

**MINUTES**  
**AIR QUALITY COUNCIL**  
**April 15, 2009**  
**OSU@Tulsa 700 North Greenwood**  
**Tulsa Oklahoma**

**APPROVED AQC Approval**  
~~July 15, 2009~~ ~~October 21, 2009~~ **January 20, 2010**

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. April 15, 2009 at OSU@Tulsa, 700 North Greenwood, Tulsa, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on October 24, 2008. 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. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Montelle Clark  
Gary Collins  
Laura Lodes  
Sharon Myers  
Jerry Purkaple  
Pete White

**MEMBERS ABSENT**

Jim Haught  
Bob Lynch

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Cheryl Bradley  
Joyce Sheedy  
Max Price  
Rob Singletary  
Nancy Marshment

**OTHERS PRESENT**

Steve Mason, EQB  
Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Diana Hinson  
Sarah Penn  
Kendal Stegmann  
Dawson Lasseter  
Patrick Farris  
Jay Wright  
Karl Heinzig  
Myrna Bruce

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

**Approval of Minutes** Mr. White made motion to approve the January 21, 2009 Minutes as presented and Mr. Branecky made the second.

*Transcript - Items 1-4A page3-4*

Montelle Clark	Yes	Sharon Myers	Yes
Gary Collins	Yes	Pete White	Yes
David Branecky	Yes	Laura Lodes	Yes
Jerry Purkaple	Yes		

**OAC 252:100-15 Motor Vehicle Pollution Control Devices** Mr. Leon Ashford explained that the proposal would revoke Chapter 15 as the Department does not have the legal authority to enforce this rule. He added that the Department of Public Safety has the sole power to regulate motor vehicles; and assured that revocation of the rule would not change the federal prohibition on tampering with or removing emission control equipment from motor vehicles in Oklahoma. Ms. Myers moved to adopt staff recommendation to revoke the rule. Mr. White made the second.

*Transcript - Items 1-4A pages 5 - 9*

Montelle Clark	Yes	Sharon Myers	Yes
Gary Collins	Yes	Pete White	Yes
David Branecky	Yes	Laura Lodes	Yes
Jerry Purkaple	Yes		

**OAC 252:100-17 Incinerators** Mr. Max Price advised that the proposal would change several sections of Chapter 17 to remove certain obsolete language and clarify the remaining provisions to harmonize the language and structure in the rule. Mr. Price stated that staff request the rule be continued to Council's next meeting to allow for further public comment. Mr. Purkaple made motion to continue the rulemaking and Mr. Branecky made the second.

*Transcript - Item 4B*

Montelle Clark	Yes	Sharon Myers	Yes
Gary Collins	Yes	Pete White	Yes
David Branecky	Yes	Laura Lodes	Yes
Jerry Purkaple	Yes		

**Appendix E Primary Ambient Air Quality Standards [REVOKED]**

**Appendix E Primary Ambient Air Quality Standards [NEW]**

**Appendix F Secondary Ambient Air Quality Standards [REVOKED]**

**Appendix F Secondary Ambient Air Quality Standards [NEW]**

Ms. Diana Hinson advised that in order to update the ambient air quality standards for lead, the proposal would revoke the current Appendices E and F and add new Appendices E and F to make them consistent with current federal standards. Staff fielded questions and comments from Council and there were no public comments. Mr. Branecky made motion to adopt the rulemaking as presented. Mr. Clark made the second.

*Transcript - Item 4C*

Montelle Clark	Yes	Sharon Myers	Yes
Gary Collins	Yes	Pete White	Yes
David Branecky	Yes	Laura Lodes	Yes
Jerry Purkaple	Yes		

**Presentation – Update on SC 31, Control of Emission of Sulfur Compounds** Mr. Max Price provided a history of the rule and pointed out some suggested changes that would be addressed. He advised that staff is requesting comments for the re-write of SC 31.

*Transcript – Item 5*

**Presentation – 2009 Ozone Season** Mr. Scott Thomas presented a PowerPoint presentation providing a time line for implementation of the new federal ozone standards and outlined the minimum requirements if either the Tulsa or Oklahoma City metropolitan statistical area is designated as nonattainment in 2010.

*Transcript – Item 6*

**Director's Report** Mr. Terrill conveyed that new appointees at EPA Region VI are Lisa Jackson as Commissioner and Gina McCarthy is the Associate Commissioner; and that CO2 has moved to the forefront of what EPA is doing. Also EPA is taking another look at PM2.5 and mercury. Mr. Terrill mentioned that Senate Bill 817 would be of interest to the Chair and Vice-Chair as it will require that all rules be affirmed and acted on by the Legislature, therefore we could be called to 're-argue' the rulemaking.

*Transcript – Item 7*

**New Business** – A number of citizens commented on the fly ash disposal plant near the town of Bokoshe in southeastern Oklahoma.

**Adjournment** – The meeting adjourned at 12:15 p.m.

Montelle Clark	Yes	Sharon Myers	Yes
Gary Collins	Yes	Pete White	Yes
David Branecky	Yes	Laura Lodes	Yes
Jerry Purkaple	Yes		

**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 REGULARLY SCHEDULED  
AIR QUALITY COUNCIL MEETING  
HELD ON APRIL 15, 2009, AT 9:00 AM  
IN TULSA, OKLAHOMA

ITEMS 1-4A

\* \* \* \* \*

MYERS REPORTING SERVICE  
Christy A. Myers, CSR  
P.O. Box 721532  
Oklahoma City, Oklahoma 73172-1532  
(405) 721-2882

1 COUNCIL MEMBERS

2

3 DAVID BRANECKY, MEMBER

4 JIM HAUGHT, MEMBER

5 SHARON MYERS, MEMBER

6 JERRY PURKAPLE, VICE-CHAIR

7 LAURA LODES, CHAIR

8 MONTELLE CLARK, MEMBER

9 PETE WHITE, MEMBER

10 GARY COLLINS, MEMBER

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12 DEQ STAFF

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14 MYRNA BRUCE

15 BEVERLY BOTCHLET-SMITH

16 EDDIE TERRILL

17 MAX PRICE

18 CHERYL BRADLEY

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PROCEEDINGS

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MS. LODES: We'll go ahead and start

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meeting. Myrna, would you call the roll, please.

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MS. BRUCE: Montelle Clark.

7

MR. CLARK: Present.

8

MS. BRUCE: Gary Collins.

9

MR. COLLINS: Present.

expected.

10

MS. BRUCE: Jim Haught. He was

11

David Branecky.

12

MR. BRANECKY: Present.

13

MS. BRUCE: Jerry Purkaple.

14

MR. PURKAPLE: Here.

15

MS. BRUCE: Sharon Myers.

16

MS. MYERS: Here.

17

MS. BRUCE: Pete White.

18

MR. WHITE: Here.

Lodes.

19

MS. BRUCE: Bob Lynch is absent. Laura

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MS. LODES: Here.

21

MS. BRUCE: We do have a quorum.

agenda is

22

MS. LODES: The next item on today's

Regular

23

the Approval of the Minutes from the January 21, 2009

24

Meeting.

25

Do we have any comments on the Minutes?

1 MR. WHITE: Move for approval.  
2 MR. BRANECKY: Second.  
3 MS. LODES: Myrna, will you call the  
roll,  
4 please.  
5 MS. BRUCE: Montelle Clark.  
6 MR. CLARK: Yes.  
7 MS. BRUCE: Gary Collins.  
8 MR. COLLINS: Yes.  
9 MS. BRUCE: David Branecky.  
10 MR. BRANECKY: Yes.  
11 MS. BRUCE: Jerry Purkaple.  
12 MR. PURKAPLE: Yes.  
13 MS. BRUCE: Sharon Myers.  
14 MS. MYERS: Yes.  
15 MS. BRUCE: Pete White.  
16 MR. WHITE: Yes.  
17 MS. BRUCE: Laura Lodes.  
18 MS. LODES: Yes.  
19 MS. BRUCE: Motion passed.  
20 MS. LODES: With that we'll start the  
public  
21 hearing portion of the meeting.  
22 MS. BOTCHLET-SMITH: Good morning. I'm  
Beverly  
23 Botchlet-Smith, I'm the Assistant Director of the Air  
Quality

for 24 Division. As such, I'll serve as the Protocol Officer  
25 today's hearings.

5

Quality 1 The hearings will be convened by the Air  
2 Council in compliance with the Oklahoma Administrative  
3 Regulations, 3 Procedures Act and Title 40 of the Code of Federal  
4 Oklahoma 4 Part 51, as well as the authority of Title 27A of the  
5 Statutes, Section 2-2-201, Sections 2-5-101 through 2-  
5-118.

advertised 6 Notice of the April 15, 2009 hearings were  
7 in the Oklahoma Register for the purpose of receiving  
comments 7  
8 rules as 8 pertaining to the proposed OAC Title 252, Chapter 100  
9 listed on the Agenda and will be entered into each  
record along 9  
10 meeting was 10 with the Oklahoma Register filing. Notice of the  
11 The 11 filed with the Secretary of State on October 24, 2008.  
12 at this 12 Agenda was duly posted 24 hours prior to the meeting  
13 facility and also at the DEQ.

14 If you wish to make a statement, it is very  
important

and you 15 that you complete the form at the registration table  
16 will be called upon at the appropriate time.

17 Audience members, please remember to come to  
the  
18 podium for your comments and please state your name  
prior to  
19 speaking.

20 At this time, we will proceed with what's  
marked as  
21 Agenda Item 4A on the Hearing Agenda.

22 This is OAC 252:100-15, Motor Vehicle  
Pollution  
23 Control Devices. Mr. Leon Ashford will be giving the  
staff  
24 presentation.

25 MR. ASHFORD: Chair, Members of the  
Council,

6

1 ladies and gentlemen, and members of the public, the  
Department  
2 is proposing to revoke Subchapter 15 because the  
Department  
3 lacks the legal authority to enforce this rule. In  
the state  
4 of Oklahoma, the Oklahoma Department of Public Safety  
has the  
5 sole power to regulate motor vehicles. The current  
Subchapter  
6 15 is a partial duplication of the 1990 Federal Clean  
Air Act,

7 so revocation of this rule does not change the  
prohibition of  
8 removal, disconnection and/or disabling the emission  
control  
9 equipment on motor vehicles in the state of Oklahoma.  
10 Staff requests that the Council recommend  
this  
11 proposal for passage.  
12 One comment received, and the only comment  
received  
13 was from EPA. The comment does not approve or  
disapprove of  
14 the request to remove the subchapter, but states that  
the  
15 removal of Subchapter 15 from our SIP will require a  
16 demonstration of emission reductions from the  
Subchapter be  
17 replaced by equal or greater reductions in pollution,  
and then  
18 the emissions reductions for Subchapter 15 -- hold on  
a  
19 second -- the letter from EPA states that the removal  
of  
20 Subchapter 15 from our SIP will require a  
demonstration of  
21 emission reductions from the subchapter be replaced by  
equal or  
22 greater reduction. Since Subchapter 15 is not  
enforceable by  
23 us legally and has never attained any pollution  
reductions,  
24 then removing it is not a problem.  
25 Since Oklahoma has no current nonattainment  
or

7

needed to 1 maintenance areas, reductions from Subchapter 15 are  
2 maintain the NAAQS.

requests 3 And I'd like to restate again, the staff  
4 that the Council recommend this proposal for passage.

any 5 MS. BOTCHLET-SMITH: Does Council have  
6 questions for Mr. Ashford?

the 7 MR. BRANECKY: So EPA is not opposing  
8 removal of this rule?

remove 9 MR. ASHFORD: EPA only requires that to  
10 it from the SIP we have to get equal or greater  
reductions than

we've 11 what we had from the subchapter. But my logic is that

been 12 got zero reductions from the subchapter. It never has

no 13 used and legally it couldn't be used. So we attained

reductions and 14 reductions whenever we remove it, we'll have no

15 that will balance out.

that logic? 16 MR. BRANECKY: And EPA is okay with

17 MR. ASHFORD: They will --

18 MR. BRANECKY: We'll find out.

19 MR. ASHFORD: The comment that they  
gave -- in  
20 reality -- since it's not enforceable, it's an  
appendix  
21 basically. It's something that in 1968 it was put on  
the  
22 books, and they thought it would be a good idea and  
apparently  
23 someone didn't really do their homework and figure out  
that the  
24 Department of Public Safety is the only entity that  
can enforce  
25 those rules in the state of Oklahoma.

8

1 MR. TERRILL: David, what we'll do is  
we  
2 probably won't have a Board meeting in June. They  
generally in  
3 the last couple of years cancelled that Board meeting.  
So  
4 we'll have until August. We'll work out with EPA what  
they  
5 expect, and we'll tell you what we're planning on  
sending down  
6 and then we'll make a decision as to whether or not  
we'll take  
7 it to the Board or not.  
8 I would expect that we probably will, and  
then work  
9 out how we send it down as a SIP provision. We may  
hold off

10 and see what happens in this ozone season and then if  
we have  
11 to do a SIP provision relative to the new NAAQS, then  
we'll  
12 roll all of this into whatever we send down.  
13 This is part of our intitial start into the  
second  
14 rewrite/dewrong, for those of you have been around a  
while, if  
15 you remember, we went through there and cleaned up our  
rules  
16 and got rid of redundancy and things that were no  
longer  
17 applicable and tried to make them a little more  
streamed lined  
18 and readable by the public and by the regulated  
community and  
19 so this is our second step into that. And I just  
don't see the  
20 value of keeping something in our rules that we don't  
have any  
21 jurisdiction over.  
22 MS. BOTCHLET-SMITH: Anyone else on the  
Council  
23 have a question?  
24 I didn't receive any notice of anyone from  
the public  
25 wishing to comment on this rule.

1 MS. LODES: Do we have any public  
comments for  
2 this rule?  
3 With no public comment indication, I need a  
motion.  
4 MS. MYERS: I'll make a motion that we  
follow  
5 the Agency guidelines and adopt the recommendation to  
revoke  
6 this rule.  
7 MR. WHITE: Second.  
8 MS. LODES: I have a motion and a  
second.  
9 Myrna, will you call the roll.  
10 MS. BRUCE: Montelle Clark.  
11 MR. CLARK: Yes.  
12 MS. BRUCE: Gary Collins.  
13 MR. COLLINS: Yes.  
14 MS. BRUCE: David Branecky.  
15 MR. BRANECKY: Yes.  
16 MS. BRUCE: Jerry Purkaple.  
17 MR. PURKAPLE: Yes.  
18 MS. BRUCE: Sharon Myers.  
19 MS. MYERS: Yes.  
20 MS. BRUCE: Pete White.  
21 MR. WHITE: Yes.  
22 MS. BRUCE: Laura Lodes.  
23 MS. LODES: Yes.  
24 MS. BRUCE: Motion passed.

25 (Items 1-4A Concluded)

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C E R T I F I C A T E

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6 STATE OF OKLAHOMA )

) ss:

7 COUNTY OF OKLAHOMA )

8 Reporter in

I, CHRISTY A. MYERS, Certified Shorthand

9 the above

and for the State of Oklahoma, do hereby certify that

10 but the

proceeding is the truth, the whole truth, and nothing

11 truth; that the foregoing proceeding was taken down in  
12 shorthand by me and thereafter transcribed under my  
direction;

13 2009, at

that said meeting was taken on the 15th day of April,

14 nor

Tulsa, Oklahoma; and that I am neither attorney for,

15 interested in

relative of any of said parties, nor otherwise

16 said action.

17 hand and

IN WITNESS WHEREOF, I have hereunto set my

18 official seal on this, the 30th day of May, 2009.

19

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

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

OF THE REGULARLY SCHEDULED

AIR QUALITY COUNCIL MEETING

HELD ON APRIL 15, 2009, AT 9:00 AM

IN TULSA, OKLAHOMA

ITEMS 4B

\* \* \* \* \*

MYERS REPORTING SERVICE  
Christy A. Myers, CSR  
P.O. Box 721532  
Oklahoma City, Oklahoma 73172-1532  
(405) 721-2882

1 COUNCIL MEMBERS

2

3 DAVID BRANECKY, MEMBER

4 JIM HAUGHT, MEMBER

5 SHARON MYERS, MEMBER

6 JERRY PURKAPLE, VICE-CHAIR

7 LAURA LODES, CHAIR

8 MONTELLE CLARK, MEMBER

9 PETE WHITE, MEMBER

10 GARY COLLINS, MEMBER

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12 DEQ STAFF

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14 MYRNA BRUCE

15 BEVERLY BOTCHLET-SMITH

16 EDDIE TERRILL

17 MAX PRICE

18 CHERYL BRADLEY

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PROCEEDINGS

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Agenda,  
presentation

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MS. BOTCHLET-SMITH: The next item on the

presentation

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Number 4B, is OAC 252:100-17, Incinerators. The

6

will be given by Mr. Max Price of our staff.

Council,

7

MR. PRICE: Madam Chair, Members of the

8

ladies and gentlemen.

252:100-17,

9

The Department is proposing to amend OAC

10

parts 1 and 3 to clarify the language.

to

11

This is the first step in an ongoing project

parts of

12

harmonize the language and structure in the different

13

this rule.

different

14

Subchapter 17 has six parts.

a little

15

Each part was added at different times by

16

authors, so the language and structure of each part is

17

weird -- a little strange.

structure can

18

This inconsistency in the language and

19

lead to misinterpretations of the rule.

20 Notice of this proposed rule change was  
published in

21 the Oklahoma Register on March 16, 2009.

22 This is the first occasion that the Council  
had to

23 evaluate these amendments. We did receive a comment  
letter

24 from EPA dated April 10, but it was too late to put in  
your

25 packet. I think you guys have copies of it. Their  
comment on

4

1 17 was that they wanted to think about adding  
residence times

2 in these rules. And we'll have a response to that at  
the later

3 meeting.

4 Staff asks that the Council to carry this  
proposal

5 over to the next Air Quality Advisory Council meeting  
to allow

6 more time for public comment.

7 Thank you.

8 MS. LODS: Do we have any questions  
from the

9 Council?

10 MR. PURKAPLE: Max, I have a couple of

11 questions.

12 MR. PRICE: Yes, sir.

13 MR. PURKAPLE: In 100-17-1, under  
purpose, what

14 you suggested here is that you strike the phrase  
"Municipal

15 Waste Combustors, MWC".

16 MR. PRICE: Yes, sir.

17 MR. PURKAPLE: But there are other  
sections of

18 Subchapter 17 though that do refer to MWC. Is it  
appropriate

19 to strike that from the purpose?

20 MR. PRICE: I thought it was a  
redundancy. But

21 it's not absolutely essential that we do that.  
Municipal waste

22 combustor is to most people's mind an incinerator and  
I thought

23 it was just a redundancy. I'm a minimalist, I like to  
take all

24 the extra words out of a thing that I can and still  
have the

25 meaning come through.

5

1 MR. PURKAPLE: Okay. Second question  
is under

2 17-2, Applicability, and specifically in that last  
sentence

3 where you are referencing several air quality  
subchapters. You

4 have 252:100-19-12, and 252:100-31 and 252:100-33.  
What seems

5 to be missing is maybe 100-25, to make that consistent  
with --

6 I'm searching for it -- the list of regulations under  
100-17-

7 5.1.

8 MR. PRICE: Yes, good catch. I think  
the reason

9 that inconsistency exists is the reciprocity rule  
which is what

10 25 is applies to everything. And up here I was trying  
to point

11 out that because under these conditions, these are  
considered

12 fuel-burning equipment, therefore, the NOx rule and  
the SOx

13 rule would apply as well to this. But I see no reason  
why we

14 couldn't just go ahead and add 25 as a point of  
clarity up

15 there. That's not a big deal.

16 MR. PURKAPLE: I was just looking for  
the

17 consistency.

18 MR. PRICE: Good point.

19 MR. BRANECKY: Max, along that same  
line, I

20 don't remember other subchapters, do they refer to --  
being

21 referred to OAC 252:100?

22 MR. PRICE: We're debating that because  
23 according to the rules on rulemaking, that is really  
not

24 necessary if we're staying within the same chapter. I  
know

25 that lawyers like to see it. Me, like I say, I'm a  
minimalist,

1 I don't believe in putting anything in there that  
might confuse

2 somebody. So we're debating about that. And in the  
next draft

3 that decision would have been made, I'm sure.

4 MR. BRANECKY: Okay.

5 MS. BOTCHLET-SMITH: Other questions  
from the

6 Council?

7 MS. LODES: Yes. Max, on 17-4 from  
2.9, that

8 the number 1 and number 2 fuel oil, (inaudible) oil,

9 (inaudible) gaseous fuels and (inaudible) will not be

10 considered as part of the refuse waste?

11 MR. PRICE: Yes, ma'am.

12 MS. LODES: By striking that, does that  
now

13 indicate that they will be considered as part of the  
refuse

14 waste?

15 MR. PRICE: No, ma'am. What has  
happened here

16 is that this is an early draft of this thing and in  
the

17 Appendix A and B, this very issue will be taken up in  
those

18 Appendices and it was just a redundancy. In the true  
life that

19 they fire up -- incinerator for coal, that's  
considered part of

oil and 20 the process way. This is simply saying that if it's  
21 gas it's not part of the process way. It was just a  
22 redundancy, it's really not necessary. And in the  
next draft,  
23 it will be made clear in the appendices.

24 MS. LODES: Thank you.

25 MR. PRICE: You're welcome.

7

1 MS. BOTCHLET-SMITH: Any other  
questions from  
2 the Council? I haven't received any notice for public  
comment.

3 Does anyone want to comment on this rule? Hearing  
none, I'll  
4 turn it back to you.

5 MS. LODES: Having received no public  
comments,  
6 no further discussion from the Council, do I hear a  
motion?

7 MR. PURKAPLE: I move that we hold this  
over to  
8 the next meeting.

9 MR. BRANECKY: Second.

10 MS. LODES: I have a motion and a  
second.

11 Myrna, will you call the roll.

12 MS. BRUCE: Montelle Clark.

13 MR. CLARK: Yes.

14 MS. BRUCE: Gary Collins.

15 MR. COLLINS: Yes.  
16 MS. BRUCE: David Branecky.  
17 MR. BRANECKY: Yes.  
18 MS. BRUCE: Jerry Purkapple.  
19 MR. PURKAPLE: Yes.  
20 MS. BRUCE: Sharon Myers.  
21 MS. MYERS: Yes.  
22 MS. BRUCE: Pete White.  
23 MR. WHITE: Yes.  
24 MS. BRUCE: Laura Lodes.  
25 MS. LODES: Yes.

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1 MS. BRUCE: Motion passed.  
2 (Items 1-4B Concluded)  
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C E R T I F I C A T E

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4 STATE OF OKLAHOMA )

) ss:

5 COUNTY OF OKLAHOMA )

6 Reporter in

I, CHRISTY A. MYERS, Certified Shorthand

7 the above

and for the State of Oklahoma, do hereby certify that

8 but the

proceeding is the truth, the whole truth, and nothing

9 direction;

truth; that the foregoing proceeding was taken down in shorthand by me and thereafter transcribed under my

10 2009, at

11 that said meeting was taken on the 15th day of April,

12 nor

12 Tulsa, Oklahoma; and that I am neither attorney for,

13 interested in

13 relative of any of said parties, nor otherwise

14 hand and

14 said action.

15 IN WITNESS WHEREOF, I have hereunto set my

16 official seal on this, the 30th day of May, 2009.

17

18

CHRISTY A. MYERS, C.S.R.

19

Certificate No. 00310 21

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF THE REGULARLY SCHEDULED  
AIR QUALITY COUNCIL MEETING  
HELD ON APRIL 15, 2009, AT 9:00 AM  
IN TULSA, OKLAHOMA

ITEM 4C

\* \* \* \* \*

MYERS REPORTING SERVICE  
Christy A. Myers, CSR  
P.O. Box 721532  
Oklahoma City, Oklahoma 73172-1532  
(405) 721-2882

1

COUNCIL MEMBERS

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DEQ STAFF

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7 MYRNA BRUCE

8 BEVERLY BOTCHLET-SMITH

9 EDDIE TERRILL

10 MAX PRICE

11 CHERYL BRADLEY

12

13

OTHERS PRESENT

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PROCEEDINGS

3

4 the Agenda

MS. BOTCHLET-SMITH: The next item on

5

is Number 4C, Appendix E, Primary Ambient Air Quality

6 Quality

Standards, and Appendix F, Secondary Ambient Air

7

Standards. Ms. Diana Hinson of staff will give the

8

presentation.

9 Members

MS. HINSON: Good morning, Madam Chair,

10

of the Council, ladies and gentlemen.

11

I am Diana Hinson, an Environmental Programs

12 Air Quality

Specialist in the Rules and Planning Section of the

13

Division.

14 standard

15

In November of 2008, the EPA published a new

16 micrograms per

17

for lead, changing the value from 1.50 to 0.15

18

cubic meter.

19 changed

20

Additionally, the form of the measurement

21

from a quarterly average to a rolling 3-month average.

22 standard and

23

Appendix E is Oklahoma's primary health

for 20 Appendix F is the state's secondary welfare standard

21 Ambient Air Quality.

22 At this time, staff would like to revoke old

23 Appendices E and F and replace them with new  
Appendices E and

24 F, to reflect those changes. These modifications will  
ensure

25 Oklahoma's rule is as protective as EPA's.

4

1 This is the first time the Council has  
considered

2 these changes.

3 Notice of the proposed rule changes was  
published in

4 the Oklahoma Register on March 16, 2009, requesting  
comments

5 from members of the public. On April 10, 2009,  
Oklahoma DEQ

6 received a letter from the EPA concurring with the  
proposed

7 revisions to Appendices E and F.

8 Staff requests that the Council vote to send  
the

9 proposal to the Environmental Quality Board with the

10 recommendation that it be adopted as a permanent rule.

11 Thank you.

12 MS. BOTCHLET-SMITH: Does Council have  
questions

13 regarding this rule? Montelle.

14 considering this

MR. CLARK: I know that EPA was

15 -- we talked about -- the discussion of monitoring  
sources and

16 whether that monitoring should occur at half ton  
levels per

17 year or full-time levels per year. Can you address  
that as far

18 as the practical application here in Oklahoma. Do you  
have any

19 sources that are greater than a ton a year?

20 MS. HINSON: I'll defer that question  
to Cheryl

21 Bradley.

22 MS. BRADLEY: I'm Cheryl Bradley with  
the Air

23 Quality Division, Rules and Planning Section.

24 We do have one source, one potential source  
in the

25 state of Oklahoma, McAlester Army Ammunition Plant,  
that may be

5

1 subject to the source oriented monitoring. Our  
monitoring

2 section is currently evaluating the information for  
that

3 particular source and developing a strategy to address  
the

4 requirements of the new lead standard.

5 MR. CLARK: Do you know whether -- do  
we have

6 any sources between a half a ton and a ton?

7 MS. BRADLEY: Let me say it depends  
upon which  
8 years emissions inventory data is evaluated. The  
quality of  
9 the data has continued to improve as heavy metals are  
of more  
10 interest to the source and to the public. I don't  
believe we  
11 have many sources in that range. Most of them are  
below the  
12 400 or 500 pounds that was in the original proposal.  
As to  
13 what those specific sources are, today I'm unprepared  
to tell  
14 you exactly what they were, but we had a very short  
list. Most  
15 of the industries that were emitters of lead no longer  
-- many  
16 of those have gone out of business. The lead battery  
recycling  
17 facilities, as an example, and to my knowledge we have  
none of  
18 those sources.

19 MR. CLARK: Thank you.

20 MS. BOTCHLET-SMITH: Further questions  
or  
21 comments from the Council? Any questions from the  
public?

22 Hearing none, Laura, you can call for a  
motion.

23 MS. LODES: Do I hear a motion?

24 MR. BRANECKY: I'll make a motion that  
we adopt  
25 the recommendation to revise the Appendices E and F as  
proposed

1 by staff.

2 MR. CLARK: Second.

3 MS. LODES: I have a motion and a  
second.

4 Myrna, will you call the roll.

5 MS. BRUCE: Montelle Clark.

6 MR. CLARK: Yes.

7 MS. BRUCE: Gary Collins.

8 MR. COLLINS: Yes.

9 MS. BRUCE: David Branecky.

10 MR. BRANECKY: Yes.

11 MS. BRUCE: Jerry Purkaple.

12 MR. PURKAPLE: Yes.

13 MS. BRUCE: Sharon Myers.

14 MS. MYERS: Yes.

15 MS. BRUCE: Pete White.

16 MR. WHITE: Yes.

17 MS. BRUCE: Laura Lodes.

18 MS. LODES: Yes.

19 MS. BRUCE: Motion passed.

20 MS. BOTCHLET-SMITH: And that concludes  
the

21 hearing portion of today's meeting.

22 (Item Number 4C Concluded)

23 (Hearings Concluded)

24

C E R T I F I C A T E

8

1 STATE OF OKLAHOMA )  
2 COUNTY OF OKLAHOMA ) ss:

3 I, CHRISTY A. MYERS, Certified Shorthand  
Reporter in  
4 and for the State of Oklahoma, do hereby certify that  
the above  
5 proceeding is the truth, the whole truth, and nothing  
but the  
6 truth; that the foregoing proceeding was taken down in  
7 shorthand by me and thereafter transcribed under my  
direction;  
8 that said meeting was taken on the 15th day of April,  
2009, at  
9 Tulsa, Oklahoma; and that I am neither attorney for,  
nor  
10 relative of any of said parties, nor otherwise  
interested in  
11 said action.

12 IN WITNESS WHEREOF, I have hereunto set my  
hand and  
13 official seal on this, the 30th day of May, 2009.

14  
15  
16  
17  
18

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

19

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DEPARTMENT OF ENVIRONMENTAL QUALITY

2

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

9

OF THE REGULARLY SCHEDULED

10

AIR QUALITY COUNCIL MEETING

11

HELD ON APRIL 15, 2009, AT 9:00 AM

12

IN TULSA, OKLAHOMA

13

ITEMS 5

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MYERS REPORTING SERVICE

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Christy A. Myers, CSR

P.O. Box 721532

23

Oklahoma City, Oklahoma 73172-1532

(405) 721-2882

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COUNCIL MEMBERS

DEQ STAFF

- MYRNA BRUCE
- BEVERLY BOTCHLET-SMITH
- EDDIE TERRILL
- MAX PRICE
- CHERYL BRADLEY

OTHERS PRESENT

1

2

PROCEEDINGS

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MS. LODS: The next item on the agenda

is a

4

presentation from the DEQ on updates on Subchapters

31. Max

5

price will be doing the presentation.

6

MR. PRICE: Madam Chair, Members of the

Council,

7

ladies and gentlemen. Subchapter 31, Control of

Emissions of

8

SO2, was first effective on July 1, 1972 as Oklahoma

9

Department of Health Regulation 16, and consisted of

three

10

sections.

11

The 1972 rule contained ambient sulfur

oxides

12

standards for all existing facilities.

13

These limits are substantially the same as

those

14

found in the current rule. The 1972 rule also set SO2

and

15

sulfuric acid mist emission limits for new sulfuric

acid

16

plants, and SO2 emission limits for new fuel-burning

equipment,

17

sulfur recovery plants, and nonferrous smelters and

paper pulp

18

mills.

19

It should be noted that the original ambient

SO2

as 20 standards were meant to apply to all existing sources  
21 opposed to any new specified source.

been 22 Since the rule was first effective, it has  
23 modified 10 times prior to 2002 when the rule was  
completely 24 rewritten to its present form.

to 25 The rule is again modified slightly in 2003

4

entire 1 clarify that the ambient SO2 standards apply to the

facility. 2 facility, not just individual units within the  
The 3

the rule, 4 rewrite in 2002 corrected many confusing aspects of

new 5 but confusion still exist with regard to existing and

sources in 6 sources. The SO2 ambient air standards for existing

said, to 7 Subchapter 31 were originally meant, as I've already

as opposed 8 be the default SO2 standards for any existing source

to the 9 to any new specified source. In the ongoing revisions

specific 10 rule, this distinction has been somewhat lost because

news existing sources have been added and the categories of

11 sources have been expanded and generalized.  
12 In addition, Subchapter 31 seems to require  
that the 13 ambient standards be applied to flairs.  
14 This would imply that if a facility can't  
meet these 15 standards then they will have to install sulfur  
recovery 16 equipment to remove sulfur from the gas stream before  
it is 17 flared.  
18 As enforced and permitted, this is indeed  
the case. 19 Staff will be proposing language to clarify  
the 20 applicability and practice of this aspect of the rule  
by making 21 the current use and practice part of the rule  
language. There 22 may also be overlap between these standards and  
applicable 40 23 CFR part 60 standards.  
24 If so there could be conflicts in the excess  
emission 25 requirements in the new Subchapter 9.

5

1 standards for new sources in Subchapter 31 were  
derived from 2 the emission standards contained in 40 CFR part 60  
rules.

3 If, for example, there was an excess  
emission at a  
4 facility that is subject to the standards in  
Subchapter 31 and  
5 an identical emission standard contained in an  
applicable 40  
6 CFR part 60 rule, then the provisions in Subchapter 9  
for  
7 alternative reporting would only apply to the excess  
emission  
8 for the 40 CFR part 60 rule.

9 The identical excess emission for Subchapter  
31 would  
10 also have to be reported using the current reporting  
11 requirements in Subchapter 9.

12 This could have the effect of double  
reporting on the  
13 same excess emissions.

14 Staff is considering correcting these  
possible  
15 conflicts in the Subchapter 31 rule language.

16 Staff is also considering giving each part  
of the  
17 rule its own applicability and definition section to  
eliminate  
18 any confusion about the requirements for new and  
existing  
19 sources.

20 To this end, the staff is requesting  
comments from  
21 the public. All comments should be addressed to  
Cheryl  
22 Bradley. Her contact information is part of the  
notice for

23 this meeting, but I'll reiterate part of it right  
here. She  
24 can be telephoned at 405-702-4218, and her email  
address is  
25 Cheryl.Bradley@DEQ.ok.gov.

6  
1 Please send all of your comments to Cheryl,  
even the  
2 ones that are not part of this rule. This is all I  
have to say  
3 about 31. Thank you.

MS.

4 LODES: Do we have any questions from the Council? No  
5 questions from the Council.

6 Do we have any questions from the public  
regarding  
7 Max's presentation?

8 Max, there are no questions.

9 MR. TERRILL: We would encourage you  
though as  
10 you evaluate this to submit us questions. Again this  
is part  
11 of our rewrite/dewrong phase 2 and we are going to  
make some  
12 substantial changes to this rule. So getting feedback  
from the  
13 Council as well as anyone from the public is going to  
be  
14 effected by the rule, it's really important because  
that's what  
15 the process is for.

16 (Item Number 5 concluded)

17  
19

20

C E R T I F I C A T E

21

22 STATE OF OKLAHOMA )

) ss:

23 COUNTY OF OKLAHOMA )

24  
Reporter in

I, CHRISTY A. MYERS, Certified Shorthand

25  
the above

and for the State of Oklahoma, do hereby certify that

but the

1 proceeding is the truth, the whole truth, and nothing

2  
3  
direction;

truth; that the foregoing proceeding was taken down in

2009, at

4 that said meeting was taken on the 15th day of April,

nor

5 Tulsa, Oklahoma; and that I am neither attorney for,

interested in

6 relative of any of said parties, nor otherwise

7

said action.

8  
hand and

IN WITNESS WHEREOF, I have hereunto set my

9

official seal on this, the 30th day of May, 2009.

10

11

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

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

15

OF THE AIR QUALITY COUNCIL MEETING

16

DIRECTOR'S REPORT BY EDDIE TERRILL

17

HELD ON APRIL 15, 2009, AT 9:00 AM

18

IN TULSA, OKLAHOMA

19

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MYERS REPORTING

SERVICE

Christy A. Myers, CSR  
P.O. Box 721532  
Oklahoma City, Oklahoma 73172-1532  
(405) 721-2882

1 COUNCIL MEMBERS

2

3 DAVID BRANECKY, CHAIRMAN

4 JIM HAUGHT, MEMBER

5 SHARON MYERS, MEMBER

6 JERRY PURKAPLE, MEMBER

7 LAURA LODES, MEMBER

8 MONTELLE CLARK, MEMBER

9

10 DEQ STAFF

11

12 MYRNA BRUCE

13 BEVERLY BOTCHLET-SMITH

14 EDDIE TERRIL

15 MAX PRICE

16 CHERYL BRADLEY

17

18 OTHERS PRESENT

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## 1 DIRECTOR'S REPORT

2

3 MR. TERRILL: Lisa Jackson, she was the  
4 Commissioner in New Jersey, and I forget what she was  
doing --  
5 she may be the Commissioner in New Jersey but she's  
been around  
6 a while. Steve knows her. We're hopeful that she'll  
have more  
7 of an understanding about state roles and what EPA and  
we're  
8 hopeful she'll be a good partner but only time will  
tell. You  
9 never know how someone is going to react to a position  
until  
10 actually they do it.

11 Of more interest, Gene Macarthy who is the  
12 Commissioner in Conneticut, has been nominated to be  
the  
13 associated administrator for Air. So she'll be the  
person that  
14 I will be dealing with more so than Lisa Jackson.

15 She's of interest because she being the  
Commissioner  
16 in Conneticut was involved in starting a \_\_\_\_\_ carbon  
training  
17 program in the northeast. She is also the Chair of  
the climate  
18 registry which there is still some question as what  
role the  
19 climate registry is going to have in carbon emissions

20 collections in the new rule.  
21 But obviously they have chosen her because of her  
interest in  
22 her work in carbon.  
23 So CO2 has moved in the forefront of what  
EPA is  
24 doing. And I think a lot of things they are doing  
right now is  
25 centered on that. But they issued their SIP to the  
reporting

4

1 rule, they extended the comment period to June 9th of  
this  
2 year. So if you've got carbon -- so if you believe  
that you're  
3 going to have carbon that's going to be -- required to  
be  
4 reported outside of the threshold of 25,000 tons but  
if they be  
5 something more or less than that, the bill is only 500  
or 600  
6 pages long. So you ought be able to figure out what  
you want  
7 to comment on that, now is the time to do that but EPA  
will be  
8 finalizing that sometime late this summer.

9 It looks like the Waxman bill is going to be  
the  
10 vehicle that is going to be used if there is one used  
in this  
11 Congressional Session that deals with carbon. Those  
that know

12 a lot more about this than I do, think it's a fairly  
balanced  
13 bill, it has some compromise on both sides and it has  
a  
14 reasonable chance of passing. I don't if it does or  
not. But  
15 that's one that they are going start market up on in a  
couple  
16 of weeks and they are doing that through a marketing  
committee  
17 and they'll start having public hearings I believe  
week after  
18 next with the idea that they'll have this wrapped up  
by  
19 Memorial Day which I think is fairly ambitious but  
that's their  
20 target now. So if you have an interest in what each  
pilot  
21 company does with the pilot change and carbon, you  
might want  
22 to be following the Waxman bill and see what the  
testimony is  
23 in front of the Committee for that.

24 I'll probably mention that ozone and PM 2.5,  
EPA is  
25 taking another look at whether or not they set the  
NAAQS

5

1 Standard correctly relative to that. In addition,  
they are  
2 also looking at mercury, although I wouldn't be  
surprised if  
3 they don't have some sort of mercury rules proposed by  
the end

4 of this summer. I know they are working on it. It is  
a high  
5 priority with the Agency. We commented in a  
conference call a  
6 couple of weeks ago and also the thin air interstate  
rule, EPA  
7 is looking at what that needs to look like in light of  
the  
8 court case, in fact, it was remanded back to EPA and I  
think  
9 there's a lot sentiment that it probably should be  
expanded out  
10 and our comment is that not only should it be expanded  
out, it  
11 should be used to include -- how we are going to go  
forward on  
12 all of these pollutants: mercury, SOx, NOx, PM; do you  
think we  
13 need a national comprehensive strategy that allows  
industry and  
14 the rate payers that are going to be paying for these  
budgets,  
15 understanding what it's going to cost and the time  
line to get  
16 these things done to reduce all of these pollutants.  
So -- and  
17 that would go to ozone as well. So I don't know what  
they are  
18 going to do but it looks like EPA is interested in  
pushing here  
19 to avoid broader (inaudible) than it was originally  
intended and  
20 they do that from the two-year guideline to implement  
a rule.  
21 So they will be drafting it for probably another year.

22        However, by this time next year and they will  
implement it

23        probably in late 2010. So if you think you might be

24        (inaudible) right now that (inaudible) you might keep  
an eye on

25        that as well.

1                   One thing I did want -- and this rule is  
going to go  
2                   to this Jerry and Laura, that Senate Bill 817 is going  
require  
3                   the Legislature to affirmatively approve rules.

4                   In the past what's happened is once the  
Chairman of  
5                   the Board passed rules, it goes to the Governor for  
signature,  
6                   and then if the Governor doesn't act on it, or the  
Legislature  
7                   doesn't affirmatively say we want to pass on it, they  
can do  
8                   nothing and it becomes a law. What this would do is  
require  
9                   all the rules that goes -- comes out of the Boards and  
Councils  
10                  to be affirmatively acted on by the Legislature. They  
would  
11                  have to vote that all of the rules that come out of  
here would  
12                  continue on in order for them to become effective. So  
we may  
13                  have to become more of an advocate -- we may ask that  
the  
14                  Councils and Boards become more of an advocate at the  
15                  Legislature depending on what his looks like. We're  
hopeful  
16                  that they will realize that there is a lot of work  
that is  
17                  being done by Councils and Boards that really do  
involve the

18 public and that's the time to do this. Because they  
have to  
19 reargue or go through these rules at the Legislature  
will be  
20 tough. It will be tough on the Legislature too  
because they  
21 so many of these. But that's what we're a little  
concerned  
22 about because we're not sure exactly how that will  
effect  
23 everybody. But I wanted to make you all aware that if  
that  
24 happens we may have to ask the Councils to be a little  
bit more  
25 involved in the legislative process if we have rules  
that we

7

1 want to get passed over there.

2 MS. MYERS: What bill was that?

3 MR. TERRILL: Senate Bill 817.

4 (Comment)

5 MR. TERRILL: Honestly, it's part of  
the overall  
6 transparency of government type of initiative that's  
going on  
7 over there and there's different things and we think  
that's  
8 part of it but honestly we don't know exactly what it  
9 (inaudible). This is kind of (inaudible). If the  
Governor  
10 vetoes it, I don't know.

11 (Comment)

12 MR. TERRILL: Not right now, it would  
just be an  
13 up or down.  
14 And of course, if you're talking about a  
federal  
15 mandate that you're wanting us to do through the EPA,  
that's  
16 part of something we want to send back.  
17 Anyway, I just want you to be aware of it.  
18 The other thing is that most of you know  
that  
19 (inaudible) emissions rules, that will go into effect  
sometime  
20 in July -- June or July. And we're in the process of  
working  
21 on our forms to be used and will have some both online  
and if  
22 we think that there's enough interest we may do some  
in-person  
23 outreaches and try to make people aware that these  
things are  
24 changing. I think a lot of you know about it  
(inaudible) there  
25 may be -- somehow effected by it and so you don't have  
to do

8

1 things that you didn't have to do in the past so we  
want to  
2 make sure everybody knows about that. So we'll be  
doing that  
3 late in May, early June, (inaudible).  
4 I believe that's all I've got.

5 Does anyone have any questions?

6 Thank you.

7 (Director's Report Concluded)

8

1

2

C E R T I F I C A T E

3

STATE OF OKLAHOMA )

4

) ss:

5

COUNTY OF OKLAHOMA )

6

Reporter in

7

I, CHRISTY A. MYERS, Certified Shorthand

the above

8

and for the State of Oklahoma, do hereby certify that

nothing

9

Director's Report is the truth, the whole truth, and

recorded and

10

but the truth; that the foregoing report was tape

ability; that

11

thereafter transcribed by me to the best of my

2009, at

12

said report was recorded on the 15th day of April,

nor

13

Tulsa, Oklahoma; and that I am neither attorney for,

interested in

14

relative of any of said parties, nor otherwise

15

said action.

hand and

16

IN WITNESS WHEREOF, I have hereunto set my

17

official seal on this, the 30th day of May, 2009.

18

19

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

20

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DEPARTMENT OF ENVIRONMENTAL QUALITY

2

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

10

OF THE AIR QUALITY COUNCIL MEETING

11

ITEM NUMBER 6

12

PRESENTATION BY SCOTT THOMAS

13

HELD ON APRIL 15, 2009, AT 9:00 A.M.

14

IN TULSA, OKLAHOMA

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MYERS REPORTING SERVICE

Christy Myers, CSR

P.O. Box 721532

Oklahoma City, Oklahoma 73172-1532

(405) 721-2882

- 1 MEMBERS OF THE COUNCIL
- 2
- 3 LAURA LODES, CHAIRMAN
- 4 JERRY PURKAPLE, VICE-CHAIRMAN
- 5 DAVID BRANECKY, MEMBER
- 6 MONTELLE CLARK, MEMBER
- 7 JIM HAUGHT, MEMBER
- 8 SHARON MYERS, MEMBER
- 9 PETE WHITE, MEMBER
- 10 GARY COLLINS, MEMBER
- 11
- 12 DEQ STAFF
- 13
- 14 MYRNA BRUCE
- 15 BEVERLY BOTCHLET-SMITH
- 16 EDDIE TERRILL
- 17 MAX PRICE
- 18 CHERYL BRADLEY
- 19 LEON ASHFORD
- 20 NANCY MARSHMENT
- 21
- 22
- 23
- 24 25

1

2

## PROCEEDINGS

3

4

and I was

MR. THOMAS: My name is Scott Thomas

5

of all

introduced. In 1972 I was a graduate student, and in

6

thesis on

places the University of Hawaii. And I wrote my

7

been

ozone. And ever since that time it seems like I have

8

resident expert on ozone for the Health Department and

9

the

subsequently DEQ. Each year I'm called upon usually

10

where we

beginning of ozone season to make a statement and say

11

this is the

are. And most of the time my conclusion has been,

12

we're going

most important year that we have ever had on where

13

attainment on

to determine if we go for a attainment or non-

14

ozone. I'm not changing my story.

15

critical year

This year by far is probably the most

16

we had whether or not we'll be ozone attainment or

17

we will

non-attainment. This time next year we will have a --

18

area or

definitely be non-attainment or have a non-attainment

19 we will be attainment statewide.

20 On the slide is a map of the ozone  
monitoring sites

21 and values of the recent ozone data. We have a very  
extensive

22 ozone monitoring network in Oklahoma. I've never put  
the

23 figures to it, but considering our population and the  
area of

24 our state, we probably have one of the most  
comprehensive,

25 anyway, ozone monitoring networks in the nation. We  
cover a

4

1 good portion of the state. Some of these sites  
located there

2 are not ours, they are operated by tribal governments.  
The

3 data on this slide indicates the last three years of  
data which

4 is 2006, 2007 and 2008. I want to say that all of  
these sites

5 are hooked up electronically to our -- by computers,  
they are

6 all accessed -- can be accessed by the public, you can  
get

7 real-time data from them and I will go into that a  
little bit

8 later.

9 The sites in red -- there will be two sites  
in Tulsa

10 County and two sites in Oklahoma County. Based on  
those values

new  
11 for the last three years indicate a violation of the  
12 National Ambient Air Quality Standard for ozone.  
13 The time line that we are under is really  
set by the  
14 Clean Air Act and by the review of the ozone standard.  
On  
15 March 12th, a year ago, EPA announced the new ozone  
standard of  
16 .075 parts per million.

17 One thing I need to point out is we now are  
showing a  
18 violation but historically I think our ozone values  
have  
19 actually been improving over the last several years.  
The fact  
20 is that the standard was made more stringent. This  
was -- it  
21 was made more stringent, perhaps rightfully so, by new  
evidence  
22 that showed that health effects of ozone can be  
exacerbated at  
23 even lower levels. It appears that it -- there is  
even talk  
24 about lowering the ozone standard even more.

25 There doesn't seem to be a bright line in  
ozone o

5

1 where it's good for health and bad for health. It  
just seems  
2 it's pretty bad for you if you breathe it at any level  
and it

there is 3 makes it pretty difficult in setting a standard and  
4 usually quite a bit of controversy when it goes on.

March 12th 5 But anyway, EPA announced the new standard  
6 of last year and that set a timetable in motion in  
that it

7 required the state of Oklahoma, based on those three  
year data  
8 that I showed you -- make recommendations as to the  
scope of

9 non-attainment areas and what areas should be  
designated as  
10 non-attainment to EPA.

11 This is done through the Governor's office.  
Governor

12 Henry chose in his recommendation to defer this  
recommendation  
13 until we got the data from this year. The ozone  
standard is

14 based on a three-year average. The states are  
required to make  
15 their final -- or EPA is required to make their final  
16 designation in March of 2010. We still have another  
ozone  
17 season to really look at to evaluate the data.

18 And 2006 was a very bad year weather-wise.  
We had

19 high temperatures, little rainfall, low winds. It was  
one of  
20 the worst ozone season years we've had in quite  
sometime. In

21 the equation for considering next year's data, we'll  
be able to

22 remove 2006 and substitute it with this year. We  
should know

23 fairly soon, or at least by fall of next year whether  
or not we

24 will be in a non-attainment situation or not.

25 So Governor Henry sent the letter down to  
EPA and a

1 copy of that has been made available to the public. A  
copy has

2 been given to you all in your packets. EPA has  
responded and

3 they basically -- I don't know if you could say  
concur, but

4 they concur with the recommendation that will require  
us and

5 EPA to work very closely together this summer. And  
whenever we

6 have a violation or close to a violation, that we  
notify them

7 where we are, probably even on a weekly basis. That  
way EPA

8 will make their final recommendations based on this  
year's data

9 in November that will allow for a 180-day period where  
there

10 could be negotiations.

11 There's also a lot of -- you know, usually  
there's a

12 lot of talk on what will be required if we do go non-

13 attainment. Here I just listed the -- at a minimum,  
the basic

14 things we'll have to be required to do in non-  
attainment. Some

15 of this, I must admit, is still up in the air.  
There's still

16 been some Court cases -- EPA, as usual, has not  
published their

17 final guidance on what will be required. This is all  
pretty

18 much new to us too because we've never been non-  
attainment.

19 But at a minimum we're going to have to update our  
inventory,

20 we're going to have to look at all various sources of  
the state

21 if we go to non-attainment. We have a very good  
inventory now

22 but we're probably going to have to tweak it  
especially as far

23 hydrocarbon and NOx emissions.

24 One of the major things that is going to  
have to be

25 done if we go non-attainment is called conformity.  
This will

7

1 be transportation conformity plan. All new highway  
projects in

2 a non-attainment area would have to go through an  
analysis to

3 demonstrate that they don't interfere with the plan or  
the

4 attainment or maintenance of the standard for ozone.

5 Another important requirement would require  
a 1.1

6 offset for any new sources coming into a non-  
attainment area

7 that have precursors of NOx. This would require --  
let's say a

8 source came in and it had 100 -- NOx and/or VOC's  
required a

9 hundred -- it had a hundred tons, that means it would  
have to  
10 find a hundred tons of reduction before it could come  
into a  
11 non-attainment area. It would be 1.1 percent. And  
again we  
12 would have to attain the standard within three years.

13 In setting a non-attainment area, EPA has  
basically  
14 said that the default non-attainment area is going to  
be the  
15 MSA in which the standard is -- the county in which  
the  
16 standard is exceeded. It could get smaller than that  
or larger  
17 based on basically nine factors. But at a minimum or  
maximum  
18 this is the areas that would be of greatest concern in  
that  
19 designation.

20 These next two slides basically show the  
importance  
21 of 2006 being removed from the equation to determine  
22 attainment/non-attainment. The last column shows the  
-- what  
23 we consider the breaking point if we have this summer  
-- this  
24 summer if we have a value that high what would cause  
non-  
25 attainment based on each of the sites.

critical. In 1 If you notice the Tulsa north site is  
2 the Tulsa area it's Skiatook. If we have a .076 value  
this  
3 summer "4th high" we could very well or we would be  
designated  
4 non-attainment. We would definitely violate the  
standard.

They're 5 In Oklahoma City the situation is similar.  
6 in about the same situation but they have a -- again  
it's the  
7 north site located just south of Edmond between Edmond  
and  
8 Oklahoma City, it's a .078, that's the value that's --  
that  
9 very much could happen if we have an -- probably an  
average  
10 year.

sites 11 Again it's interesting to notice the highest  
12 are the ones located north of the sources. The  
prevailing  
13 winds are from the south, it takes the reaction time  
to get  
14 there so generally in ozone areas north are the  
controlling  
15 sites in the Oklahoma City area because of the  
prevailing winds  
16 in the south. The south sites in an area are  
generally what  
17 you can consider -- can measure background or what's  
coming in  
18 to the area.

I've 19 One of the big changes over the years that

20 noticed is the availability of this data to the  
public. We  
21 have a -- on our website, we update every Monday where  
we stand  
22 as far as ozone values. This is available on our  
website.  
23 This only shows partially the number of sites that are  
on  
24 there. But it's a rather busy, complicated chart, but  
25 basically in the very last column if it turns red,  
you're non-

9

1 attainment. It shows the values for 2006, 2007 and  
2008. Over  
2 on the left side, you notice all the values in red  
were the  
3 2006 values that are becoming -- are going to be  
removed from  
4 the equation. The very last column shows averaging  
2007, 2008  
5 and the highest "4th high" in 2009, where we are.

6 Another area on our webpage allows the  
public who  
7 have access to a computer to go directly to real-time  
web  
8 monitors -- the real-time monitors and actually see  
the values  
9 that are being recorded basically within an hour or  
two of  
10 actually of when they were recorded. This shows an  
example of  
11 one of the sites in Tulsa, an hourly value of ozone.

12 Another thing that we have instituted -- I  
think it's  
13 about two years old now is our Air Quality Health  
Advisory. If  
14 you have an email account we will send you a health  
advisory by  
15 -- and if you register with us when a monitor reaches  
what we  
16 consider a critical level that will mean that it's  
very likely  
17 that an ozone exceedance could happen we will send you  
an  
18 email. This is really based on health effects. We  
think that  
19 there is a lot of people that need to be notified  
especially if  
20 they have children with asthma and that kind of thing,  
that  
21 there is a problem. This is different than our --  
what was  
22 called the old ozone alerts which we're still doing,  
which we  
23 now call "watches" but it's actually real-time data.  
(12:56)  
24 It's not a prediction but real-time data that shows we  
are in  
25 essence ahead of \*\* ck cms tape \*\*\* levels that could

10

1 people that are susceptible to a high ozone levels.  
2 All this information and for more  
information you can

3 access the website there that we try to keep updated  
as much as  
4 we can.

5 If you have any questions, I'll be glad to  
try to  
6 answer them now.

7 MR. TERRILL: I might mention that I  
had a  
8 question earlier about ozone flex. Those of you that  
have been  
9 involved with this very long know that we're involved  
in ozone  
10 flex programs here in Tulsa and Oklahoma City. And  
they are  
11 designed to allow you to avoid non-attainment  
designation if  
12 you agree to certain proactive-type things to reduce  
your  
13 emissions and theoretically stay in attainment.

14 EPA still has not released the study they  
did on the  
15 effectiveness of these past programs which tells me  
that either  
16 they didn't find what they thought they would find and  
they  
17 weren't as effective as EPA believed they were; or  
they have  
18 made the decision regardless of what it says that they  
are not  
19 going to have an ozone flex for the new standard.

20 I suspect that that's the case.  
Environmental groups  
21 agreed not to sue EPA the last time this was proposed  
but

22 they've not been too happy with some of the results in  
some of

23 the areas. So they have not come to the same  
agreement with

24 EPA and since the ozone flex agreements are not  
provided for in

25 the Clean Air Act it's really by the graces of those  
who could

11

1 sue the EPA has been able to do that. So they've got  
so much  
2 going on with the new administration and things like  
that, that  
3 I don't think there is going to be an ozone flex  
opportunity or  
4 early action compact opportunity with the new  
standard. Now  
5 that could change but it's going to have to change  
pretty  
6 quickly since we're in the last year of gathering data  
to  
7 determine the attainment/non-attainment. So that's  
kind of  
8 where that is.

9 MS. LODES: I have a couple of  
questions.

10 One, I know when you look at the map it  
shows the  
11 Fort Smith MSA over there. I think the Oklahoma side  
of the  
12 monitors show that that area are okay, do we know what  
Arkansas  
13 designated Fort Smith, and are we concerned that those  
Oklahoma  
14 counties would get brought in by the EPA because of  
that  
15 designation?

16 MR. THOMAS: That is possible but I --  
Leon, are

17 you aware of the Fort Smith monitor? I don't even  
know if

18 there is a monitor in Fort Smith.

19 (Comment)

20 MR. THOMAS: I don't believe there is  
one there.

21 Our closest one is actually a tribal monitor in the  
Marble

22 City, the Fort Smith area and that's probably -- would  
be the

23 one that would be -- that's one of the reasons I said  
we have a

24 pretty extensive network. There is an lot of areas in  
other

25 states that you would probably think there would be a  
ozone

12

1 monitor but there isn't.

2 From the data we've seen from the tribal  
data we've

3 looked at, the 2006 data, none of their -- the last  
three years

4 have shown a violation and when we took the 2006 data  
out of

5 the equation it looks like the tribal monitors in the  
state are

6 all going to be clean.

7 MS. LODES: Okay. Another one is, I  
know that

8 like the Oklahoma City north and the Tulsa north are  
the ones

9 that are really close for the breaking point on that -  
- for  
10 what we could be at 2009 and still have our -- be in  
11 attainment. It's only -- say only the Edmond monitor  
or only  
12 that one in Tulsa, Tulsa north, were to go over and  
the rest of  
13 the monitors in Oklahoma County and Tulsa County were  
clean,  
14 shows we were in attainment, will that limit the size  
of the  
15 counties -- or the number of counties, do they get  
pulled into  
16 the MSA or effect the designation?  
17 MR. THOMAS: It's not really one of the  
nine  
18 factors but one of the things we've had -- and we had  
public  
19 meetings last year and a lot of the comments were to  
keep these  
20 non-attainment areas to a minimum, as small as  
possible due to  
21 various reasons. And that will be part of the  
negotiations  
22 probably with EPA of the size of the monitor. But let  
me say  
23 if the Edmond monitor goes off, there will be a non-  
attainment  
24 area.

25 MS. LODES: So -

1 MR. THOMAS: What may be a -- the size  
is all

2 that would be the discussion.

3 MS. LODGES: Okay. I just wondered if,  
you know,

4 if the Edmond monitor goes off are we really going to  
pull

5 Shawnee and Chickasha into a non-attainment area?

6 MR. THOMAS: Most likely, no, we would  
not.

7 That would not be our recommendation.

8 MR. TERRILL: Because if the EPA  
default is --

9 MR. THOMAS: Yes.

10 MR. TERRILL: -- the statistical  
metropolitan

11 areas, so what you've got to do is you've got to make  
a case as

12 to why it should be smaller. And the nine factors  
that Scott

13 talked about and common sense, you know, should really  
dictate

14 what it really should be.

15 We're talking about areas that never have  
had

16 attainment issues before and so I would think the EPA  
is going

17 to probably err on the side of "let's see what a  
smaller area

18 does" if you can make your case through your  
statistical

19 analysis before we pull in bigger counties. Because  
once you

20 pull them in their conformity falls -- all that stuff  
applies

21 to them from then on. So our argument is since we  
know that  
22 ozone is regional pollutant and not just a local  
pollutant,  
23 let's see what some of these things that are going to  
be --  
24 that are going to happen around us that are going to  
impact  
25 these two areas, see if that's going to work; see if  
what we do

14

1 in the areas that are in non-attainment, see if that  
works  
2 before we expand those counties out. You can always  
go bigger  
3 but you can't go smaller the way the rules are written  
now. So  
4 our argument is going to be, let's keep it small  
because we are  
5 going to be -- you know, weather can bring us back in  
in 2010  
6 even if weather takes us out this year. And so it  
doesn't make  
7 a lot of sense to me to have a huge area that's going  
to be  
8 affected for the long-term when it may not be that  
effective  
9 and actually get you back into attainment.

10 The interesting thing about it was our  
letter, the  
11 Governor's letter, his recommendations is not provided  
for in

12 the Clean Air Act. And we didn't get any criticism  
from  
13 environmental groups for the letter that we sent, yet  
some of  
14 the states who recommended boundaries, who only  
included the  
15 counties where the actual violating monitor sits were  
16 criticized for not having a big enough boundary. And  
I thought  
17 that was kind of interesting that they followed the  
18 recommendations and were criticized and we weren't.  
Having  
19 said that, I think our recommendations were fine  
because it  
20 really doesn't make any difference what we recommend  
now, it's  
21 what the monitor shows at the end of this ozone  
season. So at  
22 the end of the day it makes no difference.

23 MS. LODES: Now he said -- so once  
these -- I

24 know historically we can have the former non-  
attainment area --

25 as Oklahoma and Tulsa County was at one point in time  
many

15

1 years ago were non-attainment and they came back into  
2 attainment. So you're saying if Oklahoma City  
metropolitan  
3 physical area is non-attainment we're stuck with the  
changes

4 that have to be made, forever?

5 MR. TERRILL: That's my understanding  
that once  
6 they declare the area as attainment then your -- even  
if your  
7 able to call it maintenance area you still have those  
8 requirements like conformity and the offsets and that  
sort of  
9 thing, that you've got to continue to do even after  
the area  
10 comes back into attainment. So I may be wrong about  
the  
11 offset, but you do have to have in place in your SIP  
measures  
12 to make sure you don't slide back into non-attainment.  
So  
13 that's another reason to have the recommended area as  
small as  
14 possible until we see --

15 MS. LODES: In that case that would  
really --  
16 slow grow say, in Grady County or some of these  
relatively  
17 rural counties that we could have potentially pulled  
in.

18 MR. TERRILL: It could. I'm not really  
sure how  
19 much. At the end of the day, I think the companies  
look at a  
20 lot more than just their non-attainment. It's a  
factor, there  
21 is no doubt about it. But to me it's more common  
sense that if  
22 the area does not contribute to the non-attainment  
problem, why

23 include it? And that's just kind of common sense, why  
do that.

24 MR. COLLINS: Eddie, I've got a  
question about

25 the flex -- the ozone flex program. If EPA agreed by  
chance to

16

1 an ozone flex program under the new standards, do you  
think

2 that projects that we're committed to but not yet  
implemented,

3 say under the old standards, would those be available  
for use

4 in the new ozone flex?

5 You know, we have a few of those in the  
Tulsa ozone

6 flex.

7 MR. TERRILL: Typically, the answer  
would be no,

8 because what EPA would say is the projects that were  
committed

9 to under the old flex were just that, they were  
committed to

10 under the old flex and they really shouldn't have a  
varying on

11 anything that -- new requirements that come after that

12 agreement was signed.

13 Now having said that, it's hard to say how  
EPA would

any kind 14 structure this. I do know that if they we're to have  
new 15 of an agreement to do a flex-type program under the  
relative to 16 standards, it's going to be a lot more stringent  
standard. That 17 measured and forcible reductions than the old  
with the -- 18 was a real gripe that the environmental groups had  
mirror- 19 old flex agreements and there was a lot of smoke and  
you're 20 type reductions that were put into those. The kind  
going to be 21 talking about are true reductions. You're actually  
equipment; you're 22 able to measure that; you're going to install  
Those are 23 going to -- it's going to be part of your permit.  
to have 24 the kinds of things they're talking about if they were  
would be that 25 something move forward. And I guess our argument

17

we would 1 those things have not been implemented yet, but that  
projects 2 try to structure any new agreement to include those  
actually go 3 yet to be installed, because those reductions would  
4 towards the new standard.

5                   You haven't done it yet. You haven't got  
those  
6                   reductions so we don't know what kind of impact that's  
going to  
7                   have. It's going to have a positive impact, there is  
no doubt;  
8                   but how much, we don't know. So my argument would be  
-- and to  
9                   be honest with you I didn't care much for the old flex  
10                  agreements because they were a lot of work and at the  
end of  
11                  the day there was no guarantee that somebody wouldn't  
say,  
12                  well, we don't like them, we're going to sue you, and  
they go  
13                  away. The new one, if there is one, is going to be a  
totally  
14                  different animal and it really would lend itself more  
towards  
15                  the project that you're talking about. And our  
argument would  
16                  be let's include those projects that haven't been done  
yet.  
17                  We're looking at a new standard, let's start fresh;  
let's don't  
18                  worry about the old one; let's roll this into that  
because  
19                  these are the kind of reductions that the  
environmental groups  
20                  and those folks are concerned about and are really  
interested  
21                  in.  
22                  That's kind of a wishy-washy question about  
it. But

me it's 23 if EPA held true to form, it wouldn't count. But to  
this new 24 the kind of thing that should count and should be in  
25 agreement.

18

some 1 MR. COLLINS: What would it take to get  
standard? 2 indication about the flex program for the new  
Just a 3

letter to EPA?

a meeting 4 MR. TERRILL: I ask every time we have

CAAAC, 5 with EPA. I asked two weeks ago. I'll be going to

weeks. 6 Clean Air Act Advisory Council in two weeks -- three

answer. 7 I'll ask again. I know I'm going to get the same

they've 8 They've got the report written, I just believe that

other things 9 decided that it's not worth -- they've got so many

have to 10 going on that's not worth the negotiations they would

agreement not to 11 go through to get us some sort of an informal

Now, 12 be sued. I just don't think they're going to do it.

be some 13 having said that that's not to say that their couldn't

14 sort of congressional rider put into it, some bill  
that would  
15 authorize it, because that's really the whole crux of  
this, is  
16 it's not provided for in the Clean Air Act. Whether  
it makes  
17 sense or not it's just not in the Act and so EPA is  
out on a  
18 limb when ever they do something like that.

19 MR. COLLINS: Okay. Thank you.

20 MS. LODES: Any further questions?  
Montelle.

21 MR. CLARK: This question is for Scott.  
For the  
22 sake of the general public who might be interested in  
this.  
23 I'd like to ask you a couple of questions if I could  
about the  
24 sources of the ozone and I realize it's difficult to  
give  
25 precise answers on this and some of these you and I  
discussed.

19

1  
2 For example, could you make any kind of an  
estimation  
3 of what percentage of our metropolitan ozone comes  
from  
4 transport, and what percentage of it comes from local  
sources?

5 MR. THOMAS: Well, it's difficult --  
basically

6 you get ozone formation from three sources in  
combination with

7 sunlight and still winds. That would be biogenics  
from natural

8 hydrocarbons from trees, nitrogen oxide which comes  
from

9 burning combustibles, hydrocarbons which comes from  
the

10 evaporation of things. So a general thing, like I  
told you

11 over the phone, it really depends on the area and the  
12 metropolitan area and in transportation. You can  
almost say a

13 third biogenics, a third industrial emissions and a  
third

14 transportation/car-related. And that's just really  
rough

15 numbers. It's hard to do. You would have to look at  
specifics

16 and it depends on which way the wind is blowing. You  
know, on

17 a different day the wind could be blowing in a  
different

18 direction and your mix would be -- it's very complex  
and it's

19 difficult to do it. But when you're looking at the  
pollutants,

20 you're talking about biogenics and you're talking  
about

21 industrial sources and you're talking about  
transportation

22 sources. All three of those will be counted, it just  
depends

23 on the day and the reactivity and so forth.

24 MR. CLARK: Of the stationary sources,  
the  
25 industrial sources, can you give a couple of examples  
of what

20

1 those would be.

2 MR. THOMAS: Stationary sources, you  
could say a

3 refinery would be emitter of hydrocarbons; a power  
plant would

4 be and emitter of Nox. But anytime where ever there  
is

5 combustion or evaporation, you're going to have it.

6 MR. CLARK: Since we had incinerator  
rules on

7 the agenda today, do you think that the municipal  
waste

8 incinerator up here in Tulsa would -- I think at one  
time it

9 was considered a major source of ozone precursors in  
Tulsa, do

10 you think that's still the case?

11 MR. THOMAS: If it's -- depending on  
how much --

12 I'm not familiar with how much NOx is estimated to put  
to be

13 considered a source that we would have to evaluate.

14 MR. CLARK: Thank you.

15 MS. LODES: Yes.

16 questions.

MR. WHITE: I have a couple of

17 Governor

One is, do we have any feeling as to whether

18 they do?

Henry's letter is going to have any impact on what

19 entities

And if it is, would it be helpful for other government

20 to --

21 (Comment to speak into the microphone)

22 do we

MR. WHITE: My question is, what impact

23 EPA; and

think Governor Henry's letter of March 9th may have on

24 have other

if it will have a positive impact would it help to

25 governmental entities participate?

21

1 thing that

MR. TERRILL: Well really the only

2 was

the Governor's letter really did was theoretically it

3 boundaries

supposed to start a dialogue relative to what the

4 that we

should be. And he elected, on our recommendation,

5 what the

would defer that boundary recommendation until we saw

6 2010 data was going to reflect.

7 Both the ENCOG and ACOG concurred with that

8 recommendation and they, of course, represent the city  
9 governments in a lot of areas. And so they met and  
their Board  
10 authorized letters to be sent to the Governor's office  
11 requesting him to make this type of recommendation.  
So, you  
12 know, all this letter is, is a formality that EPA goes  
through  
13 to make sure that the Governors and the states  
understand the  
14 process and what's going on. Because I guess their  
feeling was  
15 early on that some type of Governor's do not get  
engaged and  
16 just how serious from a lot of different aspects a  
non-  
17 attainment designation to be. So when the Clean Air  
Act was  
18 set up it was designed so the Governor would be really  
the  
19 focal point of any communications even though the  
Governor's  
20 office doesn't work with these things.

21 So I think really now that he's made this  
22 recommendation, until we go non-attainment or don't,  
they're  
23 kind of out of it. And really the Clean Air Act  
drives this  
24 anyway.

25 MR. WHITE: As I read this letter, I  
thought

1 there was a two pronged thing. One, obviously, was  
the size;  
2 but the other one was the idea of waiting until you  
get the  
3 2006 data out of it which seemed to me to be more  
significant

4 --

5 MS. LODES: Speak up a little bit.  
They are

6 having a real hard time hearing you back there.

7 MR. WHITE: I said that it seemed to me  
that the  
8 thrust of his letter was two pronged.

9 One was to reduce the size of the non-  
attainment  
10 area, but perhaps more importantly in the short run is  
to  
11 eliminate the 2006 data from the average. But if you  
don't  
12 think it would be -- I'm just in a position where I  
could  
13 mobilize some local governments to participate if  
possible, and  
14 if you don't think that's significant there is no  
point in  
15 doing that.

16 MR. TERRILL: Well, the 2006 data would  
drop out  
17 anyway because EPA only looks at the last three years  
worth of  
18 data. It's always been their position that they would  
use the

19 latest and best data. And in this case, the latest  
data would  
20 be 2009. So they were going to do this regardless of  
what the  
21 Governor did. I mean it wouldn't really make any  
difference.  
22 What we felt like was there was no sense in starting a  
debate  
23 about boundaries until we knew for sure that we were  
going to  
24 have areas that were going to be in attainment looking  
at -- or  
25 non-attainment looking at 2007, 2008 and 2009 data.  
So that

23

1 process was going to happened regardless of what the  
Governor  
2 did because that's the way it was set up.  
3 So this was going to happened regardless,  
what it did  
4 was kept us from having to I guess tip our hand, if  
you will,  
5 as to what we're going to make recommendations  
relative to the  
6 boundaries. But we've already kind of started those  
7 discussions with EPA anyway and they kind of  
understand that  
8 we're -- in this case say smaller is better. And if  
things  
9 change though, then it might be helpful to mobilize  
local

10 governments especially in the metropolitan areas  
because they  
11 are the ones that are going to be effected by this  
more so than  
12 anybody. And we would engage them through the COG  
more than  
13 likely as they are our partners in that. And it might  
be that  
14 we need to do that later on, but right now I think  
that  
15 everything that can be done has been done and we'll  
just have  
16 to wait and see how both the Congress plays out and if  
they are  
17 going to make any kind of changes, which is doubtful,  
or really  
18 how the ozone season plays out.

19 MR. WHITE: My other question was with  
regard to  
20 Mr. Clark's question about where the pollution comes  
from. And  
21 it seems to me that there is a difference between what  
is  
22 measured at the monitor and where the source of the  
pollution  
23 is. And my bias is that transportation is much more  
than a  
24 third of it. I don't know whether that's true or not  
but I'm  
25 not sure you'll ever know that by just measuring it --  
what's

1 in the air at any given place.

2 It seems to me that the source of the  
pollution which

3 in general the transportation source of it is the  
automobile,

4 and the source is more important than -- because once  
it gets

5 all up in the air it's mixed together, you're  
monitoring at a

6 station, you have no idea what the specific source of  
that

7 pollution is. It seems to me a more reasonable way to  
do it --

8 it may be impossible, but a more reasonable way to  
monitor it

9 would be to monitor the source. You can monitor a  
source on a

10 fixed location. Surely we can find a way we can  
monitor the

11 natural source and if you added those two together it  
seems to

12 me you would come out with a more accurate number as  
to what

13 the automobile pollution is.

14 MR. THOMAS: Well we can come out with  
an

15 accurate number -- a fairly accurate number. We have  
to do our

16 emission inventories every year, so we spent a lot of  
time in

17 determining what our emissions are from a specific  
industrial

18 facility, from area sources, from biogenic and so  
forth.

19 The problem is is the same thing you just  
hit on, and

20 there is so much reaction going on in the air and it  
depends,

21 like I said, which way the wind is blowing to be able  
to tie it

22 back to that monitor or to that facility, or that

23 transportation factor or industrial, it makes it very  
very

24 impossible to even say those numbers out -- you know,  
what

25 percentage is it. Because it could depend on a  
specific day.

25

1 It could depend -- it's so complex it could depend on  
the

2 reactivity of a certain hydrocarbon emitted by a  
certain

3 facility on a certain day, blowing a certain direction  
because

4 of the mixture that is involved.

5 So we have an idea of what everybody puts  
out and we

6 have an idea of what the three pollutants are, and we  
have a

7 pretty good idea of where they come, but we don't have  
a good

8 idea of the reactivity and what's going on, depending  
on the

9 day.

10 MR. WHITE: I'd say that's just a  
personal bias

11 of mine, that transportation is the primary culprit,  
but that

12 may not be so.

13 MR. THOMAS: In a --

14 MR. WHITE: If we can measure it at  
fixed

15 sources and I'm not an engineer or a scientist but if  
we could

16 measure the fixed sources, and we ought to be able to  
somehow

17 scientifically measure the natural source of it, it  
would seem

18 to me that by deductive reasoning we could determine  
closer

19 than just a third, third, and a third on the  
transportation

20 side of it. We're so addicted to the kind of  
transportation

21 system that we have and our highway department is so  
resistant

22 to doing anything else, if we had better statistics as  
to what

23 causes it, I think we might be able to change some of  
that

24 politically.

25 MR. THOMAS: That's something that  
we've been

1 fighting for years and years and years and when they  
do run the  
2 sophisticated models they are not very accurate. We  
have  
3 models that would accurate -- try to accurately depict  
exactly  
4 what you're talking about. And they are basically a  
lot of  
5 times unresponsive. It's a problem that -- the main  
problem  
6 is, it isn't ozone coming out of the facility, it's a  
7 precursor, it's NOx. And so you can't -- when you  
measure Nox,  
8 it's a different pollutant so it makes it very  
difficult in  
9 assigning a specific value for the source-specific  
thing or  
10 transportation or whatever. And I admit, when I said  
--  
11 whenever I'm asked that question on what percentage is  
12 transportation and what percentage is biogenics, and I  
had long  
13 conversation with Montelle, I am very hesitant of  
giving that  
14 out because it's just a guess. I mean it's just the  
best we  
15 can do. We don't know the full reactivity of what's  
going on,  
16 but we do know that the pollutants, these are the  
precursors  
17 that cause it. It's just a very, very complex  
situation.

18 MR. TERRILL: But your point is well  
taken  
19 because that's the reason EPA has been very proactive  
in  
20 getting cleaner fuels --  
21 MR. THOMAS: Yes.  
22 MR. TERRILL: -- being more proactive  
in getting  
23 cafe standards up, the miles-per-gallon because -- and  
when we  
24 say third, third, third, that's rough. We know more  
precisely  
25 what the impact of the mobile source is, and there is  
no doubt

27

1 it's more than a third. It varies as the impact at  
the monitor  
2 depending on all the factors that Scott was saying but  
EPA has  
3 a pretty good idea of what a new car emissions of NOx  
are going  
4 to be, the same way they have a pretty good idea what  
an older  
5 vehicle -- but most of those older vehicles  
projections are  
6 just based on educated guesses and modeling because a  
lot of  
7 that depends on how well they are -- you upkeep them.  
And so  
8 you know, mobile sources is the reason that Los  
Angeles,

9 Dallas, Houston, probably never will come into  
attainment

10 because you can eliminate all the stationary sources  
but you've

11 still got background and biogenics, you've still got  
mobile

12 sources, you'll never get there.

13 And it's been my thought for a long time  
that we're

14 looking at ozone the wrong way and we spend a lot of  
time

15 modeling. And I would be more frustrated if I lived  
in an area

16 where we had severe non-attainment situations because  
they

17 spend millions of dollars modeling something that they  
know

18 they'll never get there. You can't get there. You  
just -- you

19 keep dropping the standard, your emissions are going  
to not

20 drop enough to compensate for that because you just  
can't.

21 And you're right, until they deal with the  
mobile

22 source, either through cleaner vehicles or better mass  
transit

23 or other things those areas are never going to get  
there. It

24 would be a lot easier in Oklahoma City, for instance,  
if we had

25 better mass transit and people would use it. Because  
-- and

1 it's going to be convenient. I mean I don't use it as  
much as  
2 I need to. But a lot of it is you just can't. But  
your point  
3 is well taken. And I think we do have a better idea  
than you  
4 might think relative to the mobile source impact but  
the deal  
5 is what are you going to do about it? I mean what are  
you  
6 going to provide, you know, better --

7 MR. WHITE: I guess I would be  
disappointed if I  
8 didn't think you had a better handle on it than a  
third, a  
9 third, and a third.

10 MR. TERRILL: We do, but that's just  
not easy.  
11 That's just to kind of give you a general idea as to  
what is.

12 MR. WHITE: This is -- I guess this is  
the point  
13 I'm making. I was -- earlier there was a conversation  
about  
14 highway construction and the work as looking at the  
long-term  
15 impact, more highway construction. What that means --  
to me  
16 that makes it obvious that we -- that somebody knows  
that  
17 mobile sources are the primary culprit. There is one  
portion

18 of it we can't do anything about it at all -- the  
natural side

19 of it, I mean there is very little we can do about  
that.

20 MR. TERRILL: Yeah.

21 MR. WHITE: The other side, we are  
doing a

22 pretty good job of doing it by reducing requirements  
on fixed

23 sources and putting scrubbers -- all kinds of things  
we do to

24 put in. The one area where we -- that is to me the  
primary

25 culprit and the one area where we don't appear to be  
doing very

1 much about it locally -- well, I mean the government -  
- federal  
2 government puts new standards for gas mileage and all  
kinds of  
3 stuff, but we don't appear to do anything about  
locally is the  
4 mobile source. I think we could be a better voice.

5 This is only my second meeting so I'm  
entitled to  
6 make stupid comments and ask stupid questions, but it  
seems to  
7 me that we could be a stronger -- we could be more of  
a  
8 bully-pulpit for what really needs to happen and that  
is to try  
9 to drive down some of those. Maybe we are. Maybe  
again I  
10 haven't been here long enough to know everything we're  
doing.

11 But as I look around and see what I believe to be the  
primary  
12 culprit, I don't see much going on, other than  
lamenting the  
13 fact we don't have this or we don't do that. And I'm  
not --

14 it's not a criticism, I just think that what the  
impact is  
15 going to be for Oklahoma City and Tulsa if they -- if  
this  
16 non-attainment thing happens and the one area that is  
the

17 primary culprit is not being addressed is going to  
cause the  
18 non-attainment.

19 MS. LODS: And that unfortunately is  
back to  
20 why we revoked Subchapter 15. DEQ has no authority  
over mobile  
21 sources. So, Eddie's hands are essentially tied on  
doing  
22 anything on those sources.

23 MR. TERRILL: Yeah. And I would  
mention too  
24 that the areas that have got -- this is not definite -  
- we  
25 won't have this too, but one of the things that EPA  
had been

30

1 requiring for all areas is a inspection and  
maintenance program  
2 for vehicles and there is a lot of debate as to  
whether just  
3 how effective those things are, simply because the  
real problem  
4 with an inspection/maintenance program is not the new  
cars,  
5 it's all the old cars that are on the road. And most  
people  
6 don't drive old cars because they want too, they do it  
because

7 that's their economic situation they are in and they  
maintain  
8 them the best they can. So, you know, my thought on  
that has  
9 always been that if we're going to do something like  
that, that  
10 we need to have some kind of program to help those  
folks that  
11 can't maintain their cars to do that. Because you  
really don't  
12 get that much bang for what it costs to administer  
that type of  
13 a program, but the mobile sources are a huge component  
of the  
14 problem -- a big part of the problem. You're exactly  
right.  
15 The question is how do you deal with it? How do you  
encourage  
16 more mass transit? You know, what's the expense; how  
do you  
17 get people to use it? Because if you've got it there  
and  
18 nobody uses it, it's a waste of taxpayer money and it  
creates a  
19 lot of angst and -- but as we start looking at these  
issues  
20 these are the kinds of discussions and debates that we  
really  
21 need to have in the metropolitan area is what can we  
encourage  
22 to drive down vehicle miles traveled, because that's  
really  
23 what we are talking about. The more we can drive  
those down,  
24 the less emissions on the road.  
25 MS. MYERS: But you're leaving out a

huge

1 component and that's your airports.

2 MR. TERRILL: That's right.

3 MS. MYERS: That's a huge component.

4 MR. TERRILL: That's a big part of it  
too.

5 MR. CLARK: I think these questions are  
very

6 relevant because aside from the abstraction of non-  
attainment

7 for most of us and the ability to control the  
emissions from

8 the individual automobile as set by federal government

9 standards for mileage tests, the city leaders make  
planning

10 decisions all the time on transportation issues,  
development

11 issues, et cetera, which will greatly affect these  
factors

12 here. And part of the difficulty, I think, is that  
people will

13 make some of these decisions without the context of  
what non-

14 attainment means. We don't have -- I don't have a  
sense of

15 what the costs of non-attainment would be.

16 I asked Scott about this yesterday and he  
said he had

17 a number from years ago, ten's of millions of dollars  
and I

18 know it's really hard to put numbers on this sort of  
thing but

19 these decisions are made all the time without that  
awareness of  
20 what the real economic costs of -- you know, the  
restricted  
21 development, expansion of industry, et cetera, would  
be. It's  
22 hard to work and hard to make a decision without that  
kind of  
23 number.  
24 And the other number that we're all thinking  
about is

25 ealthcare cost of ozone. We he -- evidence

32

1 comes out it seems virtually every month on the  
serious impact  
2 of ozone pollution particularly on (inaudible) and  
particulate  
3 pollution for heart disease. I don't know how we can  
get -- I  
4 don't know if EPA can surrender some of those numbers  
5 (inaudible) numerous studies on that sort of thing.  
From my  
6 observation, they've all found tremendous cost of that  
7 improvement that (inaudible) working on these things  
but I see  
8 city leaders and county leaders all the time that  
weren't  
9 working with the data they need on the real cost.

10 information on the MR. WHITE: How would we get  
11 cost of non-attainment, what can we do?  
12 MR. TERRILL: Well, a lot of that is  
13 going to depend on what EPA actually ends up -- relative to  
14 guidance for marginal areas. To be honest about it, I really doubt  
15 that the average citizen is going see much difference because  
16 we're not going to see a change in fuel costs relative to this  
17 because at least for -- not because of what we did, but it could  
18 be that the refineries that are located in these areas that's  
19 going to have to make reformulated gasoline, if that comes into  
20 our market then we might see a different -- we're not  
21 going to be required to do reformulated gasoline, for instance.  
22 So that's I&M is not going to be a cost that we're going to have. If  
23 cost we're going to be required then that's not going to be a  
24 think, going to have. Where you are going to see the cost, I  
25 is when industry wants to expansion in the non-  
attainment area

1 and they have to get the offsets. That's going to be  
an  
2 additional cost. You have a company that wants to  
locate in a  
3 non-attainment area for whatever reason, they're going  
to be  
4 required to put -- well, not necessarily because  
(inaudible)  
5 may do the very same thing so the cost of coming into  
an area  
6 may not be that great, but when they expand and they  
have to  
7 get the offset -- that's the reason it's kind of hard  
to put a  
8 cost on exactly -- I mean, you could do estimates and  
EPA has  
9 got model estimates and I'm sure we can probably get  
that, but  
10 it's just that, it's just a guess of is it going to be  
15, 20,  
11 30 million. And a lot of it's used as if that's going  
to  
12 actually be passed on to the people living in that  
area.  
13 That's not necessarily the case. Most of them will  
probably  
14 not see any difference in what they actually have to  
pay, it's  
15 going to be industry having to operate within that,  
it's going  
16 to be Chambers of Commerce's trying to track industry  
into

17 those areas that are non-attainment. Mostly what  
happens is  
18 they locate just outside. And the one's that really  
pay for it  
19 are the metropolitan areas that their tax payers are  
depend  
20 upon to be able to track the industry within that non-  
21 attainment area. That's where the problem is. And  
that's the  
22 reason that I think we're still going about this in  
the wrong  
23 way. When you start talking about this in the public  
health  
24 context, and not necessarily a regulatory context, and  
looking  
25 at this thing in a holistic manner nationally because  
one of

34

1 the things that EPA is doing, and I had this question  
earlier,  
2 is what is EPA looking at relative to ozone and PM  
2.5? Are  
3 they looking at keeping the standards where they are?  
The one  
4 of the things Lisa Jackson, the new Administrator,  
said when  
5 she came in, is she's going to evaluate all the things  
that  
6 were done under the previous administration relative  
to

7 decisions that were made, relative to policy and NAAQS  
and all  
8 of that. So they are in the process of evaluating  
both ozone  
9 and PM 2.5 to see if the decisions that were made a  
few years  
10 ago were correct. And I can promise you they are not  
going to  
11 raise those standards. They may leave them where they  
are but  
12 more than likely what is going to happen is they are  
going to  
13 make a recommendation to lower them. And the lower  
you drop  
14 them, the closer you get to background, and the closer  
you get  
15 to where you cannot deal with the situation unless you  
have a  
16 total relook at the system or relook at our mobile  
source  
17 component, because that's what you're getting into at  
that  
18 point. So I don't know that getting numbers is going  
to be all  
19 that helpful. We can get that for you and what EPA's  
best  
20 guess is, because I'm sure they've got that out there  
somewhere  
21 but you need to temper that with the understanding  
that really  
22 you don't know for sure until the guidance comes out  
and we'll  
23 get to see what will actually be the impact to the  
average  
24 citizen within that non-attainment area. It's  
probably going

25 to be minimal. It's going to be the sources that are  
there

35

1 that want to expand and the governments that want to  
try and  
2 track business into those areas.

3 MR. WHITE: Mr. Clark's point about  
local  
4 governments making decisions without this information,  
really  
5 hits home with me. In the next two and a half months,  
Oklahoma  
6 City is going to be adopting a seven, eight million  
dollar  
7 budget and very little thought will be given to this  
at all in  
8 that process, I can tell you, unless I say something  
about it.

9  
10 Within the next eight to nine months we're  
going to  
11 be considering going out for another sales tax to do  
12 something -- right now it's kind of a tax looking for  
a project  
13 but we're finding -- identifying the projects to put  
with it.

14 If we don't have this information we won't -- you  
know, one of  
15 the things that's talked about in this upcoming sales  
tax  
16 decision is transportation, light rail, all kinds of  
things.

17 But if I'm not armed with that kind of information,  
it's not  
18 going to be put there. And I suspect there are public  
19 officials in other cities that feel the same way I do,  
that  
20 they would like to know that.

21 So I'm not asking you to do something that's  
22 impossible, I hope, but -- well, maybe -- I need it  
anyway  
23 whether it's impossible or not.

24 If I'm going to be an advocate for what  
we're talking  
25 about, it would be very helpful to me if I had -- and  
I'll

36

1 contact somebody at the Health Department to try -- to  
bring  
2 that in, the public health context is important too.

3 I think one of the things that -- when you  
bring a  
4 public official to this Body, one of the things I can  
do is I  
5 can be part of that bully-pulpit to change some of  
those things  
6 or at least be there to talk about them. So the more  
7 information that I have in that regard, the better  
able I am  
8 going to be to do that.

9  
willing to take

MR. TERRILL: Well, we're always

10 our staff and go and participate in these meetings to  
try help

11 and educate. I mean that's something obvious -- I  
mean, we're

12 just not asked to do it all that much. Because I  
think

13 really -- I know our state highway folks and our  
federal folks,

14 they know what needs to be done. It's just a question  
of you

15 balance the need to put roads -- fix roads and bridges  
versus

16 these other things that they don't see as an  
immediate. They

17 are not getting pressured to get that bridge fixed or  
get this

18 road re-paved or whatever. That's where the pressure  
lays. So

19 you've got to figure out how the public can say we  
want these

20 other things as well, because here's the benefits  
we're going

21 to get.

22 Beverly wrote down a figure for me and I  
think she's

23 right, EPA has said that for every dollar that's spent  
to

24 reduce pollution, you save \$13.00 in the health care  
cost. So

25 you get a 13-to-1 benefit from doing that. It's  
always been a

1 huge number.

2 MR. CLARK: Those are the kind of  
numbers that I

3 don't hear discussed at all at Planning Commissions or  
4 meetings. Folks are not discussing those kinds of  
numbers.

5 And on a practical, right here in north Tulsa which  
we're on  
6 the edge of, basis, north Tulsa has some horrendous  
health

7 problems that are virtually on the level of  
(inaudible), with

8 asthma rates that are very high, life expectancies  
that are

9 sometimes close to half of what they are in south  
Tulsa. So if

10 we have a north Tulsa monitor that's the highest one  
in the

11 region, the folks in north Tulsa aren't even aware of  
that.

12 They aren't even aware that (inaudible). So the  
decision-

13 makers aren't getting pressured, as you say, it's  
because the

14 folks that they work for aren't aware of these  
connections.

15 The decision-makers themselves aren't bringing them  
up.

16 MR. TERRILL: But now is the time to  
start

17 having those discussions about, you know, what's  
feasible to be

18 done, and then what's the interest in those  
communities to do

19 these things, like light rail, like additional bus  
routes, all

20 of this stuff that will get vehicles off the road.

21 I mean, anything that you can do to reduce  
your miles

22 traveled, and the number of vehicles on the road, is  
going to

23 help your ozone situation. It's going to help your  
particulate

24 situation; it's going to help your toxics from diesel  
situations. And that's a lot of reason the stimulus  
money that

38

1 we're getting, we're using toward providing grants,  
and monies

2 for school bus replacements, we decided we'd target  
school

3 buses in the metropolitan areas, Tulsa and Oklahoma  
City

4 because one, we didn't have a way to go statewide  
because of

5 the turnaround time; and two, we felt like addressing  
-- or

6 helping school systems address toxic situations  
relative to

7 school bus emissions and also the Nox that's  
associated with

8 VOCs by either replacing buses or retrofitting, we get  
more

do a 9 bang for the buck short-term than we would trying to  
10 statewide program. We do have another program that  
we're going 11 to get some money for them. We still have some money  
that we 12 need to spend, that we're looking at more of the rural  
areas to 13 help them do the same thing. But there's such a huge  
need out 14 there, like 40 billion dollars, I think, is what they  
believe 15 it would take to take care of the legacy fleets, both  
from 16 school buses, trash trucks and the heavy duty engines  
that are 17 out there. And I suspect that figure is a little bit  
low.

18 But we would be glad to work with people,  
any of your 19 folks or you, to try to educate, because we can pull  
the data 20 together, that's not the problem. The problem is  
getting folks 21 to say we want to allocate these dollars to do that  
and have 22 people say, yeah, we will take advantage of that if  
you do.

23 MR. BRANECKY: ACOG in Tulsa, and ACOG  
in 24 Oklahoma City have been working on this issue for  
several 25 years. I know Jack Tanner is big on ozone and John  
Johnson is

1 following up on that. We're getting ready to kick-off  
 an ozone  
 2 awareness campaign in Oklahoma City. So that would be  
 another  
 3 source that would be working with the governments and  
 hopefully  
 4 the communities.

5 MR. WHITE: I'm not the city's  
 representative on  
 6 ACOG but I'm there occassionally. I'm not their  
 regular  
 7 representative.

8 MR. LODES: Do we have any other  
 questions?

9 Let's take a quick break before we go on to  
 Eddie's  
 10 Director's Report.

11 (Scott Thomas's Presentation Concluded)

12

13

14

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20

21

22 C E R T I F I C A T E

23 STATE OF OKLAHOMA )

24 ) ss:

40

Reporter in

the above

but the

shorthand

that said

Tulsa,

relative of

action.

hand and

1 I, CHRISTY A. MYERS, Certified Shorthand  
2 and for the State of Oklahoma, do hereby certify that  
3 proceeding is the truth, the whole truth, and nothing  
4 truth; that the foregoing meeting was taken down in  
5 by me and thereafter transcribed under my direction;  
6 meeting was taken on the 15th day of April, 2009, at  
7 Oklahoma; and that I am neither attorney for, nor  
8 any of said parties, nor otherwise interested in said

9 IN WITNESS WHEREOF, I have hereunto set my  
10 official seal on this, the 30th day of May, 2009.

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