
19 do. And you know, maybe that's what needs  
20 to happen, is we just say we're not going  
21 to take these things on and don't do it.  
22 But I promise you that's exactly what we'll  
23 do. I cannot accept new work without the  
24 ability to get the work done. And I'm not  
25 going to.

1           Again, I've got to tell you that a  
2 lot of this goes back to the amount of  
3 effort you put into it. It's just like  
4 when I raised the issue at that meeting, I  
5 didn't see the folks at Eli Lilly, or  
6 Caterpillar, or AEP saying, you're exactly  
7 right, we'll work with you to make sure  
8 that happens. You know, if you're not  
9 going to put out the effort, you're right,  
10 it's not going to change.

11           But I really think that if they do  
12 something with the standard, which they're  
13 likely to do this year, there will be a lot  
14 of interest in making sure we stay  
15 attainment in dealing with the mobile  
16 source issue. At that point, we'll  
17 probably get as much traction as you're  
18 ever going to have. And so maybe that's  
19 the time to really push this issue.

20           But you all around this table and  
21 the folks out there in the audience have  
22 got to go with us to do that, because  
23 they're not going to listen to Steve by  
24 himself.

25           Because you're right, it's already

1 funded so why worry about it. You all have  
2 got to say it's not fair for us to continue  
3 to pay for this. We've got to figure out  
4 other ways to do it.

5 MR. BRANECKY: Is Council ready  
6 for a public discussion?

7 MR. THOMPSON: No. I wanted to  
8 comment on the issue of the Legislature.  
9 If you would like me to wait, that will be  
10 fine.

11 Well, it's somewhat good to be here.  
12 It's unusual for me to come to a Council  
13 meeting. I've never come to a Council  
14 meeting, but there are issues related to  
15 the Agency as a whole, that I am here to  
16 discuss. And one of those is the issue  
17 with the Legislature.

18 And in every committee meeting that  
19 I've been to so far, on both sides of the  
20 house, I have raised the issue of the  
21 contribution of mobile sources. It is an  
22 issue that is growing. Where it seems to  
23 be a growing understanding attraction with  
24 the Legislature. I had a discussion with  
25 folks in the Title V community, committed

1 that I will be out in front of that issue  
2 on mobile sources with the Legislature this  
3 year. So if the train runs over somebody.  
4 It will run over me. I don't know how much  
5 more commitment the Agency can make to that  
6 notion, but it is exactly right. If we are  
7 going to get this done, we will need the  
8 cooperation of everybody to talk to  
9 individual Legislatures about the inequity  
10 that exist between mobile sources and  
11 stationary sources in funding these  
12 programs.

13 But in the meantime, we have to have  
14 funding to operate the programs. So we're  
15 going to make our best effort. We've made  
16 a commitment to be a part of this effort,  
17 in fact to be out in front of it. But I  
18 don't know what more the Agency could do  
19 than that.

20 MS. BOTCHLET-SMITH: Council have  
21 any other questions for Eddie or I?

22 MR. PURKAPLE: Just to make sure,  
23 just from an understanding standpoint, that  
24 it sounds like, as we've gone through the  
25 process, the last few months with the

1 finance committee and pulled together the  
2 information that you've presented to us.  
3 So now that we understand better how to  
4 access that information -- plus with the  
5 change in the billing cycle, I guess that  
6 we'll do -- that we could have this kind of  
7 discussion on a yearly basis so that the  
8 Council and everybody knows kind of where  
9 we stand. And what the pressures are to  
10 either move one direction, going up, or  
11 certainly, hopefully, we'll have the  
12 necessary information to know that we can  
13 back off in some years with the fees. That  
14 they will be of such quality that Jim's  
15 concern about it being buried in the noise  
16 is certainly to be a concern, but that they  
17 will be of such quality that we will be  
18 able to determine what really needs to be  
19 done in order to fund it properly.

20 MR. TERRILL: I think we can  
21 commit to do that. What I don't want to  
22 give the impression of, though, is that we  
23 are going to be debating priorities and  
24 things like that, because I don't think  
25 that's the function that the Council ought

1 to be doing.

2                   But absolutely, looking at the  
3 bottom line of what we collected, and what  
4 we expended, and what we've carried over.  
5 That's your all's money, a big portion of  
6 it is, and you have a right to know how  
7 it's being spent. So absolutely, we'll  
8 commit to do that.

9                   MR. HAUGHT: Eddie, I think  
10 that's -- the income side I understand,  
11 that's a variable, but I don't think it  
12 should be tough to -- I'm used to looking  
13 at every month, getting actuals that hit  
14 the books that month versus what was  
15 budgeted for that month and I got a plus or  
16 minus and if I'm over, I've got an actual  
17 that I can tell you every month, that's  
18 part of what I do, is write and justify  
19 what that is. So the income part of it is  
20 kind of a bigger picture and comes in and  
21 how you adjust that is there. So, what I'm  
22 talking about, is it's going to be hard to  
23 see unless you're looking at individual  
24 budget items, I mean not broken down to  
25 every individual coy, but to be able to

1 compare where we are running on  
2 expenditures versus that budgeted. To me  
3 that's where I was talking about things  
4 kind of being lost in the details, is where  
5 it would be. If you're over on a budget  
6 item -- several budget items on the same --  
7 that when you add those up at the end of  
8 the year, that may be where the problem is.

9           So what I'd like to see is that  
10 actuals versus budgeted. The income be  
11 addressed, not monthly but on a  
12 longer-term.

13           MS. BOTCHLET-SMITH: I want to  
14 clarify what you just asked. When you said  
15 that you might be over in one budget item,  
16 and that maybe there's a problem there.  
17 I'm not sure I understand what you mean.  
18 I mean, it's common, for instance, in a  
19 federal grant that you go in and you  
20 anticipate that you are going to need  
21 \$50,000 a year for travel, and then you  
22 have a 25 percent increase in your travel  
23 expenses. And so while it may look like  
24 you've over-budgeted travel, it was not a  
25 function of the way we conducted business,

1 but rather it was a function of the market.

2 And you know we've got to do our job.

3           And so when -- I went to the grocery  
4 store the other day, and milk was a dollar  
5 more a gallon than the last time I bought  
6 it. And prices fluctuate, so I'm a little  
7 confused about what you're asking and I  
8 just want to make sure I understand what  
9 level of detail you're talking about.

10           MR. HAUGHT: I appreciate that  
11 and I understand that, but your  
12 expenditures don't always go up. You may  
13 budget for travel and not travel as much.  
14 I can tell you that at six months my budget  
15 gets looked at and we start forecasting for  
16 the rest of the year, and it gets reduced.  
17 And so I have to explain anything over, but  
18 it's not just given that I get to keep  
19 everything after the first six months of  
20 the year and we look again and we true up,  
21 if there was a cost change, and those  
22 budget dollars may go somewhere else.  
23 So, you're making the assumption that it's  
24 always going up and for efficiency sake  
25 sometimes costs go down. And just to have

1 the extra money and travel more and spend  
2 more to use that, is where the concern is.

3 MS. BOTCHLET-SMITH: I understand  
4 what you're saying now. And that wasn't  
5 where I was trying to lead you. We do make  
6 adjustments. For instance, we may have  
7 anticipated needing to replace a certain  
8 piece of equipment. And if that equipment  
9 doesn't fail that year, and we determine  
10 that we can fix it, instead of replacing  
11 it, and we do have a cost-savings, we are  
12 able to redirect those funds elsewhere.

13 But when it's on a grant, we have to  
14 first go to EPA and get approval if it  
15 exceeds a certain percent of the grant  
16 before we can redirect those funds. But  
17 that is something that we do to cover costs  
18 when we have excess in one area or another.

19 I just wanted to make sure I  
20 understood what you were asking.

21 MR. TERRILL: I think, Jim, the  
22 bigger pressure is going to be, if we get  
23 towards the end of the year and we've got  
24 -- oh, say a half of a million dollars more  
25 than we think we're going to need for the

1 year. The tendency is going to be to buy a  
2 one-time item in order to spend that money.  
3 And that's the kind of thing that I think,  
4 at least for the short term -- the next  
5 couple of years, until we figure out  
6 another way to fund this, that we would  
7 commit to talking with the finance  
8 committee and saying it looks like we'll  
9 have this amount at the end of the year.  
10 We'd like to spend it on this, and here's  
11 why. But if we don't have that, then  
12 there's no reason why that wouldn't show up  
13 and we couldn't carry that over. I think  
14 that really gets in to what you're saying,  
15 because you're right, the tendency in the  
16 state government or the federal government  
17 is to spend every dime you've got per  
18 dollar. So why worry where it comes from.  
19 And then at the end of the year you start  
20 over with a new balance.

21           And I guess, to some extent, you  
22 just don't have to -- obviously, you'll be  
23 able to see in our records, which are  
24 matter of public record, if we were to do  
25 that. And you'll just have to -- I can't

1 say you'll just have to trust us that we  
2 won't do that for at least for the short  
3 term, because again that's not in our best  
4 interest. It's not my best interest to do  
5 that because if I lose the confidence of  
6 the Council, then we've got problems  
7 across-the-Board; not just in finance. But  
8 that's the kind of thing that I was talking  
9 about, that we would come to the finance  
10 committee and say based on where we are  
11 now, it looks like were going to have this.  
12 Here's a need we've got, we're going to  
13 spend it for that and I'm not to say that  
14 we won't do it if I really think it is  
15 something that's necessary. I have no  
16 problem coming to the Council and  
17 explaining to the Council and all the  
18 public, here's why we're spending that  
19 money, and here's why we're not carrying it  
20 over. And that's part of my responsibility  
21 to make sure that we've got what we need to  
22 run the program.

23 But on the other hand, the fact is  
24 that I understand that we are asking for a  
25 big increase. It's our responsibility to

1 make sure that we limit that as much as we  
2 can so that we don't run an extravagant  
3 program, but just what we need to have a  
4 good program.

5 MR. MARTIN: If I could, I come  
6 from a municipal background and can  
7 sympathize somewhat with the state agencies  
8 on funding in the way budgets are done in  
9 city government. And I know how private  
10 companies do their accounting. In city  
11 government we do fund accounting based on  
12 utilities and so you know, we charge rates,  
13 but if there is ever any excess at the end  
14 of the year, then that carries over into  
15 the utilities for the next year. And so  
16 it's very clear that we maintain that  
17 balance that carries forward. And we can  
18 either do one time spending or -- that's  
19 typically what we do, the same thing.

20 One time we tried to take over a  
21 state facility. And we sat down with the  
22 people and said, let's look over your  
23 budget so we can understand it. And I  
24 promise you, I do not understand state  
25 budgets. And I think it's very complicated

1 for the Departments even. So it's much  
2 more difficult than your request of just  
3 looking at a report at the end of the  
4 month. I don't think you can really look  
5 at true cost, and the fact that they can't  
6 carry the money over is a problem when you  
7 charge fees. And I think that's what we're  
8 talking about here today. I think what's  
9 important for us to remember -- and I've  
10 worked for 35 years with state agencies --  
11 is that we need to properly fund those  
12 departments. And the worst thing we can  
13 have in the state agencies were turnover.  
14 And we certainly don't want that to happen.

15 I'm more concerned in listening to  
16 your comments. I would much rather him  
17 fill all those positions, because that's  
18 why we're not putting stress on the other  
19 staff that are trying to pick up the load  
20 for those vacancies. And then maybe we  
21 won't have as much turnover in the  
22 department, but I really think we ought to  
23 concentrate on how we can keep our staff,  
24 and certainly not put stress on our  
25 directors and everything else, so that we

1 don't have turnovers. You don't want to  
2 have to start over with a person who says  
3 no, we are going to do it this way now.  
4 I've seen that happen way too many times.

5 MR. TERRILL: Well, just let me  
6 address that, because that is a big  
7 concern, and it ought to be a big concern  
8 with the regulated community, both  
9 nationally and locally, because just a  
10 general turnover is an issue, but the  
11 retiring turnover is going to be a major  
12 issue. And that's part of what I'm talking  
13 about in having this dialogue with EPA, is  
14 to try to figure out not only how to fund  
15 the program but how we can least complicate  
16 our lives. Their program is way more  
17 complicated than it needs to be. And a lot  
18 of that is, it's institutional, because in  
19 the Beltway there is a hell of a lot of  
20 money made from the lawyers and the  
21 consultants that write these rules, that  
22 make money off of that.

23 The last two EPA administrators that  
24 came during the last six years, have gone  
25 back to the private sector after a less

1 than stellar record in making things better  
2 for the regulated community, and for EPA,  
3 and for us, because of their million-dollar  
4 jobs, and they are going to benefit for all  
5 the confusion they created. Whether  
6 you believe it or not, a lot of the tactics  
7 with EPA has been the delay and not write  
8 rules that are made to be easily  
9 interpreted and easily enforced. But let's  
10 delay things for everybody. They worked,  
11 but it has also created a lot of problems  
12 that if you look at what is going on  
13 nationally, if you go to some of these  
14 national meetings, you got a lot of EPA  
15 folks that been on the sidelines for the  
16 last six years, that are just ready for  
17 this worm to turn. And it has the  
18 potential to get a heck of a lot more  
19 complicated than it already is; or that it  
20 needs to be.

21           And you know, we can't continue to  
22 keep up with this. We ask our staffs to do  
23 so many complicated things in order -- and  
24 you asked your staffs to do it to, it's not  
25 just us. You know what I'm talking about,

1 it's way too complicated. And we've got to  
2 fix that or it's just going to implode on  
3 itself. It's going to be where we are not  
4 going to do anything for the public and we  
5 are not going to do anything for the  
6 regulated community, either. And we've  
7 really got to address that. And I think  
8 we've got a short winter to do that,  
9 because you're talking about a huge  
10 turnover at the federal level. And we are  
11 looking at turnover in our level just from  
12 retiring folks. So it's a concern how we  
13 keep these folks.

14           We'll never be able to compete with  
15 the private sector. But we've got to be  
16 able to at least keep up with what they are  
17 doing at DOT and Department of Labor and  
18 those folks, so we don't lose them to them.  
19 Then we just do the best we can to try to  
20 work more efficiently, so we can have more  
21 money to pay our staffs more where we can.

22

23           Once again, I can't see us ever  
24 asking for more FTEs, than we've got right  
25 now, unless the feds put a requirement on

1 us, that they pay for. Its just not going  
2 to happen, I don't think we can justify it.  
3 And I don't think we need it.

4 MR. THOMPSON: You didn't say  
5 anything wrong. I think you've said  
6 everything just right. I want to address  
7 this issue on flow. And this again gets  
8 back to the Agencies position on things.

9 We have tried to remain competitive  
10 in the market place. We have tried to do  
11 some things along, we've tried to raise  
12 salaries, we've tried to provide some  
13 staff, and we've tried to do some things to  
14 remain competitive in the marketplace  
15 against the private sector. It seems to me  
16 to be a losing battle.

17 But it's been the Agency's position  
18 all along, that we don't do for one  
19 division and not for the other. In other  
20 words, until the Agency is positioned that  
21 they can raise salaries across-the-Board,  
22 we have not raised salaries. But in your  
23 consideration, you've got to keep that in  
24 mind, that we will have to continue to try  
25 to be competitive in the marketplace. And

1 I want to retain the ability to raise  
2 salaries or to become competitive across  
3 the Agency, rather than trying to select  
4 different divisions in which that you could  
5 do that.

6 It's an issue that's agency-wide  
7 that unfortunately impacts -- my decisions  
8 tend to impact in some ways your decisions  
9 on how you're going to fund programs.

10 MS. BOTCHLET-SMITH: Any other  
11 questions?

12 MS. MYERS: Steve, did the other  
13 fee payers pay in on the Social Security  
14 and Retirement Programs for the employees?

15 MR. THOMPSON: Yes.

16 MS. MYERS: So that's across the  
17 Agency?

18 MR. THOMPSON: We had a 6.3  
19 million dollar shortfall in the Agency,  
20 based on the shortfall in the Legislature  
21 in three areas. The Legislature reduced  
22 federal funding and our ability to increase  
23 cost relative to trying to be competitive  
24 in the marketplace.

25 That's what we faced when I asked

1 the Division Directors to go make the case  
2 before their Councils and in every case --  
3 and this is not just with the Air Council,  
4 there has been fee making activities going  
5 on all across the Agency to try to address  
6 that issue. What we determined, was that  
7 the total fee increase would be about 5.8  
8 of the 6.3. Now does that half a million  
9 dollars to divide it amongst five  
10 divisions, and that becomes part of the  
11 flow we're talking about? I don't know.  
12 That's just what we determine the needs  
13 were going to be.

14 But in every case, when it comes to  
15 those shortfalls, those are incorporated  
16 into everybody's salaries and we spread  
17 those across all the fee payers and across  
18 all funding sources.

19 MR. BRANECKY: Well, I think it's  
20 time we send a signal back, saying, if you  
21 are going to mandate it, you need help pay  
22 for it. Not force that onto the fee payers  
23 to pick up the tab for something that's  
24 been mandated on the Agency.

25 MR. THOMPSON: I couldn't agree

1 with you more. I was in a conversation  
2 with the Appropriations Chairman's  
3 Chairman, in one of the houses, yesterday,  
4 about that very issue. But as it is said  
5 that the Environmental Councils of States,  
6 which is the National Environmental  
7 Commissioners Association, has been pushed  
8 back, and pushed back, and pushed back  
9 through Congress and on EPA to not cut  
10 state funding for these programs. EPAs  
11 budget, in our view, has remained stable,  
12 and yet when it comes time -- that they  
13 have increased cost. So they take the  
14 money for those increased cost of the  
15 stateside. But as Eddie has said, it is,  
16 for what ever reason, extremely difficult  
17 to engage National Associations in that  
18 issue.

19 A number of commissioners across the  
20 states have tried to work hard to get that  
21 engagement, because we're pretty sure  
22 they're not going to do it for us. The  
23 same is true at the State Legislature, we  
24 have raise those issues. But when I do it,  
25 it's just another state Agency Director

1 whining. So Eddie has expressed this and I  
2 will too, we really need your help on these  
3 issues.

4 MS. MYERS: I'm still struggling  
5 with all of this. I've been vocal about  
6 budgets and numbers and trying to get  
7 information to the Council to make more  
8 final decisions. I'm sitting here looking  
9 at some of the information that you have  
10 given us, and from 1994 to 2007, in 13  
11 years, we've more than doubled our fees. I  
12 don't think that's fair to the fee payers.

13

14 I understand that you probably do  
15 need some money. I don't know what the  
16 answer is. I don't know if it's the full  
17 amount that you're asking for today but my  
18 comment would follow along with David's in  
19 that all of us are fee payers, that as  
20 representatives of the Agency need to go  
21 back to the Legislature and put the  
22 pressure on them to provide the funding  
23 that is needed for the programs that are  
24 being mandated to us.

25 I don't have a good answer for it.

1 I'm not comfortable with raising the fees  
2 as much as what's being asked for, at this  
3 time. And looking at it and seeing that  
4 you have a CPI adjustment every year, and  
5 still increasing it by so much -- I'm  
6 really struggling with it.

7           And As Jim said, we have to justify  
8 everything that we do when we're going to  
9 our bosses on money, whether it be a  
10 shortfall or coming out ahead. But we've  
11 got to justify what we do and I'm not sure  
12 that this has all been fully justified.

13           DR. LYNCH: Beverly, can you just  
14 remind me once -- I think you've got this  
15 figure in your head or you may be close;  
16 what's the national average per ton?

17           MS. BOTCHLET-SMITH: I was  
18 actually looking at what EPAs fee was --  
19 41.02 without the CPI adjustment. And I  
20 think they are using 2.29 CPI adjustment  
21 versus our 1.98. Don't ask me how they  
22 figure that. So it would be close to \$42.

23           MR. BRANECKY: But that's not the  
24 actuals. That's what EPA suggested.

25           MS. BOTCHLET-SMITH: That's the

1 presumptive minimum. And that's what EPA  
2 would charge if EPA were running our  
3 program.

4 MR. BRANECKY: What's the average  
5 among the states?

6 MS. BOTCHLET-SMITH: I don't have  
7 the average among the states.

8 MR. TERRILL: Let me give you  
9 some examples. Nebraska, \$57 a ton,  
10 Missouri, \$40 a ton, Iowa, \$35.20 a ton,  
11 Texas, \$32.29 a ton, but they also have a  
12 permit fee for doing inspections that can  
13 range up to \$75,000 per inspection. Plus  
14 the NSR permits, capital cost one time of  
15 three tenths to 1 percent of the capital  
16 cost to issue a permit for the NSR.  
17 Minnesota, \$31.70 per ton, with no cap. We  
18 are at \$25.61 now, Kansas is at \$25,  
19 Colorado is at \$22.90 with \$160 per ton fee  
20 for hazardous air pollutants and they  
21 charge \$76 per hour processing fee to do  
22 permits. New Mexico is at \$16 a ton with a  
23 6,000 ton cap, \$165 per ton for HAPs, and  
24 \$8.88 per ounce for mercury, plus they have  
25 a big range for construction permits.

1           So I understand what you're saying  
2    about the fees have doubled.    But I promise  
3    you that compared to what they are paying  
4    in other states, you have gotten a bargain  
5    for the last 20 years, whether you believe  
6    it or not.    And I think that in the heart  
7    of hearts, you all do believe it.    You know  
8    what you're paying in other states.    I'm  
9    fully aware of it, but again, that's my  
10   fault for not coming here.    And doing this  
11   five years ago.    We should have done that  
12   so we wouldn't have to be looking at this  
13   seven dollars, but we didn't.

14                   MS. BOTCHLET-SMITH:    I might also  
15   point out, just for quick calculation, I  
16   was asked what the average vacancy rate was  
17   and I threw out a number 10 times.    If you  
18   look at the number, we assume that would be  
19   a half of a million dollars that we would  
20   save, if you look at the decrease in tons  
21   for 2005, to what we're projecting for 2006  
22   at the current fee, we're going to be about  
23   \$230,000 down in income from where we were  
24   last year, now that's combined Title V and  
25   Non-Title V.    So when we say that there's

1 money in the float, we need to be real  
2 careful about how we think about that.

3 MR. BRANECKY: I would like to  
4 suggest a break for about five minutes,  
5 before we start public comments; is that  
6 okay?

7 (Break)

8 MS. BOTCHLET-SMITH: Okay. We  
9 are ready for the portion of the hearing  
10 where we allow the public to comment. I've  
11 received notice of comment from Angie  
12 Burkhalter from OIPA.

13 MS. BURKHALTER: My name is Angie  
14 Burkhalter and I represent the Oklahoma  
15 Independent Petroleum Association.

16 I greatly appreciate the opportunity  
17 to provide comments on this issue today.  
18 As you know, I have provided written and  
19 verbal comments at the last Air Quality  
20 Council meeting in January, on this very  
21 issue.

22 We understand the Agency's funding  
23 needs and we want to see the Agency  
24 adequately funded by the Legislature. But  
25 as I stated in January, our industry has

1 provided over two billion dollars to the  
2 state through our gross production taxes  
3 alone. And we see that this additional fee  
4 increase is just like a tax on our  
5 industry. And we feel like that we already  
6 pay a significant portion of the state's  
7 budget.

8 I would like to emphasize our  
9 concern on the Division's linking the fee  
10 increase with the Consumer Price Index, for  
11 minor sources. At me minimum we urge the  
12 Air Quality Council to disapprove that part  
13 of the proposal. We think that the Air  
14 Quality Division should be required to come  
15 to the Council and request a fee increase,  
16 and provide the appropriate supporting  
17 information for that increase. Again,  
18 thank you for your time, I appreciate it.

19 MS. BOTCHLET-SMITH: Kathryn  
20 Crenwelge from Weyerhaeuser.

21 MS. CRENWELGE: I have a question  
22 for clarification, if you would please.

23 In switching the billing period, we  
24 would like to understand -- for example, in  
25 2007 we paid 2005 fees. So, if a facility

1 -- if you're trying to shift your billing  
2 cycle again, remember a facility typically  
3 operates on a calendar year basis. In 2008  
4 will we be required to pay both the 2006  
5 and the 2007 fees, or are you going to  
6 split it, or how are you going to deal with  
7 that?

8 MR. TERRILL: Are you  
9 volunteering to pay both?

10 MS. CRENWELGE: Absolutely not.

11 MR. TERRILL: Really. It just  
12 means for us it's a different billing  
13 cycle. Like for 2008, we'll bill on 2006  
14 emissions and in 2009, we'll bill in 2007  
15 emissions. At some point, if our emissions  
16 inventory system and the folks using it get  
17 to the point where we can more true up  
18 that, we will probably drop a year, in  
19 order to get it closer. The question you  
20 ask is kind like will we bill a year after  
21 we quit doing business, and that's not  
22 going to happen. So it's just a matter of  
23 when the bills come out and when the money  
24 comes in more, so it really won't affect  
25 anything relative to what you all would

1 normally see in your bill. Just different  
2 times.

3 MS. CRENWELGE: Well, I'm sure  
4 you can appreciate how we're trying to  
5 prepare for that potential, if that was to  
6 happen.

7 MR. TERRILL: The only difference  
8 is you wouldn't get a billing statement  
9 until sometime in July. And then the bill  
10 would be due sometime after that.

11 MS. CRENWELGE: All right. Thank  
12 you.

13 MS. BOTCHLET-SMITH: Jim Barnett  
14 from EFO.

15 MR. BARNETT: Mr. Chairman and  
16 members of the Council, I basically just  
17 want to make a few remarks today as a  
18 follow-up of my letter at the last meeting.  
19 And I will stick to the two issues that we  
20 raised at that particular time.

21 One was the statutory requirement  
22 that appears in Title 27A, and I'll read  
23 you the entirety of that particular  
24 statutory requirement, being a lawyer we  
25 have to do this sort of thing. It says,

1 "Thereafter, following rulemaking, the  
2 annual operating fee shall be Twenty-five  
3 Dollars (\$25.00) per ton or such amount,  
4 either higher or lower, as is determined to  
5 adequately reflect the demonstrated  
6 reasonable costs of the operating permit  
7 program".

8           In the staff's response to my  
9 comment letter, they say it is the intent  
10 of the Department to prepare a fee  
11 justification for presentation to the  
12 Environmental Quality Board. If the rule  
13 is recommended to the Board by the Council,  
14 I would suggest that that demonstration  
15 document should be provided to this  
16 Council. It's this Council that's making  
17 the hard decision on whether or not to  
18 recommend these fee increases. You are the  
19 ones that are most conversant with the  
20 subject matter, the ins-and-outs of it. I  
21 think the clear intention and directive of  
22 the statute would be that that  
23 demonstration be made available to you  
24 prior to you making this very difficult  
25 decision today.

1  
2           Having said that, I would tell you to  
3 put that in context. This is my version of  
4 the events, and I can be corrected. This  
5 is the way I remember history. The reason  
6 that that provision is in the statute in  
7 the first place was way back when we were  
8 implementing the Federal Clean Air Act in  
9 Oklahoma, and then later, developments. In  
10 '91 or '92 in that time-frame, we were  
11 going through the significant amendments of  
12 the Oklahoma Clean Air Act, that's when the  
13 presumptive minimum concept came in. And a  
14 lot of people in Oklahoma -- in the  
15 regulated community, in particular, didn't  
16 believe that the federal presumptive  
17 minimum fee was appropriate for our state.  
18 And we believe that because we felt that so  
19 very strongly that that became a point of  
20 controversy between the regulated community  
21 and the Health Department at that time.  
22 The arrangement that was worked out, was  
23 okay, for on a temporary basis, the  
24 Legislature will approve a \$10 fee, and  
25 then make it subject to going to \$25, more

1 or less, depending on the results of a  
2 third-party study. And this consulting  
3 group out of -- I believe they were out of  
4 New York, was hired to do this study. They  
5 did a study and arrived at the \$15.19 fee,  
6 that was really the first base fee that we  
7 started billing the first CPI increases off  
8 of.

9           And I'm not here to say that  
10 everyone loved the study because clearly at  
11 the time, there were people at the Health  
12 Department staff that were very critical of  
13 it. I can tell you that from the regulated  
14 community point of view, we thought it was  
15 a fair and appropriate study.

16           Having said that, through the years  
17 we've had the CPI increases, which were  
18 designed under the statutory scheme in the  
19 way those of us involved in the process as  
20 time, we believed, would take care of  
21 normal inflationary increases and needs of  
22 the program.

23           Also, it should be pointed out that  
24 there was a real rationale for having the  
25 program funded through fees on emissions.

1 There was a sense that, well these are the  
2 guys that are doing the polluting so  
3 therefore they should pay for it based on  
4 how much pollution they might contribute.  
5 I think that was pointed out by one of the  
6 commenters at the last meeting. That  
7 rationale is starting to have real holes in  
8 it. Because what you have now is a  
9 situation where the emissions are going  
10 down dramatically, but the fees are going  
11 up to match it. So basically, you're being  
12 penalized for doing a better job of  
13 controlling your emissions. For example, a  
14 company lowers its emissions by half, but  
15 because the demands on the regulated  
16 community have not been reduced  
17 accordingly, end up doubling the per ton  
18 fee. I don't think that's where we need to  
19 be going. I think my members feel like  
20 we're on the wrong track and it's time to  
21 shift gears.

22           Second thing, and that leads me to  
23 my next comment, which is really about the  
24 mobile sources. And that's where we think  
25 that the attention should be focused, as

1 was acknowledged by Mr. Thompson, and Eddie  
2 and others, mobile sources are a  
3 significant part of the issue.

4 I know in the book that the DEQ put  
5 out, they said 48 percent of the nitrous  
6 oxide and 49 percent of VOCs are due to  
7 mobile sources. So, basically, half of the  
8 contributions come from mobile sources and  
9 zero of the fees to run the program. And I  
10 don't know how much of the staff's time can  
11 be tracked over to mobile source side of  
12 the program, but these numbers would lead  
13 me to believe that at least half of it  
14 should be addressing that part of the  
15 program. And they should be paying their  
16 fair share, which really gets me back to  
17 where -- why we think that Council ought to  
18 reject the proposed fee increases.

19 And bear with me if this doesn't  
20 really fit with your perspective of what  
21 the issue is, but it seems to me like what  
22 we've got, is the situation is kind of like  
23 a big old calf still on the mother cow.  
24 And it's been nursing all this time, and  
25 it's good and it's easy. But I think

1 most people will tell you, unless the cow  
2 cuts the calf off on her own or the farmer  
3 splits them up, it's just going to keep  
4 nursing. Because that's where it's easy  
5 and that's where the milk is.

6 I think it's time to get the  
7 Department off of the milk and onto the  
8 grass. It's time to start thinking about  
9 being the farm parent in this situation,  
10 saying, wait a minute, it's time for you  
11 guys to really get serious about going  
12 after mobile sources. It's time to make  
13 that your top priority. Not one of your  
14 lesser priorities, and if you do that, I  
15 suspect that it will be viewed as a crisis  
16 by the Department. But I think it also --  
17 that crisis sentiment could be conveyed to  
18 the members of the Legislature. And our  
19 commitment to help you in that regard is  
20 still valid.

21 And I would suggest to you that in  
22 the past, our organization has lived up to  
23 its commitment to those regards. I think  
24 it's clear that the toxics money, and the  
25 underground storage tank fund money, I do

1 not believe would have come to the  
2 Department for the Air Program without  
3 EFO's direct involvement.

4 I would also suggest to you that  
5 those were done with the understanding that  
6 it would be done to offset the Title V  
7 fees, which I think the staff has made  
8 pretty clear.

9 But I would suggest, also, that for  
10 accounting purposes, that we should be on  
11 those pie charts. Those monies should be  
12 credited to the Title V side as opposed to  
13 the Non-Title V side. Because it gives you  
14 an inaccurate picture of the source and the  
15 intent of the funds, when you put them over  
16 on one side and they are used and intended  
17 to offset the other funds in the first  
18 place.

19 In any event, I would say that the  
20 rationale for Oklahoma having Title V fees  
21 lower than the national average, lower than  
22 the federal presumptive minimum, is just as  
23 valid today as it was back in the early  
24 90's.

25 We are still a state as of today,

1 that is in attainment. We don't have  
2 non-attainment. We are still a state that  
3 has, in the grand scheme of things, a much  
4 better air situation than many of our other  
5 states in the union.

6           It is still good for economic  
7 development to have low fees in the State  
8 of Oklahoma and we think that you should  
9 demand from the staff that they follow the  
10 strict letter of the law in providing you  
11 the absolute demonstrated need this money  
12 is necessary to fund the Title V permitting  
13 program. I'd be happy to try to answer any  
14 questions.

15           MR. TERRILL: All right, I guess  
16 I'll respond to that. Let me start off  
17 with, we believe we did make this  
18 demonstration of need when we provided to  
19 the finance committee, the steps of the 2.3  
20 million dollars. I don't know how to make  
21 any clearer than that. That's what we need  
22 to fund the program for next year. You've  
23 seen it, we've talked about it for four  
24 months now. That is our demonstration of  
25 what we need. We are not asking for FTEs.

1 We are not asking for anything other than  
2 what we have to have to run that minimal  
3 program.

4           Toxics, it was never agreed that the  
5 money for the toxics would fund the Title V  
6 program beyond what we would have asked for  
7 two fund the toxics program by raising  
8 Title V fees. What we did say we would do,  
9 is we would use that money and it would be  
10 ramped-up to offset any need to come and  
11 ask the Council for any increase in Title V  
12 fees, but it was never, never meant to  
13 substitute for Title V fees.

14           And you know, if EFO doesn't want  
15 this to happen, I would submit that they  
16 really need to be a lot more proactive in  
17 helping us to avoid this than they have  
18 been in the past. I just can't see what  
19 they have done to address the mobile source  
20 side of this.

21           I agree that it needs to be done,  
22 but if you all elect not to pass this  
23 increase or at least a portion of it, I can  
24 promise you that we're not going to do  
25 things and that's not an idle threat. I

1 can not accept new programs, nor can I  
2 continue to do some of the programs we are  
3 already doing. I'll kick it back to EPA.  
4 Let EPA do it.

5           That's not going to hurt us, because  
6 we'll be able to figure out a way to  
7 maintain the staff we've got. We'll cut  
8 back to the bone, if I don't ever have to  
9 travel one more day to represent this state  
10 at national meetings, it wouldn't bother me  
11 in the least.

12           And that's what we'll do. We won't  
13 go to training, we won't go to meetings, we  
14 won't represent Oklahoma in those things  
15 until we figure out how to fund it, nor  
16 will we accept any more programs. I mean,  
17 if you want to deal with the EPA, that's  
18 fine.

19           Part of the problem here is that  
20 Steve and Mark did an excellent job of  
21 setting this organization up, so that we  
22 would do the things within this  
23 organization to keep the EPA out of the  
24 state.

25           I think people have forgotten what

1 it is like to have EPA come in. I  
2 understand they are not near what they used  
3 to be. But for those of you who don't  
4 believe that the worms turning, then you  
5 need to get out of Oklahoma and go to some  
6 of these national meetings and see what's  
7 going on, because it is. Things are  
8 changing dramatically for better or worse,  
9 I don't know which it's going to be, but  
10 it's not going to be good for us, it's not  
11 going to be good for the regulated  
12 community either.

13           So, you know, all we can do is make  
14 a case for what we need, if the Council  
15 chooses not to fund that, so be it. But I  
16 can tell you that there will be  
17 consequences if you adopt EFO's position.  
18 And there's nothing I can do about it,  
19 because I can't run a program with no  
20 money.

21           And I would submit that there's just  
22 as much incentive to get the regulated  
23 community, if they know their fees are  
24 going to go up by \$7.12, as there is to do  
25 nothing. Because that's insane to do

1 nothing.

2           Because what's going to happen, is  
3 you will fund the programs that you want,  
4 but you let the ones that you don't want  
5 wither and die. And that's not to happen,  
6 if the whole idea here is if you have a  
7 problem with my enforcement and compliance  
8 program, come talk to me about that.  
9 Because I promise you, I said this before  
10 and I'll say it again, we will do the  
11 inspections that we are required to do or  
12 EPA will do them, one or the other. We are  
13 not going to cut that, because we're a  
14 public health Agency, and that's what we  
15 are responsible to do. If we can do other  
16 things besides that, that's fine.

17           I want to work with EFO to make this  
18 mobile source thing happen. We have never  
19 backed down from that, but I can tell you  
20 we have not gotten a lot of support over at  
21 the Legislature when it comes time for  
22 that. We get a lot of talk about it, but  
23 we don't get a lot of action. And maybe  
24 the time to send that message is, raise  
25 these fees and provide an interest to get

1 over there and do that, so we don't have to  
2 raise them. I don't want to raise your  
3 fees. When we have to go through this it's  
4 hard on everybody, but I've got to have a  
5 minimum amount to run the program, or there  
6 are certain things I won't do. That's just  
7 the way it is.

8 MR. PURKAPLE: David, I want to  
9 express an opinion. This is certainly a  
10 tough issue, and I appreciate the public's  
11 comments that have been made and all the  
12 comments that have been expressed. You  
13 know, I think it's in the public's, and  
14 certainly in regulated industries best  
15 interest, to have a well funded and well  
16 staffed -- DEQ staffed with qualified  
17 personnel. And I think it's in all of our  
18 collective best interest for that.

19 And as has been expressed, there is  
20 a long-term problem here and that's the  
21 problem of, we have sources in the state  
22 that are contributing to the problem, but  
23 are not helping out. And I would hope that  
24 we would all collectively and with what  
25 ever means of influence we have, work to

1 solve that. I really think that needs to  
2 happen, but that's not something we're  
3 going be able to do today.

4           And as I see it, there is a short-  
5 term issue here we have to deal with, and  
6 nobody likes a fee increase. But in my way  
7 of thinking, there's a demonstrative need  
8 for it and I'd be in favor of the fee  
9 increase, as stated.

10           Perhaps we ought to think about it  
11 maybe for one year, I don't know if that  
12 would be a problem for the state, but come  
13 back and look at this again next year, but  
14 rather than the language that just says, we  
15 automatically could go ahead every year  
16 when we had the CPI increase. And we are  
17 going to back off if need be, and maybe we  
18 just look at it for one year increase, to  
19 get past this cycle right now. And then as  
20 you work with the finance committee with a  
21 more detailed analysis February of next  
22 year, or whenever we are back talking about  
23 it again. But we've kind of gotten beyond  
24 this near-term immediate crisis, at least  
25 that I see. So rather than offering a

1 motion, I just offer that as an opinion.

2 MR. BRANECKY: I guess there's no  
3 more public comment, we are at the point of  
4 discussion now among Council what we'd like  
5 to do. Mr. Purkaple has offered his  
6 opinion. Do I have any other discussion?

7 MS. LODES: I have a question  
8 here. We're talking about a 2007 year  
9 increase, correct, on these fees. So, what  
10 calendar year will facilities actually see  
11 the increase in their bill; 2009 or 2008?

12 MR. TERRILL: 2008. We would  
13 bill sometime after the Legislative  
14 session, because we can't do anything until  
15 the session ends, and I forget what the  
16 statutory period is. But sometime in July,  
17 we will send out bills for 2008. In other  
18 words, we'll bill for 2008 and collect in  
19 2008 from 2006 emissions.

20 MS. LODES: Right. So this fee  
21 increase is starting with calendar year  
22 2007, correct? Because that's what it says  
23 in here. Or are we starting with the fees,  
24 this increase being applied to 2006 fees  
25 with the CPI starting in 2007?

1 MR. BRANECKY: Now I'm confused.

2 MS. LODES: Well, I ask this  
3 because you're not the only ones with the  
4 budget issue. I'm sitting here and we've  
5 got the regulated community that have  
6 already done their budgets for 2008. And  
7 if they're going to get hit a 30 percent  
8 increase, we've got a bunch of our  
9 environmental managers that have to go back  
10 to their boards to get a budget increase to  
11 pay the fees. So I'm trying figure out  
12 what year is any one of these environmental  
13 managers going to see that increased bill.  
14 Is it going to be this year in 2008 or is  
15 it going to be 2009?

16 MR. TERRILL: Well, this year in  
17 2008.

18 MR. BRANECKY: There is nothing  
19 in this language that says when this fee  
20 increase occurs. Previously we've said,  
21 beginning January 1, 1999 the fee will be  
22 this. But the new language just says the  
23 fee will be this. It doesn't say when.

24 MS. BOTCHLET-SMITH: The  
25 effective date would be the effective date

1 of the rule.

2 MS. LODES: Because you all  
3 haven't billed for 2006, because you're two  
4 years behind the calendar year, for what  
5 you're billing for. I guess that's my  
6 biggest concern with this is, is that I  
7 know everybody else is grumbling about  
8 their budget and your grumbling about  
9 theirs, but we've got everybody else here  
10 that's got a budget issue too and it gets  
11 passed on down the line.

12 MR. TERRILL: And I guess my  
13 response would be, that's a great incentive  
14 to get with us and go to the Legislature  
15 and get a mobile source fee so we don't  
16 have to do this. Because if we get that  
17 mobile source fee, we will not have to pass  
18 anywhere near what we're talking about.  
19 And we may not have to pass any of them  
20 along.

21 And Jim's right, something has to  
22 drive this. I mean something has to drive  
23 the crisis to make the Legislature realize  
24 that we are serious about doing something  
25 relevant to the mobile source fee. But to

1 make us the crisis, the Legislature I  
2 promise you, will not care that we don't  
3 make our budget. They are not going to  
4 care one way or the other. It's going to  
5 be up to the fee payers over there driving  
6 this issue.

7           Not only will we not make budget --  
8 there will just be consequences by not  
9 doing that. But you're right, it will be a  
10 burden on the fee payers this year, but  
11 maybe that's what it takes to get them to  
12 mobilize with us on a mass basis to talk to  
13 the Legislatures about addressing this  
14 long-term issue of mobile sources. I don't  
15 know.

16           MR. BRANECKY: Bob.

17           DR. LYNCH: I just wanted to -- I  
18 don't know what the right objective is, but  
19 I guess agree maybe is a good one, it's  
20 what Jerry says. This is a short-term  
21 issue and reflecting what Mr. Barnett said,  
22 I agree that we've got to address this in  
23 other ways. But if we just cut off DEQ,  
24 then that doesn't send a very good message  
25 as well.

1           So I think we have to come up with  
2 the funding now, and at other points look  
3 at other streams. Because I really think  
4 if we just say, DEQ you are going to run a  
5 big shortfall next year and you are going  
6 to have fewer staff -- that creates a  
7 downward vacuum, and it would be hard to  
8 pull out of.

9           I think in terms of sending messages  
10 to people. It sends a pretty lousy message  
11 that we don't think the environment in  
12 Oklahoma is worth paying to protect it,  
13 which is what we're saying.

14           I realize we want to say fees are  
15 cheap, and that attracts business, but  
16 there is a community that does care to come  
17 to a state where we properly protect the  
18 environment. So this would send a negative  
19 message to that group as well. So I would  
20 support us moving ahead with this and then  
21 in the future addressing how to handle  
22 these shortfalls when we get there.

23           I think the other point of what  
24 Jerry said, I think doing it on a one-time  
25 basis would probably just push us down the

1 road of having this argument a year from  
2 now. I would just as soon grab a hold of  
3 it now.

4 We always have the alternative to  
5 come back to it again. And my guess is, if  
6 I sit on this Council very much longer we  
7 will come back to this again. It would be  
8 great if we would say we're going to come  
9 back next year and Eddie's going to say we  
10 are going to lower these fees 20 percent.  
11 But if any of you all think that's going to  
12 happen, I think that that's just a dream.  
13 I'll leave it at that.

14 MR. TERRILL: I would say that's  
15 true unless one of two things happens.  
16 Either the EPA gets pushed to fund the  
17 state programs like they're supposed to, or  
18 we get the mobile source fee. But both of  
19 those issues are not going to happen unless  
20 we coalesce around them, both industry and  
21 state and locals to do that, it's not going  
22 to happen. And maybe we're at that point,  
23 at least here in Oklahoma we need to push  
24 and make it happen.

25 I can't say anymore than what we've

1 already said about our commitment to doing  
2 this. It's a lot easier on me, and a lot  
3 easier on my staff, if we can rely on  
4 mobile sources for a good chunk of our  
5 income and not have to come to you all and  
6 ask for it. It just is. There's no  
7 incentive for us to not to do that.

8 MR. BRANECKY: A one-year limit  
9 would be an incentive, not only for DEQ,  
10 but for industries, to get to the  
11 Legislature and get something done.  
12 Somehow we've got to get the mobile sources  
13 pulling their fair share. I understand DEQ  
14 has their needs, but there's got to be a  
15 way, and with the one year to meet their  
16 short-term goals. But if that's the case,  
17 I certainly would want some wording changes  
18 in the proposed language that more directly  
19 requires DEQ to make deductions in this  
20 years fees, if any legislative  
21 appropriations isn't acquired.

22 At the same time -- we've done this  
23 before, and I pulled it out because I  
24 corrected it last time we prepared a  
25 resolution that we adopted and sent to the

1 Environmental Quality Board, stating that  
2 we feel that mobile sources needed to carry  
3 their fair share of the Air Quality program  
4 in Oklahoma. So I would feel comfortable  
5 in doing that, also. And then sending that  
6 on up the ladder.

7 MS. MYERS: I still think there  
8 is going to be an issue, as Laura alluded  
9 to, on the timing of this thing. To expect  
10 a 30 percent fee increase for this year's  
11 billing cycle, is going to be a hardship.  
12 I mean, big companies may be big companies,  
13 but they have budgets that are sometimes  
14 very restricted and very much set in stone,  
15 if you will. And to come back with a 30  
16 percent increase to be paid in 2008, it's  
17 going to be difficult. And it will  
18 penalize some of the companies.

19 MR. HAUGHT: David, I think the  
20 one-year thing makes no sense, because  
21 essentially we have these budget  
22 discussions now, every three to five years,  
23 as Eddie said, when fee increases come out.  
24 And to revisit that again and to see what  
25 kind of information that comes this next

1 year from me, that's made available to the  
2 Council and to the finance committee --  
3 that's not a bad thing to do that again  
4 next year, I agree.

5           Besides some of the other issues to  
6 work out with the mobile fees -- just to  
7 get these budget questions -- are we  
8 satisfied or are we not with what we're  
9 doing? It's probably not a bad thing to  
10 revisit that again next year and see what  
11 kind of changes -- if we think there are  
12 changes needed, give us an opportunity to  
13 work on that part of it this year, also.

14           MR. PAQUE: I took a look at this  
15 idea of just billing for one year, and if  
16 you look at the proposed rule language --  
17 I'll just look at the Part 70 sources  
18 Paragraph 2, you can add for the year --  
19 and I'm not sure what year we want to put  
20 in there, I'm going to let the invoices  
21 speak, but for the year. And then keep the  
22 text as it's proposed there and then at  
23 the end of that first sentence, we would  
24 probably want to go back and insert the  
25 Paragraph C, the language with the current

1 fee. I don't think we want to leave the  
2 language void of a fee amount in case, you  
3 know, a year from now -- actually, I think  
4 the statute requires us to have some type  
5 of Title V fee.

6           You know, just say we could just add  
7 for the year 2008 for a certain year, the  
8 fee shall be. And then the years  
9 thereafter and then basically just kind of  
10 mirror Section C there. And then add the  
11 language to that saying we probably would  
12 want to add the language saying. "it shall  
13 be adjusted pursuant to B3."

14           MR. BRANECKY: Let's discuss it  
15 to see if that's the way we want to or not.

16           MR. PURKAPLE: Matt, which  
17 Paragraphs C are you referring to?

18           MR. PAQUE: The one that has the  
19 current fee language.

20           MR. PURKAPLE: The public wants  
21 to speak.

22           MR. THOMPSON: First of all let  
23 me say that EFO has been helpful on the  
24 toxics fees. Clearly that they were very  
25 helpful in doing that.

1           When we sold the issue of the UST  
2 fund, clearly the driving force behind that  
3 was cleanup of local armors that were being  
4 returned in the BACT process. Although we  
5 did rely on EFO to assist us in getting  
6 that passed. And that's why we committed a  
7 certain amount of money in our discussions  
8 with the Legislature to go toward the Air  
9 Quality programs. So there is no question  
10 about that.

11           It's also true that we collected --  
12 we tried to get a fee on rental cars, a  
13 couple of years ago to begin to dress them  
14 up in mobile sources. And I don't even  
15 want to talk about how that went, but not  
16 successful.

17           I don't think that the Agency -- if  
18 there's a contemplation that there's going  
19 to be a year and then we see where we are  
20 in that year, relative to a mobile source  
21 fee, I don't know that I would object to  
22 that, it gives us another year.

23           But I don't know what the strategy  
24 is, relative to us. Jim and I talked about  
25 this briefly, us going to the Legislature

1 and saying, the Air Quality Council gave  
2 you a year, unless you do something they  
3 are going to cut off issues related to  
4 public health in the State of Oklahoma. I  
5 am not being critical of the idea. I was  
6 just trying to figure out what's the  
7 strategy for us and EFO to go collectively  
8 to sell that.

9           And I am struggling with that issue,  
10 I will just tell you. And I will be the  
11 messenger, so it is important for me to  
12 understand what it is you want me to say to  
13 them.

14                   MR. BRANECKY: Well, I think you  
15 would tell them that the Council recognized  
16 the short-term needs of the Division and  
17 the requirements to maintain Air Quality in  
18 Oklahoma. At the same time we recognized  
19 that mobile sources are a significant  
20 contributor, and the stationary sources  
21 shouldn't continue to pay, to carry the  
22 full load, you know, it ought to be shared.  
23 I think we're doing good by giving you a  
24 year and recognizing short-term --

25                   MR. THOMPSON: I do too. I'm

1 just asking the Council to be a little bit  
2 thoughtful about what the message is.

3 MR. BRANECKY: Maybe the message  
4 is this old resolution I dug out that talks  
5 about mobile sources need to carry a their  
6 weight.

7 MR. THOMPSON: I don't think  
8 there's any question that mobile sources --  
9 you and I can agree, David. It's more  
10 complicated than that.

11 MR. BRANECKY: Is it more  
12 complicated than that?

13 MR. THOMPSON: No, it is not  
14 absent this Council passing the fee and  
15 making this statement independent of some  
16 time limit to the Legislature. I've raised  
17 that issue so you all can think about it.  
18 Because it does -- in fact I kind of like  
19 the idea. But I am somewhat at a loss  
20 about how I sell that.

21 MR. TERRILL: Steve, what if the  
22 Council was to charge the finance committee  
23 with being the lead group to work with you  
24 and EFO to try to push this issue through?  
25 That would be Rick, David, and Sharon.

1 Maybe that's the way we would get a good  
2 cross-section of folks that are going to  
3 actually have to pay this -- the fee payers  
4 to work with you and EFO to crack the  
5 message as part of what they do today.

6 MR. THOMPSON: I would be happy  
7 to hear from everybody on that.

8 MR. PURKAPLE: A question on  
9 timing. Help me to remember correctly that  
10 this is our drop-dead date today; is that  
11 correct?

12 MR. BRANECKY: Understand -- if  
13 we don't do today, nothing happens. So we  
14 don't have the luxury moving this on  
15 further into the future. I understand that  
16 the Environmental Quality Board can only  
17 consider rules that have to do with fees,  
18 while the Legislature is in session. And  
19 they only meet once, which is in three  
20 weeks or so. So if we don't do it now. It  
21 won't happen this year.

22 DR. LYNCH: David, just to point  
23 out that -- and this may have to do with  
24 what Steve was saying about strategy. We  
25 have been saying this is a short-term

1 deficit. This is a permanent deficit.  
2 This is not just we fix it now and then  
3 there's money from now on. They are going  
4 to have these needs, going forward. So, it  
5 really -- I don't know if short-term  
6 deficit is the right term to use.

7 MR. BRANECKY: It is a short-term  
8 fix. It will give us some time to try to  
9 shift some of the burden over to mobile  
10 source.

11 DR. LYNCH: If the language comes  
12 out, and the communication to the  
13 Legislature is, if they just get the money  
14 now they're okay after this. And that's  
15 not the right message.

16 MR. BRANECKY: Right.

17 DR. LYNCH: This is a permanent  
18 need -- well not permanent, but long-term.

19 MR. HAUGHT: I agree it's a  
20 permanent need, but I'm not convinced that  
21 this is a permanent fix. So that's what we  
22 are talking about here.

23 MR. PURKAPLE: By what process  
24 will we go through then if we wanted to  
25 consider modifying the language -- how

1 would we work that out to where it's  
2 acceptable?

3 MR. BRANECKY: Well, in the old  
4 days, we take a break and go up to the  
5 office, and they would come back with  
6 language that Matt probably could help us  
7 on the best way to do that, because I know  
8 there are some other language changes that  
9 I would suggest, in addition to the words  
10 that you talked about earlier.

11 MR. PAQUE: I would just defer to  
12 you, as the Chair, what you think is the  
13 most efficient process to do that is. I  
14 mean, ultimately someone is going to want  
15 to make a motion and you want that motion  
16 to be clear.

17 MR. BRANECKY: I think since we  
18 have a laptop and a projector we could  
19 project the language on the screen, so we  
20 couldn't all see what we're changing and  
21 how it's being changed. I think that would  
22 be a lot easier to make those changes.

23 (Discussion about putting the resolution  
24 on the projector)

25 MR. BRANECKY: I'm asking the

1 Council, if that's what you'd like to do?

2 Well, we'll need some time to get  
3 that on the screen so let's take a 5 minute  
4 break.

5 (Break)

6 MR. BRANECKY: All right, let's  
7 get started again.

8 MR. THOMPSON: Obviously, you all  
9 have the power to do whatever you want to  
10 do. It's your decision. But I have, in  
11 fact, visited with Jim a little bit, and I  
12 think -- I don't want to speak for him, but  
13 there is some concern about going to the  
14 Legislature and saying, we are -- I don't  
15 see how you sum it any other way than a  
16 threat.

17 So, if the Council were to pass the  
18 fee as proposed by the Agency, then we  
19 would do two things, we could collectively  
20 go to the Legislature and say, when we  
21 prospectively go into nonattainment on  
22 March 8, that the fee payers in the state  
23 of Oklahoma has stepped up, and stepped up,  
24 and stepped up, and stepped up, and they  
25 have stepped up with some difficulty the

1 last time. 50 percent of this problem is  
2 in mobile sources, and for any issues  
3 related to nonattainment mobile sources  
4 should pay that cost and in the interim,  
5 the Agency will commit to do, from V money,  
6 an independent third-party audit to  
7 determine whether the Agency and the issues  
8  
9 Eddie, his staff, and me have presented for  
10 you today are, in fact, correct. And that  
11 way you get an audit, you get a cleaner way  
12 of approaching the Legislature, and we get  
13 what we proposed the fee increase that we  
14 need to run the program at least in the  
15 short-term. Jim, I don't want to  
16 misrepresent you.

17 MR. BARNETT: I'll just simply  
18 add the third-party audit is something that  
19 we've been wanting for many years. And for  
20 those of you that have been around for a  
21 while think that's very important. There  
22 is always the question of whether Title V  
23 money is being spent solely for Title V  
24 expenses or not, and the only way we'll  
25 ever really satisfy those concerns is with

1 a third-party audit.

2           In regard to going to the  
3 Legislature, I did tell Steve that my Board  
4 did authorize us to work with the  
5 Department to try to get the mobile sources  
6 on-Board. I think that one of the most  
7 effective ways to do that is to -- we are  
8 staring at increased ventures as a result  
9 of the nonattainment staring us in the eye  
10 and when we get to that point, that would  
11 be something that the Legislature could  
12 appreciate us doing and a reason to start  
13 requiring mobile sources to pay their fair  
14 share. The rest of it, that would be all I  
15 care to comment on is those two points.

16           MR. BRANECKY: So what time-frame  
17 would the audit be done?

18           MR. THOMPSON: I don't care  
19 David, all I can do is commit the funding  
20 -- I can set aside the funding. That's a  
21 decision the Division can work with the  
22 Council on. My role here is to set aside  
23 the funding that would allow that to occur.  
24 So I don't care.

25           DR. LYNCH: So would the results

1 of the audit be something specific, such as  
2 discharge ought to be paying "X" amount per  
3 ton. Is it that kind of detail that would  
4 come out of this?

5 MR. THOMPSON: I think what Jim  
6 has said they have always been curious  
7 about whether the Title V fee payers -- and  
8 where we are relative to that. But it  
9 would be an audit to satisfy whatever the  
10 Council's questions are.

11 So, what I would direct Eddie to do  
12 is to work with the finance committee to  
13 develop the RFP, that we would go to the  
14 Department of Central Services to get. And  
15 then they would be the ones that would  
16 actually name the independent third-party  
17 auditor for this. So it would have to be  
18 relative to the wording in the requests for  
19 the proposal that would go to the  
20 Department of Central Services. And  
21 clearly we would want to cover the issues  
22 that are the concerns of the Council.

23 MR. BRANECKY: So it would not be  
24 a staffing study, it's just an audit of the  
25 expenditures?

1                   MR. THOMPSON:    If that is the  
2   issue -- is the executive director using  
3   Title V fee money for his limousine or is  
4   he actually paying permit fees -- Permit  
5   riders with that, then that's fine with me.  
6   Anything within reason that answers the  
7   questions that the Council and industry,  
8   and fee payers, and whoever has about this  
9   thing would have to be negotiated in the  
10  RFP, that we would go to central services  
11  about.   I think the short answer to your  
12  question is, yes.

13                   DR. LYNCH:    The bottom line on  
14  this seems to be how much are we charging  
15  per ton?   The downside of this is if they  
16  come back and say you should be charging  
17  \$46.

18                   MR. THOMPSON:   Well, I think if  
19  they did, the Agency would then take the  
20  position with the Council that they ought  
21  to pay \$46.   But that's a position we take,  
22  it's not a decision we make.

23                   MR. TERRILL:    You know, I think  
24  one of the things we can think about doing  
25  as part of this audit, though, if we can

1 get it done within a reasonable price, is  
2 to take a look at staffing. Because this  
3 goes back to the court issue that we've  
4 been talking about, is the responsibility  
5 of the state and locals and what they  
6 should be paying versus responsibilities of  
7 EPA, given the program that EPA has laid  
8 out for us to do. And if we can figure out  
9 now to structure this -- I'm not opposed at  
10 all to taking a look at staffing, because I  
11 think it will show we're doing more with  
12 less. In fact, they are saying we ought to  
13 be doing it and we're probably not doing  
14 because of the staffing issue. Not  
15 necessarily to look at increasing Title V  
16 fees, but provide this information to put  
17 leverage on EPA.

18           Maybe we can convince them to help  
19 fund this through a grant. Because it's  
20 their interest as well, to get information  
21 to go to Congress about an average state  
22 and what it really costs them to run an  
23 average program. Because that's what we've  
24 got.

25           I've think we've got good folks, but

1 I don't think we run extravagant program.  
2 But we do a nuts and bolts. I don't think  
3 EPA has half a clue as to what the cost,  
4 because they don't care. They don't look  
5 at it, they don't have to worry about it.  
6 I would like to figure out a way not only  
7 to do what satisfies the maintenance being  
8 right, but are we staffed at where we need  
9 to be to do a minimal job of what's  
10 expected for protection of public health.  
11 If the Council has to be willing to look  
12 that, so am I.

13 MR. THOMPSON: My Administrative  
14 Services Director just did what he was  
15 supposed to do and said, you know there's  
16 some money in the billing account, but it  
17 ain't without end.

18 Let's say we could commit \$200,000  
19 to that effort, then we would have to  
20 design a study around that cost figure,  
21 because I don't have a bazillion dollars to  
22 do that. So we would have to meet as many  
23 needs as we could with the money that we  
24 have. But we are willing to commit that  
25 amount of money. Hopefully, it's less.

1                   MR. PURKAPLE:    Since we are kind  
2 of talking about a path forward here.    I  
3 wonder on the CPI adjusted for both major  
4 and minor sources -- since the finance  
5 committee is going to play a larger role,  
6 it looks like maybe in some of this; would  
7 it make a sense to pull out the automatic  
8 CPI increase, and as part of the financing  
9 committee they come back, and based on what  
10 you see as far as income expenses, and  
11 recommend what the fee ought to be for the  
12 final year?

13                   MS. BOTCHLET-SMITH:   We can't do  
14 that for Title V.    Because that was  
15 patterned after the Clean Air Act, so we  
16 are required to do that CPI the way it is.  
17 And it's also in our statute.

18                   MR. PURKAPLE:    So what about the  
19 minor sources -- we just added that one  
20 right?

21                   MS. BOTCHLET-SMITH:    I guess that  
22 would be up to the Council to determine how  
23 they were going to pass the rule today.

24                   MR. PURKAPLE:    Maybe that's just  
25 because we're kind of on a path forward.

1 Maybe it would make sense for them to pull  
2 that out. But yet part of the finance  
3 committee's review of income and  
4 expenditures is to say, well, whether or  
5 not the minor fee is okay or whether it  
6 needs to be adjusted one way or another.

7 MR. TERRILL: That would go with  
8 my suggestion, the e-mail that I sent you  
9 all several weeks ago, where we really need  
10 to take a longer-term look at a lot of  
11 issues; innovative financing, what's fair  
12 with relative permits, so that would  
13 dovetail with that. Take that out and then  
14 talk with the minor source program, Angie  
15 and her folks, about here is why we really  
16 need to do that, and justify it. I don't  
17 know that we've really had a chance to do  
18 that, because we were having to do so much  
19 so quickly. But that would make some sense  
20 to us to give them an opportunity to sit  
21 down and understand better about what we do  
22 and why we do it. So that would be fine.

23 MR. PURKAPLE: And that makes  
24 sense to me to pull that out for the minor  
25 sources on the CPI increase. But I didn't

1 realize that we had to do it for the major  
2 sources.

3 MR. BRANECKY: Well, it looks  
4 like to me we've got two things we are  
5 working on, or two options that on the  
6 table. But anyway, we started out that  
7 maybe modifying the language of the  
8 existing proposal to make it a one-year  
9 extension.

10 And then we've had Steve's alternate  
11 proposal to just go ahead and pass it, make  
12 it permanent, and connect it to a  
13 third-party audit, and at the same time go  
14 to the Legislature and try to get  
15 appropriate funding.

16 So to me. We are at a point where  
17 we could pass it or go now -- either way  
18 it's going to take some language changes to  
19 this rule. I am a looking for some  
20 direction as to the way the Council would  
21 like to proceed.

22 MS. MYERS: What happens if we  
23 don't fund the 10 vacancies that the Agency  
24 carried for a long time?

25 MR. BRANECKY: What's the dollar

1 per ton reduction; is that what you're  
2 saying?

3 MS. MYERS: Yes. Yes.

4 MS. BOTCHLET-SMITH: I don't want  
5 you all to take that -- my comment, kind of  
6 offhand comment by stating that we had 10  
7 vacancies and say that was 50,000. Because  
8 confirmed we've had 10 vacancies, because  
9 that's the number that we literally pulled  
10 out as an example.

11 While we may have 10 vacancies at  
12 any given time, that does not mean we have  
13 10 vacancies the entire year. We currently  
14 have four of those vacancies announced with  
15 every and 10 of filling those when we  
16 conduct interviews next week. So for us to  
17 just offhand say well we just won't fill  
18 those 10 vacancies that will keep us in the  
19 bind that we're in right now, in  
20 overloading our employees, meeting our  
21 commitments to EPA, and completing the  
22 inspections that are on our target list.

23 MR. TERRILL: What that will also  
24 do is -- I just can't in good conscience  
25 except anything new from EPA until we get

1 this worked out. If that has to be a year  
2 or two years, whatever it takes, but I just  
3 can't do that. Because I'm not going to  
4 take a commitment of new requirements from  
5 them without money and without knowing for  
6 sure that we've got the staff to do it.

7 I can't keep enforcement and  
8 compliance staff now, because they can go  
9 make \$40,000 more somewhere else, plus we  
10 burn them out. And I'm not going to add  
11 more to them by accepting any more work.  
12 So we can do that, but I'm just telling  
13 you, that's what I'm going to have to do.  
14 And maybe that doesn't make any difference  
15 to you, but I think it will eventually when  
16 some of these folks are having to deal with  
17 the EPA or whoever. Because we just can't  
18 take any more work on without knowing for  
19 sure what our funding stream is going to  
20 be.

21 DR. LYNCH: Personally, I'd be at  
22 federal level versus starting to go down  
23 that path. We accept from Eddie or DEQ, in  
24 general, how many people they need to run  
25 the program than to say, no you need five

1 less, or 10 less, or four of these, and  
2 three of those, I think that's getting to  
3 nitpicking a little bit. I'd be reluctant  
4 to get into it.

5 MR. PURKAPLE: I certainly don't  
6 understand the politics and I don't even  
7 pretend to. But it sounds like if we pass  
8 this as it is, maybe pull out the CPI  
9 adjustment for minor sources. Then I can  
10 see where that might give more leverage, in  
11 some respects to help force the issue with  
12 the Legislature regarding the mobile  
13 sources. In the event of the -- I guess  
14 it's fairly certain that we're going to go  
15 non-attainment; isn't it?

16 MR. TERRILL: It's hard to say,  
17 what EPA's going to do relative to the  
18 standard, but another piece of this that we  
19 have not talked about that goes directly to  
20 mobile sources is the climate change. And  
21 there's been a big sling at the federal  
22 level relative to climate change. In fact,  
23 in the presidential elections, even on the  
24 Republican side of the two front runners --  
25 there's McCain and Romney, have committed

1 to grant California's labor. And to make  
2 that kind of statement, it says the EPA in  
3 its administrative process is committed to  
4 doing something with climate change and  
5 mobile sources are huge part of that. And  
6 one of the presentations that EPA did was  
7 at the CAAC meeting was how they would deal  
8 with the requirement that they deal with  
9 climate change, under the existing Clean  
10 Air Act. And if you think without problems  
11 now, let them try to deal with that under  
12 the Clean Air Act, it won't work. But EPA,  
13 in May, they are seriously thinking about  
14 going down that route. It's another hook  
15 in my opinion for the mobile sources. If  
16 we're going to have to deal with climate  
17 change on a state level because of EPA  
18 mandate or a federal mandate, then we have  
19 to have a way to pay for it. Supposedly,  
20 there was a 10 billion dollar commitment  
21 that EPA was going to get that we were  
22 coming apart of. But in the presidential  
23 budget, there wasn't any 10 billion dollar.  
24 That came out yesterday, there was no 10  
25 billion dollars. There was a continuation

1 of the recommended cuts to our 105 and to  
2 our PM 2.5 grant that he had last year.  
3 So, there is no money out there to pay for  
4 climate change. Yet, EPA is moving down  
5 this route to do something with it. So  
6 that's another hook we need to be looking  
7 at to fund, because I don't have any money.  
8 And I don't think you all want to pay for  
9 it. So that's another hook to have for  
10 that.

11 MR. PURKAPLE: So, what I'm  
12 hearing is if we adopt this as presented,  
13 may be pulling at the CPI adjustment for  
14 minor sources. Then they'll also be this  
15 third-party audit that we have agreed to  
16 have done with the input from the finance  
17 committee about what that exactly like to  
18 see, and it sounds like the finance  
19 committee is going to play a stronger role  
20 year to year, in terms of fee increases  
21 that we would at least talk about or  
22 discuss, because it could be adjusted up or  
23 down.

24 MR. BRANECKY: I would hope that  
25 the finance committee would have an equal

1 part determining year-to-year. What that  
2 number is going to be, because it might not  
3 necessarily be 32.30 or whatever it is. It  
4 could be less and I think we would like to  
5 have a input in what that final number is  
6 going to be every year.

7 MR. TERRILL: I think we'll  
8 commit to doing that short-term. But I  
9 think we need to see how this is going to  
10 work. Because I'll go back to what I said,  
11 I have no problem with you all seeing how  
12 your money is spent. But what I do have a  
13 problem is the Council trying to make  
14 policy on how we do our business. I don't  
15 think you all want to be involved in that.  
16 I trust that you don't want me involved in  
17 that. Because that brings exposure from a  
18 lot of other sources that you may or may  
19 not have liability protection from. There  
20 is a lot of issues that we need to think  
21 about. Short-term, I agree with that. I  
22 think we need to get through this crisis  
23 relative to funding. But long-term, I  
24 don't think that you want to be providing  
25 any of information, other than here's how

1 the money is being spent. And here's our  
2 justification for it.

3           On the Council can bring anything  
4 they want on their own. You know, you can  
5 bring it up yourself. So it's not like  
6 that if we make this decision that this is  
7 going to be our Title V fee for the next 10  
8 years. The next year or year after, if you  
9 don't like what -- if we don't do what we  
10 say. We committed to do, you can say you  
11 didn't do what you said, we want to drop it  
12 back to what it originally was. And you  
13 can bring that up on your own. You don't  
14 need us to make that recommendation that  
15 your power and your oversight authorities  
16 for us to do what was say we're going to  
17 and there's nothing wrong with exercising  
18 that. If I don't do what I say I am going  
19 to do. There ought to be a penalty for it.  
20 And that's what your responsibility is is  
21 to hold me to that. Only that would be  
22 really stupid of me to not do what I Sam  
23 wanted to. So there is a lot of power that  
24 the Council has here to ask us or force us  
25 to revisit this issue. Just because we

1 don't want to do it does not mean that you  
2 can't say, that's the right thing to do.  
3 And we're going to do it. That's your  
4 responsibility in your power.

5 MR. BRANECKY: All right.

6 MR. PURKAPLE: I move that we  
7 adopt what staff has proposed with the  
8 exception that we remove the automatic CPI  
9 adjusted portion of this for minor  
10 facilities with the understanding that this  
11 third-party audit is conducted this next  
12 year with input the from the finance  
13 committee. Plus, we need to have the date  
14 associated with when the fee increase takes  
15 effect.

16 MR. BRANECKY: 2008 annual  
17 operating fee?

18 MR. PURKAPLE: Yes.

19 MR. BRANECKY: At that point  
20 that's where you need it to be.

21 MS. BOTCHLET-SMITH: In 2008.  
22 That's the year it's billed.

23 MR. PURKAPLE: Well, beginning  
24 2008. Similar to what you get down here,  
25 January 1, 2008.

1                   MR. BRANECKY:    We'll need to add  
2 something about pursuing funding for mobile  
3 sources.

4                   MR. PURKAPLE:    Is somebody taking  
5 notes?   And that the State Agency work in a  
6 sense of urgency to pursue mobile source  
7 funding.

8                   MR. PAQUE:     I think David had a  
9 resolution that we did a few years ago.

10                  MS. BOTCHLET-SMITH:    I think you  
11 need to restate your motion.

12                  MS. MYERS:     Maybe we need to  
13 message the language before we do a motion.

14                  MR. BRANECKY:    Do you want to  
15 withdraw your motion until we get some  
16 legal opinions?

17                  MR. PURKAPLE:    It sounds like it  
18 needs to be withdrawn.

19                  MR. BRANECKY:    Okay.   And then  
20 the same thing down here beginning January  
21 1, 2008.

22                  MS. MYERS:     One time Eddie had  
23 talked about, if that number is too high  
24 then he wouldn't bill as much as that.   Do  
25 we need to put language in there that it

1 shall be no more than 32.30.

2 MR. BRANECKY: Well, what I did  
3 was I had scribbled down some wording --  
4 this should be probably January  
5 (indicating).

6 MR. PAQUE: I don't think we can  
7 do a proactive date, though. We can't date  
8 the past.

9 MS. MYERS: I thought he wanted  
10 January of 2009.

11 MR. TERRILL: Sharon, I think the  
12 discounted rate is going to get at that.  
13 It kind of goes back to what I said before,  
14 if I don't do what I say I'm going to do,  
15 you guys have got -- I really think it gets  
16 at what we're going to do here.

17 MR. BRANECKY: I'd like a little  
18 more direct language. You've got the word  
19 "may" here I'd like to put "shall". Not  
20 that it -- it's going to happen. If you  
21 get money it's going to happen. There's a  
22 lot of discretion there and it would make  
23 me feel more comfortable if --

24 MR. TERRILL: Okay, let me ask  
25 you this then. David brought this up

1 before, what happens if the Legislature  
2 this year gives a 5 percent  
3 across-the-board pay increase for state  
4 employees and they give us the money to  
5 fund it, do we have to take that money and  
6 lower your Title V fees? Because that's  
7 not what that's to pay for. That's to pay  
8 for an ongoing increase for us, that  
9 doesn't have anything to do a Title V.  
10 It's got to do with Legislature gave this  
11 money to fund our employees. So if you put  
12 "shall" in there, does that mean I've got  
13 to use that money to lower this Title V  
14 fee? Because it's the same point.

15 MS. BOTCHLET-SMITH: And that  
16 becomes even more critical, David, if it's  
17 things that they mandate that we didn't  
18 even factor in to our demonstration for an  
19 increase fee.

20 MR. HAUGHT: But this gives you  
21 the ultimate control, because it says the  
22 department determines that it's excess  
23 money. So it doesn't just say if it is  
24 anything that was above what was budgeted  
25 or approved, it says the department

1 determines that other revenues have  
2 increased sufficiently and to adequately  
3 fund. I mean, there's a lot of words in  
4 there and I don't really see where that is  
5 a --

6 MS. MYERS: If you're raising the  
7 fees right now to pay for salary increases,  
8 why wouldn't you discount the fees?

9 MS. BOTCHLET-SMITH: Because  
10 these would be salary increases that come  
11 in future years mandated by the Legislature  
12 that we didn't account for when we did this  
13 and it would be new expenses. If the  
14 Legislature mandated it and then said we're  
15 going to earmark this money we're giving  
16 you to cover that expense, it's kind of a  
17 wash. But it's what we go up and what they  
18 give us, but we can't double count it by  
19 saying well, we have a 5 percent increase,  
20 we got this money, and we are going to use  
21 it to offset this, but it looks like extra  
22 money so we're going to take it off again.

23 David Dyke might be able to give you  
24 a better explanation. David, do you have  
25 anything to add?

1                   MR. DYKE:    No.    I don't.    I think  
2    it reads just fine.

3                   MS. BOTCHLET-SMITH:    Regarding  
4    the legislative situation and mandate.

5                   MR. DYKE:    Well, you made the  
6    point that I brought up, and that is if the  
7    Title V fee adjustment is tied to GR, we've  
8    got to account for those new mandates, like  
9    the 5 percent increase, it would be a new  
10   cost that we would have to consider.

11                  DR. LYNCH:    Matt, when can we  
12   reopen this again?

13                  MR. PAQUE:    You can open it  
14   following July 1.

15                  DR. LYNCH:    This year?

16                  MR. PAQUE:    Yes.

17                  MR. TERRILL:   I would kind of  
18   like -- so we don't do something  
19   unintended, I would kind of like to not  
20   change this much more than it already is,  
21   so it would give us some time to start  
22   doing these things that we said we would  
23   do.   And then you all can open this back up  
24   again on your own.   Because we'll probably  
25   have to do that again before July of next

1 year. I'm just real concerned that we're  
2 going to do something that we hadn't  
3 intended to do.

4 MR. BRANECKY: I think we're all  
5 in agreement that we need some date, here.

6 MS. LODES: Yes.

7 MR. BRANECKY: July 1, 2008,  
8 would that be right? And we are going to  
9 take the CPI out of the minor sources.

10 MS. LODES: Yes. I think there  
11 was a previous one with -- there were two  
12 places where the minor sources were and the  
13 second one still had the CPI in there.

14 MR. BRANECKY: Yeah, we need to  
15 go up.

16 MS. LODES: That one.

17 MR. BRANECKY: Where it talks  
18 about the CPI?

19 MR. PAQUE: Yeah.

20 MS. BOTCHLET-SMITH: Can you do a  
21 strike out on that?

22 MS. LODES: Now you're getting  
23 rid of the discount for minor sources.

24 MR. BRANECKY: Yeah, if you take  
25 this out -- strike it out. You have to

1 strike it out. Put that back in and do a  
2 strikeout.

3 (Discussion between Council and Staff)

4 MR. BRANECKY: Now we have take  
5 this out, invoiced annual -- take the CPI  
6 adjusted out? Correct? And then one more  
7 down here. You just take that last  
8 sentence -- strike that last sentence and  
9 just take the CPI out of minor sources.

10 MS. BOTCHLET-SMITH: David, it  
11 already says "shall", it doesn't say "may".

12 (Discussion changing the word "shall")

13 MR. PURKAPLE: If it comes out a  
14 negative can we increase the fee; if we  
15 have a shortfall during the year?

16 MR. BRANECKY: Not above 32.

17 MS. LODES: Well, it still has  
18 the CPI adjustment that works for Title V.

19 MR. BRANECKY: Go back up to  
20 minor sources.

21 MR. TERRILL: I think Jim's point  
22 is right. There is enough discretion in  
23 there that -- we don't do this very often,  
24 this stuff on the fly. The old Council  
25 used to do this all the time, and it was

1 kind of like the way of doing business, but  
2 it makes me nervous to do it.

3 MS. LODES: So we have the  
4 ability to adjust that Title V sources up.  
5 But the minor sources cannot be increased  
6 above the 25, correct?

7 MR. BRANECKY: Right. No one in  
8 the major sources can be increased above  
9 32.30.

10 MS. LODES: No, the major sources  
11 had the CPI on it.

12 MR. BRANECKY: Right. They have  
13 CPI.

14 MR. TERRILL: And we'll come back  
15 and talk about minor sources as part of the  
16 overall context in the next few months.

17 MR. BRANECKY: Do we want to go  
18 ahead -- can we at least pass this and then  
19 say, bring it back to our July meeting just  
20 for review, or do we want to do that?

21 MR. TERRILL: I'll just commit to  
22 do it. Why would I not do that?

23 (Discussion)

24 MR. PAQUE: Can we scroll back up  
25 to look at the major sources again?

1                   MR. BRANECKY:   How do we make  
2 this motion?   Can we make a motion on the  
3 screen?

4                   MR. PAQUE:    I think that's fine.  
5 Either way, because we'll have a record of  
6 it.

7                   MR. BRANECKY:   I'll just hand  
8 this out and let's look at it.

9                               (Multiple Discussion)

10                  MR. BRANECKY:   Okay, we made some  
11 changes.   Are there any comments from the  
12 public on the changes that we've made?

13                               (Discussion)

14                  MR. BRANECKY:   What we're  
15 considering now, is strictly 5.   The annual  
16 operating fee, we will consider under a  
17 separate motion the changes to Subchapter 7  
18 and 8, the permit application fees.   So  
19 we've just got this in front of us right  
20 now.

21                  MR. PURKAPLE:   I move that we  
22 send on to the Environment Quality Board,  
23 the language from Subchapter 5, as modified  
24 today, and that we conduct a detailed audit  
25 with guidance from the finance committee

1 during this next year.

2 MR. THOMPSON: I think maybe what  
3 you want to say is based on the Agency's  
4 commitment to fund an audit in cooperation  
5 with the finance committee and the Council.  
6 That may be a better way to do it.

7 MR. TERRILL: We may want to  
8 expand it out, if we can get some  
9 additional monies to take a broader look at  
10 it.

11 MR. PURKAPLE: And I like that  
12 language, it sounds great to me.

13 MR. BRANECKY: Okay. Anything  
14 else? We have a motion, does everybody  
15 understand the motion?

16 DR. LYNCH: I'll second.

17 MR. BRANECKY: Myrna.

18 MS. BRUCE: Mr. Haught.

19 MR. HAUGHT: Yes.

20 MS. BRUCE: MS. Lodes.

21 MR. LODES: Yes.

22 MS. BRUCE: Mr. Martin.

23 MR. MARTIN: Yes.

24 MS. BRUCE: Dr. Lynch.

25 DR. LYNCH: Yes.

1 MS. BRUCE: Mr. Treeman.

2 MR. TREEMAN: Yes.

3 MS. BRUCE: MS. Myers.

4 MS. MYERS: With great  
5 reservation, yes.

6 MS. BRUCE: Mr. Purkaple.

7 MR. PURKAPLE: Yes.

8 MS. BRUCE: Mr. Branecky.

9 MR. BRANECKY: Yes.

10 MS. BRUCE: Motion passed.

11 MR. BRANECKY: All right. I  
12 handed out a resolution. I can read that,  
13 if you would like. Is that what I need to  
14 do?

15 "Resolution of the Oklahoma Air  
16 Quality Council.

17 Whereas, it is the purpose of the  
18 Oklahoma Clean Air Act to provide the means  
19 to achieve and maintain atmospheric purity  
20 necessary for the protection and enjoyment  
21 of human, plant or animal life and property  
22 in this state consistent with and limited  
23 by generally accepted social standards and  
24 requirements, desired employment and  
25 industrial development, area conditions,

1 and the availability of economic and  
2 infeasible controls; and

3           Whereas, mobile sources are a source  
4 of air pollution in Oklahoma, and  
5 contribute to the high levels of pollution  
6 in the Oklahoma City, Tulsa, and Lawton  
7 metropolitan areas; and

8           Whereas, the Oklahoma Department of  
9 Environmental Quality, Air Quality Division  
10 expends resources to deal with issues  
11 resulting from mobile sources, including  
12 cost of modeling and monitoring to  
13 demonstrate the contribution of mobile  
14 sources to air pollution in Oklahoma, in  
15 developing and preparing programs and  
16 guidance to achieve and maintain compliance  
17 with requirements of the Federal Clean Air  
18 Act; and

19           Whereas, a portion of the cost  
20 incurred by the Department of Environmental  
21 Quality, Air Quality Division to deal with  
22 issues resulting from mobile sources are  
23 currently borne by permit fees on  
24 stationary sources; and

25           Whereas, it is the duty of the Air

1 Quality Council to make recommendations to  
2 the Environmental Quality Board and the  
3 Oklahoma Department of Environmental  
4 Quality regarding programs for the  
5 prevention and control of air pollution,  
6 and to pass non-binding resolutions  
7 expressing the sense of the Council.

8           Now, therefore, be it resolved that  
9 the Oklahoma Air Quality Council supports  
10 and request the ODEQ to pursue through  
11 legislation the imposition of an annual fee  
12 to be imposed on mobile sources to help  
13 support the Air Quality program in  
14 Oklahoma."

15           MR. PAQUE: David, I think I have  
16 one suggestion. When we file the fee that  
17 was just recommended to the Board, if it  
18 passes the Board, then it will be filed  
19 with the Speaker of the House, the Senate  
20 Pro Tem, and sent on to the Governor. I  
21 was thinking that maybe you could add a  
22 line to this resolution. or direct that  
23 this resolution be attached to those  
24 rulemaking documents along with the fee  
25 that was passed -- recommended to the

1 Board.

2 MR. BRANECKY: So it will be  
3 carried on to the top.

4 MR. PAQUE: Yeah, some type of  
5 language.

6 MR. BRANECKY: So it will  
7 actually be part of it.

8 MR. PAQUE: Uh-huh.

9 MR. BRANECKY: Well, how do I do  
10 that? Where do I put that? The last  
11 paragraph?

12 MR. PAQUE: You can just add a  
13 last paragraph that says -- well, I think  
14 you could just direct us to do that, we'll  
15 just file it along with that. When you  
16 pass the resolution just direct the  
17 Department to make this resolution part of  
18 that rulemaking record.

19 MR. BRANECKY: Okay. That's a  
20 good idea.

21 MR. THOMPSON: David, can I  
22 recommend some language in the second  
23 paragraph, where it says whereas, mobile  
24 sources, strike "are sources" to "mobile  
25 sources, based on current data entry,

1 contribute 50 percent of the air pollution  
2 in Oklahoma, including Oklahoma City, Tulsa  
3 and Lawton metropolitan areas". I think  
4 that's more --

5 MR. BRANECKY: More broad.

6 MR. THOMPSON: Well, I think it  
7 has greater impact than saying 50 percent,  
8 saying greater impact than saying a whole  
9 bunch.

10 MR. HAUGHT: Do you think that if  
11 we keep those three metropolitan areas  
12 listed that any efforts along mobile  
13 sources would be just limited to those  
14 three areas; I mean, we would still like  
15 to be a statewide --

16 MR. THOMPSON: I might include  
17 Ponca City, I might include Tar Creek.

18 MR. TERRILL: If they drop the  
19 standard anymore we've got to monitor --

20 MR. HAUGHT: Throughout the  
21 state?

22 MR. THOMPSON: And then  
23 potentially throughout the state. I think  
24 that's a true statement depending on  
25 whether they lower the standards, you could

1 have it almost statewide.

2                   So I would mention those  
3 specifically, but then I would also broaden  
4 it.

5                   MR. BRANECKY:    Okay.    I've put --  
6 this is the second paragraph, "Whereas,  
7 based on current estimates mobile sources  
8 contribute approximately 50 percent of the  
9 air pollution in Oklahoma."

10                   Is that true?

11                   MR. THOMPSON:    It's 48 or 49  
12 percent, that the legislative rounding.

13                   MR. BRANECKY:    Okay.    Whereas,  
14 based on current estimates mobile sources  
15 contribute approximately 50 percent of the  
16 air pollution in Oklahoma.    Then what?

17                   MR. THOMPSON:    I guess that's it.

18                   MR. BRANECKY:    Are we leaving the  
19 rest of it the same?

20                   DR. LYNCH:     Just add statewide  
21 after Lawton.

22                   MR. THOMPSON:    You may want to --  
23 I don't know whether you can do this.  
24 Everybody has to see the words, you may  
25 want to put the threat in there of changing

1 the standard that would cost this -- it  
2 would be helpful I think to be able and go  
3 over to the Legislature and say the  
4 standard is changing, and all this stuff --  
5 that's what we're beginning to tell them,  
6 all this stuff you've heard about we are  
7 almost in nonattainment. And when they  
8 change that standard, we will be in  
9 nonattainment.

10 So in order to further the needs for  
11 the mobile sources to pin this on the  
12 change in the standards that causes this  
13 anxiety or this emergency, I think might be  
14 worthwhile. Does that make sense to you?

15 MR. HAUGHT: In a event, I hate  
16 for it to wait to happen and then we can't,  
17 if that's the -- I don't know if they're  
18 going to do anything proactively before the  
19 event occurs, but we would like for this  
20 effort to start now.

21 MR. THOMPSON: That's a good  
22 point.

23 MR. HAUGHT: So if they wait  
24 until after that and we get into  
25 nonattainment then that will take a while

1 for all those things to come in to place  
2 and for all of those things to get  
3 identified and put on a list.

4 MR. THOMPSON: And I will tell  
5 you that when they lower the standard, the  
6 proposed standard of .75 -- .075, we are  
7 going to start saying to the Legislature  
8 this is what they proposed, we believe it  
9 will stick and you're going to have to  
10 start dealing with these issues.

11 MR. HAUGHT: That's more impetus.  
12 I'm ready for them to do the mobile source  
13 now, not just pending on that.

14 MR. THOMPSON: Okay. Whatever  
15 you think should be in the motion.

16 MR. HAUGHT: This is just more  
17 fuel for the fire, so if we can add  
18 something then great. But I don't want to  
19 be hinged on the what if in the future.

20 MR. TERRILL: The statewide  
21 language up there that Jim had is what they  
22 want to do but not add the -- it should not  
23 be conditional nonattainment, that will  
24 kind of speak for itself.

25 MR. HAUGHT: And maybe instead of

1 statewide, if it's not everywhere just put  
2 throughout the state. That kind of implies  
3 it's everywhere. Maybe we are out all over  
4 the state.

5 MR. TERRILL: The fee payers are  
6 all over the state. They are not just in  
7 the metropolitan area. So this really gets  
8 it that.

9 MR. BRANECKY: Let me read this  
10 and see if this is okay.

11 "Whereas, based on current  
12 estimates, mobile sources contribute a  
13 probably 50 percent of the air pollution in  
14 Oklahoma, and contribute to high levels of  
15 pollution throughout Oklahoma, and  
16 particularly Oklahoma City, Tulsa, and  
17 Lawton metropolitan areas."

18 Is that okay? All right.

19 I'll make a motion. I can't.

20 I want to yield control of the  
21 meeting to the Vice-Chair.

22 MR. TREEMAN: Yeah. I'll  
23 entertain a motion.

24 MR. BRANECKY: I make a motion  
25 that we adopt the resolution of the Air

1 Quality Council as amended today, and we  
2 request that the DEQ attach it to the  
3 rulemaking that we just passed on  
4 Subchapter 5.

5 MR. TREEMAN: We have a motion,  
6 do we have a second?

7 MR. HAUGHT: I'll second that.

8 MR. TREEMAN: Myrna, will you  
9 call the roll please?

10 MS. BRUCE: Mr. Haught.

11 MR. HAUGHT: Yes.

12 MS. BRUCE: MS. Lodes.

13 MR. LODES: Yes.

14 MS. BRUCE: Mr. Martin.

15 MR. MARTIN: Yes.

16 MS. BRUCE: Dr. Lynch.

17 DR. LYNCH: Yes.

18 MS. BRUCE: Mr. Treeman.

19 MR. TREEMAN: Yes.

20 MS. BRUCE: MS. Myers.

21 MS. MYERS: Yes.

22 MS. BRUCE: Mr. Purkaple.

23 MR. PURKAPLE: Yes.

24 MS. BRUCE: Mr. Branecky.

25 MR. BRANECKY: Yes.

1 MS. BRUCE: Motion passed.

2 MR. TREEMAN: Now, I yield it  
3 back to David.

4 MR. BRANECKY: Okay, we have one  
5 more item, and that's the amendments to  
6 Subchapters 7 and 8, the increase in permit  
7 application fees. Any discussion on that?

8 MR. PURKAPLE: What was the  
9 staffs recommendation, I forgot.

10 MR. BRANECKY: Doubling the  
11 application fees.

12 MR. PURKABLE: I move that we  
13 carry forward to the October meeting --

14 MR. PAQUE: The question was,  
15 what was the staffs recommendation of the  
16 presentation.

17 (Discussion)

18 MR. PURKAPLE: Then I move that  
19 we vote no on staffs recommendation on  
20 Subchapter 7 and 8.

21 MR. TREEMAN: I second it.

22 (Further Discussion)

23 MR. BRANECKY: I have a motion  
24 and a second. And the motion was to vote  
25 no.

1                   So in order to agree with that, you  
2 have to vote yes to adopt the motion,  
3 right?

4                   And if you vote yes, then it dies;  
5 is that right?

6                   MR. PAQUE:    Yes, that's right.

7                   MR. BRANECKY:   Myrna.

8                   MS. BRUCE:     Mr. Haught.

9                   MR. HAUGHT:     Yes.

10                  MS. BRUCE:     MS. Lodes.

11                  MR. LODES:     Yes.

12                  MS. BRUCE:     Mr. Martin.

13                  MR. MARTIN:    Yes.

14                  MS. BRUCE:     Dr. Lynch.

15                  DR. LYNCH:     Yes.

16                  MS. BRUCE:     Mr. Treeman.

17                  MR. TREEMAN:   Yes.

18                  MS. BRUCE:     MS. Myers.

19                  MS. MYERS:     Yes.

20                  MS. BRUCE:     Mr. Purkapple.

21                  MR. PURKAPLE:   Yes.

22                  MS. BRUCE:     Mr. Branecky.

23                  MR. BRANECKY:   Yes.

24                  MS. BRUCE:     Motion passed.

25                  MS. BOTCHLET-SMITH:   That

1 concludes the hearing portion of today's  
2 meeting.

3

4 (Meeting Concluded)

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