

MINUTES
AIR QUALITY COUNCIL
October 17, 2007
 DEQ Multipurpose Room
 707 North Robinson
 Oklahoma City, Oklahoma

For EQB November 15, 2007
 AQC **Approved**
 January 18, 2008

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. October 17, 2007 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 November 30, 2006. 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
 Laura Worthen Lodes
 Bob Lynch
 Jerry Purkaple
 Rick Treeman

DEQ STAFF PRESENT

Eddie Terrill
 Beverly Botchlet-Smith
 Scott Thomas
 Cheryl Bradley
 Joyce Sheedy
 Max Price

DEQ STAFF PRESENT

Nancy Marshment
 Matt Paque
 Dawson Lasseter
 Myrna Bruce

MEMBERS ABSENT

Jim Haught
 Gary Martin
 Don Smith

OTHERS PRESENT

Christy Myers, Court Reporter
 Steve Mason, EQBoard

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

Approval of Minutes Mr. Branecky called for approval of the July 18, 2007 Minutes. Mr. Purkaple made motion for approval and Ms. Lodes made the second. Roll call as follows with motion passing.

Bob Lynch	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	David Branecky	Yes

Meeting Schedule for Calendar Year 2008 Staff proposed 2008 meetings dates of January 16; April 16; July 16; and October 15. Council suggested that the January meeting be in Oklahoma City, April in Tulsa, and October in Broken Bow.

Bob Lynch	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	David Branecky	Yes

OAC 252:100 Appendix Q, Incorporation by Reference [REVOKED]

OAC 252:100 Appendix Q, Incorporation by Reference [NEW]

Mr. Max Price pointed out the 40 CFR rules which would incorporate by reference the latest changes to federal regulations in the proposed Appendix Q. He explained that staff had realized that the term NA which means Non-Applicable could be misconstrued to be a subpart number; therefore, instead of using NA, it will be written out as Non-Applicable. Ms. Myers made motion that these rules be incorporated by reference as proposed. Mr. Treeman made the second.

Bob Lynch	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	David Branecky	Yes

OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]

Mr. Max Price stated that staff requested continuation of this hearing to modify excess emission reporting requirements to Council’s January meeting. Mr. Myers made the motion and Ms. Lodes made the second.

Bob Lynch	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	David Branecky	Yes

OAC 252:100-17 Incinerators [AMENDED]

Ms. Cheryl Bradley explained that staff requested that Council table the rule proposal until the Environmental Protection Agency has reached a decision on its reconsideration of the amended federal regulations. Mr. Purkaple made motion to table and Dr. Lynch made the second.

	Yes	Sharon Myers	Yes
Bob Lynch	Yes	Jerry Purkaple	Yes
Laura Worthen	Yes	David Branecky	Yes
Rick Treeman			

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

Ms. Nancy Marshment explained that staff requested continuation of this rulemaking proposal to increase fees for minor facilities and for part 70 sources. Mr. Terrill and Ms. Botchlet-Smith fielded questions. Mr. Purkaple made motion to continue and Ms. Myers made the second.

Bob Lynch	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	David Branecky	Yes

Subchapter 19 Control of Emission of Particulate Matter

Mr. Dawson Lasseter, Engineer Manager, continued with his presentation from the July meeting providing additional information which included options for Council consideration. No action by Council was necessary.

Division Director’s Report – Mr. Eddie Terrill suggested some possible informational sessions on the afternoons of Council’s regularly scheduled meetings. He provided an update on the ozone season; Regional Planning Organizations; Climate Registry; and the Environmental Federation of Oklahoma meeting.

New Business -- None

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

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

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING

ITEM NUMBERS 1-4

HELD ON OCTOBER 17, 2007, AT 9:00 A.M.

IN OKLAHOMA CITY, OKLAHOMA

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MEMBERS OF THE COUNCIL

- DAVID BRANECKY - CHAIRMAN
- RICK TREEMAN - VICE-CHAIRMAN
- JERRY PURKAPLE - MEMBER
- JIM HAUGHT - MEMBER - ABSENT
- SHARON MYERS - MEMBER
- GARY MARTIN - MEMBER - ABSENT
- DR. ROBERT LYNCH - MEMBER
- LAURA LODES - MEMBER
- DON SMITH - MEMBER - ABSENT

STAFF PRESENT

- MYRNA BRUCE - SECRETARY
- EDDIE TERRILL - DIVISION DIRECTOR
- BEVERLY BOTCHLET-SMITH - AQD

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MR. BRANECKY: Good morning,
everyone. Let's go ahead and get started.
just a reminder before we begin the
meeting, if you have a cell phone, would
you please put that on mute or turn it off,
that would be helpful. And with that as
soon as Myrna gets back to her seat she
will call roll.

MS. BRUCE: Good morning.
Robert Lynch.

DR. LYNCH: Here.

MS. BRUCE: Laura Lodes.

MS. LODES: Here.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Here.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Absent is Jim Haught,

1 Gary Martin, Don Smith. We do have a
2 quorum.

3 MR. BRANECKY: Thank you, Myrna.

4 Next item on the agenda is the
5 Minutes from our July 18th meeting. Do we
6 have any discussion on the Minutes? If
7 not, I will entertain a motion for
8 approval.

9 MR. PURKAPLE: So moved.

10 MS. LODES: Second.

11 MR. BRANECKY: I have a motion
12 and a second. Myrna, call roll please.

13 MS. BRUCE: Robert Lynch.

14 DR. LYNCH: Yes.

15 MS. BRUCE: Laura Lodes.

16 MS. LODES: Yes.

17 MS. BRUCE: Rick Treeman.

18 MR. TREEMAN: Yes.

19 MS. BRUCE: Sharon Myers.

20 MS. MYERS: Yes.

21 MS. BRUCE: Jerry Purkaple.

22 MR. PURKAPLE: Yes.

23 MS. BRUCE: David Branecky.

24 MR. BRANECKY: Yes.

25 MS. BRUCE: Motion passed.

1 MR. BRANECKY: All right. The
2 next item is the meeting schedule for next
3 year. Staff has suggested -- given us four
4 suggestions for dates and locations. I'd
5 like to open that up to discussion.

6 MS. MYERS: I'd like to see the
7 meetings in Broken Bow again.

8 MR. BRANECKY: Repeat that.

9 MS. MYERS: I would like to see
10 the October meeting in Broken Bow.

11 MR. BRANECKY: Okay. Any other
12 discussion? That it?

13 MR. TREEMAN: Second that.

14 MR. BRANECKY: Okay. We don't
15 have a motion yet.

16 The ones we have are January 16th in
17 Oklahoma City, April 16th in Tulsa, July
18 16th in Oklahoma City and then October 15,
19 which was suggested in Broken Bow. I kind
20 of liked Ponca City this year. Do we want
21 to consider going back to Ponca City? I
22 guess I should ask were we invited back?

23 MR. PURKAPLE: Any time, I'm
24 sure.

25 MR. BRANECKY: That was just a

1 thought.

2 MS. MYERS: I like that as well.

3 MR. BRANECKY: Okay. So I guess
4 someone could make a motion. I'll
5 entertain a motion.

6 MS. MYERS: I make a motion that
7 we have meetings in Oklahoma City, Tulsa,
8 Ponca City and Broken Bow.

9 MR. BRANECKY: Which meetings
10 where? I mean what time -- what date?

11 MS. MYERS: Oklahoma City,
12 January 16th; Tulsa, April 16th; Ponca
13 City, July 16th; Broken Bow, October 15th.

14 MR. BRANECKY: Okay. That's a
15 possibility.

16 MR. PURKAPLE: Guess I think it
17 is.

18 MR. BRANECKY: Okay. All right.
19 I have a motion.

20 MR. TREEMAN: I'll second it.

21 MR. BRANECKY: I have a motion
22 and a second. Myrna.

23 MS. BRUCE: Robert Lynch.

24 DR. LYNCH: Yes.

25 MS. BRUCE: Laura Lodes.

1 MS. LODER: Yes.

2 MS. BRUCE: Rick Treeman.

3 MR. TREEMAN: Yes.

4 MS. BRUCE: Sharon Myers.

5 MS. MYERS: Yes.

6 MS. BRUCE: Jerry Purkaple.

7 MR. PURKAPLE: Yes.

8 MS. BRUCE: David Branecky.

9 MR. BRANECKY: Yes.

10 MS. BRUCE: Motion passed.

11 (End of Items 1-4)

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBER 5A

HELD ON OCTOBER 17, 2007, AT 9:00 A.M.

IN OKLAHOMA CITY, OKLAHOMA

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MYERS REPORTING SERVICE
(405) 721-2882

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MEMBERS OF THE COUNCIL

- DAVID BRANECKY - CHAIRMAN
- RICK TREEMAN - VICE-CHAIRMAN
- JERRY PURKAPLE - MEMBER
- JIM HAUGHT - MEMBER - ABSENT
- SHARON MYERS - MEMBER
- GARY MARTIN - MEMBER - ABSENT
- DR. ROBERT LYNCH - MEMBER
- LAURA LODES - MEMBER
- DON SMITH - MEMBER - ABSENT

STAFF PRESENT

- MYRNA BRUCE - SECRETARY
- EDDIE TERRILL - DIVISION DIRECTOR
- BEVERLY BOTCHLET-SMITH - AQD

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MR. BRANECKY: All right. With that we'll go into our public hearing portion of the meeting. Beverly.

MS. BOTCHLET-SMITH: Good morning. I am Beverly Botchlet-Smith, Assistant Director of the Air Quality Division. As such, I will serve as the protocol officer for today's hearings.

These hearings will be convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 27A of the Oklahoma Statutes, Section 2-2-201, Sections 2-5-101 through 2-5-118.

Notice of the October 17, 2007, hearings were advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed OAC Title 252 Chapter 100 rules as listed on the Agenda and will be entered into each

1 record along with the Oklahoma Register
2 filing. Notice of Meeting was filed with
3 the Secretary of State on November 30,
4 2006. The Agenda was duly posted 24 hours
5 prior to the meeting at this facility here
6 at DEQ.

7 If you wish to make a statement, it
8 is very important that you complete the
9 form at the registration table, and you
10 will be called upon at the appropriate
11 time.

12 Audience members please come to the
13 podium for your comments. Please remember
14 to state your name prior to those comments.

15 At this time, we will proceed with
16 what's marked as Agenda Item Number 5A on
17 the Hearing Agenda, OAC 252:100.

18 This is Appendix Q, Incorporation by
19 reference, which is proposed to be revoked;
20 and OAC 252:100, Appendix Q, Incorporation
21 by reference, the new version.

22 Mr. Max Price of the staff will be
23 giving the presentation.

24 MR. PRICE: Thank you, Beverly.

25 Mr. Chairman, Members of the

1 Council, ladies and gentlemen. The
2 Department is proposing to revoke the
3 current Chapter 100, Appendix Q,
4 Incorporation by reference, and adopt a new
5 Chapter 100, Appendix Q. These proposals
6 are part of the annual review of Title 40,
7 Code of Federal Regulations Incorporations
8 by Reference.

9 The following 40 CFR rules are being
10 incorporated by reference in the proposed
11 Appendix Q; 40 CFR 63, subpart DDDDDD,
12 National Emission Standards for Hazardous
13 Air Pollutants for Polyvinyl Chloride and
14 Copolymers Productions Area Sources;

15 40 CFR 63, subpart EEEEEEE, National
16 Emissions Standards for Hazardous Air
17 Pollutants for Primary Copper Smelting Area
18 Sources;

19 40 CFR 63, subpart FFFFFFF, National
20 Emission Standards for Hazardous Air
21 Pollutants for Secondary Copper Smelting
22 Area Sources;

23 40 CFR 63, subpart GGGGGG, National
24 Emission Standards for Hazardous Air
25 Pollutants for Primary Nonferrous Metals

1 Area Sources - Zinc, Cadmium, and
2 Beryllium, the last one being incorporated
3 by new rule;

4 And 40 CFR 63, subpart LLLLLL,
5 National Emission Standards for Hazardous
6 Air Pollutants for Acrylic and Modacrylic
7 Fibers Production Area Sources, I have no
8 idea about that word.

9 In addition, the following 40 CFR
10 rules are being unincorporated by reference
11 in the proposed Appendix Q because the
12 federal courts have vacated all or part of
13 the rules:

14 CFR 63, subpart JJJJJ, National
15 Emission Standards for Hazardous Air
16 Pollutants for Brick and Structural Clay
17 Products Manufacturing;

18 40 CFR 63, subpart KKKKK, National
19 emission Standards for Hazardous Air
20 Pollutants for Clay Ceramics Manufacturing;

21 And 40 CFR 63, DDDDD, National
22 Emission Standards for Hazardous Air
23 Pollutants for Industrial, Commercial, and
24 Institutional Boilers and Process Heaters.

25 Notice of the proposed rule changes

1 were published in the Oklahoma Register on
2 September 17th. The notice requested
3 comments from the public and other
4 interested parties. In response, we
5 received two comments from Trinity
6 Consultants. These comments arrived too
7 late to be placed into your Council
8 packets, but they have been made available
9 to the Council and the public, and they
10 will be made a part of the permanent
11 record.

12 At this time, we are proposing no
13 changes to the proposed Appendix Q in
14 response to these comments. However, I
15 want to make one change on the rule, if I
16 may.

17 Under the heading of subpart in the
18 rule, there was some discussion yesterday
19 that NA, which means Non-Applicable, might
20 be misconstrued to be a subpart number. So
21 instead of using NA, we will just write
22 that out, Non-Applicable.

23 Since these proposals are routine
24 housekeeping measures, we ask that the
25 Council vote to send these proposals to the

1 Environmental Quality Board with a
2 recommendation that they be adopted as
3 permanent rules.

4 Thank you.

5 MS. BOTCHLET-SMITH: Do we have
6 questions from the Council? Unfortunately
7 we did not have any forms on the desk for
8 you to sign in if you had questions or
9 comments. So if anyone from the public has
10 a question for Mr. Price or wants to make a
11 comment on this proposed rule, would you
12 please raise your hand so I can recognize
13 you.

14 Seeing no comments from the public,
15 and if there is not anything from the
16 Council, David.

17 MR. BRANECKY: All right. We'll
18 entertain a motion.

19 MS. MYERS: I move that the rules
20 be incorporated by reference as proposed.

21 MR. BRANECKY: With the
22 additional change suggested to that?

23 MS. MYERS: Yes.

24 MR. BRANECKY: Okay. I have a
25 motion. I need a second.

1 MR. TREEMAN: Second.

2 MR. BRANECKY: Motion and a second. Any
3 other discussions? Myrna, call roll
4 please.

5 MS. BRUCE: Robert Lynch.

6 DR. LYNCH: Yes.

7 MS. BRUCE: Laura Lodes.

8 MS. LODES: Yes.

9 MS. BRUCE: Rick Treeman.

10 MR. TREEMAN: Yes.

11 MS. BRUCE: Sharon Myers.

12 MS. MYERS: Yes.

13 MS. BRUCE: Jerry Purkaple.

14 MR. PURKAPLE: Yes.

15 MS. BRUCE: David Branecky.

16 MR. BRANECKY: Yes.

17 MS. BRUCE: Motion passed.

18 (End of Item Number 5A)

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBERS 5B

HELD ON OCTOBER 17, 2007, AT 9:00 A.M.

IN OKLAHOMA CITY, OKLAHOMA

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REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

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MEMBERS OF THE COUNCIL

- DAVID BRANECKY - CHAIRMAN
- RICK TREEMAN - VICE-CHAIRMAN
- JERRY PURKAPLE - MEMBER
- JIM HAUGHT - MEMBER - ABSENT
- SHARON MYERS - MEMBER
- GARY MARTIN - MEMBER - ABSENT
- DR. BOB LYNCH - MEMBER
- LAURA LODES - MEMBER
- DON SMITH - MEMBER - ABSENT

STAFF PRESENT

- MYRNA BRUCE - SECRETARY
- EDDIE TERRILL - DIVISION DIRECTOR
- BEVERLY BOTCHLET-SMITH - AQD

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PROCEEDINGS

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MS. BOTCHLET-SMITH: The next item on the Agenda is Item Number 5B. This is OAC 252:100-9, Excess Emissions Reporting Requirements. And the presentation, again, will be made by Mr. Max Price.

MR. PRICE: Thank you. Mr. Chairman, Members of the Council, ladies and gentlemen. Earlier this year, the Department asked the public for suggestions to improve the current excess emission rule. After careful consideration of all the suggestions, the Department is proposing changes to OAC 252:100-9, Excess Emission Reporting Requirements. Notice of these proposals were published in the Oklahoma Register on September 17th.

In this Notice, we requested public comments concerning this rulemaking. On October 15th, we received comments from EPA Region VI. I have to add that we also received some comments from another consultant firm, that I can't remember off

1 the top of my head, that just arrived
2 yesterday.

3 These comments arrived too late to
4 be placed into your Council packet, but
5 they have been made available to the
6 Council and the public, and they will be
7 made a part of the permanent record. We
8 are currently in the process of reviewing
9 these comments.

10 In addition, we have identified some
11 form and structural inconsistencies with
12 the current draft of the proposed rule.
13 For these reasons, we ask that the Council
14 vote to hold the proposal over until the
15 next Council meeting.

16 Thank you.

17 MS. BOTCHLET-SMITH: Any comments
18 from the Council?

19 MR. TREEMAN: I have a comment.
20 It's on the opacity limit. Basically
21 there's an industry in the state that has
22 some language in their rule that says it
23 has an opacity limit at anytime and it
24 doesn't specify a reference method. So at
25 an instantaneous reading, they could be in

1 violation of this and have to report excess
2 emissions and I just -- I think that needs
3 to be -- I don't know how to address that,
4 but I think that the intent would be to use
5 a reference method, Method 9 or Method 22
6 on determining these opacities and not on
7 an instantaneous one-time reading. And so
8 I just -- somehow or another that's a
9 concern that I have, in the fact that
10 excess emission also means a violation of
11 any opacity limits specified.

12 MR. PURKAPLE: I have a question.
13 In the affirmative defenses sections for
14 both malfunctionals, and startup and
15 shutdowns, it -- it is Item Number 10 on
16 both of those -- that it s up to the
17 facility to --

18 MR. BRANECKY: Jerry, what page
19 are you on?

20 MR. PURKAPLE: I'm sorry. I'm on
21 Page 6 and 7. It's up to the facility to
22 prove by "preponderance of evidence"; and
23 then dropping down to section 10 it's "that
24 during the period of excess emissions,
25 there were no exceedances of relevant

1 ambient air quality standards that could be
2 attributed to the emitting source." I
3 think that language is the same under the
4 affirmative defense for startup and
5 shutdown, as well.

6 I'm wondering what is it that a
7 facility would have to provide that would
8 be considered under the phrase that we have
9 provided "preponderance of evidence" that
10 we haven't exceeded that?

11 That seems pretty ambiguous to me as
12 I look at trying to implement that
13 particular preponderance.

14 MR. PRICE: Well, I would imagine
15 that the -- (in) take it out there and
16 people deal with this a lot more. This is
17 out of our guidelines that we follow that
18 we wrote this. And basically the amount of
19 -- I imagine what we were looking at would
20 be the massive emissions that you actually
21 emitted since you got the NAAQS and the PSD
22 standards here. If you are a small source
23 where the emissions were like 25 or 30
24 pounds, it wouldn't come anywhere close, so
25 that wouldn't be a problem to show that.

1 If, on the other hand, you emitted
2 like 250 tons or something like this then
3 you might have a potential to actually see
4 the PSD increment or NAAQS, then I would
5 imagine we might require you to do some
6 modeling, to show that you were not in
7 violation of those two standards.

8 MR. PURKAPLE: So the obligation
9 would be for the facility to conduct a
10 modeling exercise to demonstrate that we
11 perhaps have not exceeded.

12 MR. PRICE: Yes, sir. The burden
13 of proof is on the facility.

14 MR. BRANECKY: Well, to me the
15 only way you are going to prove that there
16 are no violations of standards is through
17 modeling. So this statement here, you
18 would potentially have to do the modeling
19 every time to show that you didn't violate
20 the standard.

21 MR. PURKAPLE: That's kind of
22 where I was heading with that. It seems
23 like you have no choice, but have to do the
24 modeling every time. If that is the
25 criteria by which the facility can

1 ultimately demonstrate that it had.

2 MR. PRICE: This is one of the
3 problems that we've had with this rule in
4 the past, it's rather subjective in some of
5 the things in the guidelines. Basically,
6 it could stand some rework on that. And we
7 probably need to put in some level --
8 something that we could look at that would
9 be serious, but that hasn't been done yet.
10 But that's still being debated. I don't
11 want to put in a trigger limit for this
12 kind of stuff, but that is still being
13 debated with the EPA, too, because they may
14 not like that.

15 MR. TERRILL: For those of you
16 who were at the EFO meeting last week, you
17 saw a presentation by Don Shandy and by
18 Matt Paque of our staff. This rule is
19 based on the Colorado rule, in fact, it's
20 probably pretty close to verbatim of the
21 Colorado rule, and so this thing has been
22 through quite a bit of scrutiny already.
23 However, there were five different areas
24 that they were not able to resolve, and the
25 discussions that went on for several months

1 in Colorado when they were trying to modify
2 their rules. So one thing we could do, is
3 we could set up a smaller work group and
4 when I say small, I mean small, because
5 otherwise -- I think one of the problems
6 they had in Colorado was there were too
7 many cooks and the product took a long time
8 to bake. So I would prefer that we figure
9 out some way or maybe go back through EFO
10 and have a representative from the major
11 industrial groups but limit it to somewhere
12 between five to eight people to work on
13 this and maybe try to answer some of these
14 questions that they didn't answer, as part
15 of the Colorado rule, and address the other
16 minor things that we think need to be
17 tweaked on this rule and then come back
18 with a recommendation to the Council.

19 MR. BRANECKY: You're going to
20 have to do something between now and the
21 next Council meeting or else we'll just be
22 here in the same spot as we are today. So
23 we'll have to have some progress between
24 now and January. So I suggest that we do
25 form some type of work group with Council,

1 but maybe with a couple of Council Members
2 on that work group, also.

3 MR. TERRILL: One thing we could
4 do is have our initial meeting with
5 everybody -- with anybody that wants to
6 come and then just see what the interest
7 is. And it could be that maybe other
8 obligations would keep this room being
9 filled up, but if it does get filled up
10 then we'll have to figure out someway
11 within that, to elect or somebody to
12 represent the group to come back and fine
13 tune. That way, we don't put anybody on
14 the spot about saying you can come, and you
15 can't, and that sort of thing. Just kind
16 of open it up initially and then pare it
17 down if we have just too many people. But
18 we will have to pare it down if we have a
19 lot off folks because everybody's got an
20 opinion about this and we'll never make any
21 progress to get this done.

22 MS. MYERS: One of the things
23 that has always baffled me about our rule,
24 is what possible good does it do to the
25 regulated community or for DEQ to have

1 immediate reporting requirements for an
2 opacity event that's 21 percent -- it's
3 only six minutes. Or if you have a ten
4 second release from some facility.

5 Max's comment about some kind of
6 trigger point for reporting, and I'm not
7 saying don't report, I'm saying move to a
8 quarterly reporting instead of immediate
9 notice for some of these events that are
10 really non-impact. I think we need to take
11 a look at that.

12 MR. TERRILL: I think anything is
13 pretty much on the table. You've got to
14 remember that whatever we come out of here
15 with will get -- and I'm going to run it by
16 the folks at Region VI and OWECA because
17 this is probably the number one issue, or
18 it's in the top two or three issues of
19 OWECA nationally, and look at what states
20 are doing with these particular rule.

21 They really like the Colorado rule,
22 but there are some things, because of the
23 process that they went through and the time
24 it took, and they finally just said this is
25 the best we can do. We've got a place to

1 start from, that they didn't have, so we
2 may be able to make some progress on some
3 of these other issues.

4 MS. LODES: Okay. There are
5 other states that have reportable
6 quantities and if you're above the
7 reportable quantity, then it's an immediate
8 reporting notification or within 24 hours
9 reporting notification. If you're less
10 than the reportable quantity, then it's
11 just a reportable and you have to report it
12 on emissions inventory and track it on
13 site, but not necessarily turn around and
14 report it within 24 hours to DEQ, and
15 that's kind of a threshold determination.
16 So not everything is getting reported.

17 MR. PURKAPLE: A follow up
18 question to that. You're not referring to
19 EPRA CERCLA, you're talking about a state,
20 aren't you?

21 MS. LODES: Well, they have
22 actually used some of the EPRA CERCLA once
23 for a --

24 MR. PURKAPLE: Not to confuse the
25 fact that those have immediate reporting

1 obligations to the federal agencies.

2 MS. LODES: Correct. But the
3 Texas emission rules have reportable
4 quantities in there. And so if you have an
5 excess emissions event, you can look at
6 those thresholds and they've got -- it's
7 100 pounds of this or -- and you go through
8 and look and see -- you have to do a 24-
9 hour reporting notification or you can just
10 report it on site.

11 MS. MYERS: Opacity is another
12 whole animal that doesn't have a
13 correlation between percent opacity and
14 pounds of dust that may have potentially
15 been emitted. I mean I don't see any
16 environmental benefit for having immediate
17 reporting requirements for it.

18 MR. PURKAPLE: I wasn't at the
19 EFO meeting last week, so if this was
20 already addressed at that meeting, I
21 apologize for that. But, Max, what is the
22 deficiency in the existing excess emissions
23 rule that precipitated a need to revise
24 this?

25 MR. PRICE: Well, there's

1 several. One of them, the way the wording
2 was certain parts of it actually excused
3 the facility from any enforcement action
4 whatsoever, and of course, that's a no-no.
5 The only thing this does, the affirmative
6 defenses provide a shielded (inaudible) far
7 to general and clearly excuse them from any
8 enforcement action, which, of course, is
9 not what it's meant to do. And also we
10 have some trouble with the technical
11 limitation thing that was completely
12 contrary to EPA guidelines and that had to
13 be corrected immediately. So those are the
14 two major things that were of serious
15 concern.

16 MR. TERRILL: We had also
17 committed, when we revised this rule,
18 seven, eight years ago, however long it's
19 been, that we would take a look at the rule
20 again to see if there was some things that
21 we wanted to tweak relative to reporting
22 time and stuff like that. So that's part
23 of our normal time to look at the rule
24 again, anyway. But there are some other
25 things that we wanted to correct. They're

1 looking at this on a national level.

2 MR. BRANECKY: I think whatever
3 you do, you got to do it pretty quick.
4 We've got another meeting scheduled in
5 January and you may have to have more than
6 one meeting with this work group. So
7 probably scheduling it fairly quick would
8 be best.

9 MR. PURKAPLE: Is there a time
10 line by which you want to have it?

11 MR. TERRILL: No. Actually,
12 we've been talking about bringing this rule
13 for two or three years and I really don't
14 want to drag it out for more than a couple
15 of more meetings, if we can keep from it.
16 But we've got mercury coming up, we're
17 going to have to figure -- deal with
18 regional haze, the final part of that SIP.
19 We've got a lot of things going on. And
20 with the holidays coming, it could be that
21 we're not going to be able to come up with
22 a final product by January. But I think we
23 can go ahead and advertise in the next day
24 or two, a proposed date to have the initial
25 meeting to just see what the interest is

1 and then kind of go from there.

2 MR. BRANECKY: You're going to
3 post that on the website?

4 MR. TERRILL: Yeah. I think that
5 would be easier than us trying to -- we'll
6 need to get together and find out what the
7 availability of our staff is. I can pretty
8 well promise you though, that we're going
9 to have to do the initial one before
10 Thanksgiving, because if we wait any past
11 that, it's going to be in the holidays and
12 we'll never get it done.

13 MS. BOTCHLET-SMITH: We do now
14 have comment forms on the table and I
15 believe they were passed around to anyone
16 who might have wanted to comment. I
17 haven't received any for this rule. Has
18 anyone changed their mind? Okay. Seeing
19 no comments from the public, David, I think
20 it's back to you for action.

21 MR. BRANECKY: Okay. Thank you,
22 Beverly. I'll entertain a motion. It
23 looks like to me, that the best thing to do
24 would be to continue it until January. I
25 need a motion to do that.

1 MS. MYERS: So moved.

2 MS. LODES: Second.

3 MR. BRANECKY: All right. I have
4 a motion and a second. Myrna, call roll
5 please.

6 MS. BRUCE: Robert Lynch.

7 DR. LYNCH: Yes.

8 MS. BRUCE: Laura Lodes.

9 MS. LODES: Yes.

10 MS. BRUCE: Rick Treeman.

11 MR. TREEMAN: Yes.

12 MS. BRUCE: Sharon Myers.

13 MS. MYERS: Yes.

14 MS. BRUCE: Jerry Purkaple.

15 MR. PURKAPLE: Yes.

16 MS. BRUCE: David Branecky.

17 MR. BRANECKY: Yes.

18 MS. BRUCE: Motion passed.

19 (End of Item 5B)

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBER 5C

HELD ON OCTOBER 17, 2007, AT 9:00 A.M.

IN OKLAHOMA CITY, OKLAHOMA

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MEMBERS OF THE COUNCIL

- DAVID BRANECKY - CHAIRMAN
- RICK TREEMAN - VICE-CHAIRMAN
- JERRY PURKAPLE - MEMBER
- JIM HAUGHT - MEMBER - ABSENT
- SHARON MYERS - MEMBER
- GARY MARTIN - MEMBER - ABSENT
- DR. ROBERT LYNCH - MEMBER
- LAURA LODES - MEMBER
- DON SMITH - MEMBER - ABSENT

STAFF PRESENT

- MYRNA BRUCE - SECRETARY
- EDDIE TERRILL - DIVISION DIRECTOR
- BEVERLY BOTCHLET-SMITH - AQD

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MS. BOTCHLET-SMITH: The next

item on the agenda is Item Number C. This

is OAC 252:100-17, Incinerators. And

Cheryl Bradley will present that

information.

MS. BRADLEY: Mr. Chairman,

Members of the Council, ladies and

gentlemen. Good morning. My name is

Cheryl Bradley and I am Manager of the Air

Quality Division's Rules and Planning

Section.

Today, the Department will request

that the Council consider tabling the

proposed amendments to OAC 252:100-17,

Incinerators, until the U.S. EPA has

published its decision on the

reconsideration of amendments to the

federal regulations.

On May 10, 2006, the EPA published

revised standards for existing and new

large Municipal Waste Combustors in the

Federal Register. EPA then published

notice on March 20, 2007 that the agency

1 would consider certain provisions of the
2 final amended regulations. EPA has not yet
3 published its final decision in the matter.

4 Notices of the proposed changes to
5 the rule and its accompanying 111(d) plan
6 were published in the December 15, 2006 and
7 the March 15, June 15, and September 17,
8 2007 issues of the Oklahoma Register. This
9 is the third time the proposed change has
10 been submitted for consideration by the Air
11 Quality Advisory Council.

12 This rule was continued from the
13 April and July meetings due to EPA's
14 reconsideration of the federal regulation.

15 Council action on the proposed rule
16 is dependent on EPA's decision in this
17 matter. It appears prudent for the
18 Department to request that the Council
19 table the proposed amendments to Subchapter
20 17 until the matter of the federal
21 regulations is resolved.

22 MS. BOTCHLET-SMITH: Comments or
23 questions from the Council?

24 MR. BRANECKY: And then staff
25 will bring a request to untable at the

1 appropriate time to the Council?

2 MS. BRADLEY: That is correct.

3 We will continue to monitor developments on
4 this regulation.

5 MR. BRANECKY: Okay.

6 MS. BOTCHLET-SMITH: Again, I've
7 not received any notice that anyone from
8 the public wished to comment on this rule.

9 MR. BRANECKY: Okay. I'll
10 entertain a motion. Staff has recommended
11 that we table until further notice.

12 MR. PURKAPLE: I move we table
13 until further notice.

14 MR. BRANECKY: I need a second.

15 DR. LYNCH: Second.

16 MR. BRANECKY: Myrna.

17 MS. BRUCE: Robert Lynch.

18 DR. LYNCH: Yes.

19 MS. BRUCE: Laura Lodes.

20 MS. LODES: Yes.

21 MS. BRUCE: Rick Treeman.

22 MR. TREEMAN: Yes.

23 MS. BRUCE: Sharon Myers.

24 MS. MYERS: Yes.

25 MS. BRUCE: Jerry Purkaple.

1 MR. PURKAPLE: Yes.

2 MS. BRUCE: David Branecky.

3 MR. BRANECKY: Yes.

4 MS. BRUCE: Motion passed.

5 (End of Item 5C)

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C E R T I F I C A T E

STATE OF OKLAHOMA)

) ss:

COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; that the
foregoing proceeding was recorded and taken
down in shorthand by me and thereafter
transcribed under my direction; that said
proceedings were taken on the 17th day of
October, 2007, at Oklahoma City, Oklahoma;
and that I am neither attorney for nor
relative of any of said parties, nor
otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
30th day of October, 2007.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

Christy A. Myers

Certif

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBER 5D

HELD ON OCTOBER 17, 2007, AT 9:00 A.M.

IN OKLAHOMA CITY, OKLAHOMA

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- JIM HAUGHT - MEMBER - ABSENT
- SHARON MYERS - MEMBER
- GARY MARTIN - MEMBER - ABSENT
- DR. BOB LYNCH - MEMBER
- LAURA LODES - MEMBER
- DON SMITH - MEMBER - ABSENT

STAFF PRESENT

- MYRNA BRUCE - SECRETARY
- EDDIE TERRILL - DIVISION DIRECTOR
- BEVERLY BOTCHLET-SMITH - AQD

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MS. BOTCHLET-SMITH: The next

item on the agenda is Item Number 5D. This

is OAC 252:100-5, Registration, Emission

Inventory and Annual Operating Fees.

Ms. Nancy Marshment will give the staff

presentation. Following Nancy's portion of

the presentation, Eddie and I will present

some additional budgetary information.

MS. MARSHMENT: Mr. Chairman,

Members of the Council, ladies and

gentlemen. I am Nancy Marshment and I am

representing the Rules and Planning section

of the Air Quality Division.

The Department is proposing to amend

the Oklahoma Administrative Code Title 252,

Chapter 100, Subchapter 5, paragraph 2.2,

to increase annual operating fees for both

minor facilities and Part 70 sources.

Additional income resulting from a fee

increase is needed to cover current and

anticipated staffing requirements in

administering the Department's Air Quality

programs.

1 Annual operating fees for both minor
2 facilities and Part 70 sources would be
3 adjusted automatically each year using the
4 Consumer Price Index. At the present time,
5 only Part 70 sources fees are calculated in
6 this manner.

7 This is the second time this
8 proposal has been brought before the
9 Council, and the proposed fees were reduced
10 from those proposed at the July meeting.
11 For minor sources the fees were reduced in
12 today's proposal from \$32.28 to \$25.12 per
13 ton of regulated air pollutant.

14 The proposal for major sources was
15 reduced from \$32.28 to \$31.96 per ton. The
16 proposed fee rate is an estimate of what
17 our shortfall was at the time the rule was
18 finalized for this Council meeting and does
19 not reflect what we now believe our current
20 deficit to be. This information will be
21 reflected in the proposed rule for the
22 January Council meeting.

23 Staff is requesting that Council
24 Members carry over this proposal to the
25 January Council meeting. The subsequent

1 Environmental Quality Board meeting will be
2 on February 29, 2008.

3 Staff has received no comments on
4 the proposed change at this time. A copy
5 of a list of questions received from OIPA
6 is in your packet. Several of these
7 questions were answered at the July
8 meeting. The remainder will be addressed
9 in today's presentation.

10 Further comment on this proposal
11 will be provided by Director, Eddie Terrill
12 and Assistant Director, Beverly Botchlet-
13 Smith.

14 MR. TERRILL: I think those of
15 you who were at the last Council meeting
16 and certainly the Council Members, that we
17 were supposed to come back to you all with
18 a Finance Committee Report. And we don't
19 have one because the Finance Committee did
20 not meet. And the reason they didn't meet
21 -- when we brought this rule, or brought
22 this proposal to you all initially, we were
23 not really sure how -- what kind of
24 information we needed to present and I
25 think when we approached our finance folks,

1 they made the assumption, because I didn't
2 tell them any differently, that they would
3 be pulling together the snapshot
4 (inaudible) in Title V report similar to
5 what the Finance Committee had seen in the
6 past. And I didn't really feel like that
7 was what we needed to present to the
8 Committee and then subsequently to the full
9 Council because it really didn't reflect
10 anything but where we were relative to that
11 particular point in time with their Title V
12 fees.

13 One of the things we found out as
14 part of this process is that when we
15 collect our fees, and when they come in
16 during the year, whether it's in one fiscal
17 year or another, it creates a huge problem
18 for the finance folks and for us in
19 figuring out where we are at any one time.
20 So what we ended up asking them to do was
21 to true-up our '07 amount of money that we
22 collected and amount of money that we
23 actually spent -- in other words do a
24 closeout on our particular budget to see
25 exactly where we were at the end of the

1 year. Do we have more money than we need
2 to run the program for that year; are we
3 able to save enough or did we actually run
4 a little bit of a deficit?

5 The other thing I wanted them to do
6 was put together a budget for '09 because
7 that's really what we're looking at here,
8 is what we're going to need for '09.
9 Taking the best available information we
10 had and projecting out what we thought our
11 deficit was going to be from cuts in the
12 federal program and fee collections and
13 that sort of thing, so we could give the
14 Finance Committee some idea of what we look
15 at when we actually do our budget. And
16 that created a lot more problems that we
17 had anticipated because of the time we
18 collect the money and the tracking system
19 that we had. If you looked at it over a
20 long period of time, which is one of the
21 things we did, we asked them to take a look
22 at Title V and non-Title V collections over
23 the past 10 years, you could see these
24 cycles going up and down and it was pretty
25 close to a wash relative to the amount of

1 money that we collected and the amount of
2 we expended. But pinning that down as to
3 what money came in during a period of time
4 was a real problem that I don't think
5 either myself or the finance folks had
6 anticipated.

7 So when we got within about a week
8 of the meeting, it became pretty clear it
9 was going to be difficult for them to put
10 together numbers that I felt like that we
11 could legitimately tell our Finance
12 Committee we believe these to be correct.
13 And we started thinking about cancelling it
14 then, but the closer it got we just decided
15 that was the best thing to do, knowing full
16 well that it's going to be hard for folks
17 to understand why it is we couldn't pull
18 our numbers together during a three-month
19 period of time to have this meeting.

20 There's really -- the only way I
21 could explain exactly what I've done -- I
22 think the only we're going to be able to
23 fix this -- we've got a way that I think
24 we're going to, it's really just a matter
25 of billing and collecting in the same year.

1 In other words, like for next year, for
2 example, we might send our bills out in
3 July, late June, early July, with a
4 collection date of September 1st. We're
5 probably not going to be able to do the
6 quarterly billing in the future because
7 that does create havoc. We're not going to
8 be worried about collecting money during
9 the legislative session because of the
10 threat of fee money being moved around has
11 gone away -- they have been doing really
12 well with the budgets lately and haven't
13 had that issue. So we think we need to get
14 back where we're billing and collecting
15 during the same year.

16 Bit we've got to get to a situation
17 where at some point after the fiscal year
18 is over with, we've got to close it out for
19 our books to see where we are.

20 The reason we've got this big deficit is I
21 think we may not have had as much money for
22 this year than the way it looks. So we're
23 going to go back and take a look at that
24 and see where we are.

25 That's in a nutshell why we didn't

1 have a Finance Committee meeting and I
2 think we've committed to the folks that
3 we're going to be there, that we will have
4 one -- actually we could do one now, but
5 probably give them some time to arrange
6 their schedule and have one early November
7 and then if necessary have one before the
8 Council meeting.

9 But one thing I do want you all to
10 be aware of that we may have to have a
11 special Council meeting between the one
12 that's scheduled for the 16th and the end
13 of that month because we have got to take
14 something to the Board in February,
15 otherwise we won't get anything for the
16 following year and we do have a deficit.
17 The question is just exactly how much it is
18 and how can we pare that down so we don't
19 ask for anything more than we actually
20 need.

21 We elected to only bring to the
22 Council and tried to do it through Power
23 Points. So everyone should have a copy of
24 the what we're calling the Air Quality
25 Division FY'09 Fee Increase Proposal. And

1 what we've got on there is the '07 actual.
2 This is the trued-up actual expenses versus
3 the actual money we collected during that
4 period and as you can see, it showed that
5 we ended up with an overall net income of
6 about \$195,000, which is pretty good
7 considering the fact that our budget is
8 about 7 million dollars, give or take. So
9 we were pretty happy that we at least
10 didn't have a bit carryover, which we
11 didn't think we would.

12 Then what we asked them to do, the
13 finance folks, is to put together the
14 projections for '09. Then we lumped some
15 things together, that gives you a general
16 idea of where the increases and decreases
17 are going to come from. As you can see,
18 most of the bulk of it is in the salary.
19 So we just kind of wanted to give you -- we
20 didn't have the Finance Committee meeting,
21 we didn't feel like it would make a lot of
22 sense to throw out a lot of numbers at this
23 point, but we kind of did want to see
24 roughly where we think we are relative to
25 '07 was and what we think '09 will be. And

1 we're still refining these a little bit.

2 One of the things we're not sure
3 about, we don't have any idea what's going
4 to happen with fed budget. It could be
5 that we'll get -- I know they're going to
6 do a continuing resolution. It doesn't
7 look like we're going to get cut as much in
8 '08 as we had thought, but we're hopeful
9 that would continue in '09. If that's the
10 case, we may be able to reduce this deficit
11 three or four hundred thousand dollars but
12 we're not going to know that probably until
13 sometime next year.

14 So that way we can make some
15 accommodations in what we come out of here
16 with in January so that if we don't lose
17 our federal money then we won't collect
18 that in fees, or something. I don't know.

19 MR. BRANECKY: So how are you
20 projecting to come out in fiscal year '08?
21 Are you going to come up short?

22 MR. TERRILL: Well, the budget
23 that we submitted to OSF showed a balanced
24 budget. So we're hopeful that's still the
25 case, but there's some questions I've got

1 about what we may have done and what we
2 projected to collect that we're going to go
3 back and take a look at just to verify
4 that. We've got some positions that we
5 haven't been able to fill and we may have
6 to just not fill those, if we do have a
7 problem because we can't spend more than
8 what we've got. We can't -- we don't run
9 on a credit card budget. So we've got to
10 be comfortable as we go into the year,
11 we've got to have enough to make it
12 through.

13 MR. BRANECKY: And for next year
14 -- and then this is important I think for
15 industry to know when we have to pay. We
16 budget when we have to pay the fees.

17 Are you saying that you will bill in
18 July, next year, and we will pay by
19 September?

20 MR. TERRILL: Yeah, or something
21 like that because we have got to implement
22 this increase next year, otherwise we will
23 not be able to -- we will have a huge
24 deficit, there's just no way around that.
25 So, yeah, what we had planned on doing is

1 because we can't do anything relative to
2 increases until the legislature meets and
3 they could possibly say we're not going to
4 approve that. So we can't do anything
5 until they go out of session. The Governor
6 has to sign too -- doesn't he? So it will
7 probably be late June before all of this
8 becomes final and then we would hold the
9 bills until sometime after that and then we
10 would try to collect everything during that
11 fiscal year, which would be by September.

12 MR. BRANECKY: And if you don't
13 get an increase, you're still going to bill
14 in July?

15 MR. TERRILL: Yeah, because we
16 won't -- well, if --

17 MS. BOTCHLET-SMITH: I think we
18 need to do that, David, because it's this
19 billing earlier in the year that makes it
20 more difficult for finance to do the
21 closeout of the books. We run on a fiscal
22 year that begins July 1 and closes on June
23 30th. And we're collecting these fees on a
24 calendar year. And all of our other income
25 is on our state fiscal year, including the
money we get from the federal government,
even though their fiscal year is different

1 from ours. And we really need to true that
2 up where the income comes in during that
3 fiscal year that it's going to be spent.

4 MR. BRANECKY: And that's fine.
5 I think industry just needs to know because
6 some industry has significant fees, almost
7 a million dollars. And we need to know
8 when that million is going to be spent,
9 whether it's going to be spent in April or
10 September or December. And we have to
11 budget when it's going to be spent.

12 MS. BOTCHLET-SMITH: While we're
13 thinking that we might not do quarterly
14 billing, we are sensitive to that and we
15 realize that we might need to do billing
16 that comes in June, that's due in August,
17 and then another payment due later in the
18 year.

19 MR. BRANECKY: I think that for
20 the larger industry it probably doesn't
21 make any difference just as long as they
22 know when the expense is coming. All
23 right.

24 MS. BOTCHLET-SMITH: Eddie's been
25 pretty thorough in covering the information

1 here.

2 On the sheet -- if you recall from
3 our July presentation, we laid out several
4 areas where we were going to have
5 shortfalls. And when we worked with
6 finance to do our projection for '09,
7 you'll see one incident of that under the
8 federal, in income, and we're projecting
9 about \$400,000 less in our income. And I
10 just want to go over why.

11 In FY '07 we received some one-time
12 special project money. And that money is
13 not given each year, it's never a
14 guarantee. It's competitively obtained.
15 All states in the region will submit
16 proposals and if their particular project
17 is deemed worthy, then money is given.

18 We do not have any special project
19 grants in FY '08. If you were to take the
20 special project grant money out of the '07
21 amount, we're really more in the
22 neighborhood of 1.2, plus, a little --
23 million.

24 So we anticipate the possibility,
25 based on the President's budget, which what

1 came in was a 16 percent cut that our
2 federal grant could be about -- a little
3 over \$200,000 less than what our base grant
4 in '07 was. About \$200,000 less than what
5 we currently are operating under.

6 So that's the reason for the drop on
7 the federal. So in reality it's not a
8 \$400,000 drop that -- in '07 there was a
9 \$200,000 gift, if you will, in that
10 competitive special project grant.

11 When we -- we based our shortfall
12 not -- I mean, those are projects that were
13 completed, we don't do them every year, I
14 guess is what I'm saying.

15 In the expenses, part of the
16 increases are due to our loss of our 2.5
17 grant. For the last 10 years, EPA has been
18 providing money to all states to run their
19 PM 2.5 program, monitoring program. It's
20 been decided that this is the last year
21 that we will receive special money to fund
22 that. That has been given to the states
23 without any requirement for a match.
24 Basically, whatever it took to run the
25 program, that's what they gave us.

1 Over the last few years, those
2 monies have been shrinking and we had to
3 find some efficiencies. We've changed the
4 type of equipment we use. We have less
5 trips to the field. But it's still about a
6 \$350,000 cut that we're going to
7 experience. We're going to have to make up
8 for that. We don't want to cut that PM 2.5
9 monitoring. Our responsibility is public
10 health. And if we don't have the monitors
11 out there to determine what -- how the air
12 is really effecting our folks, we just
13 can't cut the PM 2.5 program.

14 So the expenses for that are
15 included under the non-Title V category in
16 some of the increases that you see.

17 One of the other things that we
18 talked about that we had to account for
19 were increases in our retirement, increases
20 in our insurance costs. Insurance
21 continues to go up, not just for us but for
22 everyone. Those numbers are factored in on
23 both Title V and non-Title V, under the
24 fringe category.

25 One other thing I'd like to mention,

1 if you look under Title V in the projection
2 for FY '09 income, for Title V income, that
3 includes a commitment of \$400,000 of the
4 UST money being added to help support our
5 Title V program. So we're actually
6 projecting that the permit fees and the
7 operating fees for '09 will be slightly
8 less than they were in '07. But we've
9 added in the UST money to help offset that.

10 There's minor increases in travel in
11 the non-Title V category. Of course, we've
12 had to absorb the PM 2.5 travel, but in
13 addition to that we have built in a 25
14 percent increase in travel. We received 25
15 percent increase from our motor pool and
16 with the cost of gas and whatnot, that has
17 -- we assume 25 percent because that's
18 where we are from '07 projecting to '09.

19 The other category -- that includes
20 our supplies, our data, our computers,
21 supporting, any contractual, our toxics
22 monitoring and analysis, general equipment
23 -- monitoring equipment is pretty
24 expensive. Occasionally it breaks down,
25 and we've got to replace it.

1 Can we answer any questions?

2 MR. TERRILL: While you're
3 thinking about that, let me add this. One
4 of the -- we've got a Region VI Air
5 Director's meeting next Monday and Tuesday
6 and one of the topics that we're going to
7 discuss is federal funding and grants and
8 that sort of thing. And part of that is
9 going to be what are we going to disinvest,
10 what are we going to quit doing if we do
11 not get the full funding from the feds? In
12 other words, what have we been doing as far
13 as our federal grant that we're not going
14 to do? And that's a difficult thing to
15 come up with because the requirements that
16 the feds have on us have not changed. If
17 anything, they are going the other way.
18 Yet they want us to tell them what are we
19 going to quit doing, in response to their
20 cut of our grant. And that's kind of where
21 we are here. I mean I could run through a
22 laundry list of things that we would look
23 at if we're not able to meet our budget,
24 whatever we end up coming out of here with.
25 I don't think that's productive because it

1 comes off sounding like a threat and that's
2 really not what it is.

3 We'll do the best we can with the
4 money we got and we'll make a decision on
5 what we've got to operate on and what I
6 think is the most important things that we
7 do and what we need to continue and what
8 we're going to have to cut back on.

9 Two of the things that we're looking
10 at trying to do more of are sustainability
11 and climate change. But those are not
12 things that we have to do yet. We're not
13 going to get any money for either one of
14 those. It makes some sense that we start
15 trying to encourage folks to do some of
16 these voluntary things and try to help them
17 do that, but we don't have to do those kind
18 of things.

19 So it's really going to be difficult
20 if you're looking for what we're going to
21 cut back on. It's going to be kind of hard
22 for us to say that because I don't really
23 know. It's going to kind of depend on
24 where we end up and so many factors come in
25 that I really don't want to cut anything

1 because I think a lot of what we do -- all
2 of what we do is important and we're always
3 looking for ways to do things better and do
4 things smarter.

5 If you all remember, we brought the
6 40 ton permanent exempt rule to you because
7 we felt like that we were not doing
8 anything for those small sources other than
9 collecting the fee and writing the permit
10 and it really was costing us a lot of time
11 and effort that didn't have a lot of public
12 health benefits and it was a burden on
13 those small sources.

14 But you need to know that EPA is
15 proposing what they're calling the new
16 source -- the minor source NSR rule. And
17 that's part of the tribal rule and if they
18 pass all of that then somebody is going to
19 be regulating sources down to five tons.
20 And so there's a lot -- EPA on the one hand
21 says what are you not going to do, and then
22 on the other hand they keep pushing all of
23 these things that don't, to us, have a lot
24 of public health benefit for someone to
25 have to do.

1 Part of that discussion also
2 includes public participation on minor
3 sources and what's going to be involved
4 with that. If we end up having to do that,
5 that's just something else we've got to
6 figure out how we're going to get it done
7 and what is really the benefits to the
8 public of doing that? I can't see a lot of
9 benefit in a lot of those things.

10 But anyway, we are continually
11 looking for ways to be more efficient, but
12 there are some things that we can't control
13 the cost of. The bulk of what you're
14 looking at here, increases in salary and
15 fringe and that's just the way it is,
16 everybody's got those. And we'll continue
17 to try to do more with less, but we'll just
18 have to balance all of that out with what
19 we end up with at the end of February.

20 MR. PURKAPLE: Eddie, to what
21 extent have you all looked at other sources
22 of fees? And I guess mobile fees attach to
23 mobile sources somehow. Is that something
24 that's been considered in the past and I
25 know that's probably a long-term thing to

1 look at, but what --

2 MR. TERRILL: Actually we looked
3 at a fee -- putting a dollar, I think it
4 was, per rental on rental cars, to fund our
5 toxics program because we felt like we
6 needed to upgrade what we were doing and we
7 had only really two choices; we could come
8 to the Council and ask for an increase in
9 Title V, non-Title V fees, or we could go
10 to the legislature or we could try to look
11 for another -- a related emissions source
12 to tack on a fee like you're talking about.
13 And we felt like that automobiles were a
14 good one to look at because they do provide
15 the bulk of when we're looking at --
16 especially metropolitan areas, the bulk of
17 our toxics do come from mobile sources.
18 And that didn't get much traction over at
19 the legislature.

20 In fact, I don't even think it got
21 out of committee, if I remember right. And
22 we thought we had a pretty good case for
23 doing it because we were looking at -- most
24 of the people that use rental cars are
25 out-of-state and it would be a pass through

1 cost. But I didn't realize we had so many
2 rental car companies operating in the
3 state, but they all showed up at one of our
4 Council meetings and -- or one of the Board
5 meetings, actually. We're always looking
6 for things like that, but it's one of those
7 things that are projected out and you never
8 know for sure whether you're going to get
9 it or not.

10 Now what we would do is if we come
11 up with some things that we're able to push
12 through the legislature at some point, we
13 could scale back on what we bill through
14 our Title V program, but just because we
15 have a ceiling, that doesn't mean we have
16 to bill that much.

17 If I've got other sources of income,
18 it's a lot easier on us to do that and cut
19 back on -- because we get a lot of goodwill
20 when we don't bill the same amount and we
21 would be more than happy to do that,
22 because we're going to get to the point
23 where I hope we know exactly where we are
24 at some point soon after the end of the
25 calendar year. We can't be running big

1 carry-overs. I mean it's not good for us
2 and it's not good for you all, the fee
3 payers either. So we want to try to keep
4 that as low as possible, keeping in mind
5 that we do need to have some in reserve for
6 disasters that come up that we don't
7 foresee during the budget process.

8 But we would continue to look at
9 that and if anyone has any ideas that might
10 get some political traction because that's
11 always -- if you all aren't paying it then
12 somebody else is. But we will definitely
13 continue to do that.

14 MR. BRANECKY: Have you looked at
15 the amount you charge for a permit, or a
16 permit revision? I think, at least for a
17 major source permit the cost that you
18 charge really doesn't reflect the cost to
19 the Department.

20 MS. BOTCHLET-SMITH: We did start
21 looking at that over the last couple of
22 months. Thankfully, our TEAM database is a
23 real good source of information for that
24 kind of information, not to mention then we
25 were able to compare the information with

1 finance. We think we've got some pretty
2 good numbers there. But when you look at
3 our deficit and you look at the income that
4 we receive, if we doubled those permit
5 fees, it would not be adequate to address
6 this.

7 MR. BRANECKY: But it would cover
8 a portion of it.

9 MS. BOTCHLET-SMITH: It would
10 cover a portion.

11 MR. BRANECKY: It looks like to
12 me maybe the solution is a combination of
13 different incomes, not just relying totally
14 on fees but maybe a portion coming from
15 mobile sources, and a portion from your
16 permit charges from the operating fees.

17 MS. BOTCHLET-SMITH: The permit
18 fees fluctuate year-to-year. It's a little
19 bit harder to --

20 MR. BRANECKY: Would your
21 operating fees fluctuate much, because it's
22 based on emissions?

23 MS. BOTCHLET-SMITH: It hasn't
24 changed much. We have begun to see a bit
25 of a downtrend. But they've -- I guess the

1 biggest change has probably been we've lost
2 some major sources that have gone to minors
3 and then with the permit exempt there are
4 probably some minors that have dropped out.
5 Do you agree, Eddie?

6 MR. TERRILL: Yeah. That's true.
7 David, you bring up a good point. And this
8 is something that I've had discussions with
9 other of you all. As the industry is
10 regulated more and more, the emissions are
11 cut more and more, especially from
12 utilities. I mean you can see this coming
13 nationally through CARE and through other
14 things that the emissions from coal-fired
15 plants is going to be cut dramatically over
16 the next five to ten years; and probably
17 more so depending on what happens with the
18 next administration.

19 But you know, you add a lot of cost
20 to the consumer relative to -- the pass
21 through cost on cutting those emissions,
22 yet the fees that those emissions generate
23 run the state programs, and local programs.
24 At some point, and it's coming really soon
25 I think, EPA is going to have to take

1 another look at Title V and what it was
2 designed to pay for because in their view
3 and in Congress's view, they see Title V as
4 their out from having to contribute what
5 they should be putting into the state
6 budgets to do the federal requirements
7 because they can pass it off to the fee
8 payers. That really puts a lot of pressure
9 on us and it's not fair to you all to make
10 up the cost that they should be paying for.
11 But we can't do this. It's kind of like
12 Steve says when he goes to the legislature,
13 they don't listen to him, but they'll
14 listen to you. And it's going to be -- I
15 think you need to talk to your Congressman,
16 your Senator, through your trade
17 associations and force EPA to really take a
18 look at how they're going to fund Air
19 Quality in this country in the next five to
20 ten years because this is going to become a
21 major crunch, I think, in the next two to
22 three years that we're going to have to
23 deal with. And they're going to expect us
24 to pass those costs right along to you all
25 and at some point you're going to say we

1 can't do that. I mean we're not getting
2 anything for it. But it's a tough sell
3 because anytime we bring it up, they say
4 we'll just raise your Title V fees. Well,
5 they don't have to come in and sit and
6 explain to you all why we need that and
7 what we're not going to do or what we are
8 going to do depends on what we get. So it
9 would be helpful.

10 And that's one thing we're committed
11 to do through our associations, through
12 CENSARA and through NAAQA, is to raise this
13 issue to the next administrator. In fact
14 there's a lot of issues that we intend to
15 raise to the next administrator, that EPA
16 has failed to address that's going to be a
17 real problem for us, and you all in the
18 future if they don't. And maybe this is
19 the time to start thinking about that.

20 MR. BRANECKY: And I think -- at
21 least what I'm hearing on a state level is
22 there's going to be some additional monies
23 available next year that they didn't
24 anticipate, possibly up to another 30
25 million. Is there any thought of trying to

1 go after some additional appropriations
2 from a state level?

3 MR. MERRILL: Well, there's
4 always thought. But again, when Steve goes
5 over there and asks for that, he's one of
6 however many state agencies there are that
7 realize that there's money there. You've
8 got to deal with DHS, prisons. I mean
9 everybody's competing for this same pot.
10 But again if you all are able to, like
11 you've done in the past, in getting the
12 \$800,000 for a toxics program and then the
13 UST -- we were able to use some of that
14 UST fund, if you all are able to do that, I
15 don't care. I mean as long as we're able
16 to get what we need to run the program I
17 think that we need to have.

18 One of the things that I have not
19 been able to get from EPA is --
20 theoretically, any conversations you have
21 with them, they expect the Title V program
22 to pay for the Title V functions. If you
23 look at the numbers here, the Title V
24 program is not paying for itself. And if
25 we get additional appropriations or some

1 other way to do that, to fund it, it's
2 going to continue -- that imbalance is
3 going to continue to grow. I personally
4 don't care one way or the other because it
5 doesn't really make any difference to us,
6 it's all part of our budget. But EPA still
7 seems to think that that's an issue and
8 I've asked them -- and we'll probably do
9 this formally in a letter to ask them to
10 tell us what consequences there are to
11 running this imbalance because I can't see
12 any. I don't see any in the Act. I've
13 never gotten any. They've come and audited
14 our program and they've never said anything
15 but you're not charging enough to cover
16 what you're coding or what you're billing
17 to the Title V as part of your internal
18 tracking system.

19 As you know there is a report that
20 the -- one of the environmental groups did
21 where they talked about the amount of money
22 that's being collected with Title V versus
23 what they could collect with the federal --
24 if you were collecting the federal
25 presumption, but again they didn't have

1 anything, what are the consequences of
2 that. I mean, are there -- and I don't
3 know that there are any. But that's one of
4 the things that I'm going to try to get
5 some final clarification on because
6 otherwise I'm going to assume that EPA
7 really doesn't care one way or the other as
8 long as you're able to get the work done
9 that you commit to do as part of your grant
10 and as part of your work plan that you
11 commit to every year.

12 So, yeah, we would welcome anything,
13 but we have got to have the fee payers with
14 us and with Steve actually, because
15 otherwise, they're not going to listen to
16 us.

17 MS. BOTCHLET-SMITH: David, also
18 in answer to your question about looking
19 for other areas to raise money. At the
20 July meeting, one of the questions we
21 received regarded changing the 4,000 ton
22 cap. And we also looked at that. There
23 are only three companies in the entire
24 state that would be affected if we raise
25 that cap. And I'm not sure -- for one, it

1 would require us to change the statute.
2 This 4,000 ton cap is utilized in nearly
3 every state that we talked to. There are a
4 few exceptions to that. I'm just not sure
5 of the equity there, about raising it and
6 the affect it would have on three companies
7 versus all the other 900-plus facilities or
8 sources that we inventory.

9 MR. BRANECKY: Yeah. And I don't
10 think that would be fair because I think
11 that I probably know the three companies
12 that you're talking about. And the amount
13 of work that is expended by the Department
14 for those companies is not quite equal to a
15 Tinker Air Force Base or somebody that has
16 a complex amount of sources. The companies
17 you're talking about probably have one
18 stack and it all goes out one stack and I
19 think it would be unfair to make those
20 companies support the rest of the programs,
21 disproportionate.

22 MR. PURKAPLE: Well, the
23 question's worth asking anyway.

24 MR. TERRILL: And that's part of
25 the reason we've been reluctant to raise

1 our other fees, our permitting fees because
2 we don't want to be a disincentive for
3 someone to relocate. So we don't want to
4 have an exorbitant -- especially small
5 sources, we don't want that to be something
6 that is a deal-breaker that we charge
7 \$20,000 or what some of the other states
8 charge to come in and permit a source.

9 So we've just elected to keep our
10 fees where they are and collect them
11 through our operating permits. And so
12 there's trade-offs to all of this because
13 at the end of the day, the industry is
14 paying for it one way or the other. And so
15 we've just got to figure out what the right
16 mix is. And that's really the only reason
17 we haven't looked at raising our other fees
18 is because we don't want to be an
19 impediment to economic growth in some of
20 the other smaller ones.

21 Once we got you here, then we put
22 the hooks in. But we'll take a look at
23 that, too, and see what it means. See what
24 we can do about --

25 MR. PURKAPLE: Beverly, in your

1 July presentation I recall a -- I think I
2 recall a grant where you have comparisons
3 between the different states and what the
4 charges were.

5 MS. BOTCHLET-SMITH: Yes.

6 MR. PURKAPLE: Do you all know
7 enough about how they run their program to
8 know whether or not they're experiencing
9 the same kind of imbalance that we are or
10 are they running in the black or do you
11 know?

12 MR. TERRILL: That's an
13 interesting question. Most of them don't
14 even look at it because they don't track
15 what they do to the same degree that we do.
16 One state backs into their Title V fees.
17 They figure out what they need for their
18 budget, they take out what they get in
19 grants and appropriated dollars and then
20 whatever they need to make budget, that's
21 what their Title V fee is and that's the
22 reason they're in \$48 or \$49. They're a
23 smaller -- it's Nebraska is who it is.
24 They back into their fee.

25 The rest of them, I'm not -- are you

1 aware of anyone that tracks it like we do,
2 Beverly?

3 MS. BOTCHLET-SMITH: I don't
4 think anyone has the same scrutiny that we
5 give to ours. I do know Missouri just
6 recently voted in an increase of their
7 Title V fee that took them right at \$40 a
8 ton, maybe slightly over. There's several
9 states that are looking at it. I mean when
10 it comes -- when they realize they're
11 short, they look at it the same way we do
12 in that we're short and we're going to
13 figure out how to accommodate that. But in
14 our discussions through our CENSARA
15 meetings, I haven't heard any of the other
16 states express the same issues that we're
17 having.

18 MR. TERRILL: And I've raised up
19 this imbalance. Are they hearing from
20 their finance folks or their project office
21 at EPA that this is a problem and I get
22 this blank stare that they don't even know
23 where they're at. And the few I have
24 talked with, they don't know where they're
25 at because it's not an issue with them.

1 They just know they've got a budget and
2 they look at all of their different money
3 sources; they make their budget and code
4 their time and go on, but they don't track
5 it like we do. So that's the pluses and
6 minuses of doing it the way we do it. But
7 I still think the way we do it is a good
8 way because it helps us figure out where
9 we're spending our time. It's a good
10 management tool for us.

11 MS. BOTCHLET-SMITH: We probably
12 heard the most concern from the other
13 states of the lack of CENSARA meeting, over
14 the lack of the PM 2.5 funding and then the
15 potential cut to our 105 grants because for
16 us that's over \$50,000. In all states,
17 even states like Nebraska that receive less
18 money from EPA than we do in a regular
19 grant, it's still a sizeable cut when you
20 say we're cutting all funding that you're
21 using to run your PM 2.5 monitoring
22 program. And I think there were several of
23 the states -- Iowa had some concerns about
24 how they were going to fund their 2.5
25 program. And I believe it was Iowa that

1 mentioned -- maybe I shouldn't mention
2 state names, I'm not really sure. But I
3 believe it was them that mentioned that
4 they felt like the 2.5 program should be
5 funded by Title V. And some of these
6 Region VII states were looking at the cost
7 of the 2.5 program should be solely a Title
8 V issue.

9 MR. TERRILL: There have been
10 some studies done that -- by our national
11 organization and by the organization that
12 Steve belongs to, ECOS, that if EPA was
13 paying what they should be paying to the
14 states, I wouldn't have to be asking for a
15 fee increase. They're severely under
16 funding in relation to what they require us
17 to do, they are severely under funding
18 their portion of our budget. And again,
19 I'll go back -- they're going to continue
20 to do that until they're called on it and
21 the states aren't the one that will be able
22 to do that, and that's going to have to be
23 you all. I really think that we need to
24 talk -- think about a coordinated effort to
25 make it. And I'm not bashing EPA because

1 they're doing what they think they need to
2 do and they're only as good as the folks
3 that are running at the very top and that's
4 where I think the problem is, it doesn't
5 lie with the folks that we deal with on a
6 day to day basis. Just like the problem
7 that you all have, some of the folks that
8 you all deal with on a day to day basis --
9 Beverly and me, we're the ones that create
10 the problems for you. And that's the way
11 it is with us. It's the management and the
12 lack of wanting to take a look at the way
13 they've always done things and do things
14 differently and do things more efficiently
15 and cut out some of the things that don't
16 make a whole lot of difference at the end
17 of the day and their reluctance to do that
18 is a reason -- and they've been cut too, so
19 it's a combination of things. But the
20 long-term, we really need to start dealing
21 with this because if we don't we're going
22 to keep coming back year after year --
23 well, every three to four years and doing
24 the same exercise and we just can't
25 continue to do that.

1 MR. BRANECKY: All right. So
2 what's our plan? Finance Committee meeting
3 sometime in November, is that what you're
4 saying?

5 MR. TERRILL: Early November.

6 MR. BRANECKY: And come back in
7 January and see what we've got?

8 MR. TERRILL: And it may be
9 necessary to have more than one Finance
10 Committee meeting. I know we need to have
11 at least one and we'll just see where we
12 are. And we will try to get some
13 information out on our web prior to the
14 Council if we think it might be helpful for
15 you all to look at. But I really got to
16 have a decision going into February. And
17 if it's a decision not to do anything, that
18 is a decision. But I can't -- we need to
19 make a resolution of some sort before that
20 February Board meeting so that I know what
21 we've got to do in the next session for our
22 budget because it will take a while to kind
23 of sort through everything.

24 MS. BOTCHLET-SMITH: Okay.
25 David, one thing we haven't done is open it

1 up to the public. I still haven't received
2 any comment forms from anyone, but if
3 anyone has any questions, we'd really like
4 to go ahead and hear those questions so
5 that we can address them.

6 David, I just don't think anyone is
7 real interested in asking questions today.
8 I don't see any hands.

9 MR. BRANECKY: Wait until
10 January, right?

11 MS. BOTCHLET-SMITH: Yeah.
12 January we'll have lots of them, I guess.

13 MR. BRANECKY: Okay. So I guess
14 with that no questions from the public,
15 I'll entertain a motion for this rule.

16 Staff has asked that we continue it
17 until January.

18 MR. PURKAPLE: I move we continue
19 it until January.

20 MR. BRANECKY: Okay.

21 MS. MYERS: Second.

22 MR. BRANECKY: I have a motion
23 and a second. Myrna.

24 MS. BRUCE: Robert Lynch.

25 DR. LYNCH: Yes.

1 MS. BRUCE: Laura Lodes.
2 MS. LODES: Yes.
3 MS. BRUCE: Rick Treeman.
4 MR. TREEMAN: Yes.
5 MS. BRUCE: Sharon Myers.
6 MS. MYERS: Yes.
7 MS. BRUCE: Jerry Purkapple.
8 MR. PURKAPLE: Yes.
9 MS. BRUCE: David Branecky.
10 MR. BRANECKY: Yes.
11 MS. BRUCE: Motion passed
12 (End of Item 5D
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STATE OF OKLAHOMA)

) ss:

COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; that the
foregoing proceeding was recorded and taken
down in shorthand by me and thereafter
transcribed under my direction; that said
proceedings were taken on the 17th day of
October, 2007, at Oklahoma City, Oklahoma;
and that I am neither attorney for nor
relative of any of said parties, nor
otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
30th day of October, 2007.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310