

**MINUTES**  
**ENVIRONMENTAL QUALITY BOARD**  
**November 15, 2007**  
**SWOSU Ballroom**

EQB approved  
February 29, 2008

**Notice of Public Meeting** The Environmental Quality Board convened for a regular meeting at 9:30 a.m. November 15, 2007 in the Ballroom at Southwestern Oklahoma State University, Weatherford, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on November 30, 2006 and amended on July 10, 2007. The agenda was mailed to interested parties on November 5, 2007 and was posted at the meeting facility and at the Department of Environmental Quality on November 14, 2007. Ms. Brita Cantrell, Vice-Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

**MEMBERS PRESENT**

Brita Cantrell  
Mike Cassidy  
Jack Coffman  
Tony Dark  
Bob Drake  
David Griesel  
Jerry Johnston  
Sandra Rose  
Terri Savage  
Richard Wuerflein

**MEMBERS ABSENT**

Jennifer Galvin  
Steve Mason  
Kerry Sublette

**DEQ STAFF PRESENT**

Steve Thompson, Executive Director  
Jimmy Givens, General Counsel  
Wendy Caperton, Executive Director's Office  
David Dyke, Administrative Services Division  
Shellie Chard-McClary, Administrative Services Division  
Eddie Terrill, Air Quality Division  
Judy Duncan, Customer Service Division  
Gary Collins, Env. Complaints & Local Services  
Scott Thompson, Land Protection Division  
Jon Craig, Water Quality Division  
Ellen Bussert, Administrative Services  
Skylar McElhaney, Executive Director's Office  
Jamie Fannin, Administrative Services  
Matt Paque, AQD Legal  
Myrna Bruce, Secretary, Board & Councils

**OTHERS PRESENT**

Ellen Phillips, Assistant Attorney General  
Christy Myers, Court Reporter  
Bill Kropf, ECLS Regional Manager

The Attendance Sheet is attached as an official part of these Minutes.

**Approval of Minutes** Ms. Cantrell called for a motion to approve the minutes of the August 21, 2007 Regular Meeting, Mr. Drake made the motion to approve as presented and Mr. Griesel made the second. Roll call as follows with motion passing.

*transcript pages 5 - 6*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:100 Air Quality Control** Mr. David Branecky, Chair, Air Quality Council, stated that the proposal would revoke Section 37-38 relating to pumps and compressors because the requirements are outdated and addressed in operating permits where required. Mr. Terrill advised that this is clean-up that was missed during the Agency-wide re-right/de-wrong process. No public comments were heard. Ms. Cantrell called for a motion to which Mr. Drake moved for approval and Mr. Dark made the second.

*transcript pages 7 – 10*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes

Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

Mr. Branecky advised that this proposal would update Appendices E and F relating to primary and secondary ambient air quality standards, for consistency with federal standards. The update to Appendix E makes it correspond to the federal particulate matter primary standards and the update to Appendix F makes it correspond to the federal carbon monoxide and particulate matter secondary standards. Hearing no comments, Ms. Cantrell called for a motion. Mr. Dark moved for approval and Mr. Griesel made the second.

*transcript pages 10 -13*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

Mr. Branecky advised that the proposed amendments to Subchapters 1, 8, 37 and 39 clarifies certain definitions, including "particulate matter" and "volatile organic compounds"; and provides an exemption for tert-butyl acetate to be consistent with federal rules. Hearing no comments, Ms. Cantrell called for a motion. Mr. Drake moved approval and Mr. Johnston seconded.

*transcript pages 13 - 14*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

Mr. Branecky advised that the Air Quality Council had considered Subchapter 7 revisions over several meetings, then passed the rule on to the Board for permanent rulemaking. The proposed revisions provide consistency with state statutes and other Air Pollution Control rules; remove references to Subchapter 41, which has been revoked; correct the emissions calculation methods for determining whether a permit is required; clarify when construction permits are required; and provide for administrative amendments to operating permits for minor facilities. Hearing no comments, Ms. Cantrell called for a motion to approve as presented. Mr. Johnston made the motion and Mr. Wuerflein made the second.

*transcript pages 15 - 16*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

Lastly, Mr. Branecky stated that the proposed Appendix Q amendments incorporate by reference the latest changes to federal regulations which is done annually. One additional change was made which would spell out 'Not Applicable' where the language NA has been used. Mr. Terrill answered questions then Ms. Cantrell called for a motion. Mr. Dark made the motion to approve and Mr. Johnston made the second.

*transcript pages 17 - 20*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:205 Hazardous Waste Management** Mr. Bob Kennedy, Chair of the Hazardous Waste Management Advisory Council, stated that proposed rulemaking updates to July 1, 2007, the incorporation by reference of federal hazardous waste regulations found in 40 CFR as found in OAC 252:205-3-1. He added that this update does not involve any major changes to existing requirements.

*transcript pages 21 - 24*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:515 Solid Waste Management** Mr. Jeff Shepherd, Vice-Chair of the Solid Waste Management Advisory Council advised that the proposed amendments to Subchapter 19 arise from Senate Bill 509 enacted in 2007, effective July 1, 2007. The Bill made significant changes to the wheel wash law by eliminating the provision for “recoupment” and providing instead for “reimbursement”. The rule changes are to correspond to the changes in statute. Mr. Sonny Johnson, DEQ legal, advised that the rulemaking would need to be considered as an emergency the Bill had gone into effect as of July 1, 2007. Following further explanation from Mr. Thompson, Ms. Cantrell called for a motion for the finding of an emergency. Mr. Griesel made that motion and Mr. Dark made the second.

*transcript pages 24 - 30*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

Ms. Cantrell then called for motion to approve as an emergency measure. Mr. Griesel made the motion and Mr. Drake made the second.

*transcript pages 31 -32*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

And for approval as permanent rulemaking, Mr. Dark made the motion and Mr. Griesel made the second.

*transcript pages 32 - 33*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

Mr. Shepherd stated that proposed revisions to Appendix C delete the ‘Suggested Methods’ and ‘Practical Quantitation Limits’ columns to update OAC 252:515 Appendix C to correspond with the federal rules. Mr. Griesel moved for permanent adoption of the revised Appendix C and Mr. Coffman made the second.

*transcript pages 33 – 39*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes

Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:004 Rules of Practice and Procedure** Mr. Jeffrey Short, Vice-Chair of the Water Quality Management Advisory Council thanked the Board for having their meeting at Southwestern and welcomed them to Weatherford.

Presenting the rulemaking, he advised that proposed changes to the Water Quality Application Tier rules make the classifications of Tier I permits consistent, clarify that modifications to or the addition of impoundments to an existing permitted industrial wastewater system is a Tier I application, and clarify that a new industrial wastewater treatment system application is a Tier II application. Mr. Don Maisch, DEQ Legal, added that the July 1, 2008 effective date allows for the entire gubernatorial and legislative process. Hearing no further questions from the Board or the public, Ms. Cantrell called for a motion. Mr. Coffman moved for adoption of the rule and Mr. Drake made the second.

*transcript pages 36 – 39*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:633 Drinking Water State Revolving Fund** Mr. Short advised that proposed revisions to the Priority Project System and the Finding Priority Formula are necessary to meet federal and state requirements. Additionally, some of the proposed changes reconcile the requirements of this chapter with the DWSRF requirements of the Oklahoma Water Resources Board. The remaining changes are for clarification and to correct typographical errors. He pointed out that the comments that had been received by the Council are summarized in the Executive Summary in the packet. Hearing no comments, Ms. Cantrell called for a motion. Mr. Griesel made motion to approve and Mr. Wuerflein made the second.

*transcript pages 40 -42*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:710 Waterworks & Wastewater Works Operator Certification**

Mr. Arnold Miller, Chair of the Waterworks and Wastewater Works Advisory Council pointed out that the proposal adds the words “and/or collection system” to the “Wastewater Works” column of Appendix A to make clear that a certified operator is required to operate a wastewater collection system. He added that the Council had voted unanimously to recommend for the Board’s approval. Hearing no comments, Mr. Johnston moved approval and Mr. Dark made the second.

*transcript pages 42 - 44*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**Consideration of and Action on the Environmental Quality Report** Ms. Wendy Caperton, Director of Policy and Planning provided the presentation for approval of the Oklahoma Environmental Quality Report. She stated that the Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. Despite the statutory title, the statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report. Mr. Thompson fielded questions and comments then Ms. Cantrell called for a motion. Mr. Griesel moved approval and Mr. Johnston made the second.

*transcript pages 45 - 61*

Mike Cassidy	Yes	Jerry Johnston	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes

**New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**Executive Director’s Report** – Steve Thompson

**Adjournment**

**New Business** None

**Adjournment** The meeting adjourned at 10:50 a.m.

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE ENVIRONMENTAL QUALITY BOARD  
REGULAR MEETING  
HELD ON NOVEMBER 15, 2007, AT 9:30 A.M.  
WEATHERFORD, OKLAHOMA

\* \* \* \* \*

MYERS REPORTING SERVICE  
(405) 721-2882

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BOARD MEMBERS

2  
3 JENNIFER GALVIN - CHAIR - ABSENT  
4 BRITA CANTRELL - MEMBER  
5 MIKE CASSIDY - MEMBER  
6 TONY DARK - MEMBER  
7 BOB DRAKE - MEMBER  
8 DAVID GRIESEL - MEMBER  
9 JERRY JOHNSTON - MEMBER  
10 STEVE MASON - MEMBER - ABSENT  
11 RICHARD WUERFLEIN - MEMBER  
12 DR. SUBLETTE - MEMBER - ABSENT  
13 JACK COFFMAN - MEMBER

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16 STAFF MEMBERS

17 STEVE THOMPSON - DIRECTOR

18 JIMMY GIVENS - ATTORNEY

19 ELLEN PHILLIPS - AG'S OFFICE

20 MYRNA BRUCE - SECRETARY

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PROCEEDINGS

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MS. CANTRELL: Good morning. The November 15, 2007 Regular Meeting of the Environmental Quality Board has been called according to the Oklahoma Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes.

Notice was filed with the Secretary of State on November 30, 2006 and a location updated on July 10, 2007.

Agendas were mailed to interested parties on November 5, 2007 and posted on November 14, 2007 at this facility and at the Department of Environmental Quality, 707 North Robinson, Oklahoma City. Only matters appearing on the posted agenda may be considered.

If this meeting is continued or reconvened, we must announce today the date, time and place of the continued meeting and the agenda for such continuation will remain the same as

1 today's agenda.

2                   Before we get started I would like  
3 to thank, very much, the folks from  
4 Southwestern University for allowing us to  
5 conduct this Environmental Quality Board  
6 Meeting today at their beautiful facility.  
7 This is a real treat to be able to meet in  
8 this facility here in Weatherford. Thank  
9 you very much for having us.

10                   And now it's time to get started. I  
11 believe also we'd like to recognize that we  
12 have Bill Croft here, who is the Division  
13 Director of this area for the Department of  
14 Environmental Quality. Bill.

15                   MR. CROFT: And Beth Ledbetter  
16 just walked in.

17                   MS. CANTRELL: Oh, and Beth  
18 Ledbetter, too. Thank you both very much.

19                   And we will get started. Myrna,  
20 would you please call the roll of the  
21 Board.

22                   MS. BRUCE: Mr. Cassidy.

23                   MR. CASSIDY: Here.

24                   MS. BRUCE: Mr. Coffman.

25                   MR. COFFMAN: Here.

1                   MS. BRUCE: Mr. Dark.

2 MR. DARK: Here.

3 MS. BRUCE: Mr. Drake.

4 MR. DRAKE: Here.

5 MS. BRUCE: Mr. Griesel.

6 MR. GRIESEL: Here.

7 MS. BRUCE: Mr. Johnston.

8 MR. JOHNSTON: Here.

9 MS. BRUCE: Ms. Rose.

10 MS. ROSE: Here.

11 MS. BRUCE: Ms. Savage.

12 MS. SAVAGE: Here.

13 MS. BRUCE: Mr. Wuerflein.

14 MR. WUERFLEIN: Here.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Here.

17 MS. BRUCE: And for the record,

18 absent are Mr. Mason, Dr. Sublette, and

19 Dr. Galvin. We do have a quorum.

20 MS. CANTRELL: Thank you, Myrna.

21 And now we move to approval of the Minutes

22 of the August 21, 2007 meeting of the

23 Board.

24 MR. DRAKE: Move approval as

25 presented.

6

1 MR. GRIESEL: I'll second.

2 MS. CANTRELL: The motion has  
3 been made and seconded. Are there any  
4 questions? Hearing none, would you please  
5 call the roll, Myrna.

6 MS. BRUCE: Mr. Cassidy.

7 MR. CASSIDY: Yes.

8 MS. BRUCE: Mr. Coffman.

9 MR. COFFMAN: Abstain.

10 MS. BRUCE: Mr. Dark.

11 MR. DARK: Yes.

12 MS. BRUCE: Mr. Drake.

13 MR. DRAKE: Yes.

14 MS. BRUCE: Mr. Griesel.

15 MR. GRIESEL: Yes.

16 MS. BRUCE: Mr. Johnston.

17 MR. JOHNSTON: Yes.

18 MS. BRUCE: Ms. Rose.

19 MS. ROSE: Yes.

20 MS. BRUCE: Ms. Savage.

21 MS. SAVAGE: Yes.

22 MS. BRUCE: Mr. Wuerflein.

23 MR. WUERFLEIN: Yes.

24 MS. BRUCE: Ms. Cantrell.

25 MS. CANTRELL: Yes.

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1 MS. BRUCE: Motion passed. And

2 would you please remember to push the blue  
3 button when you want to speak. Thank you.

4 MS. CANTRELL: All right. Moving  
5 on down our agenda, we're now moving to the  
6 rulemaking portion of the agenda today.  
7 And the first set of rules pertains to Air  
8 Quality Control. And Mr. David Branecky,  
9 Chair of the Air Quality Council, is here  
10 to present this proposal.

11 Good morning, Mr. Branecky, and  
12 thank you.

13 MR. BRANECKY: Good morning.  
14 Good morning, Madam Vice-Chair, Members of  
15 the Board.

16 We have quite a bit to present to  
17 you this morning. Hopefully they're fairly  
18 simple, not too complex. So what I'll do  
19 is I'll just take one at a time.

20 Starting with Subchapter 37, Part 7,  
21 38, entitled Pumps and Compressors. What  
22 we are doing there -- this provision became  
23 obsolete, so we're proposing to just revoke  
24 the entire section. This came before the  
25 Air Quality Council in April of this year

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1 and we passed it and we're asking the Board

2 to pass it as a permanent rule. I'd be  
3 happy to answer any questions.

4 MS. CANTRELL: Thank you. Are  
5 there any questions?

6 MR. COFFMAN: David, why were the  
7 rules obsolete?

8 MR. BRANECKY: I'll let staff  
9 answer that. He's more in tune with that  
10 than I am.

11 MR. TERRILL: I didn't bring any  
12 staff, but I'll try to answer that.  
13 Actually, it probably should have been  
14 caught as part of a rewrite/dewrong.  
15 There's references that take care of this  
16 scattered throughout our, not only our  
17 rules but federal rules as well, and the  
18 permitting engineers were having to address  
19 this when they write permits and it really  
20 didn't do anything, there were other  
21 sections that were catching it.

22 And part of the other work we were  
23 doing, staff identified it as something  
24 that should have been caught when they were  
25 doing rewrite/dewrong, so we're just

1 picking it up now. It's a cleanup.

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MR. COFFMAN: Thank you.

MS. CANTRELL: Are there any other questions from the Board?

Hearing none, would anybody in the audience like to ask a question concerning this proposed rule?

Do I have a motion from the Board?

MR. DRAKE: So moved.

MR. DARK: Second.

MS. CANTRELL: The motion has been made and seconded. Can we have a roll call vote, please.

MS. BRUCE: May I ask who the motion and second was?

MR. DRAKE: I made the motion.

MS. BRUCE: Okay, thank you, David.

MR. DARK: And I made the second.

MS. BRUCE: Thank you, Tony. Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

1

MR. DARK: Yes.

2 MS. BRUCE: Mr. Drake.  
3 MR. DRAKE: Yes.  
4 MS. BRUCE: Mr. Griesel.  
5 MR. GRIESEL: Yes.  
6 MS. BRUCE: Mr. Johnston.  
7 MR. JOHNSTON: Yes.  
8 MS. BRUCE: Ms. Rose.  
9 MS. ROSE: Yes.  
10 MS. BRUCE: Ms. Savage.  
11 MS. SAVAGE: Yes.  
12 MS. BRUCE: Mr. Wuerflein.  
13 MR. WUERFLEIN: Yes.  
14 MS. BRUCE: Ms. Cantrell.  
15 MS. CANTRELL: Yes.  
16 MS. BRUCE: Motion passed.  
17 MS. CANTRELL: Thank you.  
18 MR. BRANECKY: I'll move on to  
19 the next item, which is -- we're proposing  
20 to change Appendices E and F of chapter  
21 100.

22 There is an error -- let me point  
23 out first before we get started. On the  
24 first page, in the analysis, we refer to  
25 the change as being ozone. These changes

11

1 have nothing to do with ozone, they're with

2 particulate matter and carbon monoxide.  
3 Even though that's an error, when it was  
4 noticed -- it was properly noticed as  
5 changing the appendices to having to deal  
6 with PM and CL. But I just wanted to point  
7 that out.

8           What we're doing is we're revoking  
9 some standards for PM10 and 2.5 in Appendix  
10 E, and adding a new provision for PM 2.5 to  
11 make it consistent with the federal  
12 standards. So that's what we're doing in  
13 Appendix E.

14           In Appendix F, what we are doing is  
15 revoking the PM10 for the secondary  
16 standards and revoking PM 2.5 secondary  
17 standard, the 24-hour, and we are also  
18 revoking the carbon monoxide secondary  
19 standard. And again, this is just to make  
20 it consistent with the federal standards.

21           So we're asking -- this was taken  
22 before the Council in April of this year.  
23 We passed it and we're asking the Board to  
24 pass it as a permanent rule.

25           MS. CANTRELL: Thank you. Any

12

1 questions from the Board? Any questions

2 from those in attendance? Do we have a  
3 motion?

4 MR. DARK: So moved.

5 MR. GRIESEL: Second.

6 MS. CANTRELL: We have a motion  
7 and a second. Can we have a vote, please.

8 MS. BRUCE: Mr. Cassidy.

9 MR. CASSIDY: Yes.

10 MS. BRUCE: Mr. Coffman.

11 MR. COFFMAN: Yes.

12 MS. BRUCE: Mr. Dark.

13 MR. DARK: Yes.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: Yes.

20 MS. BRUCE: Ms. Rose.

21 MS. ROSE: Yes.

22 MS. BRUCE: Ms. Savage.

23 MS. SAVAGE: Yes.

24 MS. BRUCE: Mr. Wuerflein.

25 MR. WUERFLEIN: Yes.

13

1 MS. BRUCE: Ms. Cantrell.

2 MS. CANTRELL: Yes.

3 MS. BRUCE: Motion passed.

4 MS. CANTRELL: Thank you.

5 MR. BRANECKY: Our next item  
6 would be Chapter 100, Subchapters 1, 8, 37  
7 and 39. We made several changes.  
8 Basically what we're doing there -- what  
9 we're asking the Board to consider are  
10 amendments that are clarifying certain  
11 definitions, including the definition of  
12 "particulate matter" and "volatile organic  
13 compounds."

14 We are also providing an exemption  
15 for tert-butyl acetate, which is consistent  
16 with federal rules. This rule came before  
17 the Council in July of this year and we're  
18 asking the Board to consider it as a  
19 permanent change.

20 MS. CANTRELL: Are there any  
21 questions from the Board?

22 Hearing none, are there any  
23 questions from those in attendance? Do we  
24 have a motion?

25 MR. DRAKE: So moved.

14

1 MR. JOHNSTON: Second. Jerry.

2 MS. CANTRELL: We have a motion  
3 by Mr. Drake and a second by Mr. Johnston.  
4 May we have a vote, please.  
5 MS. BRUCE: Mr. Cassidy.  
6 MR. CASSIDY: Yes.  
7 MS. BRUCE: Mr. Coffman.  
8 MR. COFFMAN: Yes.  
9 MS. BRUCE: Mr. Dark.  
10 MR. DARK: Yes.  
11 MS. BRUCE: Mr. Drake.  
12 MR. DRAKE: Yes.  
13 MS. BRUCE: Mr. Griesel.  
14 MR. GRIESEL: Yes.  
15 MS. BRUCE: Mr. Johnston.  
16 MR. JOHNSTON: Yes.  
17 MS. BRUCE: Ms. Rose.  
18 MS. ROSE: Yes.  
19 MS. BRUCE: Ms. Savage.  
20 MS. SAVAGE: Yes.  
21 MS. BRUCE: Mr. Wuerflein.  
22 MR. WUERFLEIN: Yes.  
23 MS. BRUCE: Ms. Cantrell.  
24 MS. CANTRELL: Yes.  
25 MS. BRUCE: Motion passed.

15

1 MR. BRANECKY: The next item is

2 the proposed revisions to Subchapter 7.  
3 What we did here was we tried to make some  
4 changes that make it consistent with other  
5 state statutes and other Air Quality -- air  
6 pollution rules. We removed the reference  
7 to Subchapter 41 which no longer exists.  
8 That rule was revoked or replaced with  
9 another rule previously. We corrected some  
10 emission calculation methods and clarified  
11 when a -- whether a permit -- a certain  
12 change would require an administrative  
13 amendment or not to the permit. And I  
14 think that's basically about it.

15 We changed some wording with respect  
16 to 40 tons per year. It's just a basic  
17 clean up of the rule of Subchapter 7.

18 We considered this over several  
19 Council meetings, I think beginning in  
20 December of 2006 and completed in June of  
21 this year. So we're asking the Board to  
22 pass this rule a permanent rule.

23 MS. CANTRELL: Thank you. Do we  
24 have any questions from the Board?

25 Do we have any questions from those

16

1 in attendance?

2                   Do we have a motion to approve from  
3 the Board?

4                   MR. JOHNSTON: So moved. Jerry.

5                   MR. WUERFLEIN: Second.

6                   MS. CANTRELL: We have a motion  
7 to approve and a second by Mr. Wuerflein.  
8 May we have a vote, please.

9                   MS. BRUCE: Mr. Cassidy.

10                  MR. CASSIDY: Yes.

11                  MS. BRUCE: Mr. Coffman.

12                  MR. COFFMAN: Yes.

13                  MS. BRUCE: Mr. Dark.

14                  MR. DARK: Yes.

15                  MS. BRUCE: Mr. Drake.

16                  MR. DRAKE: Yes.

17                  MS. BRUCE: Mr. Griesel.

18                  MR. GRIESEL: Yes.

19                  MS. BRUCE: Mr. Johnston.

20                  MR. JOHNSTON: Yes.

21                  MS. BRUCE: Ms. Rose.

22                  MS. ROSE: Yes.

23                  MS. BRUCE: Ms. Savage.

24                  MS. SAVAGE: Yes.

25                  MS. BRUCE: Mr. Wuerflein.

17

1                   MR. WUERFLEIN: Yes.

2 MS. BRUCE: Ms. Cantrell.

3 MS. CANTRELL: Yes.

4 MS. BRUCE: Motion passed.

5 MR. BRANECKY: All right. I have  
6 one more and this is Appendix Q, Chapter  
7 100. And what the Appendix Q is it  
8 contains all our incorporation by  
9 references of federal rule. So this is an  
10 annual thing that we do. Anytime a federal  
11 rule changes, we change the incorporation  
12 by reference to reflect that.

13 In addition, one other thing that we  
14 did to Appendix Q was previously I think  
15 they had -- when a provision was not  
16 applicable, it was listed as NA and there  
17 was some concern that NA may be construed  
18 to be an actual subpart of federal rules.  
19 So we changed that to spell out "Not  
20 Applicable" in Appendix Q.

21 So we have considered that at our  
22 October meeting, passed it and are asking  
23 the Board for permanent adoption.

24 MS. CANTRELL: Are there any  
25 questions from the Board?

18

1 I have one question, Mr. Branecky.

2 MR. BRANECKY: Yes.

3 MS. CANTRELL: This proposal is -  
4 - would you characterize this as an interim  
5 measure taken in light of the vacation of  
6 some of the EPA standards by the DC  
7 circuit?

8 MR. BRANECKY: I'm not sure I  
9 follow.

10 MS. CANTRELL: Well, would this -  
11 -

12 MR. BRANECKY: Yes.

13 MS. CANTRELL: Okay. As I  
14 understand it, this was for -- this  
15 proposal has been recommended by the EPA  
16 that the states will take these types of  
17 initiatives in an interim period while the  
18 EPA is wrestling with its standards; is  
19 that correct?

20 MR. TERRILL: We're actually  
21 doing two thing here; we're incorporating  
22 by reference those sections that have been  
23 passed by EPA, but we're also un-  
24 incorporating by reference three sections  
25 that the Courts overturned. So EPA

19

1 recommended that for those states that have  
2 already passed and incorporated these by

3 reference earlier that they un-incorporate  
4 them until EPA can figure out how they're  
5 going to address these three particular  
6 sectors in the future. So we've got plans  
7 in place to handle that in the interim and  
8 then EPA will address that -- those three  
9 at a future date.

10 MS. CANTRELL: Okay. Thank you.

11 Are there any questions concerning  
12 this measure for the Board? Okay.

13 Are there any questions from anyone  
14 in attendance regarding this measure?

15 Do we have a motion to approve?

16 MR. DARK: So moved.

17 MR. JOHNSTON: Second. Jerry.

18 MS. CANTRELL: We have a motion  
19 and a second to approve. May we have a  
20 vote, please.

21 MS. BRUCE: Mr. Cassidy.

22 MR. CASSIDY: Yes.

23 MS. BRUCE: Mr. Coffman.

24 MR. COFFMAN: Yes.

25 MS. BRUCE: Mr. Dark.

20

1 MR. DARK: Yes.

2 MS. BRUCE: Mr. Drake.

3 MR. DRAKE: Yes.

4 MS. BRUCE: Mr. Griesel.

5 MR. GRIESEL: Yes.

6 MS. BRUCE: Mr. Johnston.

7 MR. JOHNSTON: Yes.

8 MS. BRUCE: Ms. Rose.

9 MS. ROSE: Yes.

10 MS. BRUCE: Ms. Savage.

11 MS. SAVAGE: Yes.

12 MS. BRUCE: Mr. Wuerflein.

13 MR. WUERFLEIN: Yes.

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Motion passed.

17 MS. CANTRELL: Thank you,

18 Mr. Branecky.

19 All right. We're moving now down to

20 Item 5 on our agenda, which is the

21 Hazardous Waste Management rulemaking

22 provisions. And I believe we have with us

23 today Bob Kennedy, who is Chair of the

24 Hazardous Waste Management Advisory

25 Council.

21

1 Thank you, Mr. Kennedy.

2 MR. KENNEDY: Thank you and good

3 morning to the Board.

4           Today we're asking the Board to  
5 consider the annual incorporation by  
6 reference of the federal regulations into  
7 the DEQ's Hazardous Waste Program.

8           As you know, DEQ is authorized by  
9 EPA to manage the Federal Hazardous Waste  
10 Program in Oklahoma. An integral part of  
11 that authorization is ensuring Oklahoma's  
12 program is equivalent to the federal  
13 program and DEQ ensures this equivalency by  
14 incorporating by reference the federal  
15 hazardous waste regulations found in 40  
16 CFR. There were no significant new federal  
17 regulations passed last year that impact  
18 Oklahoma hazardous waste facilities. So  
19 the incorporation by reference is merely to  
20 make sure that the calendar dates and the  
21 Oklahoma rules match the federal year.

22           In order to incorporate the federal  
23 rules by reference, DEQ rules must identify  
24 exactly which federal rules are being  
25 adopted and that is done through a revision

22

1 in OAC 252:205-3-1.

2           In 3-1, the reference 40 CFR date is

3 being revised from July 1, 2006 to July 1,  
4 2007, the most recently published set of  
5 federal regulations.

6           Because the incorporation by  
7 reference is necessary to ensure DEQ's  
8 Hazardous Waste Program remains equivalent  
9 to the federal program, the Council voted  
10 unanimously to approve the Chapter 205  
11 incorporation as permanent and recommends  
12 that the Board approve them also.

13           Lastly, a typo was discovered in  
14 Chapter 3-2, but it was not discovered  
15 until after the notice of rulemaking was  
16 published, therefore, the Council could not  
17 vote on making that correction and we'll  
18 have to take that up in this coming year.  
19 It was listed in the agenda for the Council  
20 meeting and, therefore, was talked about  
21 very briefly, but it will have to be tabled  
22 until next year's rulemaking since it  
23 didn't make it into the Notice.

24           Do you have any questions?

25           MS. CANTRELL: Do we have any

23

1 questions from the Board? Any other  
2 questions? Or any questions from those who

3 are with us today?  
4 Do we have a motion to approve?  
5 MR. DRAKE: Move adoption.  
6 MS. CANTRELL: Mr. Drake moves  
7 adoption.  
8 MR. DARK: Second.  
9 MS. CANTRELL: And Mr. Dark  
10 seconds. May we have a vote, please.  
11 MS. BRUCE: Mr. Cassidy.  
12 MR. CASSIDY: Yes.  
13 MS. BRUCE: Mr. Coffman.  
14 MR. COFFMAN: Yes.  
15 MS. BRUCE: Mr. Dark.  
16 MR. DARK: Yes.  
17 MS. BRUCE: Mr. Drake.  
18 MR. DRAKE: Yes.  
19 MS. BRUCE: Mr. Griesel.  
20 MR. GRIESEL: Yes.  
21 MS. BRUCE: Mr. Johnston.  
22 MR. JOHNSTON: Yes.  
23 MS. BRUCE: Ms. Rose.  
24 MS. ROSE: Yes.  
25 MS. BRUCE: Ms. Savage.

24

1 MS. SAVAGE: Yes.  
2 MS. BRUCE: Mr. Wuerflein.

3 MR. WUERFLEIN: Yes.

4 MS. BRUCE: Ms. Cantrell.

5 MS. CANTRELL: Yes.

6 MS. BRUCE: Motion passed.

7 MR. KENNEDY: Thank you very  
8 much.

9 MS. CANTRELL: Thank you,  
10 Mr. Kennedy.

11 We're now at Item 6 on the agenda.  
12 This is rulemaking for Solid Waste  
13 Management. Here with us today is Jeff  
14 Shepherd, Vice-Chair of the Solid Waste  
15 Management Advisory Council.

16 MR. SHEPHERD: Good morning.

17 MS. CANTRELL: Good morning.

18 MR. SHEPHERD: Thank you.

19 I would like to present two proposed  
20 rules that were presented by the DEQ in the  
21 Solid Waste Management Advisory Council on  
22 September 20, 2007 and passed by the  
23 Advisory Council Members on that day.

24 The first rule is a proposed  
25 revision to 252:515 Subchapter 19, Part 13

25

1 related to wheel washes. The proposed rule  
2 arises from Senate Bill 509, which was

3 enacted in 2007, signed by the Governor and  
4 became effective on July 1, 2007. The DEQ  
5 developed the proposed revision to the rule  
6 to implement the provisions of Senate Bill  
7 509. The Bill made significant changes to  
8 the wheel wash law by eliminating the  
9 provision for recoupment and providing  
10 instead for reimbursement. Therefore,  
11 facilities will no longer recoup the cost  
12 of the installed wheel wash units at a rate  
13 of ten cents per ton from the solid waste  
14 fee but reimbursed for the cost.

15           The proposed rule continues to  
16 require that the owner/operator must have  
17 submitted a Notice of Intent to claim  
18 allowance to the DEQ no later than June 30,  
19 2007. And the system must be installed and  
20 operational no later than June 30, 2008.  
21 As of June 30, 2007, 12 facilities have  
22 filed a Notice of Intent with DEQ.

23           Reimbursement will be made by the  
24 DEQ to eligible applicants in the order of  
25 approval of invoiced amounts until the

1 statutory fiscal year limitation of  
2 \$300,000 is reached. During each

3 subsequent fiscal year the reimbursement to  
4 eligible applicants will be apportioned in  
5 the percentage the approved invoice amount  
6 bears to the total reimbursements approved  
7 but no yet paid.

8 So that's rule number one if we want  
9 to go with that one first.

10 MS. CANTRELL: Yes, let's start  
11 with that one.

12 MR. SHEPHERD: Okay.

13 MS. CANTRELL: And one of the  
14 aspects of this rule, as I understand it,  
15 is this is being proposed for emergency  
16 adoption; is that correct?

17 MR. SHEPHERD: Is that correct,  
18 Sonny?

19 MR. JOHNSON: Yeah.

20 MS. CANTRELL: Would you speak to  
21 the issue please of why we need to consider  
22 this as an emergency adoption at this time  
23 rather than in the normal course of  
24 rulemaking.

25 MR. SHEPHERD: Sonny.

27

1 MR. JOHNSON: Hi, I'm Sonny  
2 Johnson, I'm the supervising attorney for

3 the Land Protection Division. We need  
4 emergency simply because the legislature  
5 approved this bill this year and it was  
6 signed and went into effect on July the 1st  
7 of '07. So if we did not approve it by  
8 emergency, there would be a conflict  
9 between our current rules and the  
10 legislation.

11 MS. CANTRELL: Okay. Thank you  
12 very much.

13 Are there any questions from the  
14 Board?

15 MR. DARK: I have a question.  
16 What was the intent? I mean, why the  
17 change?

18 MR. THOMPSON: I can -- this is  
19 my fault. What happened was two years ago  
20 solid waste industry came to us and made  
21 this proposal to pay for wheel washes,  
22 which -- out of this solid waste fee fund,  
23 which we thought was a good idea. So we  
24 set it up the first year on a recoupment of  
25 ten cents a ton. We thought that we would

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1 get more activity than we did, but the  
2 number of folks that applied by the

3 deadline for reimbursement from the wheel  
4 wash was less than we anticipated. So  
5 rather than just do it as a recoupment,  
6 what we decided to do in legislation is  
7 just reimburse it, just prorate what we've  
8 got with a \$300,000 cap so that we more  
9 quickly clear this project from the books  
10 so that we could take on other projects  
11 more quickly. So that was the purpose.

12 MR. WUERFLEIN: Madam Chairman,  
13 in my mind recoupment and reimbursement are  
14 almost synonymous. Can you explain the  
15 difference making sure that I'm on the  
16 right track?

17 MR. THOMPSON: Recoupment -- it  
18 was a recoupment at ten cents a ton. So  
19 for the number of tons that you received  
20 you could only be reimbursed for ten cents  
21 a ton of the total volume. Reimbursement  
22 is simply prorating the total number of  
23 wheel washes that we had, just prorating it  
24 with the \$300,000 cap. So it tends to move  
25 the projects along more quickly.

29

1 MR. WUERFLEIN: Okay.

2 MS. CANTRELL: Any other

3 questions? Any questions? May we have a  
4 vote, please. Oh, I'm sorry. First we'll  
5 need a motion.

6 MR. GRIESEL: I'll make a motion.

7 MR. JOHNSTON: I'll second that  
8 motion. Jerry.

9 MS. CANTRELL: Let's step back  
10 for a second. The first motion we're going  
11 to need is we're going to first need to  
12 have a motion finding an emergency. We're  
13 going to have to have three motions as we  
14 proceed through this proposal.

15 The first is a motion finding an  
16 emergency. Do we have such a motion?

17 MR. GRIESEL: I'll make a motion  
18 finding an emergency.

19 MR. DARK: I'll second a motion  
20 finding an emergency.

21 MS. CANTRELL: We have a motion  
22 and a second finding this to be an  
23 emergency measure. May we have a vote on  
24 that, please.

25 MS. BRUCE: Mr. Cassidy.

1

2 MR. CASSIDY: Yes.

3 MS. BRUCE: Mr. Coffman.  
4 MR. COFFMAN: Yes.  
5 MS. BRUCE: Mr. Dark.  
6 MR. DARK: Yes.  
7 MS. BRUCE: Mr. Drake.  
8 MR. DRAKE: Yes.  
9 MS. BRUCE: Mr. Griesel.  
10 MR. GRIESEL: Yes.  
11 MS. BRUCE: Mr. Johnston.  
12 MR. JOHNSTON: Yes.  
13 MS. BRUCE: Ms. Rose.  
14 MS. ROSE: Yes.  
15 MS. BRUCE: Ms. Savage.  
16 MS. SAVAGE: Yes.  
17 MS. BRUCE: Mr. Wuerflein.  
18 MR. WUERFLEIN: Yes.  
19 MS. BRUCE: Ms. Cantrell.  
20 MS. CANTRELL: Yes.  
21 MS. BRUCE: Motion passed.  
22 MS. CANTRELL: All right. We  
23 have two more that we need to go through.  
24 The second is we need to have a motion to  
25 approve the emergency measure.

31

1 MR. GRIESEL: So moved.  
2 MS. CANTRELL: We have a motion

3 to approve the emergency measure. Do we  
4 have a --

5 MR. DRAKE: Second.

6 MS. CANTRELL: -- second? We  
7 have a second. May we have a vote, please.

8 MS. BRUCE: Mr. Cassidy.

9 MR. CASSIDY: Yes.

10 MS. BRUCE: Mr. Coffman.

11 MR. COFFMAN: Yes.

12 MS. BRUCE: Mr. Dark.

13 MR. DARK: Yes.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: Yes.

20 MS. BRUCE: Ms. Rose.

21 MS. ROSE: Yes.

22 MS. BRUCE: Ms. Savage.

23 MS. SAVAGE: Yes.

24 MS. BRUCE: Mr. Wuerflein.

25 MR. WUERFLEIN: Yes.

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1 MS. BRUCE: Ms. Cantrell.

2 MS. CANTRELL: Yes.

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MS. BRUCE: Thank you.

MS. CANTRELL: Now we need to have a motion approving this as a permanent measure.

MR. DARK: So moved.

MS. CANTRELL: The entire Board moves approval.

I believe Mr. Dark had it first. A motion approving this as a permanent measure. Do we have a second?

MR. DRAKE: Mr. Griesel made a second.

MS. CANTRELL: Mr. Griesel made a second. May we have a vote, please.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

1  
2

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: Yes.

4 MS. BRUCE: Ms. Rose.

5 MS. ROSE: Yes.

6 MS. BRUCE: Ms. Savage.

7 MS. SAVAGE: Yes.

8 MS. BRUCE: Mr. Wuerflein.

9 MR. WUERFLEIN: Yes.

10 MS. BRUCE: Ms. Cantrell.

11 MS. CANTRELL: Yes.

12 MS. BRUCE: Motion passed.

13 MS. CANTRELL: Thank you. Now I

14 guess we move on to the second.

15 MR. SHEPHERD: Okay.

16 MS. CANTRELL: Thank you.

17 MR. SHEPHERD: The second rule is

18 a proposed amendment to 252:515 Appendix C.

19 The proposed amendment deletes two columns

20 of Appendix C; namely one, the suggested

21 SW-846 method column and two, the Practical

22 Quantitation limit column. These deletions

23 will update 252:515 Appendix C to the

24 current federal Appendix II to 40 CFR 258.

25 The federal Appendix II to 40 CFR 258 was

34

1 updated since SW-846 methods and their

2 corresponding practical quantitation limits

3 are no longer required by any existing RCRA  
4 regulations. By deleting these two columns  
5 from 252:515 it will allow regulated  
6 entities to use any appropriate analytical  
7 methods in demonstrating compliance with  
8 RCRA regulations and not limit the methods  
9 to SW-846 methods.

10 MS. CANTRELL: Okay. Thank you.  
11 Do we have any questions? No questions  
12 from the Board.

13 Did anybody who joined us have any  
14 questions or comments regarding this  
15 proposal?

16 MR. GRIESEL: I'll make a motion  
17 for approval.

18 MS. CANTRELL: We have a motion  
19 for approval from Mr. Griesel.

20 MR. COFFMAN: Second.

21 MS. CANTRELL: We have a second  
22 from Mr. Coffman.

23 MS. BRUCE: Mr. Cassidy.

24 MR. CASSIDY: Yes.

25 MS. BRUCE: Mr. Coffman.

35

1 MR. COFFMAN: Yes.

2 MS. BRUCE: Mr. Dark.

3 MR. DARK: Yes.

4 MS. BRUCE: Mr. Drake.

5 MR. DRAKE: Yes.

6 MS. BRUCE: Mr. Griesel.

7 MR. GRIESEL: Yes.

8 MS. BRUCE: Mr. Johnston.

9 MR. JOHNSTON: Yes.

10 MS. BRUCE: Ms. Rose.

11 MS. ROSE: Yes.

12 MS. BRUCE: Ms. Savage.

13 MS. SAVAGE: Yes.

14 MS. BRUCE: Mr. Wuerflein.

15 MR. WUERFLEIN: Yes.

16 MS. BRUCE: Ms. Cantrell.

17 MS. CANTRELL: Yes.

18 MS. BRUCE: Motion passed.

19 MR. SHEPHERD: Thank you very

20 much.

21 MS. CANTRELL: Thank you very

22 much.

23 Moving now to Item 7 on the agenda.

24 For that item we have Jeffrey Short, Vice-

25 Chair of the Water Quality Management

36

1 Advisory Council.

2 MR. SHORT: I want to take the

3 opportunity, too, to say thank you for  
4 visiting our campus here at Southwestern.  
5 As some of you know, I am an instructor  
6 here at Southwestern and also a native  
7 Weatherford person and I'd like to thank  
8 you for bringing the Environmental Quality  
9 Board here to Weatherford. We certainly  
10 appreciate the recognition and we hope your  
11 stay is pleasant. If there is anything we  
12 can do, please contact me or anyone that  
13 you see here for anything that you may  
14 need.

15 MS. CANTRELL: Well, thank you.  
16 We appreciate you having us here today.

17 MR. SHORT: The first rule that  
18 we bring -- Water Quality Management  
19 Advisory Council brings to you today deals  
20 with the Water Quality Application Tier  
21 rules. We wish to clean up the language to  
22 make classifications of Tier I permits  
23 consistent and also to clarify that  
24 modifications to or additions of  
25 impoundments to existing permitted

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1 industrial wastewater systems is a Tier I  
2 permit application.

3                   We wish to also add the language to  
4 clarify that a new Industrial Wastewater  
5 Treatment System Permit Application is  
6 classified as a Tier II application.

7                   We met and there were oral comments  
8 that were received from the Council and  
9 discussed and those have been summarized  
10 for you. We did not receive any written  
11 comments concerning the proposed rule  
12 changes and we voted unanimously to bring  
13 this rule forward to the Board for your  
14 approval.

15                   MS. CANTRELL: Do we have any  
16 questions?

17                   Can I ask why we have a later  
18 effective date for this measure? I see  
19 it's July 1, 2008. Do you know why that  
20 is?

21                   MR. SHORT: That one I couldn't  
22 speak to.

23                   MR. MAISCH: I'm Don Maisch,  
24 Supervising Attorney, Water Quality  
25 Division. Where are you reading from?

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1                   MS. CANTRELL: We're reading from  
2 the rulemaking statement then to the

3 rulemaking action, we have under final  
4 adoption midway down on the page --

5 MR. MAISCH: That is --

6 MS. CANTRELL: -- is that the  
7 date?

8 MR. MAISCH: Yeah. That is the  
9 proposed effective date for this rule if it  
10 goes into effect, once it goes through the  
11 entire gubernatorial and legislative  
12 process.

13 MS. CANTRELL: So that's just to  
14 allow time for the rulemaking process to  
15 run its course?

16 MR. MAISCH: Exactly.

17 MS. CANTRELL: Okay.

18 MR. MAISCH: Right.

19 MS. CANTRELL: Thank you.

20 Any questions from the Board?

21 Mr. Coffman? Any questions?

22 Do we have a motion to approve?

23 MR. COFFMAN: Move for

24 adoption.

25 MS. CANTRELL: Mr. Coffman moves

39

1 adoption. Do we have a second?

2 MR. DRAKE: Second.

3 MS. CANTRELL: Second from  
4 Mr. Drake. May we have a vote, please.  
5 MS. BRUCE: Mr. Cassidy.  
6 MR. CASSIDY: Yes.  
7 MS. BRUCE: Mr. Coffman.  
8 MR. COFFMAN: Yes.  
9 MS. BRUCE: Mr. Dark.  
10 MR. DARK: Yes.  
11 MS. BRUCE: Mr. Drake.  
12 MR. DRAKE: Yes.  
13 MS. BRUCE: Mr. Griesel.  
14 MR. GRIESEL: Yes.  
15 MS. BRUCE: Mr. Johnston.  
16 MR. JOHNSTON: Yes.  
17 MS. BRUCE: Ms. Rose.  
18 MS. ROSE: Yes.  
19 MS. BRUCE: Ms. Savage.  
20 MS. SAVAGE: Yes.  
21 MS. BRUCE: Mr. Wuerflein.  
22 MR. WUERFLEIN: Yes.  
23 MS. BRUCE: Ms. Cantrell.  
24 MS. CANTRELL: Yes.  
25 MS. BRUCE: Motion passed.

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1 MS. CANTRELL: Thank you,  
2 Mr. Short.

3                   We're moving now to Number 8 on the  
4 rulemaking section of the agenda and again,  
5 Mr. Short, for the Drinking Water State  
6 Revolving Fund Measure.

7                   MR. SHORT: The second rule that  
8 we bring to you this morning involves the  
9 State Drinking Water Revolving Fund. The  
10 changes seek to implement some changes to  
11 the priority project system and the finding  
12 priority formula necessary to meet certain  
13 federal and state requirements.

14                   Some of the proposed changes to this  
15 rule reconcile the requirements of our  
16 Chapter 633 with the Drinking Water State  
17 Revolving Fund requirements of the Oklahoma  
18 Water Resources Board. The remaining  
19 changes correct typographical errors and  
20 make language clarifications.

21                   There were oral comments received  
22 from the Council and from the public.  
23 Those are summarized in the Executive  
24 Summary. The Department did not receive  
25 any written comments and the Council voted

1 unanimously to bring this rule forward to  
2 the Board.

3 MS. CANTRELL: Thank you.  
4 Do we have any questions? Any  
5 comments or questions from the public? Do  
6 we have a motion to approve?

7 MR. GRIESEL: So moved.

8 MS. CANTRELL: Mr. Griesel moves  
9 approval of this measure. Do we have a  
10 second?

11 MR. WUERFLEIN: Second.

12 MS. CANTRELL: We have a motion  
13 and a second. May we have a vote, please.

14 MS. BRUCE: Mr. Cassidy.

15 MR. CASSIDY: Yes.

16 MS. BRUCE: Mr. Coffman.

17 MR. COFFMAN: Yes.

18 MS. BRUCE: Mr. Dark.

19 MR. DARK: Yes.

20 MS. BRUCE: Mr. Drake.

21 MR. DRAKE: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

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2 MS. BRUCE: Ms. Rose.

3 MS. ROSE: Yes.  
4 MS. BRUCE: Ms. Savage.  
5 MS. SAVAGE: Yes.  
6 MS. BRUCE: Mr. Wuerflein.  
7 MR. WUERFLEIN: Yes.  
8 MS. BRUCE: Ms. Cantrell.  
9 MS. CANTRELL: Yes.  
10 MS. BRUCE: Motion passed.  
11 MS. CANTRELL: Thank you very  
12 much.

13 Moving now to Item 9 on the agenda,  
14 we have to speak to this proposed measure  
15 Arnold Miller, who's Chair of Waterworks  
16 and Wastewater Works Advisory.

17 MR. MILLER: Madam Vice-Chair,  
18 Members of the Board. Title 252, Chapter  
19 710, Wastewater Works and Waterworks  
20 Operator Certification Appendix A,  
21 Classification of Community and Non-  
22 transient, Non-community Water Systems,  
23 Wastewater Systems and Laboratories,  
24 revoked.

25 Appendix A, Classification of

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1 Community and Non-transient, Non-community  
2 Waterworks Systems, Wastewater Systems and

3 Laboratories, new.

4           This rulemaking is to add  
5 verification language to Appendix A. This  
6 verification language was passed by the  
7 Board in January but the language failed to  
8 be timely transmitted to the Governor's  
9 office. The Council, nor did the DEQ,  
10 receive any comments concerning proposed  
11 rule modifications. The Council voted  
12 unanimously to recommend that the Board  
13 approve the changes to Chapter 710.

14           MS. CANTRELL: Are there any  
15 questions? Any questions from the public?  
16 Do we have a motion to approve?

17           MR. JOHNSTON: So moved. Jerry.

18           MS. CANTRELL: We have a motion  
19 to approve. Do we have a second?

20           MR. DARK: Second.

21           MS. CANTRELL: The motion to  
22 approve has been made and seconded. May we  
23 have a vote, please.

24           MS. BRUCE: Mr. Cassidy.

25           MR. CASSIDY: Yes.

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1           MS. BRUCE: Mr. Coffman.

2           MR. COFFMAN: Yes.

3 MS. BRUCE: Mr. Dark.  
4 MR. DARK: Yes.  
5 MS. BRUCE: Mr. Drake.  
6 MR. DRAKE: Yes.  
7 MS. BRUCE: Mr. Griesel.  
8 MR. GRIESEL: Yes.  
9 MS. BRUCE: Mr. Johnston.  
10 MR. JOHNSTON: Yes.  
11 MS. BRUCE: Ms. Rose.  
12 MS. ROSE: Yes.  
13 MS. BRUCE: Ms. Savage.  
14 MS. SAVAGE: Yes.  
15 MS. BRUCE: Mr. Wuerflein.  
16 MR. WUERFLEIN: Yes.  
17 MS. BRUCE: Ms. Cantrell.  
18 MS. CANTRELL: Yes.  
19 MS. BRUCE: Motion approved.  
20 MR. MILLER: Thank you.  
21 MS. CANTRELL: Thank you,

22 Mr. Miller.

23 I'd like to recognize that we have a  
24 special guest who has just joined us. We  
25 have Mike Brown, the Mayor of Weatherford.

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1 Mr. Brown, I understand you're here  
2 with us today. Thank you. We appreciate

3 having the opportunity to meet in your City  
4 of Weatherford and at this beautiful  
5 institution.

6 MR. BROWN: Glad to have you.

7 MS. CANTRELL: And thank you for  
8 joining us this morning.

9 We're now at Item 10 on our agenda,  
10 which is consideration of the Environmental  
11 Quality Report. The items in this report  
12 have been considered by the Board before  
13 and are here for proposal. The  
14 presentation today will be made by Wendy  
15 Caperton who is the DEQ Director of Policy  
16 and Planning.

17 Good morning.

18 MS. CAPERTON: Good morning. We  
19 have a slide show presentation.

20 While I wait for that to come up,  
21 I'd like to thank the Board for this  
22 opportunity to present the Environmental  
23 Quality Report for your approval. I know  
24 Craig Kennamer, Deputy Executive Director,  
25 always looks forward to seeing you and

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1 he'll look forward to seeing you soon.

2 I have handouts for the Board

3 Members if they would like to see it.

4 DEQ is required by statute to submit

5 this report to the Governor, the President

6 Pro Tem, and the Speaker of the House.

7 Before I get started, I'd like to relay a

8 quote that I heard recently at the Biofuel

9 Conference. And one of the speakers said,

10 when asked why he was in government work,

11 he says it's for the great pay and the

12 public appreciation.

13 With that thought in mind, I thought

14 the Board might like to see some of our

15 loyal and dedicated staff of the DEQ during

16 the presentation. After all, employees are

17 one of our greatest assets at DEQ.

18 The DEQ employees that are

19 recognized during the presentation are just

20 some of the employees that need an agency

21 to seek the resources necessary to run an

22 environmental agency, to anticipate what's

23 on the horizon, and an Executive Director

24 and Agency Leaders who seek the legislative

25 recommendations necessary to run an agency.

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1 You can sort of see them here.

2 These are employees of the quarter. Linda

3 Fine, Mike Skickney, Melanie Leathers, and  
4 Quay Kabariti. Melanie Leathers is our  
5 Employee of the Year and she works in our  
6 Administrative Services Division doing our  
7 benefits. She does an excellent job.

8 Here are, Annual Needs. Steve, our  
9 Executive Director, presented these to you  
10 during the last meeting. They are listed  
11 here. I won't go through each of them  
12 because you've already approved them. The  
13 total is \$4,090,000. In the far right  
14 column you see the FTEs. If we ask for an  
15 FTE for the request and then the bottom  
16 four are just for FTEs.

17 The first federal mandate is the  
18 Ozone National Ambient Air Quality  
19 Standard. I know Eddie is pleased that I  
20 put his picture here. He's giving a  
21 presentation on this in more detail later  
22 in the afternoon.

23 But our current standard is .085 and  
24 EPA is currently seeking comments to lower  
25 the standard to either 0.060 or 0.080.

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1 It's anticipated that we'll be published in  
2 March of 2008.

3                   When I discussed this with Eddie, I  
4   said so what, what's the bottom line to  
5   this?   And the "so what" is if the standard  
6   were to be lowered to 0.080 the non-  
7   attainment areas will be likely in Oklahoma  
8   City and Tulsa.   And if it were to go to  
9   0.060 then there are large areas of  
10   Oklahoma that go into non-attainment; many  
11   rural areas included.

12                   The next Federal Mandate isn't  
13   actually a federal mandate yet.   Climate  
14   change is a hot topic.   I know at the  
15   Biofuels Conference, the Governor's Water  
16   Conference and even yesterday at the  
17   Capitol and during the interim setting,  
18   climate change comes up often.   And even  
19   though it's not a federal mandate yet,  
20   there are many bills in congress pending  
21   action that could regulate carbon to some  
22   degree.   And with no federal policy in  
23   states -- for states now, then states are  
24   free to enact their own policies and this  
25   could lead to uncertainty between states

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1   and a duplication of effort.   Eddie will  
2   also go into some detail later.

3                   Jon Craig, our Water Quality  
4 Division Director, celebrated a milestone  
5 last year. As of yesterday, he has 35  
6 years of public service. I'm sure he's  
7 pleased that I put his picture up, too.

8                   And EPA is pursuing a number of new  
9 Wet Weather policies and rules. Three of  
10 them are listed here. We've estimated that  
11 these policies and rules will cost \$1.5  
12 million per year to implement and require  
13 19 more FTEs.

14                   The "so what" on this is DEQ's  
15 ability to buffer the impact in the way of  
16 fees to the regulated community which is  
17 getting harder and harder to do.

18                   Jon can explain these in more  
19 detail, and there's also others in the  
20 audience that have quite a bit of knowledge  
21 on this.

22                   The next Mandate, the Public Water  
23 Supply rules. There's a whole series of  
24 federal mandates to drinking water; they  
25 include arsenic, radionuclides and others

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1 that DEQ has implemented under delegation.

2                   The three listed here with the dates

3 that they go into effect, DEQ has decided  
4 to not implement because of the increased,  
5 unfunded cost to do so.

6 The "so what" is EPA will be  
7 implementing these, which is not preferable  
8 to us, but because of the increased,  
9 unfunded cost reports were forced to let  
10 EPA do that.

11 The final portion is Legislative  
12 Recommendations. The Oklahoma Energy  
13 Efficiency and Emission Reduction Program  
14 is identical to the Blue Skyways request  
15 from last year that you all know about.  
16 It's an alternative Biofuels Grant Program  
17 to reduce air pollution. It's a voluntary  
18 grant program available through the  
19 government and non-government entities.  
20 And it could help us if we were to  
21 implement this, avoid going into non-  
22 attainment and if we did go into non-  
23 attainment, it could be part of the overall  
24 strategy to address that.

25 In the final Legislative

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1 Recommendation is the Radioactive Waste  
2 Compact Commission fees. I'll explain this

3 one in a little bit more detail.

4           Oklahoma is a member of the Central  
5 Interstate Low Level Radioactive Waste  
6 Compact Commission. The five states are  
7 listed there. And it was established in  
8 the 1980's to identify waste to effectively  
9 manage and dispose of low level radioactive  
10 waste generated within these five states.

11           And how it worked by statute now is  
12 that if a generator produced low level  
13 radioactive waste within any given year and  
14 they need to dispose of it, only that  
15 generator would pay Oklahoma's portion of  
16 the fee or to support the Compact.

17           So that meant in some years, only  
18 one generator could end up paying the whole  
19 fee for our state that year. The level of  
20 activity in the Compact Commission in  
21 recent years has been limited and the  
22 funding demands have decreased. So there  
23 are others funds available in the State  
24 Radiation Program that could pay that fee.  
25 It's gone from \$25,000 down to \$5,000, and

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1 so the statute currently doesn't allow for  
2 that option, so we're requesting that

3 change.

4 I pictured Jimmy, Matt Paque, and  
5 Sonny Johnson, who you've seen today for  
6 their years of service.

7 My last slide. Thank you for this  
8 opportunity to seek your approval,  
9 therefore, I'll rely on my colleagues, the  
10 true experts, to help field any questions.

11 MR. DRAKE: Madam Chair,  
12 something that we need to do while we're  
13 all still just getting our seats, is not  
14 only to thank the people that were in this  
15 report, but all of the employees that we  
16 have that do such a good job for us and  
17 Oklahoma and our nation. I think we need  
18 to give them a big round of applause.

19 MS. CANTRELL: I agree. Thank  
20 you very much.

21 Well there are quite a few topics  
22 that are being presented as part of the  
23 Environmental Quality Report today, good  
24 proposals on the table to be pursued this  
25 year.

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1 Do we have any further comments from  
2 the staff perhaps or from anybody else who

3 would like to discuss any of these  
4 individual pursuits in more detail?

5 MR. THOMPSON: I might give a  
6 little bit more background on the fee  
7 change on the Low Level Radioactive Waste  
8 Compact. It's kind of an interesting  
9 story, I think.

10 Oklahoma became a member of that  
11 Compact, I believe, in the early '80s and  
12 this was an effort to site a facility for  
13 the disposal of low level radioactive waste  
14 within those five states. The proposed  
15 site was in the state of Nebraska. And so  
16 the Compact and the generators, most of  
17 which are big generators in the states of  
18 Arkansas and Louisiana, and I think some in  
19 Kansas proposed a site in Nebraska and paid  
20 to the state of Nebraska something along  
21 the order of \$60,000,000 for the analysis  
22 for the work on that site.

23 After the work was done, essentially  
24 done, the state of Nebraska denied the  
25 permit, the Compact and the Compact

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1 Commission of the generators took the state  
2 of Nebraska to Court and the Federal Courts

3 awarded \$150,000,000 in damages to the  
4 Compact and to the generators. Most of  
5 that money was returned to the generators,  
6 themselves, the Compact Commission retained  
7 some amount of money to operate and so that  
8 is the reason that the fees have been  
9 reduced from the \$25,000 to the \$5,000.

10           So it's kind of an interesting story  
11 about that Compact Commission, but that  
12 gives you a little background on why we --  
13 why the fee was lowered and why we think  
14 that we can handle that as a routine order  
15 of business rather than feeing the  
16 generators, some of which -- where there  
17 was only one generator in a year had to  
18 bear the full \$25,000 cost. So we --  
19 there's some inequities in that. So we  
20 think it's just better handled out of our  
21 current radiation fee account.

22           MS. CANTRELL: Thank you. Any  
23 other comments?

24           MR. COFFMAN: Steve, just a  
25 question. Did most of those low level

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1 waste come from hospitals or what's the  
2 source?

3                   MR. THOMPSON: Most of it, I  
4 think, and I'll ask our staff to do that,  
5 but most of it, I think, is things like  
6 tools and clothing that are used not only  
7 in hospitals but in -- there's some nuclear  
8 electrical generation facilities in the  
9 other states. A great deal of it is those  
10 kinds of waste that may come into contact  
11 with radiation but are not necessarily  
12 radioactive in and of themselves.

13                   MS. CANTRELL: Well, part of our  
14 job today is to consider this report by the  
15 DEQ and this is our annual state of the  
16 environment in essence, wouldn't you say,  
17 for Oklahoma?

18                   MR. THOMPSON: Yes.

19                   MS. CANTRELL: And it's looking  
20 at the jurisdiction of the DEQ within the  
21 state and it's also taking into  
22 consideration new laws that are on the  
23 horizon from a federal perspective as well  
24 as from a state perspective. And I think  
25 that the DEQ has done a great job of

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1 isolating the most critical pursuits,  
2 taking into account the changes that are

3 coming and how best to advance our work as  
4 a state from the environmental perspective.  
5 So we would like to thank the staff and the  
6 Department of Environmental Quality for all  
7 their hard work that took place before this  
8 report could ever be condensed to its final  
9 form. Thank you very much and thank you,  
10 Ms. Caperton, for making that presentation  
11 today.

12 Do we have any other questions for  
13 the Board or from the public?

14 Yes? Did you have a question for  
15 Ms. Caperton?

16 Okay. Ms. Caperton, we'll need to  
17 call you back. We have questions from the  
18 public for your consideration. Thank you.

19 MS. BEVERS: I just need to  
20 clarify -- I'm Julia Bevers, OG&E Energy.  
21 Just a clarification because I don't  
22 understand this.

23 Table one, where is the dollar  
24 amount associated with the FTEs?

25 MR. DRAKE: We didn't hear the

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1 question.

2 MR. THOMPSON: The question was

3 in the table -- I guess the answer to your  
4 question -- I don't have it right in front  
5 of me, but in some instances for programs,  
6 we ask for FTEs associated with those new  
7 programs, like the blue-green algae and  
8 some of those, we ask for FTEs associated  
9 with those programs.

10 In some cases we have asked for FTEs  
11 in and of themselves because of the volume  
12 of work that we're already experiencing.

13 Does that answer your questions?

14 MS. BEVERS: Well, where's the  
15 dollar amount asked for? For example, the  
16 Air Quality Division, New Ozone Standard,  
17 there's three FTEs but there's no dollars  
18 requested.

19 MR. THOMPSON: Well, the reason -  
20 - let me give you some background on that.  
21 One of our other Divisions, who likes to  
22 remain nameless but was facing a great  
23 volume of work, asked for those FTEs in  
24 order to pursue issues in, I don't know,  
25 some H2O, water, something like that. And

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1 now that it's time -- now that Eddie has a  
2 need for those FTEs, Jon doesn't want to

3 give them back to him. So we are -- so the  
4 volume of work in water increased, so that  
5 we transferred folks out of -- and the  
6 funding out of the Air Quality Division.  
7 Those needs are now being -- there's needs  
8 of the Air Quality Division for those  
9 folks, so we're asking for FTEs to replace  
10 that. If we don't get them, we're going to  
11 have to make some decisions about that, but  
12 we would like to recover those FTEs from  
13 the legislature.

14 MS. BEVERS: Okay.

15 MR. THOMPSON: Well, I mean what  
16 -- you seem not to --

17 MS. BEVERS: Well, it still seems  
18 like if you need the people in the Water  
19 Division, you still need three extra  
20 people, which is going to cost more money.  
21 So you still need --

22 MR. THOMPSON: Well, we are  
23 funded -- let me start again. The funds  
24 that we are asking are general revenue  
25 funds. So we tie FTEs for general revenue

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1 funds to the budget request. We have a  
2 number of other funding sources, so -- like

3 fees and federal dollars. So we can pursue  
4 FTEs that are not necessarily tied to  
5 general revenue funding and that's what  
6 we're doing in those cases.

7 MS. BEVERS: I see. Okay. Thank  
8 you.

9 MR. THOMPSON: Okay? But we're  
10 in a situation where we are capped for  
11 people by the statute and in order to be  
12 able to carry on our work, we have to ask  
13 the legislature for additional people to do  
14 that work, whether it's funded by fees or  
15 by federal dollars.

16 MS. CANTRELL: Also, I don't know  
17 if there -- we may not have had enough of  
18 the Environmental Quality Reports, which is  
19 the more fleshed out version of this  
20 presentation today.

21 I know we had them when folks  
22 originally came in this morning. Were  
23 there people who joined us today who did  
24 not receive a copy of the report, but who  
25 would like to get a report? If so, if you

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1 would please see Ellen after the meeting  
2 and -- I think that that -- did you receive

3 a copy of this report when you walked in,  
4 that has more of an in-depth analysis of  
5 what the programs entail? Okay. Because  
6 we can also provide -- if anybody didn't,  
7 we've got extra copies of these that we can  
8 get to you. And it's also on the DEQ  
9 website, too.

10 Are there any other questions? Do  
11 we have a motion to approve?

12 MR. GRIESEL: So moved.

13 MR. JOHNSTON: Second. Jerry.

14 MS. CANTRELL: Mr. Griesel moves  
15 to approve; Mr. Johnston seconds. May we  
16 have a vote approving, please.

17 MS. BRUCE: Mr. Cassidy.

18 MR. CASSIDY: Yes.

19 MS. BRUCE: Mr. Coffman.

20 MR. COFFMAN: Yes.

21 MS. BRUCE: Mr. Dark.

22 MR. DARK: Yes.

23 MS. BRUCE: Mr. Drake.

24 MR. DRAKE: Yes.

25 MS. BRUCE: Mr. Griesel.

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1 MR. GRIESEL: Yes.

2 MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: Yes.  
4 MS. BRUCE: Ms. Rose.  
5 MS. ROSE: Yes.  
6 MS. BRUCE: Ms. Savage.  
7 MS. SAVAGE: Yes.  
8 MS. BRUCE: Mr. Wuerflein.  
9 MR. WUERFLEIN: Yes.  
10 MS. BRUCE: Ms. Cantrell.  
11 MS. CANTRELL: Yes.  
12 MS. BRUCE: Motion passed.

13 (End of Proceedings)

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1 C E R T I F I C A T E

2 STATE OF OKLAHOMA )

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) 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 by me in  
shorthand and thereafter transcribed under  
my direction; that said proceedings were  
taken on the 15st day of November, 2007, at  
Weatherford, 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  
29th day of December, 2007.

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