

DRAFT MINUTES
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA HAZARDOUS MATERIALS EMERGENCY RESPONSE COMMISSION
DEQ Tenth Floor Conference Room
November 13, 2007

Ms. Monty Elder called the meeting to order at 1:45 p.m.

Ms. Bruce called the roll. Members attending were: Monty Elder, Terry Bobo, Kary Cox, Gary Davis and Dale Magnin. Major Dennis Gann and Robert Doke were absent. Others present included Betty Reaties, Bob Rabatine, Jami Murphy, and Jimmy Carter.

Ms. Elder called for a motion to approve the August 14, 2007 Minutes. Mr. Cox made the motion to accept as presented and Mr. Bobo made the second. Motion approved with no opposition.

Ms. Jami Murphy discussed the Data Management Report.

Mr. Dale Magnin provided a copy of the OEM report to the State of Oklahoma. and fielded questions and discussions.

Copies of Ms. Elder's discussion items are attached.

Members discussed possible changes to Chapter 27A-4-1-101 The Oklahoma Emergency Response Act and will continue to work on firming up the rule.

New Business - None

Adjournment -- With no further discussion, Mr. Magnin made a motion to adjourn and Mr. Bobo made the second.

Attachments: Data Management Report
 OEM Report to State of Oklahoma
 OHMERC letter to Office of Management and Budget
 OHMERC letter to local LEPCs
 Proposed changes to 27A O.S. 4-1-101
 November 13, 2007 Sign-In Sheet

Please note that the transcript and sign-in sheet become an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE OKLAHOMA
HAZARDOUS MATERIALS
EMERGENCY RESPONSE COMMISSION
MEETING
HELD ON NOVEMBER 13, 2007, AT 1:30 P.M.

IN OKLAHOMA CITY, OKLAHOMA
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MEMBERS OF THE COMMISSION

MONTY ELDER - CHAIR, PRESENT
TERRY BOBO - PRESENT
KARY COX - PRESENT
DALE MAGNIN - PRESENT
GARY DAVIS - PRESENT

ALSO PRESENT:

MYRNA BRUCE
BOB RABATINE
BETTY REATIES
JAMI MURPHY

NOT PRESENT:

CHIEF ROBERT DOKE
MAJOR DENNIS GANN
TOM BERGMAN

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PROCEEDINGS

MS. ELDER: I would like to call
to order the November 13th regular meeting
of the Oklahoma Hazardous Materials
Emergency Response Commission.
Could we have a roll call, please?

MS. BRUCE: Dale Magnin is -- we
are waiting for him to arrive. Gary Davis.

MR. DAVIS: Here.

MS. BRUCE: Kary Cox.

MR. COX: Here.

MS. BRUCE: Terry Bobo.

MR. BOBO: Here.

MS. BRUCE: Monty Elder.

MS. ELDER: Here.

MS. BRUCE: Absent is Robert Doke

and Major Gann, for the record.

We do have a quorum.

MS. ELDER: All right.

Has everyone looked over the August
14th Meeting Minutes? And if so, do I have
a motion to approve the Minutes?

MR. COX: So moved.

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MR. BOBO: I'll second.

MS. ELDER: All in favor, aye.

COMMISSIONERS: (Unanimously)
Aye.

MS. ELDER: Opposed?

Okay. The minutes are approved.
And so we'll just skip over Dale's report
and come back to that.

Ms. Murphy, can you give us --

MS. ELDER: Oh, there he is.

MR. MAGNIN: Madam Chair, I apologize.

MS. ELDER: You know, we're excited that you are here. So I'm going to give you a minute to catch your breath and let Jami do the Data Management Report, and then we will come back to you.

MS. MURPHY: Okay. On the Data Management Report, there are a couple of things I want to call your attention to. And that one is in Item 1, and that is that 99 percent of all the Tier 2 data has been put into MARPLOT. This is excellent.

Item 2, 46 LEPCs have entered into the Memorandum of Agreement with DEQ and

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they are going to distribute the data to fire departments within their jurisdiction. This is also very excellent, if the LEPCs and fire departments are talking with one another and, of course, that makes them eligible for a thousand dollar grant from DEQ. The third item --

MS. ELDER: So that means that we -- DEQ will distribute to fire departments in the 31 counties that did not --

MS. MURPHY: That is correct.

MR. COX: Was there any

overwhelming reason on the 31 that didn't?

MS. MURPHY: Kary, as you know, several of those don't have active LEPCs. That would be the chief reason. You'd have to ask Tom for specifics on some of the others.

Item Number 3. I don't know if we want to take this to discussion. This is the data Tom got from the National Pipeline Mapping System that is also going into -- ultimately into CAMEO and into MARPLOT. I don't know if we want to take that to discussion.

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MR. COX: Well, as soon as I saw that, I raised the question with Mr. Davis because I figured he would have more expertise in that area.

My concern is, being on a local LEPC and being a county employee as well, if I get possession of this data under Oklahoma law, somebody could ask me for that and I have to provide it, I believe.

MS. MURPHY: And I'm not sure where that puts us as an agency, likewise.

MR. COX: And it's like I stated before, I would really like to have this data for planning and emergency response purposes. However, it concerns me to have that data, because I don't want to have to turn it over to somebody that I would rather not.

MS. MURPHY: Monty, didn't you say that you were going to ask counsel --

MS. ELDER: Well, what I think I'll do is that I'll check with our counsel and get an opinion on that data, and then I will send out emails to the OHMERC and tell you whether or not we still plan to go

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forward with this.

MR. DAVIS: And if there are certain restrictions that the local communities or LEPCs have to do --

MS. ELDER: Right.

MR. DAVIS: -- to keep that, it could be something -- if they just do this, then it can be outside of the Open Records Act.

MS. ELDER: Right.

MR. COX: If we find a way to make it work, I think it's great.

MS. ELDER: Right.

MR. DAVIS: It is great and I'd prefer to have it.

MS. ELDER: Okay. So what I'll do is, we'll just research it and see if we can make it work.

MR. BOBO: Monty, one of the things that has come up before on the data items is that to make it available, but not distribute it.

MS. ELDER: Uh-huh.

MR. BOBO: Such that if I walk in and say, okay, Mr. Cox, I want a copy of

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all of the data that you have, what's that going to cost to copy or print? Then you just say, well, it's available in my office for you to review.

MR. ELDER: Uh-huh.

MR. DAVIS: Yes, we ran into trouble with that. You have to make availability of copies at a reasonable cost. We copied -- for about four months our employees did it with our copy machines, and it really was at a reasonable cost. So you can't just say, there's no way to make a copy, or we don't have a copy machine, you can only read it online. They're being a stickler about it, so I think an opinion would be good.

MS. ELDER: Okay, we'll ask for an opinion on it. We just won't move forward on that until I get an opinion on that, and I'll come back to you about what happens with that.

MR. MAGNIN: Would that opinion include being sure that you have given it to the right people?

MS. ELDER: Right. Yes.

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MR. BOBO: I don't know how you can do that, Dale.

MS. MURPHY: What we currently work with is -- and again that was based on an opinion from DEQ General Counsel, and that is that we can't restrict the flow of information. We can't deny any requests. We can track who requests our information and that is what we currently do with the SARA Title III information.

MS. ELDER: And people have to make specific requests of us, they can't say I want everything you have.

MS. MURPHY: I want your largest facilities. I want your -- no, you must request this specific facility or this --

MR. COX: We've done the same thing with our LEPC and it hasn't been contested. So I'm assuming --

MS. MURPHY: Right.

MR. COX: -- it will stand up. But they have to come in, and we have a form that they have to fill out and then we have -- I don't know what it is, it's a certain number of days to provide that at

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so many cents per page.

MS. ELDER: Yeah.

MR. COX: But we can't deny it.
We have to --

MR. MAGNIN: You ask for a
driver's license or something?

MR. COX: Yes, and they have to
fill out a form with all their critical
information.

MS. MURPHY: Exactly.

MR. COX: We don't make it easy.

MS. MURPHY: We don't allow any
files to leave the building.

MR. MAGNIN: Of course, then that
begs the question, how many times has it
been asked?

MR. BOBO: We've had since I've
been there, maybe, a half a dozen requests
in 15 years.

MS. MURPHY: But, you know, that
brings up something interesting. And I
think that I'm going to start asking
Central Records for how many requests for
SARA Title III information we are getting
in a quarter, just to kind of let the SERC

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know how many are coming in.

MS. ELDER: I think that's good.
Okay.

MS. MURPHY: The last thing --
two more things.

One, is that you can see the CAMEO
training that's been done, and you can see
the CAMEO training that's upcoming.

The last is also kind of some good
news, and that's the 2006 TRI Data. This
is vastly ahead of where we were 12 months
ago. We got about 85 percent of our
reports through the Central Data Exchange
and with significantly fewer problems than
we had a year ago. We'll let you all know
when we enter into a Phase II Agreement.
At that point we will get all of our data
from EPA.

MS. ELDER: Okay.

MS. MURPHY: If anyone has
questions about the Data Management Report,
talk to Tom, talk to me, and we'll give you
more details.

MS. ELDER: Okay. Thank you.
And now, Dale.

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MR. MAGNIN: A couple of things
coming to you is the report that I provided
to -- the U.S. Department of Transportation
is coming around that way.

Annually, they want us to give this
Congressional Report to them on the number
of the people that were trained, the EOPs
that we've worked on, the LEPCs that we're
working with.

Charles Rogoff, who is the Program Manager for the HMEP Program, U.S. Department of Transportation, basically compiles all the information from all the states and he goes forward to Congress, and he sells them on the HMEP Program.

It is our understanding from the NASTTPO meeting that, again, we think we are going to get additional money next year. I'm always confused, appropriation and authority, how does that work?

MS. ELDER: I think everybody knows, but the transporters of hazardous materials pay basically a tax -- pay a fee for transporting hazardous materials that goes to the Department of Transportation.

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And Congress said the amount of money that could be sent to states from that fund -- and it is in the form of the Hazardous Materials Emergency Preparedness Grant, HMEP. It's a non-competitive grant in that every state gets a grant, but every state has to say what they are going to do with it. A certain percentage goes to training and a certain percentage goes to planning.

The interesting thing is that the fee -- there's more money raised from the fee than Congress said could be expended from the fund.

So what's been happening is that DOT can only hand out the money that Congress said they could, even though there's more money there. And so allegedly --

MR. MAGNIN: Good word.

MS. ELDER: -- if they ever get to where there's not a continuing budget resolution -- in other words, if they actually get to a real budget, then they're hopeful that Congress would say, well, there's more money here, you can spend more of the money.

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MR. MAGNIN: We've heard this for five years, at least.

MS. ELDER: Yes. I think that's because -- I think they've been under continuing resolution for about five years.

MR. MAGNIN: They were fairly comfortable that something is going to happen in mid-December where they are going to sign off on that -- the real budget and they think that it would be in there, and this will be for -- this is always confusing, too -- it will be for fiscal year 2007, but we won't get the money until September 30, 2008. So we get the money after the fact.

But there is a possibility that we'll get more money in, and I think they were talking about a 70 percent increase.

MS. ELDER: Yes, there's a bunch of proposed changes for HMEP and that sort of thing.

MR. DAVIS: How much money are we talking about?

MR. MAGNIN: Well, we get 280 -- no, we get \$188,028. Okay, so if we can

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increase that by 70 percent, that would be good.

Right now we're limited on the money that we give our LEPCs. We're not going to give them less than \$2,000, okay? So if we had that additional money, we could definitely pump that up significantly, again, based on the number of LEPCs we have.

Reference LEPCs. For the grants for this year we gained three, and we lost two. So we're at 19 LEPCs that have gone through the application process. And I hope the checks went out last Thursday or Friday. If not, then Murray -- our guy that does the checks wasn't there today, and so I'll be checking that tomorrow. But I've got all the envelopes and everything and it's ready to go. We were just waiting for the finance to cut the checks for those 19 LEPCs and we're sending out a thousand bucks to them for their application and for their initial report.

The two that fell out were Jackson County and Mays County. And I think the

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primary reasons that they fell out were turnover of the Emergency Managers in there. Lloyd Colson and Dwight Dickerson, were moving around in positions. Lloyd, I think, actually went to Jackson County, and sent emails, sent packets, talked to people. So I think it fell through the cracks for this year for those two counties. So hopefully they'll apply again

next year.

And I've had several other counties that keep talking and keep asking for information. The trick with getting the grant at all, is that it's got to be a functioning LEPC. Okay? It's going to have an updated EOP, and it's got to have the meetings, the bylaws, the 24-hour number; all the things required by EPRA, that LEPCs have got to be doing in order to qualify for the grant. Okay?

It's not, we would like to form an LEPC, can you give us some money to help us get started? It's money for LEPCs that are actually functioning.

MS. ELDER: Which is going to be

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a really great thing for us because they have some new leadership in this program at DOT, above Charlie. And basically that whole grant is sort of under attack from the various number of people and we'll discuss that more. But one of the things I think is going to be required of us is more information, specifically, exactly how much money was spent for each thing.

MR. MAGNIN: The leadership was talking about wanting quarterly reports on what the (inaudible) was for, but I think they were talking financial reports. We're going to have to do financial reports.

MS. ELDER: Right. In other words, they want to know how many -- instead of like the way Dale's report now says, is that 1,575 folks were trained. They are going to want to know 1,575 folks were trained and we spent "X-dollars" to do

that; 18 hazardous materials exercises were held and we spent "X-dollars" to do that.

MR. MAGNIN: And our argument to the leadership of the Department of Transportation was, hey, we're talking

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about volunteer organizations out there, people that are wearing four or five hats and you know, we think it's an unrealistic burden on them to come up with these nitty-gritty things when they are only getting 2,000 bucks.

Well, you know, if -- it's a big grant, you know, you wrap in all 50 states and all the money is going out there, and it's millions, right? But when you get down to that local community that has that committee, you're talking \$2,000 in Oklahoma.

It's ridiculous for them to spend \$4,000 on the man-hours trying to accumulate the data that some bureaucrat wants.

MS. ELDER: Right.

MR. MAGNIN: So, that's a fight that still is in process.

MS. ELDER: Yes, and we're going to talk about that just a little bit, actually, pretty soon.

MR. MAGNIN: More stuff. We did the Hotzone down in Houston. We had three

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people that emergency management provided assistance to, \$400 a piece. Terry was one of the lucky recipients there.

Five hundred some-odd people down in Houston for the Hotzones. So the Hotzones are not going away anytime soon. It's really a good thing. Again, the focus on it is on those HAZMAT responders. We need to get more guys from Homeland Security involved.

MR. DAVIS: Yes, I dropped the ball this year but I do want to get our teams involved.

MR. MAGNIN: Yes. It's really a wonderful training event for all those guys.

MR. COX: I've been going to this Hotzone Conference since its beginning; as a matter of fact, since it changed names. It used to be the FEMA Region 6 HAZMAT Conference, and by far absolutely the best and highest quality training I've ever been to.

MR. MAGNIN: There's like eight different tracks that you can get into and

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this goes like what, four days, five days; with certification for a lot of the classes there. But it focuses on those first responders -- HAZMAT first responders. And we are, you know, getting a little bit more

emergency management involvement and getting the point across that, hey, we can get help with resources to those first responders. But it's really a national -- almost an international conference that they have down there.

MR. DAVIS: I want to comment that Moore and Midwest City did very well down there.

MR. MAGNIN: Midwest City does well. We had that thing out in New Mexico a couple of years ago and we kind of found out, on the fly, that they were having this competition out there. And at the last minute I talked to one of the guys in Midwest City who didn't know anything about it, and they went out there and they won. Now that was pretty good.

But yes, I wish we could -- whatever we can do to get more Oklahomans involved,

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because probably 25 Oklahoma people were involved in this.

But you know, Harris County, that's a biggy down there with HAZMAT, so probably 80 percent of the people are from that county and from Houston, that attend this conference. But they have the, you know, the Germany's, and you know the Sweden's, and those guys, too. But we need to get -- because it's relatively close, we need to try and get as many people from Oklahoma as we can in that.

Are you going to talk about CFATS?

MS. ELDER: Yes, I am.

MR. MAGNIN: Okay. I think that's pretty much what I've got. Any questions?

MS. ELDER: And I think we will sort of segue that -- even though it is misspelled here, Dale and I did attend the NASTTPO Mid-Year Conference. And it was really a good conference because we -- particularly the interactions we had with the Department of Transportation about the HMEP grants, and with the Department of

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Homeland Security about the Chemical Facility Anti-Terrorism Standards, information which I'm going to give you all some -- pass out some stuff about that in just a moment. I did a thing on the response to the floods in Oklahoma.

We heard from EPA but actually -- it's interesting because as Emergency Response and HAZMAT develops and changes, the Department of Homeland Security really is taking the lead on a lot of this rather than EPA.

And we've had discussions with EPA as an organization, NASTTPO has, that EPCRA still falls to EPA and you still need to be involved with that. So they have committed -- whether they'll do it or not, they have committed. Those of us who have been around a long time remember back in the '90s when they put out safety bulletins, when they put out information about EPCRA, when they put out tools for LEPCs. And they've stopped doing that, certainly in this century, and so they have committed to redoing that.

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You know the Chemical Safety Board now puts out safety bulletins and alerts, and EPA doesn't do that anymore. So hopefully they'll get back in the business of doing that. So we had some good discussions with those.

What I would like to propose to do is move the "action items". Actually, we seem to have two 5's, so I'll make one Action Item, 5B, if that's all right with the Commission; so we can just get through the general discussion before we look seriously at that Act.

As we were talking about HMEP put forth a rulemaking -- actually this came forward in February and, at the time, on behalf of the OHMERC. And if we look back in minutes we agreed that the OHMERC should comment on this rulemaking. And basically, this is where DOT wanted to collect -- it's an Information Collection Notice.

A group representing some of the hazardous transporters wanted more information collected on what that money was spent for. And they wanted some very

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detailed information. So a number of us sent in letters opposed to that, for a number of reasons.

One, is you already collect information and you don't need to and it would be a burden on volunteers, basically, to collect more. And it's a well

documented program. There were some very detailed specifics about part of the Act. And, no, we disagree with the interpretation of that. But the main thing was that we were opposed to that.

Well, those of you who are familiar with federal rulemaking know that the comment period is open for a period of time, you make your comments to the docket, then it closes, and then the agencies review the comments. And the rule is that the agencies review only the publicly received comments.

Well, in late September or actually in October, the transporters in an apparent bypass of the public participation process, sent a letter directly to the Office of Management and Budget saying that all of

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the arguments that those of us who were opposed to this Information Collection Notice were wrong. That those arguments should be discounted because they were similar in nature and that was not posted on the docket. That's really an improper thing to do.

So someone in DOT recognized that that was an improper thing to do. So that letter was actually posted two weeks after it had gone to OMB. There was a group of us who responded, and I just responded personally to that. And we sent letters to OMB but we also post it to the docket at the same time so it would be above-board.

So I just thought I would hand out to you, so you will know, a copy of the letter that I sent. And apparently it raised a lot of commotion at the Department of Transportation.

Basically, I just said that I felt that it was improper for folks to have not gone through the public participation process. I said, that I felt that comments should be counted equally, even if they

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were similar. We all know that when groups are making comments, very often you share information. And then most importantly, I think that we should not go forward with the information collection process because it would be an undue burden on volunteers.

And as a result of this, the Assistant Administrator came to NASTTPO and had breakfast with a group of us. And he is new to the program. But according to him, it was news to him that this program was so important to volunteers. It was news to him that this was the only funding for hazardous materials training for volunteers.

And so he suggested, quote, that we should do a better job of telling the story of the HMEP grant. He felt like that they needed more, basically, anecdotal information about the importance of those grant funds.

And so I will be sending out emails to LEPCs to say to them, you know, if you've got a minute, can you just drop me a story about what -- you know, we had this

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training and nobody else provided it, or we did this plan, something.

For example, the new Assistant Administrator said I don't understand, why if LEPCs got money to do an emergency plan ten years ago, why they are doing a plan every year?

MR. MAGNIN: And if they train their people to do what was in the plan ten years ago and they exercised those people that were trained to do the plan ten years ago, why isn't that good enough?

MS. ELDER: Why do we need to continue to spend this money?

MR. MAGNIN: Of course, there was almost a shotgun blast from the audience.

MS. ELDER: There was --

MR. MAGNIN: Are you smoking dope?

MS. ELDER: There was screaming in the audience. But I just want you to be aware that -- with these new people, not Charlie Rogoff who administers the program, but above him --

MR. MAGNIN: There might have

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been a problem. Charlie, he works with the White House and Congress, and I don't think the other people in the Department of Transportation really knew what the heck Charlie has been doing.

MS. ELDER: So, you know, we kind of made a commitment to try to provide him with information he should know. But I think he understands now about the continuum of training, planning and exercising, I hope.

So it was a very interesting meeting. Extremely interesting. And if anybody would like to talk to me about that further -- I just wanted everybody to know that that was going on. I really feel like there is a push to actually, perhaps eliminate those funds -- I mean, I think the transporters would rather not pay those fees. And I think they are pushing pretty hard to people who don't know any better to say that, you know, you planned once, why do you have to do it again, that sort of thing.

So I think that those of us who

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benefit from those grants, you know, we need to send them information. And so there may be opportunities -- I'll email you if there are, or I'll just email you if I want it -- if you guys can send me information, then I'll put it together and send it on, and that will work fine.

Also, you should be aware that the statute that authorizes the fee collection and authorizes the HMEP grant is up for re-authorization. And it should come before Congress in the next six or seven months. And it will go to the Senate before the Transportation Committee, and Senator Inhoff is the ranking member of the Transportation Committee. And so, you know there may be an opportunity for OHMERC or for individuals or agencies to let the

Senator know what benefit we have had from this in Oklahoma. I just wanted to give you a heads-up on that.

MR. MAGNIN: Are you going to give us some type of form letter we can send in?

MS. ELDER: I will. You know,

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that's what their thing was. But it's interesting that transporters got together and wrote one letter under interested parties. They have a lobbyist who wrote the letter. And in their letter they said those of us who shared information and had similar -- they weren't exactly form letters -- but they shouldn't be counted. So I don't know whether we should have just written one big letter, you know, that's ridiculous. People do that all the time, it's just a ridiculous argument.

MR. MAGNIN: What's good for the goose is good for the gander.

MR. BOBO: Why does the count make a difference? Why?

MS. ELDER: I don't know. You would think they would just be considering the arguments. But you know, sometimes agencies kind of look at, okay, I got this many letters here and this many letters here -- and I think they weigh the letters and I think that's how they make the decision. I don't know. Anyway, that was kind of silliness there.

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Also what happened, is a week ago Friday, the Department of Homeland Security came out and published Appendix A of the Chemical Facility Anti-Terrorism Standards. And we talked to people at DHS about this also, and it's very interesting. I don't believe DHS is quite aware of how many people this is going to impact. The folks who wrote the rule said that they expected it to impact across the nation, perhaps 10,000 facilities.

When the rule came out -- because we have Tom Bergman who can really run a computer -- I had him run, based on the thresholds that they've put out, the number of facilities impacted in Oklahoma -- keeping in mind water and wastewater are exempt; we got 975 out of our Tier 2 database. So that was news to them.

And for those of you who don't know, what happens is, if you have chemicals in certain threshold amounts, you have to go online and fill out what's called a tox screen. It's basically a questionnaire, fairly short, about what chemicals you have

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and where they are.

MR. MAGNIN: What security measures --

MS. ELDER: Right.

MR. MAGNIN: -- sort of a self-assessment?

MS. ELDER: Right. DHS will look at the tox screen, and based on the risk or hazard to the community, they will assign you to Tier 1, 2, 3 or 4.

Now Tier 4 basically is, thank you for joining our group, you've done all you need to do.

Tier 1, 2 and 3 have lots of requirements. Their vulnerability assessment is very detailed, and they all have to be done online. Tier 1 being the most complicated. Refineries, Dow Chemical, people like that, have to do Tier 1 and it goes down.

The tricky thing is this. If you are covered under the Chemical Facilities Anti-Terrorism Standards, it's CFATS -- if you are covered, you have 60 days from the publication of Appendix A to do your tox

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screen questionnaire. If you do not do it, then you are automatically a Tier 1 facility, which means you automatically have these huge requirements to meet.

So my question was how are you doing outreach to people? And their answer was not an answer.

So since Tom Bergman is so good, we have actually mailed, today, a letter to each of our 975 facilities that we think might fall -- and we don't know for sure. The thresholds are based on whether there is a threat of theft, sabotage or release, basically. And so this is just a letter to folks telling them that they might fall under it, based on their Tier 2 chemicals.

Go online, fill out the questionnaire so that if you can be a Tier 4, fine.

So, anyway, we're doing that as kind of a service. Along with that, one of the things that NASTTPO did, which is really quite amazing -- and actually Tim Gablehouse had a law clerk do this -- and this is on our website and I can email this to you if you would like it.

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NASTTPO did a cross-walk between

CFATS, EPCRA, and RMP to see how the requirements are the same and how they are different. And then also took the EPA's list of lists, and added the CFATS' thresholds in there, so that you can look up a chemical and see whether it falls under the Chemical Facility Anti-Terrorism Standard and what threshold triggers it.

MR. RABATINE: That was done under the list -- to go online to the list of lists or this is outside of it?

MS. ELDER: No, this is outside of it. What we did was we took the list of lists -- because they have everything on there. So we just have the list of lists, whether it's -- compared it to EPCRA, TPQ's, threat-planning, RMP, but we've just compared EPCRA, RMP.

But Appendix A will tell you the chemicals and the thresholds. And this will also tell you if you have a chemical that you have to report under EPCRA or TRI or RMP, what the threshold is and how it compares to that, it's like 29 pages. I

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can pass this around and you can look at it.

MR. MAGNIN: But that's on the webpage?

MS. ELDER: It's on the webpage. It's on DEQ's front page. You go to DEQ, then under Customer Assistance it's Sara Title III, click there and you will see the OHMERC page. So it's really on the OHMERC page. In the letter it tells people how they can find it. I can also email this to you, if you would like it emailed to you.

I am hopeful that these 975 facilities don't just freak out and call me and say why are you doing this to me? Because I tried to --

MR. MAGNIN: Is your phone number on there?

MS. ELDER: It is DEQ's. They can find it. I meant to put my phone number on it but I was writing it from Las Vegas, the letter, and I forgot.

So, anyway, again they don't have to make these reports to us. But I'll tell you an interesting thing -- a very

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interesting discussion. I really have concerns about this rule.

First of all, people who are going to be covered who have not really had sufficient outreach, who don't read the Federal Register -- very few Ag Co-ops read the Federal Register, very few propane dealers read the Federal Register. And all of those folks are going to be covered, as well as electro-plating shops -- typical businesses that do not read the Federal Register will be covered. So I am concerned about that.

Another thing I'm concerned about is, after you go through this process of registering, then if you have to do a vulnerability assessment, you go through all this, then you tell -- then DHS will come back to you with a recommendation of security measures. So they might recommend that you install, for example, a five-foot electrified fence with security cameras. But it's a recommendation. Then the facility can say, I read your recommendation -- in fact, I asked DHS

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this. It was a hilarious interchange.

I said what happens if they read the recommendation and they come back and say, well, I've thought about it and I think a white picket fence and a very hungry German Shepherd is all the security I need. What happens then? And they were like, we don't know.

I said no. Finally, they said well, if we can't get people to do our recommendations, then our lawyers will talk to their lawyers.

MR. MAGNIN: And there's like six

people in this office?

MS. ELDER: Right. Six people. They think they are going to get a thousand facilities covered in the United States, and there are 975 in Oklahoma. So, I think they haven't thought it through. My opinion.

So basically, it's very, very hard to comply with the rule, but even when you comply with it, I'm not sure it makes any difference.

And, furthermore, I asked this

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question. So, if I'm an LEPC or I'm DEQ or I'm the Emergency Manager, and I look over there and I say, excuse me DHS, you've agreed to the white picket fence and the very hungry German Shepherd. But I know that they've had five ammonia thefts in six months -- meth dealers, that's not enough security for them. Can I tell you that? No, because we're not going to tell any of the local people the interaction we have with the facilities.

And I said, so, but what about the facilities that have the electrified fence and duh-duh-duh-duh-duh. What are you going to tell the firefighters so they can get in, in case there's a fire? Oh, no, we're not going to share that information.

So, that's all I know about this. Again, that was an interesting session.

Anyway, in Oklahoma, we are at least attempting to give some assistance to people we think will be covered. And you

now know everything that I know about this rule.

MR. MAGNIN: Based on that

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meeting, I don't think that any of the other states had any other ideas that Monty had on that outreach, so we are way ahead on getting the word out to them. And I want to take this same letter and shoot it out to our Emergency Managers so they have a glimmer of what's going on out there. But it's a bureaucratic mess.

MS. ELDER: Right. So, anyway, I -- but that's what's going on with that. So, now would you like to go to Action Items now, or do we want to save Emergency Responses for after we look at the -- what do you think?

MS. REATIES: I have a question on this last item. Are you going to send this list of the companies that you've contacted by letter, out to the LEPCs?

MS. ELDER: Out to the LEPCs?

MS. REATIES: Who's going to do the outreach, is it the DEQ?

MS. ELDER: Well, we sent the letter to each facility.

MS. REATIES: Right.

MS. ELDER: And so that's the

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outreach I'm going to do, and tell them that I think based on their Tier 2 Report that they may be covered. Here's where you can get more information because it isn't -

-it's really not our rule. And I've tried to provide them information and that sort of thing.

MR. MAGNIN: Could we put on the website a list of the facilities that you notify?

MS. ELDER: I don't know that --

MR. MAGNIN: Because if I send this letter to Kary that this went out to the facilities, but I don't know what facilities that it went out to --

MS. ELDER: Now we could do that. I can have Tom easily -- because he's got all those facilities actually mapped -- but he can easily pull which facilities are in which county, and I don't mind sending that to the LEPC. I don't want to put it on a website, though. But I'll be happy to do that -- just send out to each county, these are the facilities who got the letters. And so when they regain consciousness, you

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can tell them. The main thing is they just -- because the formula for what Tier you're in is -- I don't really know what it is, but I know that it is -- because they don't reveal what the formula is, what Tier you're in. But they have said that it's the amount of the chemical, it's the type

of what the chemical is, and they are also including impacts, so in other words, how many casualties you are going to have.

MR. MAGNIN: Sort of like the dead zone with the RMP?

MS. ELDER: Right. It's how many. And so many of our rural folks will, undoubtedly, I would expect to fall in that Tier 4, where all they have to do is go online and fill out the questionnaire. The trick is if they don't do it, they'll automatically go to Tier 1, which is a whole lot more work and we don't want that to happen to them. And the refineries and folks like that, they should already have been doing it, because they know they're going to be Tier 1.

Anybody want to chit-chat about

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this? Okay, what I would like to do, because we've been trying to get this -- agree on what changes we want to make to the Hazardous Materials and Notification Act. And I've sent this out to folks and I know you've looked at it. I've put together why we made each of these suggestions. And what I thought we would do is, I would just go through these and we would just quickly talk about them, and if people had an objection to it, we would talk about it. And then once we worked this, then we would have a vote up or down whether to move forward with this. And if we move forward I think DEQ and the Emergency Management Agency will be looking for sponsors to do this, but we will also have to involve the County Commissioners because it involves them.

I'll go visit with Chief Doke

because there are fire departments, and go to the Fire Chiefs, and then I would hope the Emergency Management Association, you know, if it is something they can live with and you know, also, as it impacts the

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Office of Homeland Security. In other words, you know, if you are going to change a law, you just need all the support you can get for that.

MR. MAGNIN: At the last Oklahoma County LEPC, David Barnes was there. He's the President of the OEMA. And I passed out a copy of the recommended changes to the LEPC. David and I asked for them to look through it and to give you some feedback, and that's been a couple of weeks. So, David Barnes, the President of OEMA, knows about it but I haven't received any feedback, so we'll keep pushing that.

MS. ELDER: Well, so, it just depends. The very first thing that happens is on Page 1, we were adding the words "all hazards". And again, that's just sort of the national trend across the country and Emergency -- I always put EMA for Emergency Management Agency, and that's not right, it should be OEM. I'm sorry.

So OEM supports this change and most LEPCs now function as all hazards.

MR. MAGNIN: You know, I think

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National and Homeland Security is on-board with an all hazards approach and, you know,

with small communities out there, everyone's got to focus on being able to do everything. It's got to be an all hazards plan. You've got that 5 or 10 percent that's going to be different for a particular incident, but that 90 percent is always going to be the same. And they need to do that all hazards approach to everything they do out there. And, you know, for terrorism -- I'll continue to say that terrorism is just a HAZMAT incident with an attitude, and anyone that goes -- and that fits, and HAZMAT we've got in our plan.

MS. ELDER: Does the Commission think that it's all right to change that to "all hazards"?

MS. REATIES: Would that also mean that all the actual name here would be changed to Oklahoma Hazards Material Planning and Notification and change that to Oklahoma All Hazards?

MS. ELDER: Notice that it's the

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Oklahoma Emergency Response and Notification Act and then the second part is planning. So maybe we could amend that to Emergency Planning and Notification. But I think that it's -- the second part is because that has to do with EPCRA. The first part is basically all emergency.

In the second part it says, provide direction and information to responders and we just thought we would add what we're providing direction for training, equipment and procedures.

So, as I go along, if you want to

ask a question or if you don't think we should do this, if you'll just tell me. And then I added a fifth one because outreach isn't covered anywhere. And the fifth one would be to inform the public and agencies that serve the public regarding emergency preparedness, so you can cover doing outreach.

And then on Page 2, there's a bunch of words missing here. One of the things we've put in was "threatened" because often times you do an emergency response to a

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situation that is threatened, and so I felt that was a good change.

We put in "substances" because that's exactly what the law says, "hazardous substances", so we put "hazardous substances" in to be consistent with what Tier 2 is. Again, you can see word smithing.

On 6, we put in "contain and stabilize and release or threatened release" because that's generally what you do. Those are the protective actions.

And the same thing down here on 8, "contain and stabilize the release or otherwise or act to protect human health or the environment". Again, that's because that's what they actually do.

MR. BOBO: Monty, and again I apologize for (inaudible) on the "first responder" what about -- this to me is leaving out this part about LEPC people, county commissioners and response personnel.

MS. ELDER: Where?

MR. BOBO: Item Number 8.

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MS. ELDER: Item Number 8, no, because you know an LEPC -- if you're acting as an LEPC member, you're not a responder. LEPC members are planners.

I mean the LEPC itself is a planning body, not a response body.

MR. MAGNIN: Not a response agency.

MS. ELDER: But it has responders on it. The responders on it, if they showed up at the scene, they would not be acting as LEPC members, they would be acting as firemen or policemen.

MR. BOBO: But there are a lot of people who respond on a first responder basis that are not firemen or policemen.

MR. DAVIS: That was my question I had on this. We don't have all the disciplines there, are we limited just to those people who are listed here, because really, all we've got is the law enforcement and fire. What about Emergency Management, EMS, Public Works, that would be first on the scene, that would be a first responder to start initiating

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management.

MR. BOBO: Highway Department,
County Commissioners, all those people are
people that are the ones that actually the
first responders and would do that.

MS. ELDER: Right. This is the
way that, you know, what I have there
underlined is what I've added. So, in
other words, the law has always said local,
so if there --

MR. COX: That part is old
language about law enforcement, but that
may be something we want to basically take

MR. MAGNIN: So we want to add to
that.

MR. COX: -- the federal
definition of "first responder" and just
insert that.

MR. DAVIS: I think that's a very
good idea to do that.

MS. ELDER: And can you send that
to me?

MR. MAGNIN: Where the heck is
that at?

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MR. DAVIS: I don't remember,
because they broadened that -- it says here

MR. MAGNIN: They broadened that -- it was 10, now it's 12 or 13. It might be in the Federal Response Framework?

MS. ELDER: Okay, so you will send me the language that I will insert -- what we'll do is, we will strike -- by virtue of a strike, starting a local law enforcement officer, peace officer and go strike to the end of Number 8, and we'll insert the Federal definition for a "first responder".

MR. MAGNIN: That would be i.e., Public Works, the Department of Transportation.

MS. ELDER: Well right, we'll just insert it as is, okay? Thank you. On Page 3, this actually comes from Colorado law. Right now it says, responsible party is any person who owned, operated or controlled activities at the facility, and they have added "or a person who had care, custody and control of the

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dangerous substance" because there are people who, you know, they don't own the facility. They just operate out of the facility, and so that covers them.

MR. BOBO: Okay. This is not language that you had changed, but under Section 3, "duties of first responder and lead official". I think those need to be separated, I'm sorry, under Section 3, verse 24A-4-1-103. "Duties of first responder and lead official." I think those should just be two separate activities.

MS. ELDER: I think maybe it should just be duties of "lead official".

MR. BOBO: This is more of the lead official event than what is listed there.

MS. ELDER: Right. I think it's "lead official."

MR. BOBO: The first responder is not going to be doing a lot of things from here.

MS. ELDER: No. So, let's look at it further. So the suggestion is to

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strike "first responder and" and so it's that's duties of "lead official". And so then, let's see -- okay --

MR. COX: However, during that section you are giving instructions to the first responder --

MS. ELDER: No, it does say "A".

"A" says the first responder shall be responsible for initial evaluation of the incident and implementation. Should that be, "lead official" or "first responder"?

MR. MAGNIN: First guy on the scene.

MR. BOBO: Yes, but I think you need to separate those two items. Make one

for the lead official and one for the first responder. Because it's two totally different functions.

MR. MAGNIN: Yes, but they are kind of grouped behind it.

MS. ELDER: How about if we put "duties of first responder or lead official" instead of making it be one person?

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MR. COX: You could do that.

MS. ELDER: Or "and/or". What do you think? So in other words, then we would say duties of "first responder and/or" because you might be the first one.

MR. COX: I think that would be adequate.

MS. ELDER: Okay, "and/or". And then on "D" we put in -- what is underlined is an insert because the fire department has just been screaming since this law was enacted, that if the incident is contained, stabilized and no longer a threat, the lead official may turn over responsibility to another party for abatement and restoration.

MR. BOBO: Okay, and I have a big problem with that language.

MS. ELDER: Okay, what?

MR. BOBO: For being on the side of the actual response and clean-up

activities, if it no longer poses a threat,
then there's nothing else to do.

MS. ELDER: No, I mean if it's
contained and stabilized and maybe --

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MR. BOBO: Contained and
stabilized.

MR. COX: Well, I think you might
need to clarify that as an "immediate
threat".

MR. BOBO: Or a threat outside
the contained area.

MS. ELDER: And no longer poses
an immediate threat outside the contained
area.

MR. BOBO: And any of those
languages are fine with me.

MR. MAGNIN: But it is still a
threat, there. It's just --

MR. BOBO: You're right. If the
incident is contained and stabilized, the
lead official may -- I don't think you need
--

MS. ELDER: What do you think?

MR. DAVIS: That's what I think.
Just take that threat out. Because even
though it's stabilized, it's still a threat
if there's chemical there.

MR ELDER: Okay, if the incident is contained and stabilized, the lead

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official may turn over the responsibility to another party for abatement and restoration of the site. Is abatement -- do you want me to say "clean-up"? Are there better words than that? I don't even know who wrote this.

MR. BOBO: I think that's fine.

(Brief group discussion)

MR. BOBO: Here in Oklahoma, the word "abatement" is a lot of time referred to as asbestos.

MS. ELDER: Right. Exactly.

MR. BOBO: But overall it's abatement and restoration is what you're doing, no matter what the material is.

MS. ELDER: And "F3" DEQ has long wanted this. We provide technical assistant on procedures for containment. We do not initiate. We don't put on a suit. So we want to take that out. There's no one putting on a suit.

MR. BOBO: And Monty, I agree with that, but I know that there is a rotational on-call for DEQ staff to provide technical information; to provide for

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personnel for assistance in completing material identification. Is the Department doing things so that those things can actually be done on an immediate and emergency basis?

MS. ELDER: Well, we can provide immediate and emergency technical information or advice to the lead official. Provide personnel for assistance in completing material identification not immediate --

MR. BOBO: And the technical information or advice of lead officials, those that I have seen on several occasions, are -- well, we will get back to you tomorrow. I mean that's a very common answer.

MS. ELDER: Well, supposedly they should be able to call the hotline who has experts that are supposed to be available 24-hours a day that you could call -- that DEQ can call. One of the things that I have done is re-written the Emergency Response SOP for the Agency, so I think there is a greater awareness now of that

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particular function. We're working on that.

MR. BOBO: There are a few individuals who could be contacted that would really work and do things on an immediate basis, but the vast majority of the people that are involved in the on-call system are not immediate information providers.

MS. ELDER: No, but they have a list, we're working on that. They're suppose to now have a list -- the 24-hour folks answering the 24-hour hotline were suppose to have a list now of the experts in the Agency to call for assistance.

MR. BOBO: Okay. So we should be able to get information from that on-call person?

MS. ELDER: You should, you might -- we're working on that.

MR. BOBO: The next time somebody says we can get back to you tomorrow, tell them that Monty said no, that they have to give it to us now.

MS. ELDER: You can say, Monty

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said to get out your list and call.

MR. RABATINE: That procedure that you re-wrote, is that in place now or is that available for us to read?

MS. ELDER: Yes, it's been signed. So, email me and I'll send it to you.

MR. BOBO: And my same concern goes with the sampling and analysis.

MS. ELDER: No, we'll provide sampling and analysis of contaminated water or soil after the release has been

contained or stabilized. We're not going in a situation where you have to put on a suit to take a sample. Because we don't put on the suit.

MR. BOBO: And I understand that completely, but what is a timely manner for the lab to actually turnaround samples for an incident like this?

MS. ELDER: It depends on what you're sampling for? I mean it depends. It does.

MR. BOBO: And I'll agree with you on that.

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MS. ELDER: It's the truth. These are what we can provide. We can provide sampling and analysis of contaminated water or soil after the release has been stabilized or contained. That's what we can provide.

MS. MURPHY: And, of course, as you know, it also depends on the analysis. If it has to have an extraction, it's going to take longer.

MR. BOBO: But if you tell a private lab that you need a rush on a 2 COP then --

MS. ELDER: But we are not in competition. This says we "shall" as necessary do this, but it doesn't say we have to.

MR. MAGNIN: Nor is there a time frame.

MR. BOBO: And that's where the problem comes in, is there's times that people will say, well, I don't want to send a sample to a lab, I'm going to let DEQ do the analysis. So your site may come to a halt for six weeks waiting for an analysis

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to come back.

MS. ELDER: It might. It might.

MS. MURPHY: The holding times are that long for some of those tests.

MR. BOBO: I know the holding times are sure that long --

MS. ELDER: It might. It might. But I don't think, Terry, that I can address that in the statute.

MR. BOBO: Okay, that's just something that I didn't know if that needed to stay in the statute, but if DEQ -- if the lab was going to provide the services in a timely manner or whether that --

MS. ELDER: But you know we are going to provide those services exactly as it says in "E4" which doesn't say one thing about time. Okay.

MS. REATIES: Monty, I'm sorry I had to interrupt you (inaudible), so I apologize for interrupting you guys. I had a question on that one. Does the sampling of any kind of air or atmosphere not be included in that?

MS. ELDER: To my knowledge, we

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don't have the capability to go out and do on-site air sampling during an emergency.

MS. REATIES: If it's in a building?

MS. ELDER: No. I don't believe we have. I think our only air sampling -- we have the stationery monitors, you know, priority air pollutants, and other than that, we just don't have the equipment to do that, nor personnel to do that.

MR. RABATINE: Well, I would volunteer that it conflicts with what you already mentioned a few minutes ago, you're not prepared to suit up and do that kind of stuff. And this says after it's stabilized and controlled you can take water samples, and so you know how to do that safely, but not air?

MS. ELDER: Right. We don't. So that's why I really wanted to take that out of there because we've had people call us before, wanting to do air sampling. We don't have the equipment. We need to lose that expectation or the legislature needs to provide us with equipment, training and

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personnel.

MS. MURPHY: If you contact a contract lab for a fast turnaround sampling, you're likely to find the cost doubles. We're not set up to do that.

MS. ELDER: So, we know where we are on this one. Okay?

Page 5, that's just to be consistent with the new law. We're striking that business about DEQ having a list of persons qualified and we're just going to say that we have a list of the licensed contractors.

MR. BOBO: I have a question on that, on Item 2 on there. If the responsible party fails to take immediate first response and the information is there, should there be something about the State being able to initiate the Emergency Response -- the State Contractor to go in and handle an incident?

MS. ELDER: I think that is on Number 1. No, I swear I think it is in there.

MR. BOBO: I thought it was in there, but I couldn't find it when I read

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it. And I thought under the part where it says that if the party fails, that's where the State or where DEQ should be able to send in a contractor to --

MS. ELDER: I think it may be under -- I think it's "G".

MR. MAGNIN: I think that's a big

catch-all that DEQ can do -- is authorized to do whatever is necessary.

MS. ELDER: I think it's "H".
No, I think it's "G".

MS. REATIES: On "J" you have two "of's". We need to delete one of them.

MS. ELDER: Yes, I do. Thank you. Okay.

MS. REATIES: Where is that? I'm sorry.

MS. ELDER: On Page 5 "J", two "of's". On 6, OEM instead of EMA; OEM requests that that requires use of the State resources, that is consistent with their FEMA responsibilities. And we added "N" to make sure that we are talking about safety of first responders. In other words, nobody should be doing anything they

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are not trained for, period.

MR. MAGNIN: The biggy on "L" was that we get all these calls where 55-gallon drums of diesel spill, and I don't think we need to get those calls.

MS. ELDER: You don't need to keep a record of them.

MR. MAGNIN: Now if there is something that requires state resources, that we've got to go out there and help them, then to me that makes sense that we should keep a record of it.

MS. ELDER: Right. And again,
mid-way down on 6 of 18 on 27A-4-1-104,
"liability for release" added those weasel
words so that we can cover people who
basically don't own the facility but are
using it.

MR. BOBO: Monty, let me ask you
about "N". Everywhere else we talk about
first responder and lead official, and
there it's "lead agency".

MS. ELDER: That probably should
be "lead official".

MR. MAGNIN: This should probably

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curtail the bubba's and the flip-flops out
there.

MS. ELDER: Yes, we are trying to
curtail that. On 7 we just put
"containing" just as long as you are
talking about responding to -- containing,
you know, that's mainly what you're doing
is containing and first response.

Then everywhere that it's spelled
out over and over again "Oklahoma Hazardous
Materials Emergency Response Commission" on
Page 8, we are going to put "OHMERC" in.

MR. BOBO: What about everywhere
it says "Department of Environmental
Quality" just put "ODEQ" or "DEQ" also?

MS. ELDER: DEQ, yes, we can do
that.

MR. BOBO: And that would save a lot of paper.

MR. MAGNIN: Same thing with Emergency Management as OEM. So the first time it's mentioned, spell it out.

MS. ELDER: Yes. We'll go back and we'll put "DEQ" and we'll put "OEM".

MR. MAGNIN: That will save about

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five pages.

MS. ELDER: Now here's the thing that's interesting. This comes from my expert. Right now it says "For purposes of implementing the provisions of Title III of the Federal Superfund Amendments and Reauthorization Act", that's all of Title

III. Part of Title III is "the Emergency Planning and Community Right-to-Know Act" which actually talks about LEPCs and OHMERC's and that sort of thing, and so --

MR. MAGNIN: Wait a minute, where are you at?

MS. ELDER: Page 8 "A". So, I don't know whether it's worthwhile to change it every time it says Title III to EPCRA, or just leave it the way it is.

MR. COX: I think EPCRA is what we are suppose to be doing, not CERCLA, or RCRA. Right. So, I would like to change that. Okay. "B3" -- so anyway, everywhere that it says SARA Title III, I've changed

it to "Emergency Response Act" so I should put in EPCRA, probably. "B3" the Fire Marshal would really like to have a

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designee, as he's like the only person who can't have one. So he'd like to have one.

The outside lawyer, I don't know if we need that. Well on "B7", the original Act said -- you know when it first started in '93, the first term was two years and then after that it was three years, we could probably get rid of that because that first term is already gone.

MR. BOBO: Why not just take, just say, one member representing a response community on six and one member representing the regulated industries, and just put a period there.

MS. ELDER: I think we need to put that -- for what their term is.

MR. BOBO: Well, we don't have terms on anybody else.

MS. ELDER: Because those are Agencies, and these are individuals, and every Board or any Commission I know of with individuals, they have terms.

And then, I don't know about this one, this was suggested by an outside source or -- and then anybody else but the

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Governor or somebody thinks should be on there. I don't know that we need that.

MR. BOBO: The only thing I would say on that is that you need to limit the number of people.

MS. ELDER: I think we just don't even need this, now that I think about it. Let's just mark out "8" on Page 9. And then this is -- Dale suggests -- well "5" is just changing that EPCRA. "8", the law currently says that the OHMERC supervises and coordinates the activities of local emergency planning committees. And I think Dale made this suggestion, that we change that to establish rules by which the Commission shall function.

MR. MAGNIN: The kicker there is that we don't do this. The OHMERC does not supervise and coordinate the activities of the LEPCs.

MS. ELDER: I mean, we do interact with LEPCs through the Agencies represented on the OHMERC, but the OHMERC, as a group, doesn't do it.

Then, on Page 10, that's just

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changing OHMERC and duh-duh-duh-duh-duh Community Right-to-Know, that's not really anything. The next place we have something is -- where it starts to get interesting is on Page 12. And what we are saying in "H3" on Page 12, is that the OHMERC may, doesn't have to, but we may delegate authority to a Board of County Commissioners to appoint members of a Local Emergency Planning

Committee in it's county, and to supervise and coordinate the activities of these Committees.

MR. BOBO: Now, do we need to have the word "appoint" or "approve" the members? I'm talking about the County Commissioners --

MR. MAGNIN: Yes, we are talking about -- do we want the County Commissioners to have power?

MS. ELDER: A list will come from the LEPC to the County Commissioner and then I would imagine that the County Commissioner would simply say, I'm appointing everybody on this list. I don't know.

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MR. BOBO: I guess, like Item Number 2 where it says that we appoint members. Do we actually appoint members, or do we approve the members that are on the list?

MS. ELDER: The law says -- the EPCRA law says we appoint. The way we appoint is we approve the list that comes to us.

MR. MAGNIN: Right. That's what we're suppose to do, to appoint all you guys to that, so we're adding in favor, which we can delegate it to the County Commissioners to do that appointment, which in a lot of cases the LEPCs are just forming and working by themselves without anyone approving anything. In fact, in some cases out there, particularly when they're getting fees from those facilities, they do in the Tier 2's. You know the

County Commissioners are doing some type of resolution that allows them to collect that fee, and the Commissioners have stepped in and assumed that responsibility which I think they should have always had. Okay,

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let's just do it legally where we could provide that authority down to them to do what I think they should have been doing all along.

MS. ELDER: But they don't have to. The laws in many, many other states say that County Judges in Texas and County Commissioners in other states are -- have to be the head of the LEPC, but we don't say that. This doesn't say they have to be, but it says they may and that's why we need to go to the County Commissioners and say, you know you guys that are interested and active -- here you go.

MR. BOBO: My personal thought is that the County Commissioners should be required to be a part of it. But I know that's -- but I think we should.

MS. ELDER: Right. I don't know if we can sail that boat, but we're getting in the water this way. We haven't actually launched the boat, but we're at least getting in the water. And then this says each county is designated as an emergency planning district. You know we've always

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designated the counties, but then any group of LEPCs may petition the OHMERC to be

designated as a regional local planning district.

MR. MAGNIN: At several times, the people have wanted to -- the Panhandle has talked about maybe we should just have one LEPC and they've been talking about that since the late '80s, and that might be a good idea.

MS. ELDER: Gives them a mechanism to do that.

On Section 6, that's just modernizing -- first of all we're saying at a minimum and as available in the area because some LEPCs cannot have -- there just aren't that many people around, but this is just modernizing language. Instead of first aid, emergency medical service, you know, just doing that and then you know, other people as appointed.

MR. MAGNIN: Continually, I'm asked the question, what does this mean in its representation, and continually I'm saying, you get 10 fire departments. Those

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fire departments get together and they elect a representative to sit on the LEPC.

MS. ELDER: Or you can have each fire department have a member.

MR. MAGNIN: Well, the problem that we ran into in Ellis County, where they had 10 fire departments show up and all of a sudden it's no longer an LEPC, it's a fire association.

MR. BOBO: Or, you have 10 fire departments that show up and you have 10 seats so your quorum becomes 20 people and only 8 show up at the meetings.

MR. MAGNIN: So it's important that we stick with the word "representation".

MS. ELDER: Okay. Page 13 is just, you know, that you can add people but if there is somebody not on the list, you can put them on there, you know, if you feel like it. And this is "B" on Page 13, it's just again, making the County Commissioners being able to have the authority that OHMERC does on appointing membership and having the names submitted

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to them, that sort of thing.

MR. MAGNIN: And basically where it says that OHMERC would do something, we're adding "or the Board of County Commissioners".

MS. ELDER: And then, on Page 14, that's just basically putting in the -- well, "E1" is to meet the Federal Statute because either the OHMERC or the Board of County Commissioners is suppose to have a list of the LEPC every year. You notice how well that's been working but at least it should be the law.

Emergency Management says that the Emergency Management Agency Manager will have the lead for ensuring plans, exercises, activities; I think that makes sense.

Anybody got a problem with that?
They don't have to be the Chair, but
they're coordinating activities.

MR. MAGNIN: And I really think
that in most instances that the Emergency
Manager should not be the Chair. And with
my experience out there, if we can get a

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facility be the Chair, that's always a
better deal.

MS. ELDER: Yes, but the
Emergency Manager coordinates the
activities. The meetings meet at least
quarterly. Might as well give it a shot.
And then the duties, and these are
basically the powers and the authorities of
the Planning Committee as you know,
outlined in the Act. You know, that's just
standard language, but we just added County
Commissioners or OHMERC on "B". I think C,
D, E --

MR. MAGNIN: I think it's been
several years since I've played with this,
but I've moved a lot of stuff around to
where I don't think I -- there's just not a
whole lot that's new. It's just kind of
moved around.

MS. ELDER: Right. This used to
be somewhere else.

MR. MAGNIN: And you see where
it's "exed out" somewhere in here, too?

MS. ELDER: Well, I don't know.
I don't have the "exed out" but --

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MR. MAGNIN: Yes, you do, or lined out. But I think that one of the things that I added in here was --

MS. ELDER: I think you added "F" which is any state or local meet with any agency to exercise governmental functions of planning and zoning. In other words, the LEPC can provide information on locations of hazardous materials and that sort of thing, to zoning committees, which I've always thought that's what LEPC should do so that you could avoid putting the elementary school next door to your neighborhood hazard provider.

MR. MAGNIN: "G" on Page 15, we added where they can accept money, you know, to put in the LEPC account --

MS. ELDER: Account, so that they can actually have money --

MR. MAGNIN: -- and that they can spend it.

MS. ELDER: -- and that they can spend it in (inaudible). Now Dale thinks we should remove a filing fee maybe established by the Board of County

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Commissioners. I don't even know that we need it, because I think they can do it anyway.

MR. MAGNIN: No, I don't want to remove it.

MS. ELDER: Oh.

MR. MAGNIN: It's there.
Paragraph 5.

MS. ELDER: I know, but I thought you said since DEQ is providing funding that we might not want the County Commissioners to -- and it's true, we really don't want the County Commissioners to charge -- facilities don't like to pay the fees twice to the state and to the county. And it use to be that if they had county fees at the state we just said we'll let it go. But now that we actually have grants to give to the LEPCs and stuff like that, we're not going to let it go. So some people are going to have to pay the county and the state, but you know, they can talk to their county about it, I guess.

MR. MAGNIN: Yes. The key word is that they "may" establish that fee. In

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a lot of cases, at least 10 counties they've established that fee. Now, Kary, with the new thousand dollars that we get from DEQ to maintain those Tier 2's, are they still collecting filing fees out there?

MR. COX: Yes, there are a lot of counties that are.

MR. MAGNIN: So, even though they're getting a thousand, they're still collecting that fee?

MR. COX: As far as I know, they are.

MR. MAGNIN: So 25 bucks or 15 bucks or whatever from these facilities shouldn't be hurting anybody.

MR. COX: Beaver County, for example, your thousand dollars doesn't come close to matching what they get off of those fees that they cost us out there. The last I knew, Beaver county was collecting close to \$2,500 a year.

MS. ELDER: Well, you know, that's really up to counties and what I say to facilities is, visit with your LEPC if

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you don't think that's right. Go show up at the meeting.

MR. MAGNIN: This at least puts it in writing that they can collect a fee out there, and there just hadn't been anything previously.

MS. ELDER: And then "A" just says that they have to do an All Hazards Emergency Operation Plan, that they have to submit the copies to either us or the Board of County Commissioners and the Department of Emergency Management represents us in getting the plans, just like DEQ represents OHMERC in getting the Tier 2 Reports. The plans go to Emergency Management.

And then it says what the plans shall include.

MR. MAGNIN: And reference that to, we've got NRT-1 there. I'm not sure the NRT-1 is still out there.

MS. ELDER: Would you check it. I don't think it is, either.

MR. DAVIS: I don't think it is. I think you're right, I think it's gone.

MR. MAGNIN: What would it have

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been wrapped up into, do you know?

MR. DAVIS: I know they're providing us with 101, aren't they?

MS. ELDER: Why don't you just put the National Response framework?

MR. MAGNIN: Well, because the National Response framework is really the federal side of the house.

MS. ELDER: Yes.

MR. MAGNIN: But we're rewriting the State and Local Guide 101 and it's going to be the CPG 101, and I think there's something in there that talks about the NRT's. Let me look.

MS. ELDER: Would you please check that?

MR. MAGNIN: But again, the hiccup with that is that thing is probably

not going to be finished for another year or so, the State and Local Guide.

MS. ELDER: You're the person who wrote this part, Dale.

MR. MAGNIN: I know, but it was years ago.

(Discussion)

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MS. ELDER: Shall at a minimum shall include the current requirements.

MR. BOBO: I'm always hesitant about putting any of these things like SLA 101 in there.

MR. DAVIS: They change.

MR. MAGNIN: They change, yes.

MS. REATIES: Does the Board of County Commissioners currently review each EOP?

MS. ELDER: No, that's being added here.

MS. REATIES: But they're going to start?

MR. MAGNIN: I want them to be in charge of that. Now, this has dual wackos here because if we get them to focus and work with the LEPC, that will also get them to pay attention that there is an Emergency Management Operation and there's a plan out there. In a lot of cases these guys are not paying attention to that. And there is a state law that says, you know, that they

are required to have an Emergency Management Organization, but there's no

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punch to it.

MR. COX: And the bottom line is, these guys, these County Commissioners are the governing body of that county, of that jurisdiction.

MR. MAGNIN: An elected official for everyone in that county.

MS. REATIES: Shouldn't they want a representative to be on this Board?

MR. COX: On which Board?

MS. REATIES: The County Commissioner?

(Inaudible discussion)

MS. REATIES: No, just a regular, I mean, this is making them a very integral part of the whole Act.

MR. MAGNIN: Well, they are responsible for a lot of other things that go on in the counties, too.

MR. BOBO: Right. And the County Commissioners were supposed to be an integral part of it at the very beginning, and most of them are not.

MS. ELDER: And so we're just

giving them the opportunity to be and we're

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going to go talk to the County Commissioners about -- yes, we could not possibly take this forward, with all that County Commissioner language and not have their association.

MR. MAGNIN: I would look at that Paragraph B there and see if I can fix that.

MR. RABATINE: On the plans that are submitted, is there approval by the OHMERC traditionally, or is it just a submission -- is it just a process?

MR. MAGNIN: When I first came on board here --

MS. ELDER: Here's what we did originally. The OHMERC originally approved the initial plan for all 77 counties. So back in '91, when I first came to work at DEQ, every month so many counties plans -- what would happen is, Civil Emergency Management would stand up and say we received plans from this county, this county, this county and this county, and we approved them. We think the OHMERC should approve them, and so the OHMERC would go,

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they're approved.

MR. MAGNIN: And all that just

kind of fell by the wayside.

MR. RABATINE: What prompted my question was the language changes that had been submitted to OHMERC and the --

MS. ELDER: But it says the representative -- it says transmit copies to OHMERC represented by the Oklahoma Department of Emergency Management. So that means the plans will go like they do now, to Emergency Management.

MR. BOBO: But the next page over the line, we still said that OHMERC "shall" review the same for content. Shouldn't that be Emergency Management?

MR. MAGNIN: I guess we could add the OHMERC representative --

MR. BOBO: The OHMERC representative, yes.

MS. ELDER: How about the OEM as representative for the OHMERC "shall".

MR. MAGNIN: Yes.

MS. ELDER: Okay, now again, upon completion of this, the Commission shall

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send a letter, the Commission, again OEM, as representative of the Commission.

MR. BOBO: I think that would be the appropriate way. Then if there is something that is a major issue, then I

think that Dale, as part of his function as a member of the OHMERC should bring it to the OHMERC and say, hey, this county just decided to just charge everybody a \$1,000 to just submit their plans.

MS. ELDER: Right.

MR. MAGNIN: Of course that wouldn't necessarily be in the plan.

MS. ELDER: No, but if there was a problem with the Emergency Operations Plan or something, you know, Dale -- we would rely on Dale, just like you know Dale would give us a report of the plans, just like we give reports for Tier 2's and TRI's.

MR. BOBO: Right.

MS. ELDER: You know. We're just acting in that status.

MR. MAGNIN: And also on Page 16, Paragraph D there, where it's saying if

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there are no changes to your plan, now you can --

MS. ELDER: Which is almost hard to believe because if you don't, phone numbers aren't going to change in the course of a year --

MR. MAGNIN: The ones I know are changing by the hour.

MS. ELDER: Right. Hard to believe.

MR. MAGNIN: But somebody -- and we're not going to run an audit on these guys. In most cases if somebody tells us that they've done something, and they do it in writing, you know, there's not to many state officials that I would run down and challenge them. But if it screws up, we've got their name saying that they really did it, so they are the ones who will go to jail. We also stuck in here a date, that this needs to be done annually, on or before July 1.

MS. ELDER: Sure, sure. And again, every time it says changes are written notification to OHMERC, I'm going

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to put in OEM as representative of the OHMERC. Because that's, like I said, just what we do with Tier 2.

And then on "D2", we've put in operations, because that's the real name. It's really the Emergency Operations Plan, not the Emergency Plan, so we put in operations. And that pretty much covers it, except changing that, so -- oh, wait a minute, on the back page the lawyer suggested that where we give liability coverage for people that they -- the nomination or approval of any individual -- because the way it sounds now, the nomination, you know -- in other words, the way it reads now, it's like if you're nominated to be on the LEPC you don't have liability, but it doesn't for sure say if you are approved, if that continues on. You know, a lawyer would catch that.

So do we have anymore discussion?

Okay. Do I have a motion -- how do I want to say that? A motion that the OHMERC approve the proposed changes of the Oklahoma Emergency Response and

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Notification Act, Oklahoma Hazardous Materials Planning and Notification Act, as presented at this meeting, to be sent forward --

MR. MAGNIN: To the ADHOC Committee.

MS. ELDER: No. If it's approved here, we're going to send this forward to your agency and my agency to search for sponsors to avail, to make these changes into law.

MR. MAGNIN: What about the involvement of the OMA and talking to the County Commissioners you want to do that after -- that's part of the sponsorship?

MS. ELDER: As I view this, OHMERC needs to bless these changes and say, as a group, we've reviewed them and we agree with these changes. Please to OEM and to DEQ, please go forward with these changes, and then as part of the going forward, then OEM and DEQ will look for sponsors, and we'll do outreach to effective organizations and individuals.

MR. BOBO: I'd like a motion to

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what Monty said.

MR. COX: I second.

MR. MAGNIN: Yes. Good job.

MS. ELDER: All in favor, signify
by saying aye.

COMMISSIONERS: (Unanimously)
Aye.

MS. ELDER: Opposed? Okay, now
we have one more thing to do. The dates we
changed, because we realized we couldn't
have it on November 18th. The proposed
dates are March 11th, May 13th, August
12th, and November 11th, 2008.

MR. MAGNIN: I recommend that we
all take these dates home and look at our
calendars and let you know.

MS. ELDER: I suggest that --
because truthfully I don't know that my
calendar shows up anything this early -- is
that we approve or make different
suggestions, and then as we do every year,
if we end up with a bunch of conflicts,
we'll change it.

MS. MURPHY: I want to say
something about that.

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MR. MAGNIN: I make a motion we
accept these dates.

MS. MURPHY: Okay.

MS. BRUCE: But we run into some problems that if we change the date then we find the multi-purpose room isn't available or this room may not be available, et cetera, and this year seemed to be particularly problematic.

MS. ELDER: Well, that's because the multi-purpose room was being remodeled and it wasn't available.

MS. MURPHY: Well, I think we changed the date for this November meeting at least three times.

MS. ELDER: Yes, we did.

MR. MAGNIN: Yes, we did. But I make a motion we go with these dates, Terry seconded it.

MS. ELDER: All in favor, signify by saying aye.

COMMISSIONERS: (Unanimously)
Aye.

MS. ELDER: Opposed. Okay. Now is there any further discussion or new

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business? Hearing none, I adjourn the meeting.

(Meeting Concluded)

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C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; that the
foregoing proceeding was taken down in
shorthand by me and thereafter transcribed
under my direction; that said proceedings
were taken on the 13th day of November,
2007, at Oklahoma City, Oklahoma; and that
I am neither attorney for nor relative of
any of said parties, nor otherwise
interested in said action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
25th day of February, 2008.

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

Christy A. Myers
Certified Shorthand Reporter