

**MINUTES
ENVIRONMENTAL QUALITY BOARD**

NOVEMBER 18, 2008

Tahlequah Municipal Armory, 100 Water Street

Tahlequah, Oklahoma

APPROVED by EQB

February 27, 2008

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. in the Tahlequah Municipal Armory, Tahlequah, 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 2, 2007. The agenda was mailed to interested parties on November 10, 2008 and was posted at the Department of Environmental Quality and the meeting facility on November 17, 2008. Dr. Jennifer Galvin, Chair, called the meeting to order; and recognized several guests.

Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT

Brita Cantrell

Tony Dark

Bob Drake

Jennifer Galvin

David Griesel

Steve Mason

Sandra Rose

John Wendling

Richard Wuerflein

MEMBERS ABSENT

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

Mike Cassidy Skylar McElhaney, Executive Director's Office

Jerry Johnston Myrna Bruce, Secretary, Board & Councils

Terri Savage

Kerry Sublette **OTHERS PRESENT**
Kelly Burch, Assistant Attorney General

David Branecky, AQAC Chair

Michael Graves, HWMAC Chair

Steve Woods, RMAC Chair

Lowell Hobbs, WQMAC Chair

Christy Myers, Court Reporter

The Attendance Sheet becomes an official part of these Minutes.

Approval of Minutes Dr. Cantrell called for a motion to approve the minutes of the August 19, 2008 Regular Meeting, Mr. Dark made the motion to approve as presented and Mr. Griesel made the second. Roll call as follows with motion passing.

transcript pages 5 - 6

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Executive Director's Report Mr. Steve Thompson provided an update on the staff changes within his office. The newly published 2008 DEQ Annual Report was provided to Board members and to the public. There was also a handout indicating the leadership changes within the Senate and House. He spoke of those who could become the new EPA Administrator and about the legislative work he and the staff were involved in thus far.

transcript pages 7 - 14

Rulemaking – OAC 252:100 Air Pollution Control Mr. David Branecky, Chair, Air Quality Council, stated that the proposed change to OAC 252:100-25 Visible Emissions and Particulates corrects a rule citation. Hearing no discussion, Dr. Galvin called for a motion for permanent adoption of the proposed rule. Mr. Mason made the motion and Ms. Cantrell made the second.

transcript pages 15 - 17

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Mr. Branecky stated that proposed amendments to OAC 252:100 Appendix E and F Primary and Secondary Ambient Air Quality Standards and would revise the standards to be consistent with the new federal standards for ozone. Following discussion, Mr. Drake made motion to adopt as presented and Ms. Rose made the second.

transcript pages 17 - 21

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Mr. Branecky listed the numerous subparts in OAC 252:100 Appendix Q that would Incorporate by Reference the new EPA requirements. Mr. Wuerflein moved for approval and Mr. Wendling made the second.

transcript pages 21 - 23

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Rulemaking –OAC 252:205 Hazardous Waste Management Mr. Michael Graves, Chair, Hazardous Waste Management Advisory Council, advised that the proposal would update Subchapter 3, Sections 3-1 and 3-2 to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279. There were no questions or comments from the Board or the public. Dr. Galvin called for a motion to approve for permanent adoption. Mr. Mason made motion for approval and Ms. Cantrell made the second.

transcript pages 23 - 27

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Rulemaking – OAC 252:410 Radiation Management Mr. Woods, Chair, Radiation Management Advisory Council, advised that the proposal would amend Subchapters 1, 10, and 20 to change the date for the incorporation of federal regulations by reference to January 1, 2008. Changes also included a new definition of “byproduct material” and amended rules governing the distribution of byproduct material and minor corrections pertaining to medical use of byproduct material. Also amendments would provide for the implementation of a National Source Tracking System. After discussion, Dr. Galvin called for a motion. Mr. Griesel made a motion for permanent adoption of the rule as presented and Ms. Rose made the second.

transcript pages 27 - 32

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Rulemaking – OAC 252:611 General Water Quality Mr. Lowell Hobbs, Chair, Water Quality Management Advisory Council, advised that Section 3-1- and 3-2 amendments would require a mitigation plan with an application to DEQ for certification pursuant to Section 401 of the Clean Water

Act when mitigation is required to obtain a permit from the federal permitting entity under Section 404 of the Clean Water Act; and that the proposed rulemaking would amend Subchapter 1-3 to change the date of the incorporation of applicable federal regulations to July 1, 2008. Mr. Hobbs added that the Council unanimously recommended the rulemaking for permanent adoption. Hearing no discussion, Dr. Galvin called for a motion. Mr. Drake made the motion for approval and Mr. Dark made the second.

transcript pages 37 - 38

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Rulemaking (emergency) – OAC 252:641 Individual and Small Public Onsite Sewage Treatment Systems

Mr. Lowell Hobbs, Chair, Water Quality Management Advisory Council, advised the proposal was for emergency adoption of an amendment to Appendix H, Figure 25 to correct an error classifying Delaware County as Net Evaporation Zone 1 when the Appendix was last adopted. A motion to approve was made and voted upon then it was discovered that there must be a vote for the finding of emergency for approval. Mr. Mason made the motion for the finding of emergency and Mr. Drake made the second.

transcript pages

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

A motion was then made by Mr. Drake for approval as an emergency rule. The second was made by Mr. Griesel.

transcript pages

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes

Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Consideration of and Action on the Environmental Quality Report Mr. Jimmy Givens provided a PowerPoint presentation outlining the DEQ’s annual needs for providing environmental services along with a summary of DEQ-recommended statutory changes. Mr. Thompson and staff fielded questions and comments as the presentation progressed. Dr. Galvin called for a motion to approve the report. Mr. Dark made the motion for approval and Mr. Drake made the second.

transcript pages 45 - 75

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

Consideration of Executive Director Compensation This agenda item was tabled.

New Business

Adjournment The meeting adjourned at 11:15 a.m. with a motion made by Mr. Drake and the second by Mr. Dark.*transcript pages 78 - 79*

Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Jennifer Galvin	Yes
Steve Mason	Yes		

The transcript becomes an official part of these Minutes.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE ENVIRONMENTAL QUALITY BOARD
HELD ON NOVEMBER 18, 2008, AT 9:30 A.M.
IN TAHLEQUAH, OKLAHOMA

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

1 MEMBERS OF THE BOARD

2 MS. BRITA CANTRELL

3 MR. MIKE CASSIDY

4 MR. TONY DARK

5 MR. BOB DRAKE

6 MR. GRIESEL

7 MR. JERRY JOHNSTON, ABSENT

8 MR. STEVE MASON

9 MS. SANDRA ROSE

10 MS. SAVAGE, ABSENT

11 DR. SUBLETTE, ABSENT

12 MR. JOHN WENDLING

13 MR. RICHARD WUERFLEIN

14 DR. JENNIFER GALVIN, CHAIR

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16 DEQ STAFF

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18 MYRNA BRUCE, SECRETARY

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1 MEETING

2

3 DR. GALVIN: The November 18,
4 2008 regular meeting of the Environmental
5 Quality Board has been called according to
6 the Oklahoma Open Meeting Act, Section 311
7 of Title 25 of the Oklahoma Statutes.
8 Notice was filed with the Secretary of
9 State on November 2, 2007.

10 Agendas were mailed to interested
11 parties on November 7, 2008 and posted at
12 this facility and the Department of
13 Environmental Quality, 707 North Robinson,
14 Oklahoma City, on November 14, 2008. Only
15 matter appearing on the posted agenda may
16 be considered.

17 If this meeting is continued or
18 reconvened, we must announce today the
19 date, time and place of the continued
20 meeting and the agenda for such
21 continuation will remain the same as
22 today s agenda.

23 With that, shall we have a call to
24 order, Myrna.

25 MS. BRUCE: Good morning. Ms.

1 Cantrell.

2 MS. CANTRELL: Yes.

3 MS. BRUCE: Mr. Cassidy is

4 absent. Mr. Dark.

5 MR. DARK: Here.

6 MS. BRUCE: Mr. Drake.

7 MR. DRAKE: Here.

8 MS. BRUCE: Mr. Griesel.

9 MR. GRIESEL: Here.

10 MS. BRUCE: Mr. Johnston is

11 absent. Mr. Mason.

12 MR. MASON: Yes.

13 MS. BRUCE: Ms. Rose.

14 MS. ROSE: Yes.

15 MS. BRUCE: Ms. Savage is absent.

16 Dr. Sublette is absent. Mr. Wendling.

17 MR. WENDLING: Here.

18 MS. BRUCE: Mr. Wuerflein.

19 MR. WUERFLEIN: Yes.

20 MS. BRUCE: Dr. Galvin.

21 DR. GALVIN: Here.

22 MS. BRUCE: We do have a quorum.

23

24 DR. GALVIN: Thank you.

25 MS. BRUCE: A reminder, push the

1 blue button to talk on your microphone;
2 audience members please push the blue
3 button when you come up to the podium.
4 Thank you.

5 DR. GALVIN: Thank you, Myrna.
6 The next agenda item calls for the approval
7 of the minutes of the August 19th meeting.
8 Do I hear a motion to approve.

9 MR. DARK: Move approval.

10 DR. GALVIN: Do I hear a second.

11 MR. GRIESEL: I'll second.

12 DR. GALVIN: Thank you. The
13 Minutes have been approved. Myrna, roll
14 call please.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Dark.

18 MR. DARK: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Mr. Griesel.

22 MR. GRIESEL: Yes.

23 MS. BRUCE: Mr. Mason.

24 MR. MASON: Yes.

25 MS. BRUCE: Ms. Rose.

1 MS. ROSE: Yes.

2 MS. BRUCE: Mr. Wendling.

3 MR. WENDLING: Yes.

4 MS. BRUCE: Mr. Wuerflein.

5 MR. WUERFLEIN: Yes.

6 MS. BRUCE: Dr. Galvin.

7 DR. GALVIN: Yes. Thank you,

8 Myrna.

9 We are going to juggle the agenda
10 around a little bit today. We are not
11 going to change anything, but we are going
12 to change the order of it. We re not going
13 to change the content. Before I make that
14 change, I would like to recognize Ken
15 Purdy, who is the Mayor of Tahlequah. I
16 believe he is here. Would you please stand
17 up.

18 MR. PURDY: I m back here eating
19 cookies. We appreciate the cookies and we
20 are delighted to entertain the
21 Environmental Quality Board here in our
22 community. We thank you all for being
23 here, we hope you enjoy your stay.

24 DR. GALVIN: Thank you, very
25 much. We had a wonderful dinner in this

1 Armory here last night. We want to thank
2 the city of Tahlequah for hosting us.
3 Thank you, very much.

4 MR. PURDY: You re welcome.

5 DR. GALVIN: The one item that we
6 would like to change today, we would like
7 to move the Executive Director s Report to
8 this time on the agenda. And with that,
9 Mr. Thompson, would you please give us your
10 report.

11 MR. THOMPSON: Thank you, Madam
12 Chair.

13 The reason I wanted to move up a
14 little bit on the agenda today is that
15 while I have notified each of you
16 individually or by email of some changes
17 that have occurred within the Agency, I
18 wanted to take this time to publicly
19 acknowledge those changes.

20 First of all, as you re well aware,
21 Craig Kennemer has been struggling with a
22 long-term illness. Because of that we have
23 decided to move Craig to the position of
24 Senior Legal Advisor.

25 Jimmy Givens has been chosen as the

1 interim acting Deputy Executive Director
2 and Martha Peniston has moved into the role
3 of acting General Counsel.

4 They have been on that job for just
5 about a month now and I don t know whether
6 they are going to listen to me or not, but
7 they have been -- they prove to be
8 extraordinarily helpful to me and I
9 appreciate all that they are doing.

10 The second thing I would call your
11 attention to, our Annual Report that is in
12 front of you -- this booklet, the theme of
13 the report this year is stewardship.

14 The first thing you should look at
15 or should draw your attention to is the ten
16 year old picture of me towards the front of
17 the book. It s my favorite picture and
18 probably will be in Annual Reports in the
19 future.

20 There s a lot of really good
21 numbers, bean count sort-of-things in the
22 back of the book. The rest of the book is
23 really stories about the activities of the
24 Agency and our people.

25 So I think it s a great annual

1 report. I d like to acknowledge Skyler
2 Mackelvany, who is sort of the lead person
3 out of our office that works on this along
4 with a lot of other people within the
5 Agency. So thank you, Skyler, for the good
6 work you ve done on the report.

7 I have a handout for you. As you re
8 aware, after the election there will be
9 some changes in both the Senate and the
10 House. And what we are providing for you
11 is a list of the leadership that has been
12 chosen for both of those chambers.

13 A particular interest to the Agency
14 are the Chair of Natural Resource Committee
15 in the House, and the Chair of the Energy
16 and Environment Committee in the Senate.
17 Those Chairmanships have not yet been
18 filled. As soon as they are, we will let
19 you know about that, but we wanted to
20 provide you with at least some information
21 about the leadership of both chambers.

22 A lot of change going on, not only
23 in the Oklahoma Legislature, but on a
24 national level. At some point in our near
25 future we will be advised of the new

1 Administrator of EPA. There are a lot of
2 names being mentioned for that post.

3 Lisa Jackson, who is the
4 Environmental Director in New Jersey and a
5 person I have served on a number of
6 Committees with; Robert Susmon, who is a
7 former Deputy Administrator in the Clinton
8 Administration; a fellow by the name of
9 Brad Campbell, who was a former Director at
10 the New Jersey Department of Environmental
11 Quality -- New Jersey seems to be sort of
12 in the lead on these issues; former Region
13 Three Regional Administrator, Katy McGinny,
14 who was in charge of the Council on
15 Environmental Quality in the Clinton
16 Administration and the former Director of
17 the Pennsylvania Environmental Agency; Mary
18 Nickles, who is the Chair of the California
19 Air Resources Board and the Assistant
20 Administrator for Air and Radiation in the
21 Clinton Administration with EPA; Jonathan
22 Lash, who is with an environmental group in
23 Washington D.C. World Resources, and a
24 person that my predecessor -- my
25 predecessor, Mark Coleman, who I knew

1 particularly well and that I have met a
2 time or two; and then Robert F. Kennedy,
3 Jr. who is in charge of, or is the leader
4 of an Environmental Group called Water
5 Keepers, and of course the son of the
6 former United States Attorney General.

7 It could be any one of those or
8 somebody else, but those are the names that
9 we are hearing.

10 I did hear from the Regional Office
11 Friday that Lisa and Robert Susmon were a
12 member of the parachute team, which is the
13 group that parachutes in the agencies and
14 tries to get a read for what s going on
15 within the Agency. And they have already
16 parachuted in to EPA. They will be joined
17 at some point by Carol Browner, who is the
18 former Administrator of EPA in the Clinton
19 term. So that s the parachute team.

20 Also, in the next several months a
21 new Region Six Administrator will be named.
22 It s my understanding that Representative
23 Dan Boren will take the lead in making
24 recommendations to the Administration on
25 both Regional and State Federal Offices.

1 In the history of EPA, every
2 Regional Administrator has been from the
3 state of Texas and some of the other four
4 states are a little anxious that maybe
5 there s some opportunity for the other four
6 states to have a Regional Administrator
7 named.

8 My request of you is that if you
9 have suggestions about who that might be,
10 please let me know and I will make sure
11 that they are forwarded.

12 Very quickly, we ve been doing some
13 legislative work since we last met. I am a
14 Co-Chair of a task force on carbon
15 sequestration. That group has had it s
16 first meeting and Co-Chair along with the
17 Corporation Commission. We are to have a
18 report done by the end of this month, which
19 I think we will do. The biggest issue that
20 we have to address, at least in the short
21 term, is jurisdictional issues between the
22 DEQ and the Corporation Commission on the
23 regulation of the underground injection of
24 carbon dioxide, we re working through that.
25 Eddie Terrill and I have made a

1 presentation to the (inaudible) Natural
2 Resources Committee on ozone non-
3 attainment. And then Dwayne Smith, the
4 Director of the Oklahoma Water Resources
5 and I, made a joint presentation related to
6 water and wastewater infrastructure needs
7 to the same committee.

8 Then just last week David Dyke,
9 Wendy Caperton and I, met with State
10 Treasurer Scott Meachum related to our
11 budget request. The numbers in the first
12 four months -- budget numbers in the first
13 four months of the year are good, but based
14 on our conversation with the Treasurer,
15 we re not anticipating particularly good
16 numbers in the future. He didn t say
17 specifically, it was just sort of the tone
18 of the conversation I should say.

19 So the Agency, at my direction, is
20 already beginning to think about what we
21 might do if budget cuts, general
22 appropriation budget cuts, are in our
23 future, just tentatively. We will see what
24 happens.

25 Finally, since we last met, J.D.

1 Strong -- as you know, Miles Tolbert has
2 left his position as Secretary of the
3 Environment for the State. His replacement
4 is J.D. Strong, who has worked in that
5 office for a number of years and a person
6 that the DEQ has always been able to work
7 well with and so we are very happy at the
8 appointment of J.D., we have a good working
9 relationship.

10 With that Madam Chair, I d be happy
11 to answer any questions from the Board.

12 DR. GALVIN: Are there any
13 questions for Steve? Hearing none, thank
14 you, Steve.

15 MR. DRAKE: Madam Chair, before
16 we start, I was remiss a moment ago, wasn t
17 thinking. But I wanted, while the Mayor
18 was still here to tell you -- to tell the
19 crowd that wasn t there last night that we
20 had a wonderful venue in the building we
21 were in. The event was grand, because you
22 had so many people that showed up from
23 Tahlequah and the food was excellent,
24 outstanding, and I think they certainly
25 deserve a hand from everyone in the room,

1 but particularly, those of us who enjoyed
2 it.

3 DR. GALVIN: Thank you very much.
4 And certainly thank you, Mr. Purdy, for
5 your hospitality.

6 All right. The Agenda now stands as
7 written. So Mr. Branecky, may we have the
8 first presentation on Air Pollution
9 Control.

10 MR. BRANECKY: All right. Thank
11 you, Madam Chair. Good morning Board
12 Members. Believe it or not, I think it is
13 going to be easy for me today.

14 I ve got three rules I m going to
15 present to you today. The first one is
16 Subchapter 25, Visible Emissions and
17 Particulates.

18 What we re doing there is we re just
19 correcting an incorrect reference we had in
20 the rule and updating separate changes to
21 be consistent to writing standards. We
22 have the OAC 252 in the instances as you
23 can see are in the rule. That s it. The
24 Council is asking that you pass this as a
25 permanent rule.

1 DR. GALVIN: Thank you. Are
2 there any questions for Mr. Branecky from
3 the Board?

4 Are there any questions from the
5 public? Hearing none, do I hear a motion
6 from the Board for approval?

7 MR. MASON: I move approval.

8 DR. GALVIN: Is there a second?

9 MS. CANTRELL: Second.

10 DR. GALVIN: Myrna, can we have a
11 roll call, please.

12 MS. BRUCE: Ms. Cantrell.

13 MS. CANTRELL: Yes.

14 MS. BRUCE: Mr. Dark.

15 MR. DARK: Yes.

16 MS. BRUCE: Mr. Drake.

17 MR. DRAKE: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Mason.

21 MR. MASON: Yes.

22 MS. BRUCE: Ms. Rose.

23 MS. ROSE: Yes.

24 MS. BRUCE: Mr. Wendling.

25 MR. WENDLING: Yes.

1 MS. BRUCE: Mr. Wuerflein.

2 MR. WUERFLEIN: Yes.

3 MS. BRUCE: Dr. Galvin.

4 DR. GALVIN: Yes.

5 MS. BRUCE: Motion passed.

6 DR. GALVIN: Thank you. Mr.

7 Branecky would you like to continue with

8 Item 4B.

9 MR. BRANECKY: Sure. The next

10 item we are asking for approval are for the

11 recent Appendices E and F, the primary and

12 secondary Ambient Air Quality Standards.

13 What we did here was to revise the state s

14 standard to be consistent with the Federal

15 Standards, the new federal standards for

16 ozone, in both the primary and secondary.

17 And we also made a minor change in footnote

18 Number Four where we clarified the

19 reference of how the average can be

20 calculated. So those are the two changes

21 in both those rules. And we are asking for

22 passage as a permanent rule.

23 MS. GALVIN: Thank you. Are

24 there any questions for Mr. Branecky from

25 the Board? Are there any questions from

1 the public?

2 MR. MASON: I might ask one
3 question.

4 MS. GALVIN: Certainly, Steve.

5 MR. MASON: So how does this
6 effect attainment for us?

7 MR. BRANECKY: As I understand it
8 -- Eddie can probably address this better --
9 -- going through the last three years,
10 including this last summer, there are two
11 monitors in both Tulsa County and Oklahoma
12 County that are both .075, just barely they
13 are above. So the next step is that by
14 next March, the Governor will have to make
15 a recommendation to EPA whether those
16 counties should be attainment or non-
17 attainment. And there s some options that
18 I think we can pursue. We may defer that
19 to (inaudible) -- Eddie, correct me -- and
20 wait to see how next summer comes out. If
21 we get a good summer next summer, that may
22 pull us back down to attainment. That s my
23 understanding. Steve may correct that.
24 MR. THOMPSON: That s pretty
25 close. This idea of a conditional

1 designation is somewhat new and we re
2 working across the region. It just makes
3 little since that if -- the bad year that
4 we had was '06. The good year is in '07
5 and '08. The Governor designates in March
6 of '09, if we have a good season in '09 and
7 March of '10, EPA designates areas based on
8 the Governor's recommendation, it seems
9 somewhat bureaucratic to us to not wait and
10 not a lot of common sense involved in not
11 waiting until we have the figures for '09
12 to see where we are. Now that doesn't mean
13 that the Governor doesn't have to
14 designate, it's just on the condition of
15 the data that comes that we might get in
16 2009, we're working with that right now. I
17 should say that the Governor -- I should
18 say that we are working with the Governor
19 on that issue right now, so we'll know more
20 about that as we get closer to designation.
21 But it just seems like a good way to go to
22 us, and probably -- well I think
23 unquestionably what we are going to
24 recommend to the Governor.

25 DR. GALVIN: Any other questions

1 from the Board? Any questions from the
2 public?

3 Hearing none. Do I hear a motion
4 from the Board to approve?

5 MR. DRAKE: So moved.

6 DR. GALVIN: Do I hear a second?

7 MS. ROSE: Second.

8 DR. GALVIN: Thank you. Myrna.

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Dark.

12 MR. DARK: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Mr. Griesel.

16 MR. GRIESEL: Yes.

17 MS. BRUCE: Mr. Mason.

18 MR. MASON: Yes.

19 MS. BRUCE: Ms. Rose.

20 MS. ROSE: Yes.

21 MS. BRUCE: Mr. Wendling.

22 MR. WENDLING: Yes.

23 MS. BRUCE: Mr. Wuerflein.

24 MR. WUERFLEIN: Yes.

25 MS. BRUCE: Dr. Galvin.

1 DR. GALVIN: Yes.

2 MS. BRUCE: Motion passed.

3 DR. GALVIN: Thank you. Mr.

4 Branecky, 4C please.

5 MR. BRANECKY: The last item that

6 we are asking or presenting to you for

7 consideration is the Appendix Q,

8 Incorporation by Reference. We re updating

9 this Appendix. This is an annual thing

10 that we do based on what EPA has done in

11 the past year. So you can see the

12 numerous, and I won t go through the

13 numerous subparts from the federal

14 regulations, we re asking to incorporate

15 into Appendix Q. There are two we are

16 asking to remove that are currently in

17 Appendix Q because of litigation, enforcing

18 to vacate part or all of those we re asking

19 you to remove that -- that s part C and

20 part B that we are moving out of the

21 Appendix Q.

22 A couple other minor corrections.

23 Before in Appendix Q, for example on Page 1

24 of part 50 we have NA under Subpart that

25 was meant to be Not Applicable . And the

1 way it was written it could be construed as
2 Subpart NA . So we are trying to keep it
3 simple for everybody. And the same thing
4 on the last -- Part 64 and 72 on the last
5 page we ve got all which we meant all
6 subparts . Some people could construe that
7 as Subpart ALL , so we decided to spell
8 that out also.

9 We are asking for permanent
10 adoption.

11 DR. GALVIN: Thank you. Any
12 questions from the Board for Mr. Branecky?
13 Any questions from the public?

14 Hearing none, do I hear a motion for
15 approval?

16 MR. WUERFLEIN: I move for
17 approval as permanent adoption.

18 DR. GALVIN: Thank you, Richard.
19 Do I hear a second?

20 MR. WENDLING: Second.

21 DR. GALVIN: Second by John.
22 Myrna, will you call the roll, please.

23 MS. BRUCE: Ms. Cantrell.

24 MS. CANTRELL: Yes.

25 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. Mason.

7 MR. MASON: Yes.

8 MS. BRUCE: Ms. Rose.

9 MS. ROSE: Yes.

10 MS. BRUCE: Mr. Wendling.

11 MR. WENDLING: Yes.

12 MS. BRUCE: Mr. Wuerflein.

13 MR. WUERFLEIN: Yes.

14 MS. BRUCE: Dr. Galvin.

15 DR. GALVIN: Yes.

16 MS. BRUCE: Motion passed.

17 DR. GALVIN: Thank you. The next

18 item on the Agenda will be presented by

19 Michael Graves and we re considering OAC

20 252:205.

21 MR. GRAVES: Good morning. The

22 Hazardous Waste Advisory Council is asking

23 the Board to consider three things:

24 The annual incorporation by

25 reference of the Federal regulations into

1 the DEQ s hazardous waste program, the
2 addition of brief clarification language to
3 OAC 252:205-3-2(c), and the correction of a
4 typographical error in OAC 252:205-3-2.

5 As you know, the DEQ is authorized
6 by the EPA to implement the federal
7 hazardous waste program in Oklahoma. An
8 integral part of that authorization is
9 ensuring that Oklahoma s program is
10 equivalent to the federal program. DEQ
11 ensures this equivalency by incorporation
12 the federal regulations by reference.
13 Therefore, the incorporation by reference
14 is primarily to make sure the calendar
15 dates in Oklahoma s rules match that of the
16 current federal year.

17 There were no significant new
18 federal regulations passed during the last
19 year that will impact Oklahoma hazardous
20 waste facilities, however EPA did pass an
21 amendment to the listing for F019
22 wastewater treatment sludge. More
23 specifically, the listed waste F019, which
24 is generated from a conversion coating
25 process on aluminum, used in vehicle

1 manufacturing, will now be exempt from the
2 listing under certain circumstances. To
3 ensure there is no confusion regarding the
4 disposal of this type of waste, the DEQ
5 would like to add the clarification phrase
6 as described in your packet.

7 In order to incorporate the federal
8 rules by reference, DEQ rules must identify
9 exactly which federal rules are being
10 adopted. This is done through revisions to
11 OAC 252:205-3-1.

12 In 3-1, the referenced 40 CFR date
13 is being revised from July 1, 2007 to July
14 1, 2008, the most recently published set of
15 regulations. The clarification phrase is
16 being added to 3-2(c). Lastly, we are
17 correcting a typographical error discovered
18 in OAC 252:205-3-2.

19 Because the incorporation by
20 reference is necessary to ensure DEQ s
21 hazardous waste program remains equivalent
22 to the federal program, the Council voted
23 unanimously to approve the Chapter 205
24 incorporation as permanent, and recommends
25 that the Board also approve it.

1 The addition of the clarification
2 phrase should have minimal or no impact on
3 Oklahoma facilities and should help to
4 prevent any confusion regarding the
5 disposal of the referenced waste.

6 Finally, the typo was discovered
7 last year in chapter 3-2 and the correction
8 of it has no impact on any Oklahoma
9 facility.

10 If you have any questions, I will be
11 happy to take them at this time.

12 DR. GALVIN: Thank you. Are
13 there any questions for Mr. Graves from the
14 Board? Are there any questions from the
15 public?

16 Seeing none, do I hear a motion for
17 approval from the Board?

18 MR. MASON: So moved.

19 MS. CANTRELL: Second.

20 DR. GALVIN: Thank you. Myrna,
21 would you call roll, please.

22 MS. BRUCE: Ms. Cantrell.

23 MS. CANTRELL: Yes.

24 MS. BRUCE: Mr. Dark.

25 MR. DARK: Yes.

1 MS. BRUCE: Mr. Drake.

2 MR. DRAKE: Yes.

3 MS. BRUCE: Mr. Griesel.

4 MR. GRIESEL: Yes.

5 MS. BRUCE: Mr. Mason.

6 MR. MASON: Yes.

7 MS. BRUCE: Ms. Rose.

8 MS. ROSE: Yes.

9 MS. BRUCE: Mr. Wendling.

10 MR. WENDLING: Yes.

11 MS. BRUCE: Mr. Wuerflein.

12 MR. WUERFLEIN: Yes.

13 MS. BRUCE: Dr. Galvin.

14 DR. GALVIN: Yes.

15 MS. BRUCE: Motion passed.

16 DR. GALVIN: Thank you. Thank
17 you, Mr. Graves.

18 Moving on to the sixth Agenda Item,
19 we have Steve Woods here to address
20 Radiation Management.

21 MR. WOODS: Thank you. Good
22 morning. Looking at Subchapters 1, 10 and
23 20, to change the date for the
24 incorporation of federal regulations by
25 reference to January 1, 2008. These

1 incorporations include a new definition of
2 byproduct material ; amended rules
3 governing the distribution of byproduct
4 material; minor corrections pertaining to
5 medical use of byproduct material; and
6 amended rules for implementation of the
7 National Source Tracking System.

8 On October 2, the Council was given
9 a briefing by Mr. Broderick on the proposed
10 changes in the Radiation Management Rules.
11 After which the Council Members discussed
12 these provisions . Members of the public
13 present at the meeting were also given the
14 opportunity to present comments about the
15 proposed changes. There were several
16 questions asked to clarify. The intent of
17 the changes but no opposition to the
18 proposal to the Board.

19 In brief, the most important
20 amendments being proposed are the
21 modification of the definition of the term
22 byproduct material by the change in the
23 date within the incorporation by reference
24 section and the addition of radium sealed
25 sources. The accelerator produced

1 radioactive materials and discreet sources
2 of naturally reoccurring radioactive
3 materials to the byproduct material s
4 program. This would bring the existing
5 state definition for these materials in
6 line with the new ones that the Nuclear
7 Regulatory Commission has adopted. There s
8 also minor non-controversial changes to the
9 rules for distributing certain low risk
10 radioactive sources and some error
11 corrections in the rules for medical use in
12 radioactive materials.

13 After a briefing by Mr. Broderick,
14 another subject that was discussed by the
15 Council was the National Source Tracking
16 System. The NRC intends to implement the
17 National Source Tracking System as of
18 January 31, 2009 for all individual
19 radioactive material category sources 1 and
20 2 as defined within the system. The NSTS
21 will be applied to all licensees regardless
22 of whether the license has been issued by
23 an agreement state or by the NRC. The
24 system will be based upon a secure
25 electronic message system that will allow

1 the grievance state to access the
2 information submitted by the licensee. One
3 very important aspect of the NSTS that will
4 be the assistance to industrial radiography
5 companies that will be able to have the
6 ability to adjust the curie amount
7 inventory for those sources, such as
8 Iridium-192, that decay rapidly.

9 The NSTS is the result of recent
10 government accounting office investigations
11 to the issuance of licenses to (inaudible)
12 applicants and the increase concern for the
13 potential use of large radioactive material
14 sources for disruptive or destructive
15 purposes by terrorists.

16 Since the Oklahoma rule changes will
17 not become effective until June 2009,
18 licenses will be issued to each licensee
19 that comes under NSTS system. At this
20 meeting Council voted six to none to
21 recommend the Environmental Quality Board,
22 that the Board adopt the changes as
23 proposed.

24 DR. GALVIN: Thank you, Steve.
25 Are there any questions for Steve from the

1 Board?

2 MR. MASON: I have a question.

3 Does this rule change effect the oil and
4 gas production industry, what they produce
5 that s radioactive; and does it effect what
6 we typically call norm in this state, these
7 new definitions?

8 MR. WOOD: As far as the oil and
9 gas industry, it does not capture what
10 would be considered to be norm of the oil
11 and gas industry.

12 What they are looking at -- one of
13 the things that popped up, extreme sources.
14 That would be like a large stock pile of
15 aircraft dials, aircraft cables is what
16 we re looking at there.

17 DR. GALVIN: Any other questions
18 from the Board? Are there any questions
19 from the public?

20 Hearing none, do I hear a motion for
21 approval from the Board?

22 MR. GRIESEL: I make a motion for
23 permanent adoption.

24 DR. GALVIN: Do I hear a second?

25 MS. ROSE: I second.

1 DR. GALVIN: Thank you. Myrna,
2 call the roll, please.

3 MS. BRUCE: Ms. Cantrell.

4 MS. CANTRELL: 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. Mason.

12 MR. MASON: Yes.

13 MS. BRUCE: Ms. Rose.

14 MS. ROSE: Yes.

15 MS. BRUCE: Mr. Wendling.

16 MR. WENDLING: Yes.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Dr. Galvin.

20 DR. GALVIN: Yes.

21 MS. BRUCE: Motion passed.

22 DR: GALVIN: Thank you. Moving
23 on to Agenda Item Number 7, General Water
24 Quality. We will be hearing from Mr.
25 Lowell Hobbs.

1 MR. HOBBS: Good morning. Is
2 this on, can you hear me? I have something
3 to say and I want to be sure that everybody
4 hears me.

5 I m a little bit nervous this
6 morning. I might tell you before I start,
7 Jim Lindsay from here in Tahlequah, and I,
8 are on the water resource institute, trying
9 to come up with some real useable tactics
10 for Oklahoma water. That is probably one
11 of the biggest challenges that I ve ever
12 been involved in. And after attending
13 several of those water meetings, water is
14 the most complicated set of laws that could
15 ever be. And after you get through with
16 the laws, then the Indian tribes come in
17 and take there place in the chain of
18 command in the water laws of Oklahoma.
19 Even though my position on the Water
20 Quality Management Advisory Council hear
21 real complicated things at times, that
22 Water Research Institute has a Doctor s
23 degree compared to this. It s going to be
24 a challenge -- and Jim and I went again to
25 the Water Research Institute meeting in

1 Muskogee, and there s some real good people
2 on that. And what I want to say is don t
3 judge the intelligence of the Water Quality
4 Management Advisory Council by me. We have
5 got some really good people, dedicated
6 people, on the Water Quality Management
7 Advisory Council, that they take their
8 position seriously, they study those issues
9 thoroughly and I am privileged that I get
10 to present those ideas and those decisions
11 to you, collectively.

12 I ve heard a story and I ve just got
13 to tell this story. I ve been waiting to
14 tell somebody this story. I heard it and I
15 know you all will enjoy it. It doesn t
16 have anything to do with water. It may if
17 you laugh hard enough.

18 This kid was sitting out on the
19 street with a lawnmower, by the curb,
20 crying and kind of sniffing and feeling
21 real down. And a preacher lived down the
22 street at this house and across the street,
23 and he watched this kid for a while, and he
24 finally went out and he said, kid, I
25 noticed you ve got troubles, what seems to

1 be the problem?

2 He said, well, I really don t have a
3 big problem, I got this old lawnmower and
4 he said I d like to have a bicycle. I
5 don t want a lawnmower, I d like to have a
6 bicycle.

7 The Preacher thought a minute and he
8 said, I ve got a bicycle that I don t ride
9 anymore and I need a lawnmower, why don t
10 we just trade?

11 The kid said, you d do that?

12 He said, yeah. So they traded.

13 The kid got on the bicycle and went
14 riding it down the street. The Preacher
15 got out there and he was going to mow his
16 yard, and starts trying to start that
17 lawnmower.

18 After the kid went by four or five
19 times, the Preacher flagged him down and
20 he said, hey kid, I can t get this started,
21 how do you get it started?

22 He said you have to cuss it.

23 He said, cuss it? He said, man, I
24 can t do that, I ve been preaching for 30
25 years. He said I m a man of the cloth, I

1 can t do that. He said as a matter fact
2 it s been 30 years since I ve even cussed,
3 I probably wouldn t even know the right
4 words.

5 That kid said keep jerking on that
6 rope a while, it will all come back to you.

7 (Laughter)

8 MR. HOBBS: Let s talk about
9 Title 252, Department of Environmental
10 Quality Chapter 611.

11 The Department proposes to update
12 its rules concerning entities required to
13 receive the water quality certification
14 from the Oklahoma Department of
15 Environmental Quality pursuant to Section
16 401 of the Clean Water Act. When the
17 entity is required to obtain the federal
18 permit, the change will require entities
19 when applying for certification pursuant to
20 Section 401 of the Clean Water Act to
21 submit a mitigation plan with the
22 application for certification when a
23 federal entity requires mitigation to
24 obtain a permit pursuant of Section 404 of
25 the Clean Water Act.

1 Additionally, the Department
2 proposed to the Council to update its rules
3 concerning the date of the incorporation by
4 reference of certain federal regulations,
5 to change, update the publication date of
6 the federal rule from July 1, 2007 to July
7 1, 2008 in the Oklahoma Administrative Code
8 252:611-1-3.

9 There were no comments received
10 during the comment period or at the Council
11 meeting. The Council voted unanimously to
12 recommend that the Board approve the
13 changes to Chapter 611.

14 DR. GALVIN: Thank you, Mr.
15 Hobbs.

16 Are there any questions from the
17 Board?

18 Seeing none, are there any questions
19 from the public?

20 Hearing none. Do I hear a motion
21 from the Board?

22 MR. DRAKE: Move for approval.

23 MR. DARK: Second.

24 DR. GALVIN: Thank you. Myrna.

25 MS. BRUCE: Ms. Cantrell.

1 MS. CANTRELL: 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. Mason.

9 MR. MASON: Yes.

10 MS. BRUCE: Ms. Rose.

11 MS. ROSE: Yes.

12 MS. BRUCE: Mr. Wendling.

13 MR. WENDLING: Yes.

14 MS. BRUCE: Mr. Wuerflein.

15 MR. WUERFLEIN: Yes.

16 MS. BRUCE: Dr. Galvin.

17 DR. GALVIN: Yes.

18 MS. BRUCE: Motion passed.

19 DR. GALVIN: Thank you. We re

20 going to move on to the Emergency

21 Rulemaking listed as Number 8 on your

22 agenda, and Mr. Hobbs will also present

23 that one.

24 MR. HOBBS: Thank you for your

25 vote of confidence. And let me assure you

1 that your confidence is not misplaced in
2 our Water Quality Council.

3 Title 252, Individual and Small
4 Public Onsite Sewage Treatment Systems,
5 it s emergency rulemaking only.

6 The DEQ proposes to amend Appendix
7 H, Figure 25 to correct an error in the
8 classification of Delaware County.
9 Currently, Delaware County is classified by
10 -- in Net Evaporation, Zone 1, in Figure 25
11 of Appendix H.

12 Delaware County should be classified
13 as Net Evaporation, Zone 2. There are no
14 comments received during the comment period
15 or at the Council meeting. The Council
16 voted unanimously to recommend that the
17 Board approve the changes to Chapter 641 as
18 an emergency.

19 DR. GALVIN: Thank you, Mr.
20 Hobbs.

21 Are there any questions from the
22 Board?

23 Are there any questions from the
24 public?

25 Hearing none, do I hear a motion

1 from the Board for adoption?

2 MR. GRIESEL So moved.

3 MR. MASON: Second.

4 DR. GALVIN: Thank you. Mr.

5 Griesel so moved and Mr. Mason seconded.

6 Call the roll please, Myrna.

7 MS. BRUCE: Ms. Cantrell.

8 MS. CANTRELL: 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. Mason.

16 MR. MASON: Yes.

17 MS. BRUCE: Ms. Rose.

18 MS. ROSE: Yes.

19 MS. BRUCE: Mr. Wendling.

20 MR. WENDLING: Yes.

21 MS. BRUCE: Mr. Wuerflein.

22 MR. WUERFLEIN: Yes.

23 MS. BRUCE: Dr. Galvin.

24 DR. GALVIN: Yes.

25 MS. BRUCE: Motion passed.

1 DR. GALVIN: Thank you.

2 (Discussion)

3 DR. GALVIN: Martha, there is a
4 question.

5 Steve Mason, would you like to
6 address your question to Martha?

7 MR. MASON: If my memory serves
8 me correct, is there two steps to this? Do
9 we find an emergency and then we decide if
10 we like the emergency?

11 MS. PENISTEN: I believe you re
12 right, and I prepared the agenda. So you
13 can blame me for that step not being on
14 there.

15 DR. GALVIN: Okay. So how do we
16 correct? Do we need to go back and find
17 this as an emergency before the approval?

18 MS. BIRCH: If you make a finding
19 of an emergency, you need to say what is
20 the emergency initially.

21 Here is the facts, if it s an
22 emergency it justifies an emergency of
23 rulemaking, vote on that, and then move for
24 adoption.

25 DR. GALVIN: All right. The

1 reason for finding that this is an
2 emergency is that this was an oversight,
3 the Delaware County was mis-classified and
4 this proposal corrects that mis-
5 classification.

6 And now do I ask for the Board to
7 clarify this as -- classify this as an
8 emergency?

9 MR. MASON: I move that we find
10 this as an emergency.

11 MR. DRAKE: I'll second it.

12 DR. GALVIN: Thank you.

13 MS. BRUCE: Ms. Cantrell.

14 MS. CANTRELL: 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. Mason.

22 MR. MASON: Yes.

23 MS. BRUCE: Ms. Rose.

24 MS. ROSE: Yes.

25 MS. BRUCE: Mr. Wendling.

1 MR. WENDLING: Yes.

2 MS. BRUCE: Mr. Wuerflein.

3 MR. WUERFLEIN: Yes.

4 MS. BRUCE: Dr. Galvin.

5 DR. GALVIN: Yes.

6 MS. BRUCE: Motion passed.

7 DR. GALVIN: All right. Now I

8 believe that we have to have a second

9 motion to adopt.

10 MR. DRAKE: Move for adoption as

11 an emergency.

12 MR. GRIESEL: I ll second.

13 DR. GALVIN: Thank you, sirs.

14 Myrna, roll call please.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Dark.

18 MR. DARK: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Mr. Griesel.

22 MR. GRIESEL: Yes.

23 MS. BRUCE: Mr. Mason.

24 MR. MASON: Yes.

25 MS. BRUCE: Ms. Rose.

1 MS. ROSE: Yes.

2 MS. BRUCE: Mr. Wendling.

3 MR. WENDLING: Yes.

4 MS. BRUCE: Mr. Wuerflein.

5 MR. WUERFLEIN: Yes.

6 MS. BRUCE: Dr. Galvin.

7 DR. GALVIN: Yes.

8 MS. BRUCE: Motion passed.

9 DR. GALVIN: Thank you, Myrna.

10 All right. Well it has come to my
11 attention that Mr. Ed Fite is in the room.
12 Ed, would you please stand? We d like to
13 recognize you as the Executive Director for
14 the Scenic Rivers Commission. We re very
15 pleased that you attended the meeting
16 today.

17 MR. FITE: I m glad to be here.

18 I was waiting for Steve to tell a story
19 about the horses.

20 MR. THOMPSON: Well, thank you
21 Ed, and we ll address that another day, but
22 we re always glad to have you here -- I
23 think.

24 (Comments)

25 DR. GALVIN: And in fact, with

1 that, we need to take a short break while
2 we prepare for the Environmental Quality
3 Report.

4 So if you would just take a short
5 break, about five minutes while we set up
6 the projector, and then we will be back in
7 this room.

8 (Break)

9 DR. GALVIN: Mr. Givens is going
10 to give us a presentation for consideration
11 of action on the Environmental Quality
12 Report. Jimmy.

13 MR. GIVENS: Thank you, Madam
14 Chair, and Members of the Board.

15 Those of you who are in the audience
16 today, I appreciate the opportunity to
17 bring to you the Environmental Quality
18 Report. For those of you who have been
19 around a while, you are familiar with this
20 report. You know that it consists of three
21 primary areas. It s called the
22 Environmental Quality Report in the
23 Statute, and that s why we have listed it
24 that way in the agenda and on the slides.

25 It might be more appropriately

1 called Environmental Quality Preview --
2 Preview of Coming Attractions or in some
3 cases, Preview of Coming Distractions under
4 federal mandates. But these are the things
5 that we are required to submit to the
6 Governor and the Legislature by January 1st
7 of each year.

8 The purpose is to look into the
9 future and see what we have coming down the
10 pike in the way of appropriation needs, the
11 things we are faced with dealing with on
12 federal mandates, and of course what we
13 propose to present to the Legislature in
14 the coming session.

15 The annual needs part, or the
16 appropriations part, I m not going to spend
17 much time on because this is what you saw
18 at the last meeting. In order to meet the
19 deadlines for presentation to the Office of
20 State Finance, this particular piece has to
21 be in by October the 1st. So you actually
22 approved this portion of the Environmental
23 Quality Report at the August Board Meeting.

24 Just by a brief way of refresher, we
25 are asking for appropriation -- additional

1 appropriation for the Beneficial Use of
2 Monitoring Program, sometimes called BUMP
3 or BUMP Program.

4 It would go from about 1.1 million
5 to 2 million, and the purpose is simply to
6 allow for more extensive monitoring of the
7 waters of the state. And then the small
8 municipal lagoons, you may recall that we
9 asked for an additional half million there
10 to provide assistance above and beyond what
11 we have been able to do to small
12 municipalities. They do face a challenge
13 to periodically remove the biosolids from
14 the lagoons and this would allow us to
15 help, like, six or seven municipalities per
16 year instead of one or two. Next slide.

17 Now, before we actually talk about
18 the federal mandates, I thought that this
19 quote was apt. I have to give credit to
20 Jon Craig for calling this to my attention.
21 You can picture, if you will, three
22 pyramids -- three Egyptian pyramids, and
23 then this quote will come up underneath as
24 a caption for this particular picture. The
25 reason the picture is not up there is

1 because there is this minor pesky thing
2 called federal copyright law.

3 But imagine, if you will, the three
4 pyramids, you can do anything you set your
5 mind to when you have vision,
6 determination, and an endless supply of
7 expendable labor. This is how we sometimes
8 feel at the DEQ when the federal mandates
9 come upon us. I suspect this is how those
10 of you in the regulated community sometimes
11 feel when we in turn, turn to you and say
12 you need to do this.

13 The federal mandates that we re
14 looking at this year, there are several
15 that I will mention briefly, I won't spend
16 much time on them, partially because I'll
17 have to have somebody else explain them in
18 detail anyway. Next slide.

19 To begin with, we've already talked
20 a little bit this morning about the Ozone
21 NAAQS, the new standard is .075. It had
22 been nominally .080 and in fact it was
23 .084. The impact as we've already talked
24 about, is that Oklahoma City and Tulsa in
25 particular are facing potential for non-

1 attainment, but we do believe that there is
2 some possibility, as Steve alluded to, of
3 working with the Governor's office and EPA
4 to see if we can include the 2009 data,
5 which is important because 2006 was a bad
6 year. And as you know, we measure over a
7 three year period. So if we can include
8 the 2009 data, it gives us some possibility
9 for staying in attainment, a much better
10 possibility.

11 The lead NAAQS, there's a new
12 federal standard that just went into effect
13 ten times more stringent than the previous
14 -- previous standard is now .15 micrograms
15 per cubic meter and the impact, as you can
16 see there, is that we are probably going to
17 have to place more monitors in more places,
18 and that costs money.

19 Various source of MACT Standards,
20 actually Eddie tells me it's not really
21 standards, it's GACT standards or something
22 like that. GACT sounds like something, I
23 don't know, you got a frog in your throat.
24 So I'm referring to MACT standards even if
25 that's not technically correct.

1 EPA has issued about five out of
2 every seven that they re supposed to issue.
3 They apply to small sources that are
4 normally permit exempt. The result is,
5 that since they re normally permit exempt,
6 we don t have a real good feel for what s
7 out there, that s what we re working on
8 right now, we re trying to identify where
9 these sources are. And then do the
10 outreach to say here are the new standards,
11 and that is what is in play right now.

12 Climate change, obviously a very hot
13 topic at both national and state level.
14 Still no specific regulations in place, so
15 the impact remains to be seen. What we re
16 doing right now is participating in the
17 climate registry. That s non-partisan,
18 non-political, doesn t have an agenda
19 behind it except to gather information.
20 And we are participating in that to try and
21 gather information because while there are
22 no specific regulations in place for that,
23 it s a way to prevail on you that it s a
24 matter of time, not if part of.

25 Moving from air to radiation for a

1 moment. The Nuclear Regulatory Commission
2 continues to impose new requirements. They
3 are doing this by order rather than by new
4 regulation for the most part. They are --
5 these orders are designed, as you would
6 imagine, to prevent bad characters from
7 getting hold of radioactive sources, and
8 creating some sort of dirty bomb as it s
9 called. The impact is simply that both the
10 regulated community and the DEQ is being
11 stretched a little bit thinner to try to
12 enforce these.

13 Some of them, no doubt, are very
14 necessary. Some of them are probably
15 arguable about how effective they really
16 are at increasing security. But it is
17 straining us a bit to keep up with these
18 orders that come out quite often and don t
19 go through the full regulatory process,
20 don t go through the rulemaking process,
21 rather they are an order issued by the NRC.
22 Next.

23 Then water, NPDS Program, Management
24 Information Rule, not yet actually in
25 place, but we are -- we have heard a lot of

1 discussion of it. What it appears it will
2 do is take policies that had been EPA
3 policies that they had tried to impose on
4 the states, obviously as policies they
5 could offer guidance, they could ask the
6 states to adhere to these, but they were --
7 several of the states were pushing back
8 because of the demands -- time demands --
9 resource demands that these were causing.
10 Basically, what this does is to require
11 more monitoring and more reporting by more
12 different systems, or data has to be input
13 and as a result, the resource requirements
14 on the DEQ are heavy. If and when this
15 rule is actually adopted -- I've got a
16 figure here somewhere -- we estimate that
17 it will require 19 FTEs and one and a half
18 million dollars per year to implement this
19 rule for Oklahoma. Next.

20 Again on the Public Water Supply
21 rules, some of the more recent rules, Stage
22 Two Disinfection Byproduct Rule, the so
23 called LT2 Rule, Groundwater Rule, all of
24 these again require more monitoring by
25 Public Water Supply Systems, a lot more

1 investment by them and -- I lost my place -
2 - more parameters are involved by the
3 systems in the monitoring that they do. It
4 also requires the systems to do more self-
5 evaluation and look for places where they
6 are vulnerable to some sort of
7 contamination. And if we try to pull
8 together these three rules and estimate
9 what it would take for the DEQ to implement
10 them, the estimate is six FTEs. Right now
11 we have decided not to implement them,
12 rather EPA is responsible for implementing
13 them in Oklahoma at this time. Even at
14 that, we think it will require one FTE just
15 for technical assistance that we will have
16 to provide assistance to help them
17 understand what they re supposed to do and
18 comply with the EPA requirements.

19 And this is actually a little bit
20 more laboratory-related, but again along
21 the PWS line, the new monitoring
22 requirements under some of these new rules,
23 like LT1 and LT2, the Groundwater Rule, are
24 as you would imagine, even more burdensome
25 to smaller systems.

1 There was an appropriation by the
2 Oklahoma Legislature in 2007, and I believe
3 it was like \$513,000. The purpose of which
4 was to allow the DEQ to hold the smaller
5 systems harmless from the 2004 fees that
6 were charged for monitoring and the
7 analysis.

8 In other words, whatever you had to
9 pay in 2004, we would take that money and
10 we would try to make it so that you did not
11 have to pay more than you did in 2004.
12 When we started doing this, the cut off
13 point, the population served per system to
14 qualify for this was 10,000. In the --
15 with the increasing requirements, both in
16 terms of what has to be monitored for and
17 increase frequency in the additional cost
18 in doing the monitoring and the analysis,
19 that figure is going to have to be
20 dramatically decreased in order for the
21 annual \$513,000 to be applied and for us
22 not to overspend.

23 So that 513,000 for the first couple
24 of years, we were covering systems up to
25 10,000. It now looks like we are going to

1 be more down around the 1,300 population.
2 And so only those with the population
3 served of under 1,300 will be held harmless
4 at the 2004 figures, unless we were to get
5 more money for that program.

6 MR. THOMPSON: Let me just
7 suggest to the Board that we find ourselves
8 on the horns of a dilemma, because DEQ --
9 at least the leadership of the DEQ likes
10 the system programs. We like stewardship
11 programs, we like sustain-ability programs,
12 we like all those kinds of programs; we
13 like environmental education programs, we
14 like recycling programs, we like all those
15 kinds of things that are important to a
16 healthy environment in the state. But it
17 is also pretty clear to me that we -- even
18 though we may be in pretty good shape,
19 financially, we are not going to see
20 increases in FTEs. It is pretty clear to
21 me that the current legislature, and after
22 about three years of trying to get FTE
23 increases, we re not going to -- we re not
24 going to get them.

25 So we are going to have to think

1 about fundamental shifts in what we do,
2 because we also, the leadership of DEQ,
3 hates not to accept federal programs. We
4 think we are just much better in operating
5 those programs than we are.

6 So in the near future we re going to
7 have to make some fundamental decisions
8 about the direction of the agency if in
9 fact these mandates continue to cause
10 resource impacts.

11 Yes, Mr. Dark.

12 MR. DARK: Question -- I mean
13 it s a question I had during the
14 presentation, talking about the need of six
15 FTEs -- six to seven FTEs to take care of
16 the new federal mandates.

17 And you re suggesting, one, to just
18 deal with the public on those mandates. It
19 seems odd to me that we would want to put
20 ourselves in the position of a broker for
21 the federal government, when we can t help
22 those programs out as opposed to just
23 taking advantage of that one FTE, and put
24 them some where they re more useful.

25 MR. THOMPSON: Well, it is -- the

1 one FTE would really be -- it is really
2 difficult for the Agency, particularly
3 related to small communities to say to
4 them, sorry, you re just going to have to
5 deal with the feds.

6 For no -- and really for no fault of
7 their own, we re just limited in the number
8 of people that we are going to be able to
9 get. So at the beginning these -- in
10 Public Water Supply, Jon and I said we are
11 putting our foot down, you know, they re on
12 their own, they ve got to deal with the
13 feds, yada yada. But it is, as mayors, and
14 people call us, it is very tempting for us
15 to try to out test the nature, that s our
16 nature. So I understand your point.

17 MR. DARK: I understand the
18 political realities of having to do that
19 job, it just seems difficult to ask for a
20 budget number there based on what they re
21 doing to us.

22 MR. THOMPSON: Anyway, we ll see
23 where this leads us, but we re going to
24 have to -- we may have to look at
25 outsourcing, although it s very difficult

1 to outsource governments and I don't know
2 how you do that, exactly. So, anyway
3 that's my two cents worth. Sorry, Jimmy.

4 MR. GIVENS: The final third of
5 the report, as I mentioned up-front is what
6 we are proposing in the way of --

7 MS. CANTRELL: I'm sorry, Jimmy,
8 may I ask a question?

9 MR. GIVENS: Sure.

10 MS. CANTRELL: I want to ask a
11 question before we move on regarding
12 federal mandates.

13 Is it possible to prioritize these
14 according to which we know will be
15 applicable in 2009, just for the Board's
16 consideration so that we know what's on the
17 table for 2009. As I was going through and
18 looking at the proposal, some are -- some
19 have been implemented in the past, and
20 clearly are on our plates now. Some are
21 likely to be on our plates in 2009, and
22 some have not yet been determined that are
23 hovering on the horizon over the next
24 several years. Is it possible for our
25 consideration to prioritize them as far as

1 their expected date of implementation?

2 MR. GIVENS: I can answer that to
3 some degree, I may have to refer to John or
4 someone else on some of these. Obviously,
5 the ozone NAAQS is already there. The lead
6 NAAQA just became effective. The NAAQS
7 Standards are in the process -- or
8 considered source standards are in the
9 process of being adopted. And I don't know
10 how long that process will take before they
11 get to the entire 72. Do you know?

12 MR. TERRILL: It depends on what
13 other priorities EPA has, but I would
14 anticipate that the bulk of them) will be
15 out this year when they have the language.

16 MR. GIVENS: Climate change,
17 obviously is as good as anyone's guess
18 about what's coming on that, but it will
19 certainly be a surprise if something
20 doesn't happen sooner rather than later, I
21 think.

22 The NRC security measures -- I saw
23 Mike Broderick here, I think. Are we
24 expecting many more of those or are we near
25 the end of that process, or do we even

1 know?

2 MR. BRODERICK: The NRC
3 Commission had made a statement early this
4 year, where they expected a series of new
5 orders. And the states, (inaudible). And
6 since then the Commission has kind of
7 backed off and they appear to be
8 reconsidering and (inaudible) if anything
9 accelerated rulemaking like emergency
10 rulemaking.

11 MS. BARTON: I d just like to ask
12 one question. Maybe, Mike, you ll know
13 this. With some of these rules that have
14 come from the NRC that directly effect the
15 tracking of material under Homeland
16 Security, is there any way that our state
17 can access any funds to implement that part
18 of that tracking or anything that has to do
19 with radioactive material to get those
20 funds to implement it if we don t have
21 them?

22 MR. BRODERICK: We will be -- we
23 will have access. The NRC is setting up a
24 National Tracking System and we will, in
25 fact -- we have the passwords now, even the

1 safe to get into it. So we will have
2 access to it. There s no funding. The NRC
3 operates differently than EPA. EPA will
4 often give grants for things. The NRC
5 basically says if you want to do it, go
6 ahead. They provide training for us, but
7 other than that they don t give grants or
8 things like that.

9 MR. THOMPSON: Let me reemphasize
10 the point too that right now our issue is
11 not necessarily -- I have to be very
12 careful about saying this, it s not
13 necessarily money. But what our bottleneck
14 is going to be the people -- FTE people to
15 do the work. And relative to climate
16 change -- I m not sure we have a firm
17 understanding what the state role is going
18 to be in climate change. Whether that s
19 going to be a preemptive national program
20 or carried on with federal. I mean I don t
21 know. Eddie may have better information,
22 but I m just not real sure what the state
23 role is in climate change right now. We ll
24 have to look at whatever the legislation
25 passes.

1 MR. GIVENS: The NPDES Program
2 Management Information Rule, that s the one
3 where we believe they are taking, basically
4 three policies and looking at coming up
5 with a rule. I don t know how quickly
6 we re thinking that may come to pass. I
7 don t think it s even been officially
8 proposed; is that right?

9 MR. MAISCH: That is correct. It
10 hasn t been officially proposed yet, but we
11 can definitely see that coming down the
12 pike, I would say probably in the next
13 couple of years, something like that.

14 MR. THOMPSON: That was an issue
15 that in EPA s appropriation, Congress --
16 no, it wasn t that one, it was another one.
17 The member states of ECOS raised the issue
18 of resources on this. State of Oklahoma --
19 and this is really an interesting coalition
20 of states -- Oklahoma, Nevada, Illinois,
21 and the state of New York, are the ones who
22 did the most significant analysis of
23 resource needs. And we all came up with
24 basically the same numbers and presented
25 that -- the four states went to the EPA and

1 said this is what we re looking at, and we
2 don t have the resources to fund this.

3 And EPA said, well, fine then
4 instead of trying to do it by policy, we ll
5 just do it by rule.

6 MR. GIVENS: The Public Water
7 Supply Rules. Stage 2 By-Product Rule is
8 being phased in over the course of time,
9 through 2013 -- let s back up just a little
10 bit -- phasing in at the beginning of 2006
11 through 2013. The LT2 just became fully
12 effective and Groundwater Rule effective in
13 about a year. So all of these are either
14 in effect or right on the radar screen.

15 Brita, did that answer your
16 question?

17 MS. CANTRELL: That did, thank
18 you.

19 MR. GIVENS: Before I move ahead
20 with the legislation, are there any other
21 questions on either the appropriations or
22 the federal mandates?

23 Okay. We have three proposals that
24 we will be asking you to approve for us to
25 take to the legislature or propose to the

1 legislature this coming session. Now, I
2 will tell your right up front that these
3 are not of monumental importance. If any
4 or all of them were not to pass this year,
5 it would not be a disaster, but we do think
6 each of them have something to be
7 recommended to the legislature.

8 The first one is the amendments to
9 the Brownfields Act. You may recall that
10 the Brownfields State Act was adopted in
11 96, I believe.

12 Over the course of time, the federal
13 government has provided grant funds to help
14 states to implement Brownfields Programs.
15 What we are finding is, that the way our
16 program is structured is actually a
17 deterrent to be participating in. When it
18 was originally adopted, it was adopted as
19 though it were a Permitting Program. You
20 actually have a Tier 1 permit to do your
21 site assessment, a memorandum of agreement
22 with the agency to do their site
23 assessment.

24 And next a Tier II process to go a
25 head and do remediation, get the approval

1 for the remediation itself.

2 What we are proposing is to remove
3 the permit language from this act, because
4 it really is not a permit program, it
5 really is a remediation program, and the
6 permit language seems to be scaring people
7 off.

8 Why does that matter? They can go
9 through a voluntary cleanup anyway. Well
10 it matters because EPA -- we have an
11 agreement with EPA that recognizes the
12 Brownfields program. They are used to
13 that. And that's what the Brownfields
14 program is suppose to do. We've only had
15 13 Brownfields completed in 12 years, or 13
16 certificates issued and a couple or three
17 more in the process. So we're only
18 averaging one a year or a little more.

19 We would like to make the
20 Brownfields Program more attractive, we
21 would like for people to get Brownfields
22 certificates. In part, because it will
23 continue us to allow us to access federal
24 money that's important for these Brownfield
25 projects. But what we want to emphasize

1 is, that even though it may not have the
2 permit language which seems to scare people
3 away, it is very important that the public
4 participation be maintained. So where we
5 would adopt to implement this program would
6 maintain a healthy public participation
7 component similar to what s already there.

8

9 Oklahoma Hazardous Management Act,
10 EPA recently adopted a new rule in response
11 to a court case from a few years ago that
12 said, in essence, the EPA was being too
13 restrictive on the definition of hazardous
14 waste, because they were too restrictive in
15 the definition of solid waste.

16 In essence, what the new rule does
17 is say that if a material would otherwise
18 be a hazardous waste, blame is being
19 legitimately reclaimed under certain
20 conditions then it s going to be subject to
21 a less onerous regulatory regime than the
22 full hazardous waste regulations.

23 What we will have to do if we want
24 to adopt that rule in Oklahoma, is to make
25 some minor amendments to our Hazardous

1 Waste Act. Because the way our definition
2 of haz-waste reads in some of the
3 requirements that are imposed on recycled
4 materials, which is what we're talking
5 about here, would mean that we could not
6 adopt this federal rule and implement it in
7 Oklahoma. Now we don't have to, it's less
8 stringent and therefore we don't have to do
9 this. But if we're going to do it, and we
10 think that probably we're going to need a
11 strong push by commercial and industrial
12 interests for us to do it, then we'll have
13 to make modifications to the Hazardous
14 Waste Act to allow us to do it.

15 And the last one, DEQ Notices of
16 Remediation. If we do a risk-based
17 cleanup -- if we approve a risk-based
18 cleanup, statute requires us to file a
19 notice of that in the land records in the
20 county where that property is located.
21 Right now, it is not clear that that
22 particular notice in restrictions on the
23 use of that land may go with it, you know,
24 protect the cap or whoever. It's not clear
25 that that continues in perpetuity. What

1 we re proposing to do is make a minor
2 amendment to that particular statute.
3 Simply to clarify that this is not some
4 sort of personal covenant between the
5 parties at the time it is entered into.
6 This is actually something that attaches to
7 the land itself and therefore stays with
8 that property in perpetuity.

9 With that, I think I ve covered the
10 high points. There may be questions, if
11 there are, I ll probably have to defer them
12 to someone to have them answer them, but
13 that is a preview of things to come.

14 MS. BARTON: Well I have to ask,
15 what s our percentage of chances of getting
16 the majority of these passed through the
17 legislature this session?

18 MR. GIVENS: Well, to pick out
19 one and put a percentage on it is pretty
20 dangerous. I will say that we have been
21 relatively successful historically, at
22 getting what we have asked for. We have a
23 pretty good working relationship on both
24 sides of the aisle. So I think there is a
25 legitimate chance of getting most, if not

1 all of them.

2 MR. DRAKE: Wouldn't you say
3 putting it in a nutshell we can pass
4 everything that doesn't require money but
5 if it requires money, it's going to be more
6 difficult?

7 (Comment)

8 MR. GIVENS: Well if there's
9 nothing else, I appreciate -- oh, Brita.

10 MS. BRITA: Have the new
11 Hazardous Waste Act Amendments been
12 considered by the Council yet? Have those
13 -- the conflict between the state and the
14 federal been considered yet?

15 MR. GIVENS: No, I don't think
16 they've been taken to the Council yet. I
17 don't if there's anyone here that can
18 answer that. I don't think they have been.
19 I don't think they've been considered by
20 the Council. Obviously, this would be a
21 statutory amendment. The Council would --
22 even if the statute were changed in such a
23 way to allow this, the rule itself would
24 go through the Council before coming to the
25 Board.

1 MR. WUERFLEIN: Is the money
2 we re requesting for the BUMP monitors, the
3 water monitoring, is it tied to any of the
4 federal mandates? (Inaudible).

5 MR. GIVENS: I would like to take
6 a shot at that, but Steve s probably better
7 equipped than I am.

8 MR. THOMPSON: Sort of. It
9 doesn t specifically fund the federal
10 mandates, the ones that Jimmy referred to.
11 It is of some value -- the BUMP Program I
12 think is a value to all citizens. It s of
13 value to the general public in knowing the
14 quality of our waters. It s of value to
15 communities to know those values, because
16 it has effect on permits and the same is
17 true of industry. So we think it is
18 generally important to know -- I mean the
19 state is going through this significant
20 water plan mostly focused on water
21 quantities and it makes -- I guess this is
22 an editorial comment, but it makes limited
23 sense to be talking about water quantity
24 without having as good of an understanding
25 as you can have with the quality of the

1 waters. So while it doesn't specifically
2 address the federal mandate it, nonetheless
3 in my mind, has particular value to most
4 citizens in the state of Oklahoma.

5 MR. WENDLING: Just out of
6 curiosity, on the Brownfield Act, you said
7 we've done 13 projects in 12 years. Do we
8 have a list of potential Brownfield
9 projects or is this on an as needed basis?

10 MR. GIVENS: It is on -- let me
11 make sure I understand the question.
12 Anyone who wants to participate in the
13 Brownfields Program actually comes and
14 makes an application for that. I'm not
15 sure -- is that what you're asking?

16 MR. WENDLING: I was just curious
17 if there were designated Brownfield sites,
18 so to speak.

19 MR. GIVENS: That the DEQ
20 designates?

21 MR. SCOTT THOMPSON: No, we don't
22 have a list of potential sites. We do have
23 a Volunteer Cleanup Program that doesn't
24 jump through hoops, essentially the
25 cleanups are the same, radiation levels are

1 the same. But we had a hundred and some
2 sites go through that, at the same time we
3 have the Brownfields Program. The EPA
4 gives us no credit for those.

5 MR. WENDLING: Okay.

6 MR. SCOTT THOMPSON: And in a way
7 the law was written, as though you re
8 walking through the door with an
9 application with a plan ready to clean up
10 the site, it seldom works that way.
11 Sometimes it can, but a lot of times when
12 they come to us and when you get to the
13 site, there s nothing there. So there s no
14 need for an action. But the law was
15 written as though you walk through the door
16 with an application. Well the best thing
17 is for you to come in early so you don t
18 spend a lot of money gathering information
19 you don t care about or missing the
20 information you do care about. And so, we
21 made -- added some other modifications to
22 the language to try to fix some of that,
23 but the key thing is to try and get it out
24 of these mandatory time lines that bar us
25 from having meetings very quickly and

1 having (inaudible) minimum time into the
2 process. Sometimes at the end it s a
3 longer process to evaluate the site, it
4 just inhibits them.

5 MR. STEVE THOMPSON: It s a
6 simple answer, we re trying to shift the
7 voluntary cleanup activities. Somebody
8 comes up with a cleanup, we find a way to
9 get it done. We re trying to shift the
10 Voluntary Cleanup Program into the
11 Brownfields Program to get the federal
12 credit, that s really the core of all of
13 that.

14 MR. DARK: It seems to me since
15 those are privately owned sites, we would
16 be remised in developing a list because
17 that could be perceived as a hit list as
18 opposed to a list that we were trying to
19 help.

20 MR. SCOTT THOMPSON: Right. And
21 there s some of these cities and they need
22 help from the government to develop
23 potential lists in their area, places they
24 want to target to develop. And there s
25 grants that are going out to some of the

1 cities and tribes, folks, to look into
2 issues like this and try to build their own
3 programs. We assist those folks doing
4 that, supporting them in getting federal
5 grants. But we, at the DEQ, don't maintain
6 a list of sites other than people who come
7 to us (inaudible).

8 MR. GIVENS: Okay, thank you.

9 And by the way, thank you, Carl, for
10 operating the slides for us, since I can't
11 seem to even operate a remote control.

12 DR. GALVIN: Thank you, very
13 much, Jimmy. It's my understanding that we
14 do have to move for approval on this
15 report. I think we've had ample time for
16 discussion. Certainly, Jimmy asked for
17 questions, but if there are any further
18 questions or comments --

19 MR. DARK: So moved.

20 MR. DRAKE: I'll second Tony's
21 motion.

22 DR. GALVIN: The report has been
23 moved for approval and for adoption and
24 seconded. Mryna, would you do a roll call,
25 please.

1 MS. BRUCE: Ms. Cantrell.
2 MS. CANTRELL: 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. Mason.
10 MR. MASON: Yes.
11 MS. BRUCE: Ms. Rose.
12 MS. ROSE: Yes.
13 MS. BRUCE: Mr. Wendling.
14 MR. WENDLING: Yes
15 MS. BRUCE: Mr. Wuerflein.
16 MR. WUERFLEIN: Yes.
17 MS. BRUCE: Dr. Galvin.
18 DR. GALVIN: Yes.
19 MS. BRUCE: Motion passed.
20 DR. GALVIN: Thank you. The next
21 item on the agenda, Number 10, is
22 consideration of the Executive Director s
23 compensation. I would like to say that at
24 this time, there was a sub-team appointed
25 to look into that and that sub-team has not

1 had time to meet and discuss this issue.

2 So if the Board agrees, I would like to

3 bring that issue back to the Board at the

4 February 27th meeting and move through this

5 item on the agenda. Thank you.

6 Item Number 11 on the agenda is new

7 business. It is defined as any matter not

8 known about which could not have been

9 reasonably foreseen prior to the time of

10 posting of the agenda.

11 Does anyone know of any new business

12 that they would like to bring before the

13 Board?

14 MR. FITE: Can I make one more

15 comment?

16 DR. GALVIN: Yes, sir.

17 (Comment)

18 Dr. GALVIN: As a guest, we re

19 giving you special time.

20 MR. FITE: I m not going to say a

21 lot. In my attempt to banter with Steve,

22 Steve and I go back and forth on different

23 things. But on a serious note, I want you

24 to know that your Executive Director, I had

25 an opportunity to work with him as the

1 Director of the Scenic River Commission,
2 but I also had the opportunity to work with
3 him with the Solid Waste Institute in
4 northeast Oklahoma that s been here since
5 1989. And recently, served the last four
6 years on the State Water Resources Board.
7 And I m going to tell you that your
8 Executive Director and his team go up and
9 beyond what they re supposed to be doing to
10 try to lead (inaudible) for those who are
11 trying to work within the system.

12 Steve has helped my agency, his team
13 has helped my agency, I ve seen what
14 they ve been doing. He s taken the lead on
15 this Beneficial Use Monitoring Program,
16 which really is something the Water
17 (inaudible) in years past, but he is going
18 to the legislature on behalf of another
19 agency. He also has done so much with the
20 Solid Waste Institute, I don t know Kim if
21 you want to say anything, but his claim to
22 fame is because DEQ is a solid partner, and
23 Steve has made that happen.

24 And so a lot of people like to poke
25 fun at DEQ, that they re the regulators.

1 Bob Drake, you know, you and I have gone
2 back and forth on issues, but really Steve
3 tries to find the common ground between
4 parties, and that s what Bob and I have
5 been working on in the last year since he
6 took over the Farm Bureau. And you know,
7 those are things we need to be doing to
8 advance Oklahoma. And I publicly wanted
9 you to know that you ve got a wonderful
10 Director and he s got a wonderful team that
11 follows him around and helps him get things
12 done, and thank you for doing what you do.

13

14 MR. STEVE THOMPSON: Well, thank
15 you for the very kind words. I appreciate
16 that. There s not going to be anymore
17 money, but I do appreciate the kind words.
18 Thank you.

19 DR. GALVIN: Thank you. The next
20 item on the agenda is -- was listed or is
21 listed as the Executive Director s Report,
22 which we ve already had. So at this time,
23 the only remaining item is adjournment.

24 MR. DRAKE: Move adjournment,
25 please.

1 DR. GALVIN: So moved.
2 MR. DARK: Second that.
3 DR. GALVIN: Myrna.
4 MS. BRUCE: Ms. Cantrell.
5 MS. CANTRELL: Yes.
6 MS. BRUCE: Mr. Dark.
7 MR. DARK: Yes.
8 MS. BRUCE: Mr. Drake.
9 MR. DRAKE: Yes.
10 MS. BRUCE: Mr. Griesel.
11 MR. GRIESEL: Yes.
12 MS. BRUCE: Mr. Mason.
13 MR. MASON: Yes.
14 MS. BRUCE: Ms. Rose.
15 MS. ROSE: Yes.
16 MS. BRUCE: Mr. Wendling.
17 MR. WENDLING: Yes
18 MS. BRUCE: Mr. Wuerflein.
19 MR. WUERFLEIN: Yes.
20 MS. BRUCE: Dr. Galvin.
21 DR. GALVIN: Yes.
22 MS. BRUCE: Meeting adjourned.
23 DR. GALVIN: Thank you.
24 (Meeting Concluded)
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CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

