

MINUTES
ENVIRONMENTAL QUALITY BOARD
August 24, 2010
Redlands Community College
1300 S. Country Club Road
El Reno, Oklahoma 73036

EQB approved
November 16, 2010

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. at Redlands Community College, 1300 South Country Club Road, El Reno, 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 December 3, 2009 and amended on June 22, 2010 to change the location. The agenda was mailed to interested parties on August 12, 2010 and was posted at the Department of Environmental Quality on August 20, 2010. Brita Cantrell, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT

Brita Cantrell
Bob Drake
Jennifer Galvin
David Griesel
Jerry Johnston
Steve Mason
Sandra Rose
John Wendling
Richard Wuerflein

MEMBERS ABSENT

Mike Cassidy
Tony Dark
Terri Savage
Kerry Sublette

OTHERS PRESENT

Clayton Eubanks, Assistant Att’y General
David Branecky, AQAC Member
Lee Grater, HWMAC Chair
Rep. Phil Richardson
Christy Myers, Court Reporter

DEQ STAFF PRESENT

Steve Thompson, Executive Director
Jimmy Givens, Deputy Executive Director
Martha Penisten, General Counsel
Wendy Caperton, Administrative Services Div.
Catherine Sharp, Administrative Services Div.
Eddie Terrill, Air Quality Division
Judy Duncan, Customer Service Division
Gary Collins, Env. Complaints & Local Services
Scott Thompson, Land Protection Division
Shellie Chard-McClary, Water Quality Division
Fenton Rood, Land Protection Division
Rita Kottke, Land Protection Division
Monte Boyce, Administrative Services Div.
Roy Walker, Administrative Services
Jennifer Wright, Administrative Services
Myrna Bruce, Secretary, Board & Councils

The Attendance Sheet becomes an official part of these Minutes.

Approval of Minutes Ms. Cantrell, Chair, called for motion to approve minutes from the February 26, 2010 Regular Meeting. Mr. Johnston made the motion and Ms. Rose made the second.

transcript pages 5 - 6

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

Rulemaking – OAC 252:100 Air Pollution Control Mr. David Branecky, Air Quality Advisory Council Member, stated that the proposal would add a new Part 4, Biomedical Waste Incinerators, to Chapter 100, Subchapter 17, Incinerators. He added that the proposed rulemaking would include design requirements, emission standards and control

technology for this type of incinerator. Additionally, Mr. Branecky explained that the proposed rulemaking will close certain regulatory gaps in Subchapter 17, Part 7 (Hospital, Medical and Infectious Waste Incinerators) when pathological waste, low-level radioactive waste and chemotherapeutic wastes are incinerated. Following comments from Council and hearing no comments from the public, Ms. Cantrell called for a motion. Mr. Griesel moved approval and Mr. Drake made the second.

transcript pages 8 - 12

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

Rulemaking – OAC 252:220 and 252:221 Brownfields Mr. Lee Grater, Hazardous Waste Management Advisory Council Chair, advised that the proposal would revoke Chapter 220 and replace it with a new Chapter 221 and would modify and re-organize the current Brownfields rules to make them consistent with recent amendments to the Oklahoma Brownfields Voluntary Redevelopment Act, which eliminated permitting requirements for Brownfield program participants. The proposed changes also allow for timely expenditure of federal stimulus funds for Brownfields projects in Oklahoma. Ms. Rita Kottke, DEQ Brownfields Manager fielded questions and comments. Ms. Penisten, DEQ General Counsel explained that staff was recommending emergency and permanent adoption of the new Chapter 221 and emergency and permanent revocation of Chapter 220. Ms. Cantrell called for a motion for emergency adoption of Chapter 221. Mr. Drake made the motion and Mr. Mason made the second.

transcript pages 12 - 23

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

Ms. Cantrell called for a motion for permanent passage of Chapter 221. Mr. Mason made the motion and Dr. Galvin made the second.

transcript pages 24 - 25

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

For the emergency revocation of Chapter 220, Mr. Griesel made the motion and Mr. Wuerflein the second.

transcript pages 25 - 26

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

For consideration by the Board for permanent revocation of Chapter 220. Mr. Johnston made the motion and Ms. Rose made the second.

transcript pages 26 - 28

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

Rulemaking - OAC 252:4 DEQ Rules of Practice and Procedure Ms. Kottke stated that this proposal refers to the Uniform Permitting Act required the program to be defined in terms of tiers for permitting purposes in OAC 252:4, Part 5, Land Protection Division Tiers and Time Lines, and the DEQ proposed to revoke 252:4-7-61, 4-7-62 and 4-7-63, which were made obsolete by the recent amendments to the Oklahoma Brownfields Voluntary Redevelopment Act. Mr. Johnston made a motion for emergency adoption and Mr. Drake made the second.

transcript pages 28 - 30

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

For permanent adoption, Mr. Johnston made the motion and Ms. Rose made the second.

transcript pages 30 - 31

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

Consideration of and Possible Adoption of Resolution in Support of Recycling in Oklahoma Mr. Fenton Rood, Land Protection Division, provided information on recycling in Oklahoma for the Board to consider a Resolution in support of future legislation concerning beverage container recycling in Oklahoma. The adopted Resolution would then be forwarded to the Governor, the Speaker of the House, the President Pro Tempore of the Senate, and the Chair of the Senate Energy and Environment Committee by the DEQ. Following much discussion, Ms. Rose moved adoption of the Resolution and Mr. Drake made the second.

transcript pages 31 - 49

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

DEQ Operational Budget Request - Mr. Steve Thompson, Executive Director, provided a presentation outlining DEQ's budget requests to the Governor through the Office of State Finance which require approval of the Board. The operational budget request for State Fiscal Year 2012 (beginning July 1, 2011) must be submitted to the OSF by October 1st of

this year. The law requires that all state agencies submit a five-year budget. The request for the coming year, SFY 2012, is the most critical. Within the overall request for general revenue funds, DEQ will specifically request to restore funding for its Air Toxics program and for technical assistance for small communities. Following comments, Ms. Cantrell called for a motion of approval. Mr. Johnston made the motion and Mr. Mason made the second.

transcript pages 49 - 71

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

Disclosure of Employee Financial Interests Ms. Martha Penisten, General Counsel, reported as required by Title 27A Oklahoma Statutes Section 2-3-101(C) for informational purposes only. No action by the Board is required.

transcript pages 71 - 72

Executive Director's Report Mr. Thompson called on Mr. Jimmy Givens, Deputy Director, who provided a presentation related to the Office of Personnel Management Annual Report. He also provided an update on the legislative season.

transcript pages 75 - 98

Annual Performance Review of Executive Director Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the DEQ in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the DEQ. In connection with these responsibilities, the Board has determined that it should conduct its annual performance review of the Executive Director. Ms. Cantrell called for a motion to take the Executive Director annual performance review into Executive Session. Mr. Griesel made the motion and Ms. Rose made the second.

transcript pages 98 - 100

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

Mr. Wuerflein moved to reconvene from the Executive Session. Mr. Drake made the second.

transcript pages 100 - 101

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

Ms. Cantrell related that following discussion, the Board recommended a salary increase to be effective July 1, 2010. Mr. Griesel moved approval and Mr. Wendling made the second.

transcript pages 101- 106

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

Dates/Locations 2011 Calendar Year 2011 Board meeting dates and locations

Discussion led to the selection of the following dates/locations for Calendar Year 2011. February 25 at the DEQ; June 14 in Enid; August 23 in Tulsa; and November 15 in Norman.

transcript pages 106 - 108

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

New Business None

Next meeting November 16, 2010 in Stillwater

Adjournment Ms. Cantrell adjourned the meeting at 1:00 p.m.

The transcript becomes an official part of these Minutes.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 STATE OF OKLAHOMA
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9 TRANSCRIPT OF PROCEEDINGS
10 OF THE MEETING
11 ENVIRONMENTAL QUALITY BOARD
12 HELD ON AUGUST 24, 2010,
13 AT 9:30 AM
14 HELD IN EL RENO, OKLAHOMA
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MEMBERS OF THE BOARD

- BRITA CANTRELL - CHAIR
- TONY DARK - MEMBER
- DAVID GRIESEL - MEMBER
- JERRY JOHNSTON - VICE-CHAIR
- STEVE MASON - MEMBER
- SANDRA ROSE - MEMBER
- RICHARD WUERFLEIN - MEMBER
- KAROL SAVAGE - MEMBER
- KERRY SUBLETTE - MEMBER
- JOHN WENDLING - MEMBER
- JENIFER GALVIN - MEMBER
- BOB DRAKE - MEMBER

- STAFF
- STEVE THOMPSON - DIRECTOR
- JIMMY GIVENS - ATTORNEY
- CLAYTON EUBANKS - AG'S OFFICE
- MYRNA BRUCE - SECRETARY
- MARTHA PENISTEN - LEGAL

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PROCEEDINGS

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MS. CANTRELL: Good morning. The meeting is called to order.

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The August 24, 2010 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 December 3, 2010, and on June 22, 2010 to change the location. Agendas were mailed to interested parties on August 12, 2010 and posted at this facility and the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on August 20, 2010.

Only matters appearing on the posted Agenda may be considered today. 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 today's Agenda. And with that, Myrna, will

1 you please call the roll.

2 MS. BRUCE: Good morning. Mr.

3 Cassidy is absent, Mr. Dark is absent.

4 Mr. Drake.

5 MR. DRAKE: Here.

6 MS. BRUCE: Dr. Galvin.

7 DR. GALVIN: Here.

8 MS. BRUCE: Mr. Griesel.

9 MR. GRIESEL: Here.

10 MS. BRUCE: Mr. Johnston.

11 MR. JOHNSTON: Here.

12 MS. BRUCE: Mr. Mason.

13 MR. MASON: Yes.

14 MS. BRUCE: Ms. Rose.

15 MS. ROSE: Here.

16 MS. BRUCE: Ms. Savage is absent.

17 Dr. Sublette is absent.

18 Mr. Wendling.

19 MR. WENDLING: Here.

20 MS. BRUCE: Mr. Wuerflein.

21 MR. WUERFLEIN: Here.

22 MS. BRUCE: Ms. Cantrell.

23 MS. CANTRELL: Here.

24 MS. BRUCE: And we do have a

25 quorum.

1 MS. CANTRELL: Thank you, Myrna.

2

3 With that, we have -- the item on
4 the Agenda is the Approval of the February
5 26, 2010 Meeting Minutes. I believe those
6 were distributed to the Board in the
7 packet.

8 Do we have a motion?

9 MR. JOHNSTON: Move to approve.

10 MS. CANTRELL: Is there a second?

11 DR. GALVIN: Second.

12 MS. CANTRELL: All in favor?

13 Roll call, please, Myrna.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Dr. Galvin.

17 DR. GALVIN: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Johnston.

21 MR. JOHNSTON: Yes.

22 MS. BRUCE: Mr. Mason.

23 MR. MASON: Yes.

24 MS. BRUCE: Ms. Rose.

25 MS. ROSE: Yes.

1 MS. BRUCE: Mr. Wendling.

2 MR. WENDLING: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Ms. Cantrell.

6 MS. CANTRELL: Yes.

7 MS. BRUCE: And thank everyone
8 for that also.

9 MS. CANTRELL: Thank you, Myrna.

10 And now before we go on further on the
11 agenda, our Director, Steve Thompson, has a
12 few items.

13 MR. THOMPSON: First of all,
14 welcome to El Reno. I am resident and
15 proud resident of El Reno and proud
16 graduate of El Reno High School as are
17 other Members of the Board, Sandra Rose --

18 MR. JOHNSTON: And an outstanding
19 alumni.

20 MR. THOMPSON: Well, that too.
21 Jerry, apparently the Board that picked me
22 is an outstanding alumni didn't know me in
23 my youth, they must -- must have recently
24 moved to El Reno.

25 Ms. Rose and Mr. Griesel also

1 residents and natives of the area. And I
2 just wanted to give a sense of the kind of
3 town that El Reno is.

4 El Reno is the kind of town that
5 will -- whose citizens will do anything for
6 a good cause. And as evidence of that, I
7 want to pass this item around to you for
8 your review.

9 (Passed out item)

10 MR. THOMPSON: If you will look
11 at the pictures on the second page, the
12 fellow in the upper left-hand corner is the
13 Mayor of El Reno.

14 The gentleman in the upper
15 right-hand corner with the big glasses is
16 my college roommate and the best man at my
17 wedding. And I think if you look closely
18 at the person in the bottom picture, you
19 might recognize him also.

20 So I thought this was appropriate to
21 give the Board a sense of the kind of
22 people that we have in El Reno.

23 MR. JOHNSTON: You look pretty
24 good with hair, David.

25 MR. GRIESEL: Thank you, very

1 much.

2 MR. THOMPSON: Thank you.

3 MS. CANTRELL: Well, thank you to
4 the folks at Redland's Community College.

5 Do we have any representatives of the
6 College joining us today for this meeting?

7 Well, it's a lovely facility. And
8 very nice not only to be in El Reno with
9 the esteemed alums of Steve Thompson and
10 David Griesel and Sandra Rose, but also to
11 be at this facility. It's nice to see this
12 school.

13 Let's go on then to the first item
14 of rulemaking on our agenda.

15 The first item comes to us from the
16 Air Quality Council. And it's an air
17 pollution control rulemaking agenda item.

18 Good morning.

19 MR. BRANECKY: Good morning,
20 Madam Chair, Members of the Board. What
21 the Air Quality Advisory Council is
22 bringing you today is a revision to chapter
23 100, subchapter 17.

24 What we're doing, we're proposing to
25 amend subchapter 17 to add an additional

1 part, Part 4, dealing with bio-medical
2 waste incinerators.

3 Currently there are two incinerators
4 in the state; one in Oklahoma City, and one
5 in Stroud. They are currently permitted
6 had to be -- current operating permits.
7 But when in 2007 subchapter 41 which dealt
8 with the type of the emissions from the
9 incinerators was revoked, there was a
10 little bit of a void so we needed to bring
11 back a new rule to cover that and also
12 there was some regulatory gaps in
13 subchapter 17 that we needed to address.

14 That's the purpose of the rule. And
15 if you look, I wanted to make one
16 correction. If you look at the rule, I
17 think it was in your packet, it's a totally
18 new rule. The last part 3, on the second
19 page, is not underlined, that is also new.
20 Jut didn't get it underlined during the
21 process. So the whole thing is new. Like
22 I said, we have two facilities in the state
23 and this will address those facilities and
24 any new facilities that may decide to
25 locate in the state. This is not a high

1 probability for any new facility just
2 coming into the state, but in case there
3 is, then we'll have a rule in place to
4 address those.

5 With that, the Air Quality Council
6 reviewed this in October of last year, and
7 in January and April of this year. And
8 we're asking the Board to pass it as a
9 permanent rule.

10 MS. CANTRELL: Thank you very
11 much. Are there any questions from the
12 Board?

13 I have a question.

14 MR. BRANECKY: Yes.

15 MS. CANTRELL: Why were these
16 requirements revoked in 2007?

17 MR. BRANECKY: Well, subchapter
18 41 just dealt with air toxics, that whole
19 rule has been revoked and redone. But
20 there wasn't any gap because these
21 facilities had permits. And in the permits
22 it spelled out the requirements to meet the
23 emission limits. So it may look like even
24 though we revoked subchapter 41 in 2007
25 that there was a gap, there was not,

1 because the permits were still in place for
2 these facilities.

3 MS. CANTRELL: Thank you.

4 Hearing no questions, is there a
5 motion?

6 MR. GRIESEL: So moved.

7 MS. CANTRELL: Is there a second?

8

9 MR. DRAKE: Second.

10 MS. CANTRELL: Myrna, will you
11 please take a roll call vote?

12 MS. BRUCE: Mr. Drake.

13 MR. DRAKE: Yes.

14 MS. BRUCE: Dr. Galvin.

15 DR. GALVIN: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: 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: Ms. Cantrell.

4 MS. CANTRELL: Yes.

5 MS. BRUCE: Motion passed.

6 MS. CANTRELL: Thank you, Mr.
7 Branecky.

8 Our next item of rulemaking is Item
9 5 on our Agenda pertaining to Brownfields.
10 And I believe we have Lee Grater, who is
11 present to make that presentation.

12 MR. GRATER: On April 22, the
13 Hazardous Waste Council unanimously
14 approved the proposed rulemaking to the DEQ
15 Brownfield Program with one minor change
16 regarding approved definition of resources
17 for terms not defined in the rule.
18 Actually there were some things that EPA
19 put in the rule that wasn't adequately
20 defined.

21 Rule changes were prompted by the
22 2009 legislative changes to the Oklahoma
23 Brownfield Voluntarily Redevelopment Act in
24 DEQ's formal transitioning of its
25 Brownfield Revolving Loan Program to assert

1 the --

2 MS. CANTRELL: Mr. Grater, if you
3 wait just a minute, I'm afraid maybe your
4 microphone is not on.

5 MR. GRATER: Usually, people say
6 I'm too loud.

7 Should I start over?

8 MS. CANTRELL: If you don't mind.

9 MR. GRATER: Okay. On April 22,
10 2010, the Hazardous Waste Council
11 unanimously approved the proposed rule
12 changes to the DEQ Brownfield Program with
13 one minor change regarding approved
14 definition of resources for terms not
15 defined in the rule.

16 Essentially, EPA made some
17 references that were not adequately
18 defined.

19 The rule changes were prompted by
20 the 2009 legislative changes to the
21 Oklahoma Brownfield Voluntary Redevelopment
22 Act in DEQ's formal transitioning of its
23 Brownfield Revolving Loan Program to assert
24 the 104K loan (inaudible).

25 DEQ transitioned a loan fund in

1 order to be eligible for the American
2 Recovery and Reinvestment Act in the annual
3 Brownfield Revolving Loan Fund Supplemental
4 Funding.

5 The legislative changes to the
6 Brownfield law include definitional changes
7 for the Brownfield certificates and
8 specifically amend what's clarified in the
9 certificates are not permits as defined in
10 27A OS Section 214-103.

11 The new requirements for adequate
12 sites -- for adequate site
13 characterization, new requirements for
14 institutional controls, long-term
15 stewardship plans and long-term compliance
16 with the industrial controls. Provisions
17 for DEQ to audit the sites for compliance
18 with the certificates is also in the rule.

19 The proposed rule changes include
20 revocation of 252:220, the current rules;
21 and revocation of 252:4-7-61 through
22 252:4-7-63, defining the permitting tiers
23 for the program.

24 The proposal of a new chapter
25 252:221 for Brownfield rules includes a new

1 administrative structure for the program to
2 replace the former administrative
3 requirements for the permitting rules.
4 Implementation of requirements for the
5 legislative changes, administration changes
6 to the revolving loan fund to comply with
7 the requirements of CERCLA 104K; provisions
8 for sub-grants for the revolving loan form.

9 The changes to the program rules are
10 all administrative in nature and are not
11 substantive. The characterization, risk
12 evaluation and cleanup requirements for the
13 program remain the same.

14 The changes are intended to
15 implement the legislative amendments and to
16 make the process less cumbersome for
17 program participants.

18 DEQ and the Hazardous Waste Council
19 requests the Environmental Quality Board
20 find that in the public's interest it would
21 be best served by immediate implementation
22 of the proposed emergency rules. Due to
23 winter weather, the Hazardous Waste Council
24 was unable to be meet the January and
25 February time frame. Provisions for the

1 rules will allow DEQ to distribute over 1.9
2 -- five million dollars in American
3 Recovery and Reinvestment Act Funding. DEQ
4 must make responsible progress in
5 distributing the ARRA funds by the end of
6 the calendar year or risk losing the funds.

7 Questions?

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

10 MR. MASON: I have a question.

11 It's my understanding that currently the
12 Department is reviewing both grants and
13 revolving loan fund requests. And there's
14 a lot of detail in here about the revolving
15 loan fund criteria. Where are the criteria
16 that are being used for the grants?

17 MR. GRATER: I will defer to
18 Rita.

19 MS. KOTTKE: I'm Rita Kottke, I'm
20 the Brownfield Manager, DEQ. The question
21 is how the --

22 MR. MASON: The question is that
23 in these rules there's quite a bit of
24 detail about the criteria for the revolving
25 loan fund. But I can't find any criteria

1 for the grants.

2 MS. KOTTKE: It's the same.

3 MR. MASON: But it doesn't say
4 that. It says revolving loan funds.

5 MS. KOTTKE: I'm sorry.

6 (Inaudible) loan -- it has, slash, grant.
7 And each time you see borrower, it has,
8 slash, grantee. So all the requirements
9 are the same for both.

10 MR. MASON: Thank you.

11 MS. CANTRELL: And actually while
12 you're there, a question on the funds in
13 our October deadline. This really has to
14 do with the Board's charge to find an
15 emergency with regard to this rule. Would
16 you explain what is at stake with this
17 October deadline?

18 MS. KOTTKE: The American
19 Recovery Reinvestment Act funds came with a
20 deadline and EPA wants to see reasonable
21 progress by the end of the first year which
22 would be December -- the end of the federal
23 fiscal year they're going to start pulling
24 funds from non-active grants.

25 In other words, if we don't perform,

1 EPA takes the money back and gives it to
2 someone else. And they gave us a year to
3 make our first grant or our first loan.

4 MS. CANTRELL: Okay. Thank you.

5 Any further questions?

6 MR. MASON: I have a second
7 question. In the history of the Brownfield
8 program there's been some suggestions that
9 because it tends to be -- previously had
10 occurred under the rulemaking process and
11 was cumbersome and there was more of a
12 desire to (inaudible) more just to -- less
13 permit driven and more just (inaudible).
14 Is that in here?

15 MS. KOTTKE: The legislation
16 itself says that -- it redefines the
17 permits saying -- redefines the certificate
18 as not being subject to the Uniform
19 Permitting Act. So what we did was since
20 all the administrative requirements are
21 program depending on Uniform Permitting Act
22 we had to recreate the administrative
23 requirements. I'm not sure that answers
24 your question.

25 But it's less cumbersome we hope,

1 and it kind of balances the need to perfect
2 the environment and make sure all the
3 substantive part of the programs are
4 adhered to. But at the same time trying to
5 be responsive to the customers of the
6 program.

7 MR. MASON: Okay.

8 MS. CANTRELL: Any further
9 questions?

10 MR. DRAKE: Understanding that
11 we're revoking 252:220 and passing 252:221,
12 I'm assuming to make things easier and
13 there hasn't been a whole lot of change in
14 anything we're doing, I would make a motion
15 that we accept this as presented.

16 MS. CANTRELL: There's a motion
17 on the floor to pass the proposal as
18 presented.

19 MR. MASON: Is this the emergency
20 or permanent that we're voting?

21 MS. CANTRELL: First, we'll need
22 to make a finding of emergency and the
23 Board will have to approve the emergency
24 status of this rule and then we'll go from
25 there to a vote on the rule itself.

1 MR. MASON: I will second Mr.
2 Drake's motion.

3 MR. DRAKE: Based on -- and I
4 will make it an emergency.

5 MS. CANTRELL: What we are then
6 -- the question on the floor then for the
7 Board is the, first of all, the emergency
8 status. And the Board will need to make a
9 finding of an emergency situation that
10 requires passing this bill as an emergency
11 measure, and we're talking specifically
12 about revoking Chapter 220 and replacing it
13 with a new
14 Chapter 221. In the materials that were
15 provided to us by the DEQ, you see the
16 analyses that sets forth the reason for the
17 emergency and you've also heard a
18 description from Mr. Grater regarding the
19 emergency status of the bill that has to do
20 with funding that will -- the opportunity
21 for funding that will terminate in October
22 of this year, 2010, prior to our next Board
23 meeting.

24 Are there any questions from the
25 Board regarding the issue on the table

1 which is finding that this is an emergency
2 measure?

3 Are there any questions or comments
4 from the public?

5 Mr. Wuerflein.

6 MR. WUERFLEIN: Just for
7 clarification. My packet had like
8 duplications of all this. Did they print
9 out the whole rule for permanent enactment
10 and emergency enactment? The only thing I
11 could see different was the cover page; one
12 of them had permanent adoption and one has
13 emergency adoption. Was there some other
14 changes involved with one of those that I
15 didn't catch?

16 MS. PENISTEN: I think I can help
17 with that. Yes. There is -- there should
18 be in total six sets of documents.

19 One for emergency adoption of
20 Chapter 221, that's the new chapter;
21 permanent adoption of 221; emergency
22 revocation of Chapter 220, that's the
23 existing chapter; permanent revocation of
24 220; and then the same thing for the
25 Chapter 4 amendments.

1 MS. CANTRELL: To set the
2 framework and for further clarification
3 would it be your recommendation, then, that
4 we proceed first with an emergency finding
5 with respect to the revocation of 220 and
6 then move from there to a permanent finding
7 of the revocation of 220, followed by an
8 emergency passage of 221, followed by a
9 permanent passage of 221. Would that be
10 the correct procedure for the Board to
11 follow?

12 MS. PENISTEN: I think that would
13 be fine. My legal mind says to adopt the
14 new chapter before you revoke the old --
15 the existing chapter in case we're struck
16 by lightning or something like that.

17 MR. DRAKE: Then my motion
18 stands.

19 MS. CANTRELL: To repeat the
20 motion on the floor; the motion on the
21 floor is the emergency passage of 221 that
22 is before you, in your packets, and the
23 specific item on the floor is the finding
24 of an emergency with respect to that
25 proposed rulemaking.

1 And we've had a motion by Mr. Drake.

2 Did we have a second?

3 DR. GALVIN: Yes. Steve Mason.

4 MS. CANTRELL: Any further
5 questions?

6 Myrna, I think we're ready for a
7 vote on the emergency passage of Section
8 221 -- I should say Chapter 221.

9 MS. BRUCE: Mr. Drake.

10 MR. DRAKE: Yes.

11 MS. BRUCE: Dr. Galvin.

12 DR. GALVIN: Yes.

13 MS. BRUCE: Mr. Griesel.

14 MR. GRIESEL: Yes.

15 MS. BRUCE: Mr. Johnston.

16 MR. JOHNSTON: 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: Ms. Cantrell.

1 MS. CANTRELL: Yes.

2 MS. BRUCE: Motion passed.

3 MS. CANTRELL: Following advice
4 of counsel, the second item now for
5 consideration is the permanent passage of
6 the same Chapter 221, which is before the
7 Board for consideration.

8 Do we have any questions regarding
9 the permanent passage of Chapter 221?

10 Do we have a motion?

11 MR. MASON: I move approval.

12 MS. CANTRELL: Do we have a
13 second?

14 DR. GALVIN: Second.

15 MS. CANTRELL: We have a motion
16 and a second, and we are ready for a vote.

17

18 MS. BRUCE: Mr. Drake.

19 MR. DRAKE: Yes.

20 MS. BRUCE: Dr. Galvin.

21 DR. GALVIN: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

1 MS. BRUCE: Mr. Mason.

2 MR. MASON: Yes.

3 MS. BRUCE: Ms. Rose.

4 MS. ROSE: Yes.

5 MS. BRUCE: Mr. Wendling.

6 MR. WENDLING: Yes.

7 MS. BRUCE: Mr. Wuerflein.

8 MR. WUERFLEIN: Yes.

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Motion passed.

12 MS. CANTRELL: Thank you, Myrna.

13 The next topic that is before the Board is
14 the finding of an emergency to revoke
15 Chapter 220 as presented by the Council.

16 Are there any questions regarding
17 finding an emergency to revoke Chapter 220?

18

19 Is there a motion?

20 MR. GRIESEL: So moved.

21 MR. WUERFLEIN: Second.

22 MS. CANTRELL: There's been a
23 motion and a second to find -- moving to
24 find that it is appropriate to revoke
25 Chapter 220 on an emergency basis.

1 I think we're ready for a vote.

2 MS. BRUCE: Mr. Drake.

3 MR. DRAKE: Yes.

4 MS. BRUCE: Dr. Galvin.

5 DR. GALVIN: Yes.

6 MS. BRUCE: Mr. Griesel.

7 MR. GRIESEL: Yes.

8 MS. BRUCE: Mr. Johnston.

9 MR. JOHNSTON: Yes.

10 MS. BRUCE: Mr. Mason.

11 MR. MASON: Yes.

12 MS. BRUCE: Ms. Rose.

13 MS. ROSE: Yes.

14 MS. BRUCE: Mr. Wendling.

15 MR. WENDLING: Yes.

16 MS. BRUCE: Mr. Wuerflein.

17 MR. WUERFLEIN: Yes.

18 MS. BRUCE: Ms. Cantrell.

19 MS. CANTRELL: Yes.

20 MS. BRUCE: That motion passed.

21 MS. CANTRELL: And with respect

22 to this portion of the Brownfield Rules,

23 the next item for consideration by the

24 Board is the permanent revocation of

25 Chapter 220 as presented by the Council.

1 That is the item currently before the
2 Board.

3 Are there any questions regarding
4 permanent revocation?

5 Is there a motion?

6 MR. JOHNSTON: So moved.

7 MS. CANTRELL: A second?

8 MS. ROSE: Second.

9 MS. CANTRELL: I believe we're
10 ready for a vote on that item when you get
11 a chance, Myrna.

12 MS. BRUCE: Mr. Drake.

13 MR. DRAKE: Yes.

14 MS. BRUCE: Dr. Galvin.

15 DR. GALVIN: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: 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: Ms. Cantrell.

4 MS. CANTRELL: Yes.

5 MS. BRUCE: Motion passed.

6 MS. CANTRELL: Thank you, Myrna.

7 We now move, I believe, to Item 6 on
8 the Agenda and Mr. Grater we are now, I
9 believe, before you with OAC 252:4 which
10 has to do with the permitting requirements.

11 MS. KOTTKE: Are you referring to
12 the tiers?

13 MR. THOMPSON: Yes, tiers and
14 time lines.

15 MS. KOTTKE: Okay. What that
16 refers to is under the Uniform Permitting
17 Act. We had to define our program in
18 tiers; Tier 1, 2 and 3. So we're just
19 revoking that since the Uniform Permitting
20 Act no longer applies.

21 MS. CANTRELL: And this is also
22 being presented for emergency adoption; is
23 that correct?

24 MS. KOTTKE: Yes.

25 MS. CANTRELL: Are there any

1 questions by the Board? Are there any
2 questions from those in the audience? And
3 as before, the first item before the Board
4 is a finding that this needs to be passed
5 on an emergency basis.

6 Do we have a motion?

7 MR. JOHNSTON: So moved.

8 MS. CANTRELL: Do we have a
9 second?

10 MR. DRAKE: Second.

11 MS. CANTRELL: We have a motion
12 and a second. And I believe, Myrna, we're
13 ready for a vote.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Dr. Galvin.

17 DR. GALVIN: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Johnston.

21 MR. JOHNSTON: Yes.

22 MS. BRUCE: Mr. Mason.

23 MR. MASON: Yes.

24 MS. BRUCE: Ms. Rose.

25 MS. ROSE: Yes.

1 MS. BRUCE: Mr. Wendling.

2 MR. WENDLING: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Ms. Cantrell.

6 MS. CANTRELL: Yes.

7 MS. BRUCE: Motion passed.

8 MS. CANTRELL: Thank you. The

9 remaining item with respect to Brownfields
10 is the same passage that is before you and
11 the consideration for the Board is passage
12 on a permanent basis.

13 Are there any questions regarding
14 the permanent passage of this item?

15 Do we have a motion?

16 MR. JOHNSTON: So moved.

17 MS. ROSE: Second.

18 MS. BRUCE: Mr. Drake.

19 MR. DRAKE: Yes.

20 MS. BRUCE: Dr. Galvin.

21 DR. GALVIN: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

1 MS. BRUCE: Mr. Mason.

2 MR. MASON: Yes.

3 MS. BRUCE: Ms. Rose.

4 MS. ROSE: Yes.

5 MS. BRUCE: Mr. Wendling.

6 MR. WENDLING: Yes.

7 MS. BRUCE: Mr. Wuerflein.

8 MR. WUERFLEIN: Yes.

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Motion passed.

12 [Off-the-record Discussion]

13 MS. CANTRELL: Thank you. All

14 right. Thank you, Mr. Grater. Now we are

15 moving on to Item 7 on our Agenda, which is

16 a recycling proposal. I believe -- is

17 Fenton Rood here today?

18 And there is Fenton. Good morning.

19

20 MR. ROOD: Good morning. I'm

21 Fenton Rood. Your proposed resolution

22 deals with deposit container legislation

23 and I was asked to present you with an over

24 bill of the legislative concepts. It is

25 commonly called a Bottle Bill because it

1 was originally passed in an era when that
2 was the principal beverage container. And
3 so we'll just go over in general how
4 various states' programs function.

5 We have ten states today that have
6 deposit container legislation, and
7 basically what this means is that you and I
8 as consumers, whenever we buy a beverage
9 that's covered, we also pay a deposit on
10 the container and that deposit is refunded
11 to us when we return that container.

12 So deposit container system involves
13 the fundamental consumers. It typically
14 involves either the retailer or some
15 alternate recycling center and then the
16 reprocessing or remanufacturing the
17 container material.

18 The advocates that support this
19 cites reductions in litter; promotion of
20 recycling and especially from the point of
21 view of the industries that want the
22 material to recycle, it does tend to
23 produce a higher quality industrial raw
24 material.

25 The people who generally oppose this

1 type of legislation are typically the
2 businesses that sell us the beverages, the
3 businesses that produce the beverages, and
4 historically the businesses that make the
5 beverage containers. Now that is beginning
6 to change, especially in Oklahoma.

7 If you study this map correctly and
8 you know where to find Delaware, you will
9 find that we've actually got 11 red states
10 identified instead of ten. This would have
11 been accurate if I'd given you this
12 presentation when you were originally
13 scheduled to hear it, in the meantime
14 Delaware has changed their program. They
15 no longer have deposit container
16 legislation, that was replaced in Delaware
17 with mandatory curbside recycling.

18 In looking at the different types of
19 approaches, I wanted to focus first on
20 Michigan which was the second state to
21 adopt deposit container legislation in
22 1976. You can see that ten cents is the
23 typical container deposit and as a
24 customer, after I drink my beverages, in
25 Michigan I will take them back to the store

1 where I bought them. And we're not all
2 perfect. All the beverage containers don't
3 always make it back, and 25 percent of the
4 extra deposits that are not claimed in
5 Michigan get to be retained by the
6 retailers.

7 In Michigan the program is operated
8 through a system of reverse vending
9 machines. Here is an example. And this
10 cost is imposed on the retailer.

11 In California, note that they passed
12 their statute 11 years after Michigan.
13 They tweaked the deposit system a little
14 bit and there was great concern that not
15 all of the retailers wanted to be recycling
16 centers for the empty containers and so
17 California set up a system of redemption
18 either through the retailer or through a
19 certified recycling center. And as a
20 result of this type of system they had to
21 create it such that the deposits flowed to
22 the state and then the state administers
23 the program. And here's an example of a
24 typical recycling center that is not
25 associated with a retailer and they are

1 obviously all over the state of California.
2 The experience in all the deposit container
3 states is that the recycling rates for the
4 material increased dramatically and that's
5 especially true for glass and plastic,
6 which are the low value items in the
7 recycling stream for deposit containers.

8 And again, you can look at national
9 performance here and see that the lionshare
10 of beverage container recycling does come
11 from the ten or in this case 11 because the
12 data included Delaware [inaudible].

13 We're trying to recycle plastic
14 bottles in Oklahoma. I know that OEMA, the
15 public trust that operates the system here
16 in El Reno has a recycling program for
17 plastic bottles. But this clearly
18 indicates that virtually all of the plastic
19 bottle recycling is coming out of deposit
20 states because the deposit creates that
21 mechanism that provides the incentive to
22 bring it back to the recycle channel.

23 Aluminum tends to be the highest
24 value commodity in the recycling stream and
25 even when premium price is offered for

1 aluminum recycling we still have far better
2 performance from deposit states.

3 Now this is the reason that we're
4 actually considering this in Oklahoma
5 because the deposit proposal is being
6 advanced by the state's glass industry. We
7 have three glass container plants left in
8 Oklahoma and from their point of view
9 recycled glass is their cheapest raw
10 material and their business problem about
11 being located in Oklahoma, they are here
12 because originally we had cheap natural gas
13 but their problem today is that none of
14 their markets are in Oklahoma so they have
15 to make their glass containers and ship
16 them elsewhere. So they are looking for
17 ways to reduce their costs.

18 One of the examples that the glass
19 industry presents from one of the companies
20 is that their plant in Massachusetts, which
21 happens to be the furthest away from their
22 raw material which is located in Wyoming,
23 has the lowest production price and that is
24 -- or the lowest production cost and that
25 is because Massachusetts is a deposit state

1 and most of what they manufacture at the
2 Massachusetts plant is made from recycled
3 glass instead of from the raw material from
4 Wyoming.

5 So that's basically an overview of
6 how it operates. I think that your
7 resolution contemplates a general concept
8 as opposed to specifics. Because clearly
9 if anything advances in Oklahoma it will
10 have to be negotiated between the glass
11 industry and the chief opponents right now,
12 which tend to be the convenience stores
13 that don't want to become the recycling
14 centers.

15 Thank you, very much.

16 MS. CANTRELL: Thank you, Fenton.

17

18 MR. THOMPSON: The glass industry
19 introduced a bill last year in the
20 Legislature that was met with the --
21 typically those folks that opposed it.
22 That legislation ultimately was withdrawn.
23 The glass industry has retained a
24 government relations expert, some people
25 call them lobbyist, but in any event they

1 retained a person and I've had a couple of
2 conversations with him, both, as the
3 legislation was introduced and after it
4 didn't move forward or whatever happened
5 with it. And I expressed to him that there
6 was a long and sad history of bottle bills
7 in the state of Oklahoma that had been --
8 that had run into opposition, and in order
9 for the glass industry to move this forward
10 they were going to have to overcome that
11 opposition.

12 There was a sense by the -- those
13 folks that it might be helpful if this
14 Board had a resolution that would in
15 concept promote the idea of glass and
16 aluminum and plastic recycling. In sort of
17 working on the language, we tried to
18 acknowledge that issue in the fourth
19 "Whereas Clause" where it says, Whereas for
20 a beverage container law to be successful
21 it must be as convenient as possible for
22 consumers, those redeeming the material and
23 manufactures.

24 So that is language that -- well, I
25 tried to incorporate into the resolution

1 that addresses this issue. I think that
2 the glass industry is taking a somewhat
3 different tack than they've previously been
4 taking. They are moving this issue forward
5 as an economic development or as a
6 retention of current facilities issue. I
7 suspect that that will have more traction
8 ultimately than past attempts. It is the
9 intent of their government relations person
10 to work with the effected -- with those
11 that have typically been opposed to it to
12 come to some as much -- to some
13 accommodation on their issues. And I
14 believe that -- I believe that they will
15 work with them whether they come to some
16 accommodation, that remains to be seen.

17 But it is in that context that this
18 idea of a resolution in support of beverage
19 container deposit legislation is brought.

20 I guess with that, Fenton or I, will
21 try to answer any questions that you have.

22 MR. JOHNSTON: I have a question.
23 My son is a vendor in Oklahoma, and the
24 decal cost that they put on at the end of
25 the session cost their company \$400,000.00

1 just for new decals on their machine.

2 Here is says the Michigan retailers
3 imposed costs depending upon retailers,
4 average reverse vending machine cost them
5 \$15,000.00. What does a reverse vending
6 machine cost -- what does the mean?

7 MR. ROOD: The Michigan system is
8 based on the reverse vending machine that
9 is located at the retailer. And it is
10 literally a vending machine that takes your
11 containers back. It operates through the
12 barcode that is on every container.

13 MR. WUERFLEIN: Does the retailer
14 retain something for their handling of this
15 stuff -- the material or is it just an
16 added expense to buy that reverse recycling
17 machine to comply with the law?

18 MR. ROOD: It depends on the
19 approach of the individual states. And
20 that is obviously a detail that the parties
21 would have to negotiate. The most recent
22 deposit container laws provides some
23 compensation for the retailers. The
24 earlier laws did not.

25 MR. THOMPSON: I think as they

1 negotiate this thing, this business of
2 convenience for retailers and for others,
3 that compensation has to be a part of the
4 language in any -- any bill that goes
5 forward. So I think that's probably a very
6 important piece of the negotiation that
7 will go on, on this bill between the glass
8 industry and the convenience stores.

9 MR. WUERFLEIN: So that will be
10 one of the practical matters, the details,
11 we're just supporting the general idea of a
12 recycling bill but not any particular
13 practices.

14 MR. THOMPSON: No. And I think
15 that is also a piece of this provision that
16 it has to be -- and this is in very general
17 terms -- as convenient as possible.
18 Convenience can mean the physical
19 convenience of going through the recycling
20 process; in a broader term convenience can
21 mean compensation for doing the activity.
22 I'm not, and I don't know that we are
23 experts on the economics of this thing how
24 the economics work out so that it is both
25 profitable to the glass industry and the

1 convenience stores get the compensation
2 they need to be able to do it. I'm
3 unfamiliar with that. But that will be
4 very much one of the key issues that will
5 have to be determined. But this doesn't
6 address that. It just says we think that
7 recycling is a good idea. We understand
8 that it has to be convenient for folks that
9 are going to -- for both the public, the
10 retailers, and the manufacturers and it is
11 in that context that the Board would
12 support, in my view, in the language of the
13 resolution, it would be in that context
14 that the Board would support the motion of
15 bottle recycling.

16 MR. JOHNSTON: Is this a good
17 time when we're fighting for survival to
18 have the National Grocers Association and
19 American Beverage Association and National
20 Beer Wholesaler, can manufacture,
21 (inaudible) counsel against us? It's just
22 a question.

23 MR. THOMPSON: Well, it -- your
24 question sort of presupposes and maybe
25 that's a good assumption, that they won't

1 be able to work this issue out. I'm not
2 convinced -- I think that the glass
3 industry, in my conversation with them,
4 understands that concessions will have to
5 be made to satisfies those issues.

6 So while this resolution may support
7 a concept, it does not necessarily support
8 any piece of legislation that might be
9 introduced, that might be looked at on with
10 disfavor by those folks.

11 MR. JOHNSTON: I was just talking
12 about (inaudible).

13 MR. THOMPSON: I understand. I
14 understand.

15 MS. CANTRELL: Fenton, in talking
16 with your colleagues in the states of
17 California and Michigan who have announced
18 they are veterans of this type of a
19 program, do they have any wisdom as to --
20 with very different demographics in both
21 states, do they have any wisdom as to how
22 to present these sorts of proposals and
23 what are the issues that are likely to
24 confront Oklahoma in pursuing a recycling
25 bill?

1 MR. ROOD: Well, if I could offer
2 my personal opinion as opposed to those of
3 my colleagues, it looks to me like if there
4 is a compromise it's going to have to be
5 fashioned more after the California
6 approach than the Michigan approach.

7 MS. CANTRELL: And what is the
8 strength of the California approach? Is
9 that providing compensation to the
10 retailers?

11 MR. ROOD: There is that but
12 probably the most significant aspect is
13 that it does not require retailers to be
14 the recycling center. It sets up another
15 mechanism to designate recycling centers.

16 MR. GRIESEL: I think at this
17 point in time we have an industry in the
18 state that has three processing facilities.
19 Currently they import into Oklahoma about
20 14 percent of the material needed to
21 produce the glass bottles that they
22 produce. And that material, Fenton, comes
23 from, was it Iowa?

24 MR. ROOD: Wyoming.

25 MR. GRIESEL: Wyoming. Was that

1 the recycle content material?

2 MR. ROOD: No. That's the raw
3 sand. The sand that they make glass with.

4

5 MR. GRIESEL: Actually the
6 recycle content of 14 percent they bring in
7 from another state is from Iowa, isn't it?

8 MR. ROOD: Mostly from deposit
9 states. Yes.

10 MR. GRIESEL: Yes. And their
11 cost of operation will actually lower if we
12 have something in place in Oklahoma that
13 will supply them with a glass (inaudible).
14 And right now, if I'm not mistaken, from
15 what the glass industry individuals in the
16 state have said, it's hard for them to keep
17 the plants in there, and thus, those
18 employees in the state if they are
19 continually having to ship the recycle
20 product as well as the raw material into
21 the state. I think from being in other
22 states that actually have these deposit
23 legislations, they are actually cleaner
24 states than Oklahoma. They have less
25 roadside litter. I'm not sure about the

1 exact dollar amount but the Oklahoma
2 Department of Transportation spends a
3 tremendous amount of money every year in
4 picking up roadside litter off the
5 highways. The cost to counties in the
6 state as far as damage to tires on their
7 equipment, mowing the ditches, is very
8 high, due to people throwing glass bottles
9 out. So at minimum, I think we should be
10 supportive of a resolution concerning
11 glass, since we have an industry with three
12 plants that we could say we risk of losing
13 those employees. At minimum we should look
14 at supporting glass deposit legislation.

15 MS. CANTRELL: Any further
16 questions? Mr. Drake.

17 MR. DRAKE: Madam Chairman, I'm
18 not usually one that would want to add to a
19 burden of the retailers. Jerry and I, grew
20 up with deposit bottles. Some of you
21 probably didn't. You might have been on
22 the edge of it. It was a lot cleaner.
23 Glass is not mentioned here, it does say,
24 by the way, beverage containers. It will
25 clean up everything. I have trouble

1 speaking in favor of anything that
2 California and Michigan and those states up
3 through there are a part of, when I look to
4 see that there are no states around us
5 doing it. But, however, after speaking
6 with my friend last night, I realize that
7 in some areas we may be a little bit behind
8 -- thank you, Sandra -- that we might need
9 to give some serious thought about maybe
10 making a few changes. And I do think that
11 this would be very difficult to get by in
12 this new Legislature, and signed. But I
13 think we're going to have to start
14 somewhere, because it's ridiculous now. So
15 while it's very difficult to wholeheartedly
16 say, oh, let's just go, I'm certainly going
17 to support this in deference to a good
18 friend to my right who gave you all, all
19 the good reasons, I'm just giving you the
20 emotional reasons that I think that we do
21 need to do something. It wasn't so bad
22 when we kept things clean. It wasn't that
23 difficult; it can be done; it can be
24 handled. So I would hope that we would
25 pass this. This is nothing more than

1 saying we're supporting something. They're
2 going to have to work out the details. I
3 doubt there's too many of them, David, and
4 maybe one more too that will either be for
5 it or against it. It's going to be a
6 little more difficult on some of Steve's
7 operations. But I do think it's that time
8 that we need to look at starting to clean
9 up our roads in the state.

10 MS. CANTRELL: Thank you, Mr.
11 Drake.

12 MS. ROSE: I'd like to move
13 adoption of this resolution at this time.

14 MS. CANTRELL: We have a motion.
15 Is there a second?

16 MR. DRAKE: I will second that.
17 My good friend Sandra.

18 MS. CANTRELL: We have a motion
19 and a second. I think we're ready for a
20 vote.

21 MS. BRUCE: Mr. Drake.

22 MR. DRAKE: Yes.

23 MS. BRUCE: Dr. Galvin.

24 DR. GALVIN: Yes.

25 MS. BRUCE: Mr. Griesel.

1 MR. GRIESEL: Yes.

2 MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: I'm voting yes for
4 my grandkids.

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: Ms. Cantrell.

14 MS. CANTRELL: Yes.

15 MS. BRUCE: Motion passed.

16 MS. CANTRELL: Thank you, Fenton.

17

18 We are now moving to Item 8 on the

19 agenda which is the DEQ Operational Budget

20 Request. And for that we have a

21 presentation from the Executive Director.

22 Mr. Thompson.

23 MR. THOMPSON: Thank you, Madam

24 Chairman.

25 Well, it's clear to me that based on

1 the last Agenda Item we're going to have to
2 have fried chicken more often.

3 The issue before you is the budget
4 request that the Agency will make through
5 the Governor's office and the Legislature
6 for not the existing years budget but the
7 coming year's budget, FY 2012. But we
8 thought that it was important to give you
9 some context in which that request is made.
10 We're not at all certain that 2012's
11 legislative situation will be any different
12 than 2011, in that we simply didn't make a
13 budget request because of the fiscal
14 condition of the state.

15 Nevertheless, because the statutes
16 require you to approve the budget request,
17 we thought it was important to bring some
18 issues to you so that in case we were
19 allowed to make requests, we would have
20 gone through the process of your approval.

21 But in order to give you some
22 context in which this request is being made
23 we wanted to talk a little bit about the
24 things that have happened over the last
25 couple of years.

1 Now I'm going to use PowerPoint
2 presentation. Monty is going to try to
3 keep up with me or to make sure that I'm
4 talking about what is on the screen, which
5 is difficult for (inaudible) Richardson.

6 REP RICHARDSON: Is that a heads
7 up?

8 MR. THOMPSON: And that's very
9 difficult. Monty has the toughest chore,
10 so this is somewhat scripted, but we will
11 visit more in depth about this at the end
12 of it.

13 So let me start by saying that over
14 the past two years the general revenue
15 funding for the Agency has gone from about
16 9.7 million dollars to about 8.1 million
17 dollars, which is a decrease of a million
18 five hundred eighty-nine thousand dollars.
19 At the same time the legally mandated cost
20 to the Agency primarily for insurance and
21 retirement costs has increased at about 2.9
22 million dollars. And while the increase in
23 these costs are not directly tied to
24 general revenue funding, it is a bit of an
25 indication of the fiscal challenges that

1 the Agency, and in fact all Agencies across
2 state government, are facing.

3 Now in FY 2009 or two years ago, of
4 the 9.7 million dollars in general revenue
5 available, 3.6 million dollars
6 approximately was dedicated to response to
7 environmental complaints.

8 While we have tried desperately to -
9 - as you are probably aware the DEQ has a
10 reputation of never seeing a fee that it
11 did not like. We have tried desperately to
12 find a way in which a person would call
13 with a complaint and we would say if you
14 will send us a check for \$500.00 we will
15 run that right out there. We don't think
16 that's going to work. So it's clear to us
17 that there has to be general revenue
18 funding for complaints. About 2.1 million
19 dollars was dedicated to technical
20 assistance and laboratory cost reduction to
21 communities, particularly small
22 communities. About 1.5 million dollars was
23 dedicated to the support of air quality
24 programs, including air toxics. And the
25 remaining 2.5 million dollars was dedicated

1 to support public water supply supervision
2 and water quality programs.

3 Now of the 1.6 million dollars in
4 reductions, one million five hundred and
5 eighty-nine thousand dollars in reductions,
6 support for environmental complaints was
7 reduced by three hundred eighty-nine
8 thousand dollars (\$389,000.00) for this --
9 for the current budget year. Now it's fair
10 to say that because some support for
11 environmental complaints and local services
12 comes from activities related to
13 construction -- residential and commercial
14 construction and because of the decline in
15 both of those the work load for ECLS has
16 decreased, we currently have five -- I'm
17 sorry. We currently have seven -- or --
18 actually when I was putting this together I
19 think we may have hired one person since
20 then. Seven vacancies in the ECLS. Our
21 plan is to fill two of those and keep the
22 other five vacant until the construction
23 industry increases and we have that need.

24 The support for technical
25 assistance, particularly to small

1 communities, was reduced by \$679,000.00 and
2 the support for the air toxics program was
3 reduced by \$485,000.00. And then support
4 for other water quality costs were reduced
5 by \$34,000.00, to get you to the -- our
6 current general revenue appropriation of
7 8.1 million dollars.

8 Now the Department has traditionally
9 believed, and the statutes confirm, that
10 one of its highest priorities is response
11 to citizen complaints.

12 When the DEQ took responsibility for
13 the environmental programs in Tulsa and
14 Oklahoma County in about 1998, the
15 Legislature authorized the use of one
16 million dollars in solid waste funding on
17 the promise that the general revenue
18 funding would be provided in the future for
19 those activities, particularly those
20 complaint response activities.

21 Representative Richardson was not in
22 the Legislature at that time so we won't
23 blame him. But the fact of the matter is
24 that promise of one million dollars in
25 general revenue money to support that has

1 never come to us and so we continue to use
2 that million dollars in solid waste funding
3 for purposes that are clearly outside what
4 the fee was intended.

5 And we've continued to have to use
6 those funds in ECLS. And now we're
7 beginning to see impacts to our traditional
8 solid waste programs from the use of that
9 money. So we must at some point relieve
10 the burden on solid waste funding so that
11 its use for other purposes does not become
12 a burden on our solid waste programs.

13 The Department has been dedicated
14 and is concerned about the level of funding
15 cuts to technical assistance and laboratory
16 cost reductions, particularly to small
17 communities. And when we met with the
18 Board Budget Committee recently to discuss
19 our budget request, they expressed to us
20 similar concerns. I will tell you that the
21 decision to cut technical assistance to
22 small communities was not taken lightly.
23 There was some indication that -- that in
24 developing budget cuts we should cut pass-
25 throughs based on that indication about

1 \$500,000.00 of this money -- of money that
2 was cut from technical assistance in the
3 nature of pass-throughs to support
4 laboratory costs, were cut to those small
5 communities and we are -- we continue to be
6 dedicated to that idea.

7 So now let's talk -- so that sort of
8 sets the stage about where we've been,
9 where we find ourselves. So based on the
10 memo that I sent you in the Board packet,
11 the Department has chosen to address these
12 issues through two strategies.

13 The first is that for the 2012
14 budget request that we bring to you today,
15 we are requesting that \$300,000.00 to
16 replace some of the losses to our technical
17 assistance effort.

18 In addition, we're requesting
19 \$554,000.00 for the Air Toxics Program.
20 Now I've never figured out how you take
21 politics out of a political process. Quite
22 frankly, the reason that we have chosen to
23 key up these two issues is because we
24 believe we will have outside political
25 support, outside champions, for those two

1 ideas.

2 We hope and believe that the
3 Oklahoma Municipal League and the Rural
4 Water Association will support the
5 \$300,000.00 for technical assistance. And
6 we hope and believe that the industrial
7 community will support the \$554,000.00 or
8 \$555,000.00 almost, for the Air Toxics
9 Program.

10 So that's our first strategy, to try
11 to get the money, if there is money
12 available from general revenue increases
13 for the next year.

14 The second strategy probably --
15 well, undoubtedly, at some point may
16 involve the Board depending upon what
17 Council action is. Because we -- the
18 second strategy is to begin to move general
19 revenue funding away from programs that can
20 be supported by fees, and for our friends
21 in the audience, particularly the Air
22 Quality Program. And also in the Water
23 Quality Program to support our -- and to
24 move general revenue money away from them
25 and to have those programs more supported

1 by fees, that money would go to both our
2 complaints effort where necessary, and to
3 our Technical Assistance Programs.

4 So I've asked the Air Quality
5 Division that regardless of the outcome of
6 our effort to replace toxic fundings, we
7 must begin to move general revenue funding
8 away from the division and into our
9 complaints and technical assistance efforts
10 beginning next year. In addition, I've
11 advised the Water Quality Division that we
12 will begin to rigorously analyze their
13 capacity to move general revenue funding
14 away from non-technical assistance
15 programs. Both divisions will be asked --
16 we will ask their Councils and I will ask
17 the Board should the Councils approve of
18 those ideas instead of the replacement of
19 funds with fees, as those fee cases go
20 forward for current and future needs.

21 The Water Quality Division is in
22 somewhat of a -- we are in a bit of a
23 dilemma because if we cut, for the most
24 part, funding in the Water Quality Division
25 it is sort of defacto cuts to -- to

1 supporting municipal activities. And so we
2 don't get the level of bang for the buck in
3 the Water Quality Division that we do -- we
4 might in the Air Quality Division.

5 But we are trying to address the
6 issues of these two vital elements;
7 environmental complaints and technical
8 assistance, in two ways. First through a
9 budget request and finally a decision that
10 I have made and given to the division
11 directors to begin to try to move general
12 revenue money away from those divisions to
13 supports those efforts and to have those
14 replaced by fees.

15 With that, Madam Chairman, I would
16 pause for questions.

17 How did I do on it? Did I follow --
18 did you keep up, did you do well?

19 MONTY: You did very well.

20 MR. THOMPSON: Okay. Thank you.

21 MS. CANTRELL: Thank you, Steve.

22 Do we have any questions for Steve or for
23 Monty?

24 Mr. Wuerflein.

25 MR. WUERFLEIN: Yes. I was under

1 the impression at one time that most of our
2 environmental complaints involve septic
3 tanks. That's just on a volume of number.

4

5 I guess my question is, do we have a
6 defined structure for that or do we -- is
7 that just kind of a last resort on
8 complaints?

9 MR. THOMPSON: I will defer to
10 Gary. He probably has these figures more
11 readily available than I do. I think
12 probably 40 percent, or more, of our
13 complaints are septic systems.

14 The program that -- that the
15 complaints have grown exponentially almost
16 over the past several years have been
17 stormwater, open dumping is still a big
18 issue. What am I missing? Is that pretty
19 much it?

20 MONTY: That's about right.

21 MR. THOMPSON: About right?
22 Those are the big three. In answer to your
23 question, our enforcement process has
24 always been, Richard, that we will impose a
25 penalty and then waive it if they meet the

1 requirements of the law within a certain
2 time. So if we have a surfacing septic
3 system, we will say to you, there is a
4 \$500.00 penalty attached to that. It is
5 waived if you replace that system or repair
6 it within a time frame that's in each of
7 the orders. Often this is a regulatory
8 action that impacts individuals and it's
9 been our view that there's going to be
10 significant cost in replacing or repairing
11 those systems and to that extent that
12 people are moving forward actively to fix
13 the problem, we will waive the penalty.

14 MS. CANTRELL: Do we have any
15 further questions regarding fee proposal?

16 MR. MASON: Mine is more of, I
17 think, a comment along with I think, what
18 Steve's been discussing. I think as we
19 look at where do we use the resources that
20 are provided to us by the Legislature, it's
21 clear those resources need to be used in
22 areas where it's hard to collect a fee.
23 The best sample being complaints. As Steve
24 said we can't send them a bill before we
25 check out a complaint. And I think in the

1 past we've also prided ourselves very much
2 on our support of small communities,
3 realizing that it's very difficult for them
4 to comply with our ever-expanding rules. I
5 think we've been very proud of the amount
6 of technical assistance we provide the
7 communities and we've subsidized laboratory
8 costs. And those priorities need to
9 continue.

10 As a result though, as Steve spoke,
11 as our appropriations continue to diminish
12 we have to look at fees. And as an Agency
13 we do a very, very good job of collecting
14 fees so we're less burdened when we have
15 problems with the Legislature. And along
16 time ago the solid waste group became self-
17 supportive through the solid waste landfill
18 fees. And I think where we're heading, and
19 Steve mentioned it, is increasing the fees
20 so that both the air and water quality
21 groups are more self-supportive than they
22 are now. And we really have very little
23 choice to do that if we don't want to
24 abandon these small communities and
25 environmental complaints.

1 MR. THOMPSON: I would just say
2 that I appreciate your comments. It's
3 important to us and we do try. The fact of
4 the matter is that the Land Protection
5 Division is the only -- I think is the only
6 division that is totally funded by fees.
7 Everything that goes on in Land Protection
8 is fee based. They get no general revenue
9 money. That's because of the income that
10 we get from the solid waste and from the
11 hazardous waste fees and other fees that we
12 impose.

13 I think it's the only one that is
14 totally fee funded. But I think that in
15 support of your comments that other
16 divisions probably over time and as these
17 numbers -- particularly if these numbers
18 continue to fall, we will see the need for
19 -- exactly what you're saying.

20 MR. DRAKE: Madam Chairman, I see
21 the need with what you're saying, but I see
22 a good friend of mine sitting out in the
23 audience that can see the -- maybe some of
24 the comments that I might make and how
25 important it is for our legislators to

1 understand that we can only raise fees so
2 far and so long. We can't identify all of
3 the areas that we need to be responsible
4 for to know who to charge. Because the EPA
5 in their wisdom continues to give us more
6 and more to do.

7 I had a legislative can -- or a
8 Congress candidate say the other day and
9 gave a great compliment to our DEQ, he
10 didn't know anybody in the room that was
11 part of it, and he was talking about what
12 can you do about EPA? Well, little or
13 nothing. Jim Inhofe has tried but it's
14 very difficult. But in all due respect to
15 the Legislature we do as much fee based
16 operations as we can. We've passed them
17 and passed them. And it will -- there will
18 come a time when we will either have to do
19 away with some of the functions that we're
20 doing and allow someone else to do it and
21 God, help us, that will be EPA; or we have
22 to recognize that if we're going to keep
23 control in our state we have to be funded
24 to such an erratus with the resources to do
25 that. I hope that we'll be able to get

1 across and I hope that some of us can
2 perhaps can talk to these folks that it's
3 understood that we will do what we can to
4 protect Oklahoma with fees. They need to
5 do what they can to protect Oklahoma with
6 the necessary funding that keeps DEQ
7 operational and keeps EPA at bay.

8 MS. CANTRELL: Thank you, Mr.
9 Drake. Any further comments or questions
10 from the Board? Any questions or comments
11 from those in the audience?

12 MR. WENDLING: I've got a
13 question. Steve, you are you asking to
14 start moving all of the funding from the
15 general revenue requirements over to fees
16 for both these two areas, or just those
17 that you feel are at shortfall?

18 MR. THOMPSON: Well, we would not
19 move more than we thought was necessary to
20 support those activities. But I suspect
21 that if we don't get money for toxics --
22 the Air Quality Division has traditionally
23 gotten general revenue money. And as we
24 see the need to fill gaps for these other
25 programs, that's the first -- that's the

1 logical way in which we're going to do it.
2 So in answer to your question, we're just
3 not going to (inaudible) send money over
4 there, but I suspect that a third of about
5 a million dollars that they receive in
6 general -- about \$900,000.00 in general
7 revenue money, we will probably move not
8 this year but in the coming year, and over
9 time if general revenue continues to fall
10 that will be the first place that we will
11 look to fill those general revenue
12 shortfalls in the assistance and in the
13 complaints program. I don't know where
14 else to get it, quite frankly.

15 Again, Water Quality is another area
16 where we might be able to do some of that,
17 but again, so much of that money is
18 dedicated to municipal support anyway, that
19 when you cut the money out of Water Quality
20 you're sort of taking -- robbing Peter to
21 pay Paul. So we're going to have to be
22 thoughtful about how that we do that and
23 that mandate to Shellie who is now eight
24 months into her new job, and bless her
25 heart. We're going to have to be much more

1 thoughtful in Water Quality but I don't see
2 -- assuming that -- and I think the budget
3 figures are a little better, look a little
4 better than they have in a while. So maybe
5 we're digging our way out of this as a
6 state. We're in pretty good shape in the
7 DEQ compared to some -- I mean, I think
8 we've been able to handle through attrition
9 and through cutting back on a lot of
10 capitol purchases and -- those are sort of
11 the management things we've done to try to
12 deal with these shortfalls. But when we
13 had to cut that five hundred thousand
14 dollars (\$500,000) to support the very
15 smallest communities and their lab costs,
16 that was a pretty bitter pill, and I don't
17 have any sense that we're going to get that
18 money back through the Legislature, we may,
19 we're hopeful, but to begin to fill -- we
20 already had that hole that we've got to
21 begin to fill back in. If it's going to be
22 a priority for the Agency to do technical
23 assistance to communities, that hole has to
24 be backfilled someday.

25 MS. CANTRELL: Yes.

1 MR. GROUND: I just wanted to
2 know what is the total income from fees
3 right now on water and air?

4 MR. THOMPSON: The total income
5 -- from water and air? I don't know, Bud.
6 About 36 million dollars in fees. About 36
7 million dollars budgeted from fees; is that
8 right? Where did Monty go?

9 We are right now about -- these are
10 rough numbers, we're about 12 percent
11 general revenue funded; we're about 33 or
12 34 percent federally funded; and whatever
13 that leaves, 52 to 53 percent fee funded.

14 But it is also fair -- now, the
15 administration has proposed -- another
16 thing that could happen is the
17 administration has proposed fairly
18 significant increases in federal funding to
19 states. That is in compute. And if
20 Congress approves that, then we -- at least
21 the federal portion goes up and the need
22 for fees. But I don't have any sense -- I
23 think we're going to get continuing
24 resolutions is what I think we're going to
25 get. And that means that those funds will

1 remain the same. So all of these things
2 count. But you've got to look at whether
3 that really is going to happen, whether
4 we're going to get increased federal money.
5 And I suspect reasonable men could argue
6 about this, I'm not particularly confident
7 that we will. But we'll see. But we are
8 now, I would suspect, more than 50 percent
9 fee funded. As that number goes down, and
10 if the federal money remains flat, which I
11 suspect, and we've done the administrative
12 things necessary to tighten down the Agency
13 which I believe we've done, and as we get
14 new programs from the federal government as
15 Bob suggested, you tell me where the money
16 is going to come from.

17 MS. CANTRELL: Any further
18 questions? What we have before us the
19 proposal of the Department to restore
20 funding -- to request the restoration of
21 funding in the two areas outlined; small
22 community technical assistance, as well as
23 the air toxics program. This would be a
24 proposal for 2012 for the budget request
25 that would be coming from the Department of

1 Environmental Quality to replace funds that
2 had been previously funded to fill those
3 holes.

4 Are there any further questions
5 regarding this proposal by the Department?

6 Do we have a motion?

7 MR. JOHNSTON: I move approval
8 for these requests.

9 MS. CANTRELL: Do we have a
10 second?

11 MR. MASON: Second.

12 MS. CANTRELL: We have a motion
13 and a second. We're ready for a vote.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Dr. Galvin.

17 DR. GALVIN: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Johnston.

21 MR. JOHNSTON: Yes.

22 MS. BRUCE: Mr. Mason.

23 MR. MASON: Yes.

24 MS. BRUCE: Ms. Rose.

25 MS. ROSE: Yes.

1 MS. BRUCE: Mr. Wendling.

2 MR. WENDLING: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Ms. Cantrell.

6 MS. CANTRELL: Yes.

7 MS. BRUCE: Motion passed.

8 MS. CANTRELL: Thank you.

9 Item Number 9 on the Agenda is
10 disclosure of employee financial interests.
11 I believe that presentation will be made by
12 Martha Penisten.

13 MS. PENISTEN: Thank you, Madam
14 Chairman. As you and the Board knows, the
15 Environmental Quality Code requires that
16 certain DEQ employees involved in issues
17 for enforcing permits disclose financial
18 interests they hold in entities regulated
19 by the DEQ. Then in turn, the DEQ is
20 required to submit these disclosures to the
21 Board and make them part of the Minutes.

22 This year we have two employees who
23 submitted new disclosures and they are
24 Chris Armstrong of the Customer Services
25 Division. He reported that he's a

1 stockholder in a few oil and gas and energy
2 related companies, including Chesapeake
3 Energy.

4 And we have Joseph Mashburn of the
5 Air Quality Division, he reported he is a
6 stockholder in Valero Energy. And in order
7 to avoid conflicts for these employees, the
8 Agency notifies the Division Director by
9 memo and asks the Director to ensure that
10 the employee is not involved in any
11 permitting or enforcement with respect to
12 those entities they interests in. I think
13 that's it.

14 MS. CANTRELL: Thank you, Martha.
15 And next on the agenda, Mr. Thompson will
16 recognize a special guest who is with us
17 today.

18 MR. THOMPSON: Yes. You may have
19 heard me say that Representative Phil
20 Richardson is here. He is a strong
21 supporter of the DEQ, good friend and
22 (inaudible) the Board believe that we have
23 abandoned small communities. We are
24 working with Representative Richardson in
25 his area to put on a presentation called

1 DEQ 101 at his recommendation or as we've
2 talked about it that helps small
3 communities understand what the DEQ does,
4 if anybody can. And so we are pleased to
5 have him with us and would ask if he had
6 any comments he would like to make?

7 We tried to let something pass
8 before -- after the budget discussion
9 before we called on you.

10 REP RICHARDSON: And that was a
11 very realistic look at the budget. I don't
12 think any of us know what we're going to be
13 dealing with. I've got to brag on the
14 Director here too. I'm on the A&B
15 Committee for the 27 natural resource
16 agencies and we struggle every year --
17 we're the first ones to get (inaudible).
18 We take the full cuts every year. And
19 Representative Dewitt from Bramen is the
20 Chair of the Committee and we fight every
21 year to try to get all we can but we're
22 bucking up against education and
23 transportation, it's a tough sell. And
24 like Director Thompson said, I want to see
25 the EPA stay in Dallas and that's kind of

1 the way we approach to try to keep that --
2 they're very cooperative. And realizing
3 that -- you know, I represent real small
4 communities with independent water systems
5 and they are hard pressed to find anyone
6 competent to do the things that are
7 required of them. And this lead to this
8 DEQ 101 that we're going to try to do in
9 the Grady County area just to try to let
10 them know what we're trying to get done.
11 They've been very cooperative and I'm
12 looking forward to trying to get that
13 program established. I don't think we
14 still know -- looks a little more
15 encouraging, maybe we won't have to do
16 another -- another round of cuts but I'll
17 bet we'll we awful close to -- hope to
18 establish our goal, or we are going to be
19 probably -- I'll consider that a real
20 victory about that. Anyway, appreciate the
21 job that you guys do and the Director.
22 We'll get through it. Thank you.

23 MR. THOMPSON: Thank you.

24 MS. CANTRELL: Thank you. We
25 appreciate you taking your time

1 Representative Richardson to join us today
2 for our meeting and appreciate all that you
3 do.

4 We're now moving on to Item 10 which
5 is the Executive Director's report. Steve
6 Thompson.

7 MR. THOMPSON: One of the
8 important things about managing an agency
9 is to hire good people and to delegate. So
10 Jimmy is going to do a couple of
11 presentations and then I want to fill in
12 the, probably, no gaps, but there are a
13 couple of items we wanted to bring to your
14 attention.

15 MR. GIVENS: Madam Chair, Members
16 of the Board, also those of you in the
17 audience, I will try to be brief. I notice
18 Item 11 on the Agenda is the annual
19 performance review of the Executive
20 Director. I know you are all anxious to
21 get to that so I'm going to move through
22 this pretty quickly.

23 One of the things that we decided to
24 look at presenting to you this year, that
25 we have not done in the past. Every year

1 the Office of Personnel Management puts out
2 an annual report that includes what they
3 call a workforce summary. And the summary
4 looks at all the state employees. And then
5 for the past few years they have broken
6 down several of the factors that they look
7 at by individual agency. So we thought it
8 might be useful to the Board in particular
9 to see when we talk about DEQ employees,
10 kind of how they stack up against the
11 employees of the state, as a whole. There
12 are almost 38,000 or there were up until FY
13 2009, almost 38,000 state employees. I'm
14 sure that is a little lower now; 555 of
15 those in FY 2009 were DEQ employees.

16 You can see from the slide, that the
17 average age of the DEQ employees was a
18 little bit lower. The average years of
19 state service is actually slightly higher
20 and the average years to retirement
21 eligibility a little bit higher. So we
22 have a relatively young workforce at DEQ
23 compared to the state as a whole.

24 Now I know what some of you are
25 thinking, which is with Steve and I

1 included in this, how can we have a younger
2 workforce than the state as a whole. I did
3 the math. It actually works out.

4 As far as representation of
5 minorities, we are pretty much the same as
6 the state as a whole. We are over
7 represented by males as compared to females
8 compared to the state as a whole. I
9 suspect that is in part because many of the
10 professions that we employ have typically
11 had historically been dominated by males.
12 I did look back just as a matter of
13 interest and in the past four years, which
14 is the period that as far as I can tell OPM
15 began bringing all of these figures out by
16 Agency, that the percentage of females has
17 increased by seven percent at DEQ over that
18 period. So we're on the right track at
19 least.

20 And 93 percent of our employees are
21 classified much higher than the state as a
22 whole. What that means is that we hire
23 based on merit. The merit system applies
24 and we have to go through a rigorous
25 process of interviewing and testing and we

1 hire based upon those interviews. The only
2 people in the Agency who are not
3 classified, are the Division Directors in
4 an above level, and the lawyers, and then a
5 handful of others. But most state agencies
6 have quite a few other positions that are
7 unclassified. We are very high on the
8 classified grid.

9 We have a very high percentage of
10 what are categorized by OPM as
11 professionals. That would include the
12 environmental specialists, the engineers,
13 the lawyers, the accountants, the chemists.
14 We have about ten percent that are
15 classified as officials and administrators
16 like in some of the higher management
17 positions in the Agency that's a little bit
18 higher than other agencies. I suspect that
19 it's due in part, if you will recall two or
20 three years ago we came to you and told you
21 that we were adding what we called Level
22 Three Managers, which essentially are right
23 below the Assistant Division Director
24 level. There was a good reason for that.
25 We were looking at the Division Directors

1 in particular as well as some of the other
2 positions in the Agency and we saw a need
3 to train people to move into those
4 leadership positions. Because we had a
5 number of people -- in fact, you've seen
6 over the course of the last year or so
7 quite a few retirements among the upper
8 levels of management in the Agency. So we
9 are trying to make sure that we have the
10 next group of leaders ready to pass the
11 baton to, in the next few years.

12 And the last slide that I have in
13 this presentation is salary. Our overall
14 salary is higher by quite a bit in the
15 state agencies as a whole. That is in
16 large part due to the nature of the
17 positions that we hire for. As I
18 mentioned, very much higher on the
19 professional category than most other
20 agencies are. You can see how that breaks
21 out between classified and unclassified.

22 The last thing on here is the
23 turnover rate. For the last several years
24 as I looked back over these annual reports
25 our turnover rate has been significantly

1 lower than the turnover rate of the state
2 employees as a whole. Now it's probably
3 due in part to higher pay. We hope it's
4 due in part to a level of satisfaction with
5 working at DEQ. We believe, quite
6 honestly, that it serves you well to have a
7 lower turnover rate. Those of you who work
8 on the Board, and those of you who are in
9 industry and municipalities, if you have
10 someone with whom you are familiar and who
11 really knows what they are doing it effects
12 the bottom line. It effects the bottom
13 line of Agency and it effects the bottom
14 line of the industry. So we are proud of
15 the fact that we are able to retain as many
16 people as we do.

17 I think that's all I have except
18 just to kind of reiterate what -- what I've
19 already covered:

20 Slightly younger workforce at DEQ; a
21 fairly diverse workforce; most of DEQ is in
22 classified positions; a professional
23 workforce and a relatively low turnover
24 rate.

25 Now if you want me to explain why

1 all of those things are the way they are,
2 I've speculated on a couple of them. I
3 don't have the answer. The workforce
4 report doesn't go into the analysis of why
5 that's the case. So I can speculate, but
6 that's about all I can do. However, that
7 said, if you have any questions I will be
8 happy to try to answer them as best I can.

9 If not, let me move on to round two,
10 which is the legislative update. Some of
11 you have heard this before and if you want
12 to take a bathroom break or get something
13 to drink, I won't blame you.

14 This is a look back at the
15 legislative session from February through
16 May of this year. One of the things that
17 we like to highlight for you is not just
18 the bills that effect DEQ but also a little
19 bit of the context. And one of the things
20 that is unique as far as I can recall at
21 least in the time that I've been working in
22 this area, is the degree of turnover that
23 we are going to have in the state
24 leadership. We literally have a turnover
25 of what arguably are the top five positions

1 in state government, at least in the
2 executive and the legislative branches,
3 because both the Speaker of the House and
4 the Minority Leader, the President Pro Tem
5 of the Senate and Minority Leader and the
6 Governor will all be replaced before we
7 come into the next legislative session.

8 Who will be there? Well, we have an
9 idea for the most part but obviously we
10 still have a gubernatorial election and we
11 don't know who the Senate President Pro Tem
12 will be.

13 Why does that matter to us? Well,
14 as an Agency we become accustomed to
15 working with leadership both of the House
16 and Senate and of certain committees within
17 those bodies. They kind of know how we
18 operate; we understood what their needs are
19 and how we can best accommodate those. So
20 it will be a bit of adjustment for
21 everybody as we move into new leadership of
22 the House and the Senate and presumably of
23 some of the committees.

24 The bill total was pretty
25 representative of what it's been for the

1 last few years, about 2400 bills.
2 Obviously, budget was the big deal above
3 all else, (inaudible) discussion of states
4 rights and making government more efficient
5 and germane. Now that may not be a term
6 that is overly familiar to you but it's
7 pretty important when you're taking about
8 legislation.

9 Our Constitution in Oklahoma
10 requires that every bill have a single
11 subject and that that subject be
12 represented in the title of the bill, and
13 in theory from the time a bill is
14 introduced until the time it either dies or
15 is passed, it should relate to the same
16 general subject matter.

17 Well, that has become more and more
18 a big deal as I watched the process over
19 the course of the last year or two. There
20 is a lot more opportunity for legislators
21 to raise the issue that a bill has changed
22 over time so that it no longer looks like
23 what it started out to be. There have
24 actually been a few bills that have either
25 been withdrawn or died because that issue

1 was raised. And, in fact, one of the more
2 celebrated shouting matches I would have to
3 say of this session was between the Speaker
4 and the Senate President Pro Tem over
5 whether the House was correct in
6 questioning a bill that came over from the
7 Senate and whether it was still germane to
8 the original subject matter. So I think
9 you will see that a little bit more as we
10 go along.

11 Not any predominate environmental
12 thing this year. Quite a bit of attention
13 on energy. Quite a bit of attention to
14 water rights.

15 Let me move into a quick overview of
16 some of the bills that did pass. The first
17 three that we are going to talk about
18 relate to things that you have already seen
19 because these are the bills that we brought
20 to you last November and said, here's one
21 we intend to seek during this coming
22 legislative session. We were successful in
23 getting the laboratory accreditation bill
24 passed that allows for mutual recognition
25 between our environmental lab -- our

1 accreditation program and those in other
2 states. If they meet the same standards,
3 if they use the same processes to determine
4 whether they are performing quality work,
5 then our state recognizes accreditation
6 from another state and vice versa.

7 A couple of sewage system bills that
8 we mentioned to you, if you'll remember.
9 One, to require the public entity ownership
10 of shared sewage systems. What that
11 essentially means is no homeowners'
12 associations will own sewer systems any
13 longer. It became too big an issue, too
14 big a problem when those systems began to
15 fail the homeowners' associations generally
16 didn't know how to operate them, didn't
17 know how to fix the problem and didn't
18 really have a vested interest ensuring that
19 they continued to operate properly. So now
20 it will be required either for a single
21 owner to the home to own the entire system
22 or some sort of public entity.

23 Certifications. A problem that we
24 ran into that we mentioned to you is that
25 many times the builder or the homeowner

1 will not be entirely accurate in reporting
2 to the installer the size of the system
3 that's needed either in terms of the volume
4 of water flow or the number of bedrooms
5 which is how we judge what is needed for an
6 individual residence. So the systems that
7 were being put in were undersized and, of
8 course, they failed. Well, now there is a
9 requirement that whoever is contracting for
10 the installer putting the system in certify
11 that correctly so that we know whose fault
12 it is if something happens.

13 Quickly on solid waste, a new solid
14 waste fee that applies to commercial
15 incinerators, there is only one in the
16 state at the moment, but this will bring in
17 about a quarter of a million dollars or so
18 is our estimate because of this fee being
19 imposed. It was already imposed for
20 landfills, it's sort of leveling the
21 playing field by it applying to commercial
22 incinerators. We've tried for a couple of
23 years and this year we are successful in
24 negotiating for that to become law.

25 And 1554, pathogen treatment

1 standard for landfill sludge. I'm not
2 going to spend any time on that. That
3 simply codifies in the statute what was
4 already in our rules. So it really doesn't
5 change anything it just highlights it a bit
6 more.

7 Recycling fees for agricultural
8 tires. Beginning this year the smaller AG
9 tires will become part of the tire
10 recycling program. In 2013 the larger
11 tires, I think it's larger than 14 by 44 or
12 something like that will be added to the
13 program, so all AG tires will become part
14 of the recycling program with a fee applied
15 and then the (inaudible) from that being
16 used to reimburse haulers and processors to
17 reuse those tires. It will be 2013 before
18 that comes to full fruition.

19 Geologic storage of carbon dioxide
20 task force has been in existence for a few
21 years now. It's been extended one more
22 time through -- until December of this
23 year. There's some loose ends that they
24 want to continue to talk about in the
25 injection of CO2. And so that will give

1 another three or four months here for them
2 to have additional meetings with that task
3 force.

4 As I mentioned earlier clean and
5 renewable energy was a pretty big deal
6 during this session. Renewable energy and
7 natural gas bill. What this bill does is
8 essentially say that new production from
9 power plants ought -- where possible may
10 come from either renewable sources or from
11 natural gas which is obviously plentiful in
12 Oklahoma. There is goal of 15 percent of
13 our power production coming from renewable
14 energy by 2015.

15 Wind turbine decommissioning
16 requirements simply sets up a process for
17 the decommissioning of these wind turbines
18 sites (inaudible) at the beginning of their
19 useful life. What is the assurance that
20 they will be taken care of at the end of
21 their useful lives. So there is financial
22 assurance requirements associated with
23 that.

24 And finally, severance of airspace
25 for the purpose of putting in wind turbines

1 or solar energy facilities is prohibited.
2 I think, I don't know a lot about that, I
3 think that was a concern for the protection
4 of land owners.

5 Moving a little bit beyond just the
6 environmental side of things. Looking more
7 at government in general and operations of
8 government. You passed some emergency
9 rules today, there will be an additional
10 requirements associated with those. I
11 don't know that it changes a whole lot,
12 quite frankly. It does require the
13 Governor to make a specific finding that
14 the Agency had a need to pass these as
15 emergencies and the need for the emergency
16 had nothing to do with the Agency delaying
17 or being negligent in getting to this
18 forum. But it does add a little bit of a
19 later requirement to the emergency process.
20 So when we bring emergency rules to you in
21 the future we will have to make sure that
22 we observe those.

23 Agencies have to put statutes and
24 rules on the website. We already do that.
25 We're going to refine it a little bit but

1 it really doesn't change the way that we do
2 things at DEQ.

3 Reimbursement fund to aid agencies
4 with employee buyouts. We didn't utilize
5 this. We did not go through a buyout
6 process at DEQ. Many agencies did. There
7 has always been or for many years there has
8 been a process in place for agencies to buy
9 out employees because of financial
10 conditions of the agency. This bill simply
11 set up a pool of money at the state level
12 from which agencies could apply to be
13 reimbursed their cost to reduce their level
14 of employees and it allowed them to go in
15 and make these buyouts where they might not
16 have been able to do so otherwise. The
17 trade off though was that relinquishing
18 those positions, they relinquished those
19 FTEs for at least three years. So you have
20 to make sure if you're going to use this
21 mechanism that you're not going to need
22 that level of staff for at least three
23 years.

24 Eastern Red Cedar Board, there is a
25 lot interest in how can we control the

1 proliferation of these trees and maybe more
2 importantly for this Board what use can be
3 made of them. So that Board will take a
4 look at how we can more profitably use the
5 wood from these eastern red cedars.

6 Some measures that didn't pass,
7 consolidation of natural resource agencies
8 and I'll let Steve talk a little bit more
9 in a minute about that if he wants to.
10 You'll see, we'll have an interim study on
11 that. Same for the state attorney's -- to
12 the Attorney General's office, the proposal
13 was to take all state attorneys and move
14 them under the Attorney General rather than
15 have them spread among the various
16 agencies.

17 Prohibition on enforcement of
18 federal environmental laws is one that was
19 of particular interest to us. The bill
20 essentially said that a federal
21 environmental law could not be enforced by
22 a state environmental official or agency
23 and with a -- with actually a criminal
24 penalty associated in one version of the
25 bill. Now it depends on how you interpret

1 that. In one sense we don't enforce
2 federal law. I mean we get delegated
3 programs and we adopt state rules and we
4 enforce the state rules. But on the other
5 hand those state rules in some cases adopt
6 by reference, in other cases largely parrot
7 what the federal rules say. We have to do
8 that in order to maintain delegation. So
9 it made us a little bit nervous as you
10 would expect to say we cannot enforce
11 federal environmental laws because it
12 depends on how you interpret that whether
13 we have the ability to abide by that or
14 not.

15 Legislative approval of
16 administrative rules. Right now as you
17 know, the Legislature has to -- the
18 Governor has to approve, the Legislature
19 has to not disapprove. Well, this would
20 make the system change to where the
21 Legislature, like the Governor, would have
22 to affirmatively approve the rules before
23 they would become effective. There was
24 also a proposal that would allow only one
25 house instead of both houses???

1 to disapprove the rules and reject them in
2 that way.

3 Term limits on State Board of
4 Commissions didn't get too far. That would
5 have limited those of you on boards and
6 commissions to a six year term.

7 Some other things -- I'm not going
8 to run through all of these, I've probably
9 taken enough time with the overview. You
10 can take a glance at some of the other
11 things that were considered including the
12 beverage container deposit bills that we
13 talked about earlier. There were several
14 of those that didn't make it through this
15 time. Several bills that had to do with
16 tax credits that, frankly, really had no
17 chance with the budget situation the way it
18 was this year.

19 I mentioned interim studies. We
20 have some that are going to be of
21 particular interest, including several that
22 were carry-overs of subject matter that was
23 considered during this past session. You
24 can see some of the things that we've
25 already mentioned that will be coming up

1 for an interim study sometime between now
2 and the beginning of the legislative
3 session. And usually those happen in
4 September, October, November. I don't
5 think that any of these have been scheduled
6 yet.

7 Do you want to talk more about that
8 now or --

9 MR. THOMPSON: No, I'll talk
10 about it in a minute.

11 MR. GIVENS: And with that I will
12 wrap up. If there are any questions --
13 anybody have anything that either Steve or
14 I can take a shot at.

15 MR. THOMPSON: I just have a few
16 comments related to the legislative
17 session. Jim does an excellent of tracking
18 legislation. We would not -- I would not
19 know what was going on necessarily in the
20 legislature without his good work.

21 A couple of things that I did want
22 to mention to you. We talked at some
23 length about the budget cuts that we took
24 over the last two years. Nevertheless, I
25 think it's fair to say that in '09 while

1 most general revenue -- most natural
2 resource agencies of our size were taking
3 seven percent cuts, we took 5.5 -- I'm
4 sorry, 4.4. In the last year while most
5 natural resources agencies of our size took
6 another seven percent, we took 5.5. Our
7 reductions were smaller than the reductions
8 that were taken by other natural resource
9 agencies. So we're proud we were able to
10 work through those issues.

11 The issue that Jimmy mentioned about
12 the incinerator fee, that is something that
13 we've worked on very hard for two years.
14 We were finally able to establish that fee
15 this year and as Jimmy said, while we had
16 losses in general revenue we were able to
17 make at least a portion of that back up as
18 a result of the incinerator fee.

19 Finally, as Jimmy went over all the
20 things that we were -- we supported,
21 passed, generally the things that we
22 thought would have a negative impact on the
23 Agency failed to pass. I don't know
24 whether it's my age or the budget or
25 whatever, but this was clearly the most

1 grueling legislative session that I've ever
2 been through. I mean it was tough.

3 For example, in the last week we
4 received calls about cutting FTEs. We
5 received calls about our fee accounts,
6 which can only mean one thing. The issue
7 of moving the lawyers from the agencies to
8 the Attorney General's office which --

9 REP RICHARDSON: I had nothing to
10 do with that.

11 MR. THOMPSON: All right. Good.
12 It was not one of our favorite ideas I will
13 tell you -- came up in the last week and
14 the consolidation bill that came up on the
15 last day at the same time that the Oklahoma
16 County -- I mean, town hall on the
17 comprehensive water plan was going on in
18 Norman. I wore out a perfectly good car
19 driving between Norman and the Capitol on
20 all of these issues. But I just wanted to
21 mention that we have good friends in the
22 Legislature. Representative Richardson is
23 a good friend and particularly the leaders
24 of our appropriation sub-committee in both
25 chambers; in the House, Dale DeWitt; and in

1 the Senate, David Myers, were a great help
2 to Agency on all of these budget issues and
3 we are particularly grateful to them for
4 their support of the Agency -- them and
5 others.

6 With that, I guess we'll answer any
7 questions.

8 MS. CANTRELL: Are there any
9 questions for either Steve or for Jimmy
10 regarding the past legislative session or
11 anything that appears to be coming on the
12 horizon? Representative Richardson,

13 is there anything that you would like to
14 say regarding either the last session --

15 REP RICHARDSON: I'd like to make
16 one more comment. This last session for
17 whatever reason, environmental issues were
18 not a part of our committee chairs and in
19 the session before I had the environmental
20 -- DEQ, Water Resources Board, and the
21 Conservation District were part of a -- and
22 that's what we (inaudible) under
23 (inaudible) for that. We will have a
24 committee that will handle these
25 environmental issues because they wound up

1 getting sent ever direction. And they need
2 to be under a committee that reviews it and
3 environmental -- and that will be -- I have
4 his assurance (inaudible).

5 MR. THOMPSON: That is really
6 particularly good news because our bills,
7 we never knew what committee they were
8 going to last year without an environmental
9 committee and with the advent of that we
10 will be able to plan more -- I don't know
11 if that's a good thing or a bad thing but
12 we will be able to plan what we need to do
13 on the house side. So that's good news.
14 We're grateful for that.

15 MS. CANTRELL: Thank you. Well
16 we come to item on the Agenda, Number 11
17 and it's our annual review working with the
18 Executive Director, but as you'll notice on
19 the Agenda the process is spelled out. In
20 order for us to go into Executive Session
21 which is our traditional mechanism for
22 discussing this agenda item we need to have
23 a vote of the Board taking us first into
24 Executive Session after we have announced
25 that that is the purposes of this Executive

1 Session to consider the annual performance
2 of the Executive Director.

3 Do I have a motion to take the
4 Executive Director annual performance
5 review into Executive Session?

6 MR. GRIESEL: So moved.

7 MS. CANTRELL: Do I have a
8 second?

9 MS. ROSE: Second.

10 MS. CANTRELL: All in -- Myrna,
11 would you like to poll the Board? I just
12 so much want to do it by acclamation. I
13 just can't stand it.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Dr. Galvin.

17 DR. GALVIN: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Johnston.

21 MR. JOHNSTON: Yes.

22 MS. BRUCE: And for the record,
23 Mr. Mason has left.

24 Ms. Rose.

25 MS. ROSE: Yes.

1 MS. BRUCE: Mr. Wendling.
2 MR. WENDLING: Yes.
3 MS. BRUCE: Mr. Wuerflein.
4 MR. WUERFLEIN: Yes.
5 MS. BRUCE: Ms. Cantrell.
6 MS. CANTRELL: Yes.
7 MS. BRUCE: Motion passed.
8 MS. CANTRELL: Thank you, Myrna.

9 And before we depart we also need to
10 designate the person who will take notes
11 regarding the Executive Session. Is there
12 anybody who would like to do that? Hearing
13 none, I happened to bring a note pad with
14 me, but I wanted to give everybody the
15 opportunity. We'll now move into Executive
16 Session. Thank you.

17 (Whereupon, the Board went into
18 Executive Session)

19 (Whereupon, the Board came out of
20 Executive Session and the following took
21 place)

22 MR. WUERFLEIN: Madam Chairman,
23 I'll move that we reconvene from Executive
24 Session.

25 MR. DRAKE: I'll second.

1 MS. BRUCE: Mr. Drake.

2 MR. DRAKE: Yes.

3 MS. BRUCE: Dr. Galvin.

4 DR. GALVIN: Yes.

5 MS. BRUCE: Mr. Griesel.

6 MR. GRIESEL: Yes.

7 MS. BRUCE: Mr. Johnston.

8 MR. JOHNSTON: Yes.

9 MS. BRUCE: Mr. Mason. He left.

10 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: Ms. Cantrell.

17 MS. CANTRELL: Yes.

18 MS. BRUCE: Thank you.

19 MS. CANTRELL: Members of the

20 Board, we met in Executive Session and

21 discussed the annual review of the

22 Executive Director, Steve Thompson, for the

23 Oklahoma Department of Environmental

24 Quality. And pursuant to our statutory

25 directive the Board also considered the --

1 our responsibility to appoint and fix an
2 appropriate compensation for the
3 Department's Executive Director.

4 Based on our statutory role and
5 statutory duty we have made the following
6 findings that are now on the table for the
7 Board's consideration.

8 Number One, that a key to the
9 success of the Oklahoma Department of
10 Environment Quality has been consistent and
11 stable leadership of an excellent quality;
12 that the consistency and stability is
13 important in this Agency that is vested
14 with such significant responsibility for
15 the state of Oklahoma.

16 Another point raised in the
17 discussion is that the Oklahoma Department
18 of Environmental Quality Board in
19 conducting its statutory obligation to
20 review an appropriate compensation for the
21 Executive Director's salary has considered
22 market analysis, we've considered
23 comparable salaries and more importantly we
24 considered the Oklahoma Department of
25 Environmental Quality Board as compared to

1 the Office of Personnel Management's Fiscal
2 Year 2009 Compensation Report that the
3 state of Oklahoma prepared. According to
4 the fiscal year 2009 Compensation Report,
5 compensation of the Department of
6 Environmental Quality reported at 29
7 percent below market value in terms of
8 compensation pay. And according to that
9 report the proposed salary for the -- or
10 the current salary for the Director of the
11 Department of Environmental Quality fell
12 significantly behind. During the last two
13 years this Board has met in similar fashion
14 during calendar years 2008-2009. In both
15 of those years we reviewed the excellent
16 work of the Oklahoma Department of
17 Environmental Quality and the exemplary
18 leadership of the Executive Director.
19 However, given fiscal responsibilities to
20 the state of Oklahoma we felt like we could
21 not propose an increase in salary during
22 either of those calendar years. As a
23 result, the Executive Director has last
24 received a raise in compensation three
25 years ago in 2007.

1 Again, the Board met in Executive
2 Session and the discussion entertained was
3 that it was still a difficult and
4 challenging times for the state of
5 Oklahoma. However, in reviewing comparable
6 salaries paid to individuals in positions
7 similar to the Executive Director in
8 neighboring states, we find that the
9 Executive Director of the Oklahoma
10 Department of Environmental Quality is paid
11 significantly below his peers.

12 Based on our analysis and based on
13 our responsibility to assess an appropriate
14 compensation for the Executive Director,
15 and based on the Board's consideration that
16 the consistency and stability in this
17 Agency is important, we bring this proposal
18 now to the Board for a vote.

19 The consideration on the table
20 currently for the Board given the points
21 that we've discussed in Executive Session
22 is the application of six percent raise to
23 the Executive Director's current salary
24 based on Consumer Price Index.

25 Given the difficult and challenging

1 budget year issues approaching the state of
2 Oklahoma the Board is now considering that
3 use of the Consumer Price Index would be a
4 more appropriate mechanism for establishing
5 the salary of the Executive Director. And
6 in that regard the consideration before the
7 Board currently is a six percent CPI
8 increase to the Executive Director's
9 current salary. The salary increase would
10 be effective July 1, 2010 should the Board
11 approve that increase.

12 Are there any questions of the Board
13 on the item before it?

14 Are there any questions or concerns
15 from anybody in the audience?

16 Is there a motion from the Board?

17 MR. GRIESEL: So moved.

18 MS. CANTRELL: Is there a second?

19 MR. WENDLING: Second.

20 MS. CANTRELL: Myrna, we have a
21 motion and we have a second. I believe
22 we're ready for a vote.

23 MS. BRUCE: Mr. Drake.

24 MR. DRAKE: Yes.

25 MS. BRUCE: Dr. Galvin.

1 DR. GALVIN: Yes.

2 MS. BRUCE: Mr. Griesel.

3 MR. GRIESEL: Yes.

4 MS. BRUCE: Mr. Johnston.

5 MR. JOHNSTON: Yes.

6 MS. BRUCE: Ms. Rose.

7 MS. ROSE: Yes.

8 MS. BRUCE: Mr. Wendling.

9 MR. WENDLING: Yes.

10 MS. BRUCE: Mr. Wuerflein.

11 MR. WUERFLEIN: Yes.

12 MS. BRUCE: Ms. Cantrell.

13 MS. CANTRELL: Yes.

14 MS. BRUCE: Motion passed.

15 MS. CANTRELL: The next item on

16 the agenda is to examine the calendar year

17 2011 Board meeting dates and locations.

18 The proposal before the Board for 2011 have

19 been modified based on input we have

20 received from Norman.

21 As you can see, we have February 25,

22 2011, the meeting to take place in Oklahoma

23 City at the DEQ, is as our tradition. We

24 had August 23 for Norman, proposed; and

25 November 15 for Tulsa. However, the

1 feedback from Norman is that August 23 is
2 absolutely a crazy time to try and hold a
3 meeting in that town given the people just
4 coming back to school and the beginning of
5 football season. So the thought is to
6 switch the places of Norman and Tulsa and
7 have the August 23 meeting held in Tulsa,
8 and the November 15 meeting held in Norman.

9 Finally, as to the June 14 meeting
10 in Enid, I would suggest that we asterisk
11 that with the condition that it be as
12 needed. There are times when we have not
13 needed a June meeting but if we should need
14 a June meeting, the proposed location for
15 the Board's consideration is Enid.

16 MR. DRAKE: The date would still
17 be a little bit questionable if we did it.

18 MS. CANTRELL: And the date would
19 still be a little bit questionable. These
20 are targets at this point.

21 Any questions or comments from the
22 Board?

23 MR. DRAKE: I move this Board
24 selection dates that you have just given
25 us.

1 MS. CANTRELL: Is there a second?

2 MS. ROSE: Second.

3 MS. CANTRELL: Myrna, I believe
4 we have a motion and a second.

5 MS. BRUCE: Mr. Drake.

6 MR. DRAKE: Yes.

7 MS. BRUCE: Dr. Galvin.

8 DR. GALVIN: 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: Mr. Wendling.

16 MR. WENDLING: Yes.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Ms. Cantrell.

20 MS. CANTRELL: Yes.

21 MS. BRUCE: Thank you.

22 MS. CANTRELL: The next item on
23 the agenda is new business.

24 Are there any matters of new
25 business that could not have been placed on

1 the formal agenda of this Board meeting?

2 Seeing none, we move on, then, to
3 announcements. The next meeting of this
4 Board will be November 16, 2010 in
5 Stillwater, Oklahoma.

6 And with that, we will adjourn the
7 meeting. This meeting is adjourned.

8 (Meeting Concluded)

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