MINUTES
ENVIRONMENTAL QUALITY BOARD
November 16, 2010
Oklahoma State University Alumni Center
Click Family Alumni Hall
Stillwater Oklahoma

EQB approved
February 25, 2010

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. at Oklahoma State University Alumni Center at Stillwater, 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. The agenda was mailed to interested parties on November 5, 2010 and was posted at the Department of Environmental Quality on November 12, 2010. Brita Cantrell, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT
Brita Cantrell
Mike Cassidy
Tony Dark
Bob Drake
Jennifer Galvin
David Griesel
Jerry Johnston
Sandra Rose
Kerry Sublette
John Wendling
Richard Wuerflein

MEMBERS ABSENT
Steve Mason
Terri Savage

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
Beverly Botchlet-Smith, 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
Tim Ward, Water Quality Division
Fenton Rood, Land Protection Division
Jennifer Wright, Executive Director's Office
Myrna Bruce, Secretary, Board & Councils

OTHERS PRESENT
Clayton Eubanks, Assistant Attorney General
Laura Lodes, AQAC Chair
Lee Grater, HWMAC Chair
Christy Myers, Court Reporter

The Attendance Sheet becomes an official part of these Minutes.

Approval of Minutes Ms. Cantrell, Chair, called for motion to approve minutes from the August 24, 2010 Regular Meeting. Mr. Drake made the motion and Mr. Dark made the second.

transcript pages 5 - 6

Mike Cassidy	Abstain	Sandra Rose	Yes
Tony Dark	Yes	Kerry Sublette	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes
Jerry Johnston	Yes		

Rulemaking - OAC 252:100 Air Pollution Control Ms. Laura Lodes, Air Quality Advisory Council Chair, explained that the proposed emergency changes to Subchapters 1 and 8 would assure that state Prevention of Significant Deterioration ("PSD") rules and Part 70, as well as Subchapter 7, permitting rules affected by recent changes to the U.S. Environmental Protection Agency's (EPA's) policies and programs for greenhouse gas

("GHG") emissions are not more stringent than the corresponding federal requirements. Ms. Lodes explained that the proposed rules should prevent confusion within the regulated community and therefore prevent unnecessary permit applications from smaller sources of greenhouse gases in Oklahoma. The proposed Subchapter 1 modification adds the definition of "greenhouse gas" to Chapter 100.

Mr. Eddie Terrill, Air Quality Division Director, explained that all three proposed revisions are necessary as emergency measures for clarity in order to avoid serious prejudice to the public interest. Without the proposed emergency adoptions, there is likely to be confusion within the regulated community as to which permitting thresholds apply to Title V sources, minor sources and PSD sources as a result of EPA's new light duty vehicle GHG emission standard. Mr. Terrill noted that the goal of the proposed emergency adoptions is to clarify that those permitting thresholds will not be triggered by small sources and to make it clear that it is unnecessary for these small sources to submit permit applications or take other costly steps to comply with EPA's new GHG requirements.

Mr. Thompson pointed out the need to have a rule in place as an emergency and then it would be brought before the Council for permanent rulemaking. Ms. Cantrell called for a motion to consider the rulemaking request for emergency status for Subchapters 1, 8 and 7. Mr. Dark made the motion and Dr. Galvin made the second. No vote was taken, and after further discussion, Ms. Cantrell again called for a motion to consider the rulemaking as an emergency. Mr. Johnston made that motion and Mr. Drake made the second.

transcript pages 7 - 31

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Kerry Sublette	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes
Jerry Johnston	Yes		

Ms. Cantrell called for a vote on the merits of the proposal as presented as emergency rulemaking. Mr. Griesel made that motion and Ms. Rose made the second.

transcript pages 31 - 33

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Kerry Sublette	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes
Jerry Johnston	Yes		

Rulemaking – OAC 252:205 Hazardous Waste Management Mr. Lee Grater, Chair, Hazardous Waste Management Advisory Council, advised that the DEQ proposed permanent amendments to its Hazardous Waste Management rules to update the incorporation by reference of federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2010. The updates would include revisions pertaining to the import and export of hazardous waste. Although states do not receive authorization to administer the import/export rules, state programs are still required to adopt these provisions in order to maintain their equivalency with the federal program. Otherwise, the revisions to the federal regulations include technical corrections and

clarifications and are not expected to have a substantive impact on the DEQ's hazardous waste program. Hearing no discussion or comments, Ms. Cantrell called for a motion of approval as presented. Mr. Griesel made the motion and Ms. Rose made the second.

transcript pages 34 - 37

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Kerry Sublette	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes
Jerry Johnston	Yes		

Consideration of and Action on the Annual Environmental Quality Report Mr. Jimmy Givens, Deputy Executive Director, advised that the Oklahoma Environmental Quality Code requires the DEQ to prepare an "Oklahoma Environmental Quality Report" and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. He provided a PowerPoint presentation outlining the prescribed purpose of this report which is the DEQ's annual funding needs for providing environmental services within its (1) to show jurisdiction, (2) reflect any new federal mandates, (3) and summarize DEQ-recommended statutory changes. Mr. Givens fielded questions and comments. Following discussion, Ms. Cantrell called for a motion for approval of the report. Mr. Griesel made the motion and Ms. Rose the second.

transcript pages 37 - 69

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Kerry Sublette	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Brita Cantrell	Yes
Jerry Johnston	Yes		

Executive Director's Report – Mr. Steve Thompson provided information regarding the changes in Legislative staff and relating to the election of the new Governor. He also advised the Board of the personnel changes within the DEQ; talked about the DEQ 101 meetings; and rolled out the 2010 Annual Report.

transcript pages 70 - 81

Mr. Thompson asked for presentations from Eddie Terrill, Air Quality Division Director and Shellie Chard-McClary, Water Quality Division Director, regarding upcoming rulemaking they will be presenting to their Councils in January 2011.

transcript pages 81 - 135

New Business None

Next meeting February 25, 2011, DEQ Multipurpose Room

Adjournment Ms. Cantrell adjourned the meeting at 11:45 a.m.

The transcript and sign-in sheet becomes an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE ENVIRONMENTAL QUALITY
BOARD MEETING
ON NOVEMBER 16, 2010, AT 9:00 AM
IN STILLWATER, 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

PROCEEDINGS

MS. CANTRELL: Good morning. The November 16, 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, 2009. Agendas were mailed to interested parties on November 5, 2010 and posted at this facility and at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on November 12, 2010.

Only matters appearing on the posted Agenda may be considered today in this. 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.

With that, we will now turn to our agenda for this meeting. I want

to welcome everybody to the EQB meeting here in Stillwater, beautiful Stillwater. I believe before we get started we have an announcement from the Board.

Dr. Galvin.

DR. GALVIN: I had to take off my jacket and show everyone that I came incognito this morning but for those of you that are orange-phobic I'd like to welcome you to OSU but just to make you feel welcome I've got ConocoPhillips on this sleeve and the color of that company is red, white and black. So for the great state of Oklahoma I'd like to welcome you all to Stillwater and OSU, and the ConocoPhillips Alumni Center.

(Applause)

MS. CANTRELL: Thank you. I guess now we'll turn to our roll call, please, Myrna.

MS. BRUCE: Good Morning. Mr. Cassidy.

MR. CASSIDY: Here.

MS. BRUCE: Mr. Dark.
MR. DARK: Here.
MS. BRUCE: Mr. Drake.
MR. DRAKE: Here.
MS. BRUCE: Dr. Galvin.
DR. GALVIN: Here.
MS. BRUCE: Mr. Griesel.
MR. GRIESEL: Here.
MS. BRUCE: Mr. Johnston.
MR. JOHNSTON: Here.
MS. BRUCE: Mr. Mason is absent. Ms. Rose.
MS. ROSE: Here.
MS. BRUCE: Ms. Savage is absent. Dr. Sublette.
DR. SUBLETTE: Here.
MS. BRUCE: Mr. Wendling.
MR. WENDLING: Here.
MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Here.
MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Here.
MS. BRUCE: We do have a quorum. Thank you.
MS. CANTRELL: Thank you,

Myrna.

The next item on the Agenda is the approval of the minutes of our August 24th, 2010 meeting.

MR. DRAKE: I would move approval.

MS. CANTRELL: We have a motion to approve.

MR. DARK: Second.

MS. CANTRELL: And a second.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: ~~Yes.~~ Abstain.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Thank you. The first rulemaking item on our Agenda today comes to us from the Air Quality Advisory Council. And I believe we have present today to make the proposal from the Council, Laura Lodes, who is the Chairman of the Air Quality Advisory Council.

Good morning.

MS. LODES: Good morning, Madam Chair and Members of the Board. We have several changes.

The first is the proposed changes to Subchapters 1 and 8. The Department proposes to modify Parts 5 and 7 of Subchapter 8 to clarify the applicability thresholds for the PSD

and Part 70 permitting program that can be deferred for greenhouse gases until the sources of greenhouse gas emissions exceed the levels set forth in the Greenhouse Gas Tailoring Rule by defining the term subject to regulation in OAC 252:100-8-2 for the Part 70 program, and OAC 252:100-8-31 for the PSD program. The modification does not require any source to obtain either a PSD or a Part 70 permit. It clarifies that the PSD in Part 70 permitting thresholds for greenhouse gas emissions have been raised to 100,000 tons per year of CO2 equivalent and a significant level for greenhouse gases has been set at 75,000 tons per year for CO2 equivalent for PSD modifications. This should prevent unnecessary permit application of smaller sources of greenhouse gases and will prevent the state PSD and Part 70 programs from appearing to be more stringent than the corresponding

federal rules. The modification to deal with the permitting of greenhouse gas emissions also includes the addition of the definition of greenhouse gases or GHG to Subchapter 1 at OAC 252:100-1-3.

EPA proposed the Greenhouse Gas Tailoring Rule in the Federal Register on October 27th, 2009 and promulgated the final rule in the Federal Register on June 3rd, 2010, making it impossible for the department to promulgate a permanent modification clarifying EPA's deferring of PSD of Part 70 applicability thresholds for greenhouse gases before the January 2, 2011 deadline. Because of this, a large number of smaller sources of greenhouse gases that would be excluded by the federal Greenhouse Gas Tailoring Rule could interpret current department regulations to subject them to the lower thresholds of PSD and Part 70 programs contained

in the current state rule; thus, negating the relief from the overwhelming permitting burden afforded by the Greenhouse Gas Tailoring Rule. This interpretation can be costly to the small sources that prepared and submit these permit applications in to the department which must process and respond to these permit applications. For this reason, the Department is asking the proposed changes to Subchapter 1 and Subchapter 8 be approved as an emergency rule change.

We're also proposing changes to Subchapter 7. The Department is proposing to modify the minor facility permit program to assure the state permitting rules which may be affected by recent changes to the US EPA's policies and programs for greenhouse gas emissions are not interpreted to be more stringent than the corresponding federal regulations. The Federal Clean Air

Act does not require that minor source programs be applied to greenhouse gas emissions. The Department proposes to amend Part 1 of the Minor Facility Permitting Rule OAC 252:100-7 by the addition of the new section OAC 252:100-7-2.1. This section clarifies that greenhouse gas emissions are excluded from the minor facility permitting program.

Council does recommend that both of these emergency rules be passed.

MS. CANTRELL: Chairman Lodes, just as a matter of framing the issues for the Board, I show that we have -- you have presented this in two packets. You have Subchapter 1 and Subchapter 8 as one proposal, and then you have Subchapter 7 as a second proposal. Does it -- are you suggesting that we consider them all as one package or is there any reason that we need to segregate them at this point?

MS. LODES: There is no reason you need to segregate them at this point. These are both emergency rules. Well, actually -- well, there may be -- okay. They are both emergency rules; also the Subchapter 7 will be a permanent rule.

(Pause)

MS. LODES: I'm sorry. They are both emergency rules. This is to get us to the next Council meeting. The January Council meeting, we will go through and look at the permanent rulemaking for both of these chapters and then we will be bringing the permanent rules before the Board next year, because we had to get something in place prior to January 2nd, and so that's what we're doing. As an emergency rule to get these in place to cover things until we can have more time to get to the January Council meeting.

MS. CANTRELL: Eddie, did

you have something else to add?

MR. TERRILL: Yes. Let me just clarify something. My name is Eddie Terrill, I'm the Air Director. We originally thought about not even bringing these to the Council or the Board because we believe we've got the authority under our existing statutory authority to regulate greenhouse gases as far as just the permitting aspect of it, but we thought that in order to be absolutely clear in our rules so there was no ambiguity of sources not knowing what they were supposed do and also to have a dialogue with the affected sources and the public about what our role in this, we felt like it would be best to clarify the rules by bringing them to the Council, bringing them to the Board and then give the Legislature an opportunity to say -- if they just say they don't want to regulate greenhouse gases at all or permit

1 them, we're not regulating greenhouse
2 gases, all we're doing is meeting the
3 federal requirements of the permit.
4 If they say we don't want you doing
5 it, also what they've done in Texas,
6 then we wouldn't do that. But we
7 believe we've got the authority; we
8 believe we've always had the
9 authority, we just want to make sure
10 that everybody understands what's
11 going to happen on January the 2nd
12 so that they -- if they are a PSD
13 source they have to get a permit, if
14 you're a Part 70 source you have to
15 get a permit; if you're a minor
16 source you don't have to get a
17 permit unless you want one. So this
18 is mainly to answer any questions and
19 clarify for the public that the
20 permitting requirements that EPA is
21 going to impose in January. We're
22 doing it as a -- we're bringing them
23 back as a permanent rule because
24 we've got sections open that we need
25 to put some 2.5 changes that EPA

1 just recently finalized. And if we
2 close those -- if we did these as
3 permanent and closed them before we
4 could incorporate those PM 2.5
5 changes it would be a year before we
6 could do that. So that's the reason
7 that we're bringing them as an
8 emergency so that they are in place
9 on January 2nd, it gives us time to
10 go to our Council in December with
11 these PM 2.5 changes -- or in
12 January rather, with the PM 2.5
13 changes and bring them back as
14 permanent next year to the Board.
15 So that's the only reason we're doing
16 it as an emergency, is because we
17 didn't have time because of the way
18 the feds promulgated the PM 2.5
19 portion, get that done prior to
20 today. So I think that's it.
21 MS. CANTRELL: Eddie, one
22 point of clarification, then, if the
23 Board were to pass this as an
24 emergency measure now then one point
25 that you want the Board to consider

1 in favor of an emergency status is
2 the fact that if the Board then was
3 to consider the same issue at the
4 2011 -- the next 2011 Board meeting
5 that even if permanent rules are
6 passed at that point there would be
7 a lag time before they were to go in
8 place and that this emergency rule
9 would cover that lag time. Is that
10 correct?
11 MR. TERRILL: That's right.
12 It otherwise -- technically we
13 probably still have the authority but
14 it clears up any ambiguity and it
15 also prevents any doubt for the
16 sources that want to get permits in
17 that interim time that they can move
18 forward with us as opposed to having
19 to deal with EPA relative to
20 greenhouse gas portion. If we were
21 to say, for instance, we weren't
22 going to do greenhouse gas permitting
23 at all, our sources would be subject
24 to a citizens suit for failure to
25 consider that as part of their

1 permitting activity with us and then
2 EPA would also permit that part of
3 the permit separate from the other
4 portions that we would do. So it's
5 a convenience for our sources to
6 clarify that we do have the authority
7 for all of the permitting activities
8 so they only have to deal with us
9 and not have (inaudible) process
10 where they have to do part of it
11 with us and part of it with EPA.
12 MS. CANTRELL: Okay.
13 MR. TERRILL: And there is
14 also -- I do want to clarify that
15 there is also a provision in here if
16 for some reason EPA loses the
17 authority to regulate greenhouse
18 gases either through a court stay or
19 it gets overturned then we revert
20 back to our existing rules so that
21 we don't have something more
22 stringent than what the feds have.
23 So we do have a clause in here that
24 protects our sources from being
25 regulated in the event that EPA loses

that authority.

MS. CANTRELL: We'll open this proposal for discussion. But we're going to need to do it in two parts. We're first going to need for the Board to consider the request that this proposal be given an emergency status, and then we'll need to then look at the rule proposed on its merits.

Do we have a proposal from the Board as to emergency status so that we can just put that issue on the table for discussion?

MR. DARK: So moved.

DR. GALVIN: Second it.

MS. CANTRELL: We have a motion and a second as to the emergency status of the proposal that is brought to the Board today.

Is there any discussion? Are there any questions from any who have joined us today regarding the proposal before the Board in the request of a finding of emergency

status?

MR. WUERFLEIN: Madam Chairman, I'm kind of at a loss. This is unusual to deal with something on temporary -- temporary is probably the wrong term but it -- we will be addressing this issue later on a permanent basis?

MR. THOMPSON: Richard, the rule -- the federal rule requires us to have something in place -- and this is the way I try to understand this, by January 2nd. And absence this rule we are much more -- there are two things that happen. We're much more stringent because what they've done is lopped off a bunch of sources that under the old permitting provision would be gathered up in this greenhouse gas permitting dilemma. And so this reduces the number of sources, at least for now, to a relatively small number. And if we don't do that by the 2nd then there are a couple of

things that happen in my mind. First of all we don't reduce the number of sources, and second thing is there is a potential for our industries to fall into a regulatory black hole in which there is at least a limited -- if this doesn't pass, the Department is going to take it as a signal from public policy makers in the state of Oklahoma that they don't want the Agency to regulate greenhouse gases. I don't know how to say it any other way.

Now there -- in my mind there are consequences whether you believe greenhouse gases ought to be regulated or not, it's not a debate that the Agency is going to get in to. But there are consequences for failure to do that, that people have to consider.

The first one is this regulatory black hole because the feds aren't going to be ready to do this, they tell us, for a year. And

so if you're an existing source it may be that you will be just fine. But if you want to permit a new source and there is no permitting authority, what do you do?

Now EPA has said they are not going to stop construction but that doesn't mean that a third party couldn't file a court action to stop construction. Pretty convenient. So that's the first thing.

The second thing is that if the state of Oklahoma does not permit greenhouse gases, a new facility in particular, would have to go to two permitting authorities ultimately. They would have to come to the DEQ for everything except greenhouse gases and they would have to go to EPA for greenhouse gases. Now this is assuming that it doesn't get overturned in court and it doesn't get stayed and all that stuff.

I can tell you from my personal experience that when we have

1 a new economic development
2 opportunity in the state of Oklahoma,
3 the Department has some anxiety about
4 getting that permitted. We do it
5 right; we're not going to cut any
6 deals; we're not going to give any
7 breaks, but that's one of the things
8 that our customer services' group
9 does is design a process that where
10 we get the permitting done in as
11 much accordance with the new
12 facility's schedule as possible. And
13 if you have a federal permitting
14 authority, I think you'd lose that.
15 I don't know that there will be any
16 anxiety at the federal level to get
17 those sources permitted that there is
18 at the state.
19 And third -- and we are --
20 when we've inquired of EPA about this
21 we get, well we don't know, and we
22 could or we might not but we don't
23 think we are so we're not -- we
24 don't get a good firm answer on
25 this. The Board needs to keep in

1 mind that there is a presumptive
2 federal fee for these things, for
3 major source permits, and the DEQ --
4 and at this point is, I think, seven
5 or eight dollars less than the
6 federal fee. But it could be that
7 someone seeking a permit from both
8 permitting authorities could pay the
9 state fee and they could pay a
10 federal fee. So you might be double
11 feed if you're seeking a permit.
12 So as long as, I think,
13 everybody understands the
14 consequences of failure to do this
15 then public policymakers, starting at
16 the Board level and on up, could
17 make a decision on what they think
18 is best for the state.
19 Have I've too terribly
20 misspoken, Eddie?
21 MR. TERRILL: Well, that's
22 pretty close.
23 MR. THOMPSON: Let me tell
24 you -- never mind, Eddie, it's close
25 enough.

1 MR. TERRILL: To get to the
2 emergency part of it, the emergency
3 that we've got here is you've got a
4 Section open in our PSD rules,
5 Subchapter 8, where these greenhouse
6 gas requirements fit. And if we get
7 the permanent rules at the same time
8 as we do an emergency, which we
9 could do on the greenhouse gas
10 itself, that would close that rule
11 for a year. And we've got PM 2.5
12 requirements that we've been waiting
13 on EPA for almost a year to
14 promulgate so that we can get those
15 into our rules to implement the
16 standard changes they made a year ago
17 so that our sources that have PM 2.5
18 requirements both modeling and
19 permitting in order to get a permit
20 from us, know what the requirements
21 are. So that's the reason we wanted
22 to keep -- we didn't have the timing
23 that EPA released -- their final
24 rulemaking did not coincide with our
25 ability to notice that for the last

1 Council meeting, so we need to leave
2 this part of the rule open, which
3 includes greenhouse gas, so we can
4 put the PM 2.5 requirements in there
5 and bring those back to you hopefully
6 in February. We think we're going
7 to get it done in January. But
8 that's the primary legal reason why
9 we need to do this as emergency
10 because we do not want to bring this
11 as permanent and close this rule and
12 forego for a year our ability to
13 implement these requirements that our
14 sources have to do now relative to
15 the PM 2.5.
16 MR. THOMPSON: So I
17 understand --
18 MR. TERRILL: And that's the
19 policy part of it and that's the
20 rest of the story.
21 MR. THOMPSON: I understand
22 that, but I did -- it would be
23 unfair to this Board not to have the
24 context in which all this is going
25 on.

MR. TERRILL: Exactly.
MR. THOMPSON: That's what I'm trying to frame for you is the context in which at least the notion of regulating greenhouse gases is coming forward. I mean Eddie's right. EPA and -- we both think that we currently have the authority to do that. And we wouldn't -- we could just regulate greenhouse gases under an existing permitting authority. But quite frankly, that's really a decision that's going to have to be made above my (inaudible). And so we're bringing this thing to you. There are typical reasons to do it but you ought to have the context in which the rule (inaudible).
And with that, I will be quiet for a while.
Was that a very long answer to a very simple question, Richard, but I --
MR. WUERFLEIN: Yeah, you

got the answer to my question in there but I was just curious as to why are we addressing two meeting in a row and you clarified that. Thank you.
MR. JOHNSTON: Pin it on the feds.
MS. CANTRELL: When is the scheduled -- the next scheduled Air Quality Council meeting?
MS. LODES: January -- I think January 23rd is what rings A bells. But I've got the meeting dates. January 19th.
This also gave us more opportunity to have industry comment on the regulation. I know Eddie has his reason but by doing it as an emergency rule, we patched it and through -- this also gave everybody more time to look at it. The EPA really has released all this stuff with very little time for anybody to -- for the Agency to prepare a rule and for industry to comment on a

proposed rule. And by doing emergency rulemaking at our current thresholds of 100 tons per year, to put it in perspective for you all, two large hot water heaters in your house may trigger a 100 tons of CO2 which would trigger Title V permitting if we don't have the tailoring rule. To put it -- on how low the emission -- I mean how much CO2 emissions are. Complete combustion is at that level. That's the whole goal of good combustion practices on industry is to convert VOC and CO2 -- CO2 on water. That's what industries strive to do for decades and because of that it's a very disproportionate amount of CO2. And that's the reason for this, to get it in, we get it in place and we're not triggering a lower level.
MS. CANTRELL: Any other questions regarding the emergency status of this rule? And when I say this rule, we're contemplating both

proposals together. We're contemplating the Subchapter 1, Subchapter 8, and Subchapter 7 as one measure brought before the Board today.
Any other questions regarding the emergency status of these proposals coming from the Air Quality Council?
MR. DARK: I have a curious question. Did industry engage at all in these meetings?
MS. LODES: Yes. Our Council meeting was quite long last month. To get in -- a lot of it was really to get in the clause that took out of our regulations if it is stayed, vacated, delayed, anything down on the federal level and the industry has been commenting. I started receiving comments from industry pretty much the day that the proposed rule got posted on the DEQ website and industry submitted quite a few comments and was out in force

at the Council meeting, and on the federal level has been making a lot of comments.

MR. DARK: That's good to hear.

MS. CANTRELL: Any other questions? Are we ready for a vote on the emergency status of the proposal before us?

MR. JOHNSTON: I would move that.

MR. DRAKE: I'll second.

MS. CANTRELL: All right. We have a motion and a second to put forth the emergency measure before the Board for a vote.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Now that the emergency portion has passed we will vote on the merits of the proposal and this is for Subchapter 7, Subchapter 1, and Subchapter 8 proposals before the Board. We are now considering the merits of the proposal.

Any further questions? I know we've already talked about this, in some length, with respect to the

emergency passage. But are any other questions regarding the merits of this proposal -- this emergency rulemaking proposal before the Board?

Any questions from the Board? Any questions from the audience? Are we ready for a vote?

Is there a motion?

MR. GRIESEL: So moved.

MS. CANTRELL: Is there a second?

MS. ROSE: Second.

MS. CANTRELL: Myrna, I believe we're ready to vote on the merits of the proposal before the Board.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Thank you. And thank you for the work of the Air Quality Advisory Council. I know that there will be notices going out about the next Air Quality Council meeting where I think this will be considered further.

We are now moving to Item 5 on the Agenda as a proposal regarding hazardous waste management. I believe we have a proposal here today

from the Hazardous Waste Management Advisory Council, Chairman Lee Grater.

MR. GRATER: Thank you.

MS. CANTRELL: Good morning.

MR. GRATER: The DEQ has proposed permanent amendments to its Hazardous Waste Management rules to update the incorporation by reference of federal regulations -- federal hazardous waste regulations at 40 CFR Parts 129 and 260 through 279, revised as of July 1, 2010. These updates give two principal issues. First the changes to the federal regulations for this time period include hazardous waste, technical corrections and clarifications. These include fixing typographical errors and incorrect or out of date citations and omissions. These changes wouldn't be either be more or less stringent than the existing federal regulations.

The second issue to be updated

deals with the incorporation by reference to changes made to federal programs governing import and export of hazardous waste and tagging for recovery. Because the federal government's role in matters of foreign policy, EPA does not authorize states to administer federal import/export functions. Because they are more stringent than the existing regulations states are required to adopt the provisions. However, for the reasons just stated, authorized states will not be implementing the changes. They will continue to be implemented by the federal government, therefore, these changes will have no substantive impact on the hazardous waste program implemented by the Department of Environmental Quality.

MS. CANTRELL: Thank you. Is there a motion from the Board for consideration of this proposal?

MR. GRIESEL: So moved.

MS. CANTRELL: Is there a second?

MS. ROSE: Second.

MS. CANTRELL: We have a motion and a second. Are there any questions from the Board regarding this motion?

Are there any questions from the audience? Are we ready to vote on this issue?

MR. DRAKE: Yes.

MS. CANTRELL: Myrna, I believe we are ready for a roll call vote.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Thank you, Mr. Grater.

MR. GRATER: Thank you.

MS. CANTRELL: We're now moving on to Item 6 on our Agenda, which is the Consideration of and Action on the Annual Environmental Quality Report.

MR. GIVENS: Morning Madam Chair, Members of the Board. I'm Jimmy Givens. I'm the Deputy Director, for those of you who may not know me in the audience. And

1 what I want to talk about today is a
2 little bit about what we see coming
3 down the road.
4 For those of you who have not
5 been involved in this process before,
6 I think all of the Board is probably
7 familiar with it, but some in the
8 audience may not be, there are a
9 couple annual reports that DEQ is
10 required by statute to present.
11 The first is appropriately
12 enough named the Annual Report. And
13 it's a little bit of a retrospective
14 on the past year.
15 The second is what is called
16 the Environmental Quality Report, has
17 more forward looking; it's more of a
18 policy document, and for that reason
19 the statute requires they be brought
20 to the Board and that the Board
21 consider it and review it and give
22 approval before it's forwarded then
23 from DEQ to the Governor and the
24 Legislature for their consideration.
25 The Environmental Quality

1 Report consists of three main
2 components.
3 Annual needs. In other words,
4 our appropriation requests to the
5 Legislature.
6 Federal mandates. Just a
7 review of some of the most important
8 requirements that are coming down the
9 road from the federal government that
10 the DEQ will be involved in
11 implementing or otherwise involved in
12 helping advise about.
13 And then legislative
14 recommendations. Those things that
15 the DEQ proposes to introduce as
16 bills in the coming state legislative
17 session.
18 I won't spend much time on the
19 appropriations request because you
20 considered this at the August Board
21 meeting. In order for us to make
22 the deadline of October 1st for us
23 to submit our appropriations request,
24 this is always considered in the
25 August Board meeting just by way of

1 refresher. We've talked to them
2 about DEQ requesting a standstill
3 appropriation of 8.1 million dollars.
4 We are also proposing to ask, with
5 limited optimism for success, for
6 restoration of small community
7 technical assistance the opportunity
8 for us to do a better job of
9 actually recovering some money that
10 was taken a way in the past where we
11 can help small communities with their
12 water and wastewater issues; and then
13 the air toxics program helping with
14 monitoring, et cetera, restoring
15 about five hundred and fifty-thousand
16 dollars there. So our total request
17 that was approved in the August Board
18 meeting was for about 8.9, almost 9
19 million dollars in general
20 appropriations.
21 Moving from the appropriations
22 request to the second component,
23 federal mandates portion. Some of
24 this we have already talked about so
25 I won't spend a lot of time on it.

1 The first one is actually something
2 that we seem to visit just about
3 every year and we are revisiting it
4 this year, the National Ozone, NAAQS.
5 Currently, it is at 75 parts per
6 million but we are expecting by the
7 end of the year to see a standard of
8 60 to 70 parts per million.
9 The lower standard would mean
10 that we would be in nonattainment in
11 Oklahoma at least in the metro areas,
12 and probably in other areas as well,
13 and it would require us to develop a
14 state implementation plan to try to
15 address that nonattainment.
16 Now what we -- actually this
17 has been postponed a couple of times
18 at least. It was supposed to come
19 out initially I think in August, and
20 then it was supposed to come out in
21 October, and the latest is a proposal
22 from EPA -- I believe they asked the
23 court to allow them to delay until
24 December 31st.
25 Now some of the more cynical

among you might question whether it makes -- whether there are certain advantages to issuing this sort of highly charged and controversial proposal in the period between Christmas and New Years. You ought to be ashamed of yourself for thinking that sort of thing.

Greenhouse gases, we've already spent a lot of time on this morning. I don't think I'm going to spend any more time. I certainly couldn't add anything to what the discussion has already been. But you will note up there that we are again talking about the adoption of the tailoring rule to keep everybody and their dog from being captured by that at this point. I wish everybody and their cow could be captured by that at this point.

Clean Air Transport Rule was proposed in August, would involve Oklahoma, unlike the CAIR rule that was remanded.

Emissions reduction would take

effect in 2012 for SO2 and NOx on power plants. And a federal implementation plan is likely on that because of the timing involved.

So that's some of the more important things that are -- we're looking at on the Air Quality front.

In Land Protection we've already had a couple of references to these. First of all the definition of solid waste, EPA is considering to refining that definition with respect to non-haz secondary materials that have burned. The secondary material is basically the by-product of the manufacturing of commercial process. What that means for Oklahoma is that there is a potential for dramatically curtailing burning of waste tires -- old waste tires in cement kilns. And since it's already been alluded to, that is of concern to us because that is where most of our waste tires go and would dramatically impact our waste tire recycling

program were that option to be taken away. The final rule is due almost any time now.

In coal combustion residues, again, EPA has proposed more stringent regulations that may include their -- be designated as a hazardous waste. The concern there, again by DEQ, is with somehow constructing -- what we consider to be very beneficial uses of that material in construction. We've commented on our concerns that whatever EPA does should not cause the opportunity for those beneficial uses to go away.

On Water Quality front, I'm not going to try and describe each one of these, partially because there are so many of them. Partially, because I couldn't give you very many details myself, anyway. I'm sure Shellie or one of her staff would be glad to visit with you about these. Many of these that you see up on the board

-- up on the screen are things that are in effect now but are being tightened in one form or another, and in particular there will be an impact as there always is on municipalities, especially smaller municipalities with a lot of these wastewater and water rules that are pending at this point. And it certainly requires more work by Water Quality both implementing new requirements when they happen and providing customer assistance to municipalities and others who are involved in the regulated communities.

There is an initiative by EPA that's called the Clean Water Act Action Plan. It is an effort to be both more aggressive and more transparent. I think that you will see that there are increased requirements for data, for inspection, for enforcement, obviously more work for the state, and just to add insult to injury, I

1 guess, more hoops to go through to
2 get federal grant funding.
3 Shifting gears slightly, in the
4 Safe Drinking Water Act Rules these
5 are provisions -- requirements that
6 we have talked to you about in the
7 past but we are now in the process
8 of seeking primacy. Seeking
9 authorization for the state to
10 implement these rules which we did
11 not undertake when they initially
12 came out. Certainly it's to the
13 advantage, we believe, to
14 municipalities and those in the
15 regulated community for the state to
16 take that on. So we are trying to
17 simplify matters by now assuming
18 primacy of those requirements.
19 Now I put this up here in part
20 because it illustrates something that
21 I think is an important point for us
22 to cover. And that is that when we
23 talk about requirements like the
24 water quality requirements that we
25 just talked about, sometimes it may

1 appear that that impacts only our
2 Water Quality Division or whichever
3 division the particular rule that
4 we're looking at is primarily
5 assigned to. But that often is not
6 the case. For example, the
7 groundwater rule that we just
8 mentioned we are seeking primacy for
9 now, not only affects the Water
10 Quality Division but it affects our
11 Customer Services Division, more
12 specifically the State Environmental
13 Lab, because we have to provide
14 analytical support associated with
15 that rule, along with a number of
16 other rules; and we have to be
17 involved in educating private labs
18 and drinking water systems on how you
19 go about meeting the requirements for
20 analysis -- sampling an analysis
21 associated with that rule. So many
22 times the rules that come down not
23 only affect a particular division but
24 more than one division within the
25 DEQ.

1 So I thought I would sum up
2 what I consider to be maybe the
3 reasons that it is important for us
4 to look at these federal mandates and
5 probably why the statute requires
6 that we be made aware of them. As
7 you are well aware, they often
8 require state rulemaking. They do
9 directly increase our workload in
10 terms of implementing the program
11 itself and incidentally increase the
12 workload because we have to provide
13 education outreach assistance to
14 those in the regulated community in
15 many cases, especially in smaller
16 communities, to understand what the
17 new requirements are and how to go
18 about complying with them. They do
19 often create a whole new set of
20 challenges when they try to solve one
21 problem and that, for example,
22 referring back to what I talked about
23 in Land Protection with coal
24 combustion residues and the
25 redefinition of solid waste, and it

1 probably goes without saying that
2 they seldom come with additional
3 money.
4 And by the way, all of that
5 plays into obviously your
6 responsibility as Board Members
7 because it relates to your oversight
8 of the budget, the appropriations
9 process, it relates to rulemaking, it
10 relates to your general policymaking
11 authority. So it is important for
12 you to understand what is coming from
13 the federal government.
14 Finally, the third component of
15 the Environmental Quality Report,
16 what are we proposing to take to the
17 Legislature this year? We actually
18 have more bills that we are asking
19 you to approve for our taking this
20 year than we have had in recent
21 years.
22 First is procedures for water
23 and wastewater operator
24 certifications. The statute
25 currently requires that when we issue

1 certifications to operators of our
2 water and wastewater plants, that all
3 of those be renewed annually. And
4 it actually sets the date of renewal
5 as July 1st. Well, there are
6 literally thousands and thousands of
7 these certifications. And so what
8 happens is that when it comes time
9 for the annual renewal during the
10 summer we have -- we have to
11 supplement our permitting staff with
12 a number of temporary staff just to
13 meet that lag all in a short period
14 of time.
15 There really is no particular
16 reason for us to do this on an
17 annual basis. Obviously there has to
18 be some period (inaudible) that makes
19 sense to make sure that people
20 maintain the certification and
21 maintain their expertise in their
22 training. But it makes as much
23 sense in our opinion to do it every
24 two years as it does to do it every
25 year. And perhaps more importantly,

1 the statute by stating that they all
2 have to be done on July 1st or
3 thereabouts creates a tremendous
4 amount of work within a very short
5 period of time. But if we had the
6 ability to simply stagger the renewal
7 dates, we could do a much more
8 efficient job getting that work done
9 without having to supplement with
10 additional staff on a temporary
11 basis. So this proposal will simply
12 be to allow us to do something we
13 think makes good sense from an
14 economic and efficiency standpoint
15 and spread out those renewals over a
16 little bit more time.
17 We have a problem and if
18 you've read the paper over the course
19 of the last couple of years you know
20 that we have a problem with sometimes
21 weighing in to small public water
22 supply systems that are not permitted
23 and have not been constructed
24 correctly and they create public
25 health issues. Many times these are

1 associated with restaurants or
2 convenience stores. We know that
3 there are a number out there that
4 are not permitted. They're supposed
5 to have a permit. They are supposed
6 to get a construction permit before
7 they ever construct. But the problem
8 that we face is what do we do about
9 them when they are already in
10 existence? We know that there are a
11 number out there and the proposal
12 that we are putting forward is to
13 require those systems to get what we
14 will probably call a supply permit,
15 for lack of a better term. It's
16 based on going back and picking up
17 people who should have already had a
18 permit but don't. And our intent is
19 simply to go look at the system that
20 is there and make sure that it has
21 the capability to supply safe
22 drinking water to the customers of
23 that establishment. And if not, they
24 enter into some sort of consent order
25 or other agreement with the facility

1 to make sure that that happens and
2 simply cannot afford to run the sort
3 of risk that we have seen produce
4 results here in the past couple of
5 years.
6 Moving more to the Land
7 Protection issue. Again, if you've
8 read the paper, particularly -- well,
9 I won't say what area of the state
10 but generally this -- say the
11 northeast quadrant in the state, some
12 where around Wagoner that we run into
13 problems with landfills from time to
14 time. And one of the issues that
15 has complicated matters for us is the
16 slope that we find on some of these
17 landfills. They are required by rule
18 to have at final closure, an external
19 slope, no steeper than four to one.
20 But there are some landfills out
21 there that, frankly, don't pay very
22 close attention to that during their
23 operating life. And there are a
24 couple of issues in particular that
25 that causes for us.

1 One is, if there is a problem,
2 like a fire, that requires equipment
3 to reach where ever the working face
4 is, sometimes it's impossible to get
5 the emergency equipment where it
6 needs to go, because the slope is
7 simply too steep during the operating
8 life.
9 The second is that with slopes
10 that are that steep there is also a
11 tendency for people to walk away
12 before the slope eventually reaches
13 four to one. So we are proposing
14 some legislation that will try to
15 prevent those sorts of problems from
16 coming to fruition and will simply
17 require that during operation, slope
18 be no greater than three to one.
19 That gives us some assurance that we
20 can get equipment where it needs to
21 go and that if the landfill closes
22 before the estimated final closure we
23 have some part we can work with
24 without the slope being faced with
25 the tremendous outlay of money just

1 to get it in shape to close.
2 A few years ago, those of you
3 who have been on the Board for -- I
4 can't recall how long ago this was,
5 maybe five to ten years ago, we made
6 some changes to the Oklahoma
7 Environmental Quality Code that
8 allowed DEQ a little bit more
9 flexibility in where functions were
10 located within the Agency.
11 Back in 1993 when DEQ was
12 created there -- the statutes were
13 fairly prescriptive on a lot of
14 fronts about this particular function
15 will be in this particular program or
16 division. That was revised a few
17 years ago to give the DEQ more
18 flexibility to do whatever seemed to
19 make the best sense organizationally
20 at the time. For some reason this
21 was overlooked or we simply didn't
22 address it at the time.
23 What we're proposing is to
24 allow customer assistance functions
25 within the Agency to be administered

1 from wherever seems to be the most
2 efficient. What the statute says now
3 is that customer assistance functions
4 will be within the Customer Services
5 Division. Well that makes pretty
6 good sense on its face but what has
7 happened is that we have evolved over
8 time and technology has evolved to
9 where a lot of the functions that
10 are referred to as customer
11 assistance in the statute are now
12 systemic to the organization.
13 For example, the assignment was
14 made to the Customer Services
15 Division to provide copies of rules
16 to the public and to the regulated
17 community. Well in 1993, what that
18 meant was we had a lot of people
19 involved in literally copying hard
20 copies of rules and mailing them to
21 people who need these. That no
22 longer is the case. Very few people
23 request hard copies of rules anymore.
24 It's all handled via our website.
25 Conducting public meetings and

1 assisting businesses and
2 municipalities to understand the
3 requirements, again, there still is
4 some of that and it's handled within
5 the Customer Services Division but
6 it's also dispersed throughout the
7 Agency. So while we have no -- this
8 seems to be one of those you think
9 there's got to be some sort of major
10 agenda behind, there really isn't.
11 We're trying to simply clean up some
12 language to make sure that the Agency
13 can move personnel around and make
14 sure that whatever functions that
15 they are performing that might fit
16 within customer assistance as it's
17 defined in the statute where it makes
18 the most sense for those personnel to
19 be located is where we put them.
20 Provisions to emergency
21 response acts. There are a couple
22 of Acts, the Oklahoma Emergency
23 Response Act and the Oklahoma
24 Hazardous Materials Planning and
25 Notification Act that are kind of

1 related to each other. Basically
2 they cover situations where there is
3 an emergency created by a spill of a
4 hazardous material. And they are
5 designed to make sure that the
6 various state agencies that have some
7 responsibility know who does what in
8 those circumstances. The Office of
9 Emergency Management, DEQ, the first
10 responders like the highway patrol,
11 have to understand who has what
12 responsibilities. The acts could use
13 a little bit of clean up and that
14 really is all there is to it. There
15 are some other statutory changes that
16 have not been picked up in these
17 particular statutes. And we think --
18 for example, just by way of example,
19 I think this is mentioned in your
20 reading materials as well. The
21 statute -- one of these current
22 (inaudible) acts firmly says that the
23 DEQ will supervise local emergency
24 planning committees. Well, we don't
25 really supervise them, we certainly

1 coordinate with them. We provide
2 information to them, but we don't
3 supervise them. So it's those sorts
4 of minor clean-ups that we'd like to
5 take care of. Not any sort of earth
6 shattering change that's needed, like
7 would be helpful to clarify how the
8 agencies relate to each other. And
9 honestly this is one of the fields
10 that, as you know, we always try to
11 have a bill out there that we could
12 use as a vehicle for something that
13 comes up during the legislative
14 session. This is a likely candidate
15 to be a vehicle if we should need
16 one for another subject that comes up
17 down the road that we don't
18 anticipate right now.
19 Okay. I think that is enough
20 for the overview. If you have any
21 questions about any of that, I'll be
22 happy to try and answer them or to
23 refer them to someone who can.
24 MS. CANTRELL: Thank you,
25 Jimmy, for an excellent presentation

1 over a broad array of topics. I'm
2 sure there are questions from the
3 Board and from those in attendance.
4 I have a question. When you
5 talked about creating these supply
6 permits for the currently unpermitted
7 public water supplies. How does the
8 legislation define what is a public
9 water supply? How do you determine
10 what is an unpermitted public water
11 supply by definition?
12 MR. GIVENS: How is -- how
13 do you define what is a public water
14 supply?
15 MS. CANTRELL: Yes. How
16 broad is that scope, I guess is my
17 question.
18 MR. GIVENS: My layman's
19 explanation is that if you're
20 providing water to members of the
21 public, then you're likely to be a
22 public water supply. But there is
23 actually a regulatory definition.
24 And Gary -- where's Gary? Can you
25 help me with -- or Shellie?

1 MR. COLLINS: I think Jimmy is
2 right. Basically the way the statute
3 is defined -- defines a public water
4 supply is basically anybody that
5 serves water to the public. So if
6 you've got one house -- you have --
7 you're serving water to your family,
8 that's a private water supply. If
9 you put two houses together and they
10 are on one well that becomes a
11 public water supply. So there is
12 all -- and there is all different
13 sizes. We have minor water systems
14 which are those that are small, you
15 can service, say, less than 15
16 connections. And then you go up to
17 a non-community, and then a full
18 public water supply (inaudible)
19 serves the town.
20 MR. THOMPSON: And I think
21 it's fair to say that we don't
22 search for somebody serving to one
23 other person. But when they come
24 up, they are a public water supply.
25 In this case, I think we have any

1 number of restaurants that are out
2 there that are not permitted and, in
3 fact, may be operating outside of
4 what we would require if they were
5 permitted. Well, we've got to have
6 a significant level of assurance that
7 the water particularly in those cases
8 that is being served to the public
9 in restaurants is safe. And we've
10 got to -- this is an effort to
11 address those kinds of issues. And
12 there may be -- we may come to you
13 with more stringent monitoring
14 requirements for those situations.
15 But we've got to get -- as Jimmy
16 said, we've had problems in the past
17 and this is something that we've got
18 to get a handle on.
19 MS. CANTRELL: Thank you.
20 Any other questions for Jimmy while
21 we have the opportunity to think
22 ahead and look toward the future in
23 the next legislative session?
24 MR. WENDLING: This is John
25 Wendling. Jimmy, I've got a

1 question.
2 MR. GIVENS: Sure.
3 MR. WENDLING: Regarding --
4 when I read through this I was
5 looking at the content and also
6 looking at, you know, the way you
7 presented it to us. And it seems to
8 me in the report we have some really
9 significant issues coming our way,
10 whether it's the Clean Air Transport
11 Rule, the Solid Waste Rule, things of
12 that nature. And we identify, you
13 know, the types of risks we might
14 have. I was just curious, since
15 this is going to the Governor and
16 the Legislature, how do we identify
17 in here the significance that this
18 could have on the state from either
19 a financial impact on the state, an
20 impact also to industry? I mean we
21 allude to that it will have an
22 impact, but I don't see in here
23 where we raise the flag and say,
24 well, this is real -- pretty
25 significant and here's some examples

1 of ranges of impact it could have on
2 the state. So just the thoughts on
3 content to really let people know
4 this is significant?
5 MR. GIVENS: I'm looking at
6 Steve to see if he wants to address
7 that, since he typically is involved
8 more at the Capitol than I am, or
9 not.
10 MR. THOMPSON: Certainly, I
11 think that it's a point well taken
12 and we're interested in expressing to
13 the Legislature and the Governor of
14 the impacts of these things in
15 whatever way we can. The question
16 arises as to process for today. We
17 have -- this thing is due by
18 December -- we'll not have another
19 Board meeting before this is due to
20 the Governor. So the Board would
21 have to give us some opportunity to
22 address that without revisiting it.
23 Which we're happy to do and try to
24 incorporate some of those kinds of
25 comments in there, but the Board has

1 to understand that we have a
2 statutory deadline that we have to
3 meet. I think we -- maybe what
4 happens, John, is it -- like the
5 coal combustion waste thing and the
6 -- those kinds of issues, we're so
7 used to talking to people both inside
8 the state and within EPA and within
9 the Congressional Delegation about
10 those things that we don't give any
11 emphasis to it in the report that
12 maybe we should. I mean I don't --
13 that's not a -- well, it is an
14 excuse, but it's not a good one. So
15 we're willing to make an effort to
16 fix what you're talking about but you
17 have to understand that this is --
18 today's probably the only kiss of
19 death particular thing that the
20 Board's going to handle.
21 MR. GIVENS: It's probably
22 fair to say -- I'm just following up
23 on what Steve mentioned, that we have
24 been much more aggressive and much
25 more attentive to explain what the

consequences are, and once it becomes a rule that we have to adopt. And I think your point's well taken. We can do a better job of looking at what the impact is of rules that we are facing that are coming down the road. Like -- obviously when it becomes -- it comes to the point where we adopt the rule that is -- we're incorporating by reference a federal rule or in that being some fashion that's driven by a federal rule, we have to have a rule impact statement. We have to have an economic analysis associated with that and we probably intended to focus on that more than, probably all of them in the process.

MR. THOMPSON: We can try to do better in the future. But I mean there are -- I mean we understand -- for instance, the coal combustion rule, if EPA declares coal fly ash a hazardous waste, I have no idea what we're going to do about

that and I have really no idea what those that produce fly ash are going to do about it. My understanding is that we have in the country about -- in the existing hazardous waste landfills about a six-month window in which if that stuff started going to those landfills before they are full, that things like fly ash are viable to the cement industry and how do they -- what does that mean if there is risk related to this thing somehow being a hazardous waste. I mean what -- how do those liability issues get addressed?

There are a lot of those things -- and we don't, as an Agency, those kinds of costs and those -- beyond that, the Agency really doesn't know, so we would have to rely on others to help on that. But they're big deals. Some of these are really big deals. And we can at least while we may not have expressed it we -- in the report,

we've expressed it to others and will continue to do so.

MR. WENDLING: Thank you, Steve. It was just a suggestion. Because when I went through this, it just seemed to me that we are alluding to the fact that this is going to have an impact but in some instances, each of these will have a different impact than others. And I wasn't sure how we would -- what would be the appropriate forum to even raise that, and how early it should be raised.

MS. CANTRELL: Any other questions? Do we have a motion to approve the report?

MR. GRIESEL: So moved.

MS. ROSE: Second.

MS. CANTRELL: We have a motion and a second.

Any further questions before we submit this for a vote? Okay. Thank you. Myrna, I believe we're ready.

MS. BRUCE: Mr. Cassidy.
MR. CASSIDY: Yes .
MS. BRUCE: Mr. Dark.
MR. DARK: Yes.
MS. BRUCE: Mr. Drake.
MR. DRAKE: Yes.
MS. BRUCE: Dr. Galvin.
DR. GALVIN: Yes.
MS. BRUCE: Mr. Griesel.
MR. GRIESEL: Yes.
MS. BRUCE: Mr. Johnston.
MR. JOHNSTON: Yes.
MS. BRUCE: Ms. Rose.
MS. ROSE: Yes.
MS. BRUCE: Dr. Sublette.
DR. SUBLETTE: Yes.
MS. BRUCE: Mr. Wendling.
MR. WENDLING: Yes.
MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Yes.
MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Yes.
MS. BRUCE: Motion passed.
MS. CANTRELL: And thank you, Jimmy, very much for pulling

1 together, not only the federal
2 mandates that are on the horizon, but
3 also distilling for us the
4 legislative recommendations for the
5 following year. We look forward to
6 following it.
7 We're now at Item 7 on the
8 Agenda. The Executive Director's
9 Report.
10 MR. THOMPSON: Thank you,
11 Madam Chairman. Well, let me first
12 start by saying that you may have
13 noticed that we had an election
14 between today and the last time that
15 we met. And as we anticipated and
16 as Jimmy reported to you at the last
17 meeting, we have a new Pro Tem, a
18 new Speaker, and a new Governor.
19 The Pro Tem, Chris Steele, is from
20 Shawnee. I mean the Speaker, I'm
21 sorry. And the House Pro Tem is
22 Jeff Hickman from Fairview, both of
23 which we have worked with in the
24 past.
25 The Senate Pro Tem is Brian

1 Bingman and the Majority Leader is
2 Mike Schulz from down at Altus.
3 Brian is from Sapulpa. Senator
4 Bingman was the Chair of the Energy
5 and Environment Committee in the
6 Senate prior to this appointment as
7 Pro Tem and so we have a long and
8 good relationship with both of those.
9 We are awaiting the Governor's
10 appointments, particularly the
11 Governor's appointment as Secretary
12 of Environment. We are also anxious
13 to know who the new Chairs of the
14 Environment Committees in both the
15 Senate and the House are. Those
16 have not yet been named but we look
17 forward to them being named in the
18 near future. All of the legislation
19 -- it would be good to know that
20 because all the legislation -- it's
21 always good to have authors on those
22 committees when you run these
23 legislations, so we're looking
24 forward to those committees being
25 formed and beginning that process.

1 A couple of personnel changes
2 that I wanted to talk to you about,
3 within the Agency. You may recall
4 that Catherine Sharpe who had served
5 as the Assistant Division Director
6 for Land Protection, moved to our
7 Administrative Services Division as
8 the Assistant Division Director
9 there. That left that position open
10 and Kelly Dixon has been named by
11 Scott to be the new Assistant
12 Division Director for Land
13 Protection. Long time and terrific
14 employee of the Agency, and so we
15 look forward to supporting Kelly in
16 her new position.
17 In addition, Don Maisch who had
18 for a number of years served as the
19 lead attorney in the Water Quality
20 Division was offered and has accepted
21 a position as the General Counsel of
22 the Health Department.
23 That left us with a situation
24 in which we could either fill that
25 position or because of the

1 similarities of the activities in the
2 Water Quality Division and the ECLS,
3 we could take the opportunity to get
4 some efficiency and to combine those
5 two into one legal unit. After some
6 discussion with Martha, and with
7 Shellie, and with Gary, and with
8 Jimmy, we made -- I made the
9 decision to combine those under the
10 leadership of Mista Turner-Burgess
11 who had been the lead attorney in
12 ECLS. So we continued to look in
13 times of budget struggle to find
14 efficiencies within the Department.
15 A lot of the -- or at least some of
16 the legislative changes that we've
17 talked about are along those lines
18 but where those opportunities present
19 themselves we are looking for them
20 and without, I think the support --
21 I am particularly pleased with the
22 support that Shellie and Gary gave to
23 that idea. You know, I don't know
24 about you but when I got my own
25 thing, I like to keep my own thing,

1 and they were very gracious in saying
2 we think we could make this thing
3 work and we did it. So Mista will
4 be caring out that new role.
5 There has been over the past
6 couple of years a desire by
7 policymakers across the state to take
8 a much closer look at beneficial
9 reuse of wastewater. A committee has
10 been formed to look at that issue
11 and Shellie and her folks are working
12 with them to determine what the safe
13 reuses of that water are. But as an
14 indication of the Department's
15 dedication to that and with the
16 cooperation of the Water Quality
17 Council, we will open a new
18 subchapter for water reuse in the
19 near future. Now that chapter won't
20 have anything in it because those
21 things, I think are pretty sensitive,
22 that we need to take a very close
23 look at before we make any
24 recommendation to the Council and
25 ultimately to the Board, but it does

1 show our commitment to fully engage
2 in the notion of reuse -- beneficial
3 reuse of wastewater.
4 It was clear to me that the
5 Board had great interest in an effort
6 to bring technical assistance to
7 small communities and in a time of
8 decreasing resources we have tried to
9 be thoughtful about how we could do
10 that. We, along with -- well the
11 Customer Services Division -- well,
12 all of the divisions of the
13 Department have come together to
14 develop what we are calling DEQ 101.
15 And that is just an effort to go out
16 to particularly small communities and
17 sit in a room around a table much
18 like this and discuss the issues that
19 they have and to better -- to
20 provide a better understanding of
21 what and why the DEQ does what it
22 does. And we held the first one of
23 those meetings about a month ago in
24 Chickasha under the stewardship of
25 Representative Phil Richardson and

1 Senator Ron Justice. And I just
2 thought it was a really good meeting.
3 I just really thought we had some
4 real honest gut level communication
5 with the communities that showed up.
6 And they, I think, went away with a
7 better understanding of what the DEQ
8 does, and we came away with a better
9 understanding of the problems that
10 they face. So we plan to continue
11 that.
12 The second one of those will
13 be on November 30th in Medford,
14 sponsored by Senator David Myers and
15 Representative Dale DeWitt. And if
16 those continue to be as productive
17 as, I think, the first one was, we
18 will continue to go out and have
19 those meetings across the state.
20 Finally for my part, we're
21 going to -- I want to ask Eddie and
22 Shellie to make a presentation to you
23 during the Executive Director's
24 Report, but the last thing that I
25 will have other than answer questions

1 related to what Shellie and Eddie
2 have to say is that we did, in fact,
3 mail to you in your packet, this
4 year's Annual Report. I hope you
5 are as pleased with that effort as I
6 am. It always surprises me. Maybe
7 I shouldn't admit this. Maybe it's
8 wrong for me to admit, but when the
9 Annual Report comes out I'm always
10 surprised at the range of activity
11 and all the good work that's going
12 on in the Agency. I intuitively
13 know that this stuff is going on,
14 but when it gets condensed into one
15 report, you get a chance to look at
16 it, and what's gone on in the last
17 year I always find it heartening that
18 we have a level of extraordinary
19 employees that we have and the kinds
20 of work that they do. And that's --
21 acknowledging that, 80 percent of
22 what we do gets condensed into the
23 appendices; all the permitting,
24 enforcement, inspections, and all
25 that stuff is just in tables at the

1 back. So I commend that document to
2 you. I hope you get a chance to
3 look it over because I think it's a
4 great document. And Skylar
5 MacElhaney is here. She is the --
6 stand up Skylar. Go ahead and stand
7 up. She is the editor of that
8 document and puts it together for us.
9 We accumulate stories and all of the
10 divisions have a big part in doing
11 that. But she's the one that makes
12 it read like -- I brought a letter,
13 my contribution is a letter in the
14 front of the book and I always write
15 a letter and Skylar always makes it
16 readable for others and so -- and
17 that's her job and I think she does
18 a terrific job of it.
19 (Applause)
20 MS. CANTRELL: Yes.
21 MR. THOMPSON: So with that,
22 let me pause for a moment before we
23 get Eddie and Shellie up here and
24 ask if there any questions about
25 anything that I said before we move

1 on.
2 MS. CANTRELL: Okay. I
3 have one quick question.
4 MR. THOMPSON: Okay.
5 MS. CANTRELL: Regarding the
6 beneficial reuse of wastewater, do we
7 have examples from other states that
8 are pursuing similar initiatives or
9 thoughts as far as beneficial reuse?
10 MR. THOMPSON: We do. And
11 we are looking at those, but you
12 have to understand that there are
13 certain circumstances. This is most
14 prevalent in the more arid states,
15 Arizona and Nevada and places like
16 that. And so the situation is a
17 little different in Oklahoma than it
18 is out there. But there are great
19 examples out there that we are
20 looking at. It's not to say that
21 we're not already doing beneficial
22 reuse. I mean when we do irrigation
23 systems, land application systems,
24 that's a beneficial reuse. There
25 have been situations where we have

1 allowed treated wastewater to be used
2 for cooling and electrical
3 generation. There is an occasion or
4 two where that's occurred. But it's
5 very site specific and we have to be
6 very, very careful about it. So
7 there are a lot of examples, the
8 folks that are interested in this are
9 bringing a lot of these examples to
10 us and we're going to examine all of
11 those and then we will bring them to
12 the Council for their review.
13 MS. CANTRELL: Thank you,
14 Steve.
15 MR. THOMPSON: You want me
16 to introduce?
17 MS. CANTRELL: Yes.
18 MR. THOMPSON: Okay. We've
19 gone down the -- we've told you that
20 we're not going to have any general
21 revenue money and we're going to get
22 ready to tell you that the cost of
23 benefits are going up and we've
24 talked to you about the expected
25 workload. And So I have asked Eddie

1 and Shellie to come forward to
2 discuss some of the things that they
3 are talking with their Council about
4 and if and how we're going to
5 address that.
6 Now what you're going to hear
7 is not settled by either Council but
8 because of the nature of what is
9 being talked about, I thought it was
10 important that the Board have at
11 least some kind of a heads-up about
12 what we're considering. So with
13 that, I'm going to turn it over. I
14 guess, Eddie, you're going to go
15 first.
16 MR. TERRILL: I guess you
17 wanted the most important division to
18 go first. That's what I took this
19 to mean.
20 MR. THOMPSON: It was not
21 my decision.
22 MR. TERRILL: Oh. No
23 offense, Shellie. Steve's right.
24 We've done this presentation -- or I
25 didn't do it but staff did a

1 presentation to our Council last
2 meeting and we're going to bring back
3 another presentation for them in
4 January. We felt like rather than
5 take up a lot of time at the meeting
6 and then in February talk about how
7 we've gotten to what ever resolution
8 the Council decides to brings before
9 you, we give you the background that
10 we're giving them. I'll go through
11 this real brief. I've got a lot of
12 slides but I'm going to be real
13 brief about it, so stop me if I go
14 too fast or -- but this is mainly
15 for you to think about and know what
16 goes into this before we come back
17 to you in February with what I hope
18 is some sort of an increase for our
19 program.
20 Well, we've got to why and the
21 how we're going to get there. The
22 why is in several parts. The
23 legislative appropriations are down
24 as Steve alluded to; for us there is
25 a chart for the last several years

1 but the high water mark for us was
2 about 1.5 million in 2009. We
3 anticipate that we will have
4 something around two hundred forty-
5 five thousand dollars for FY 2012.
6 So we've that significant drop in
7 appropriated dollars to run our
8 program that we're going to have to
9 make up somehow or other.
10 Cost of employee benefits are
11 up. This is the line -- the blue
12 line is where we are on the filled
13 positions now and hope we will be
14 with all positions filled with the
15 increases that we're anticipating.
16 These costs include salary, longevity
17 insurance, and retirement. We have
18 not had salary increases for staff
19 for at least three years now except
20 for those staff increases that you
21 get when you've been there and move
22 from -- with Environmental Specialist
23 I to II to III to IV or whatever.
24 Same way with our engineering staff
25 but we've had no increases in staff

1 pay for the last three years. This
2 is just our fixed cost increases for
3 benefits and retirement that for the
4 most part make up the bulk of this
5 increase.
6 Totals of the operating fees
7 are down. You can see that we've
8 gone from about 8.6 million down to
9 about 7.7. The economy being down
10 is part of it, but we've also had a
11 good thing for the environment, we've
12 had sources that have for a variety
13 of reasons have become minor sources
14 that are major sources that cut their
15 emissions. But regardless, our
16 workload hasn't gone down any but our
17 -- the amount of the revenue that we
18 expected through our Title V and
19 minor source fees have gone down
20 about a million dollars -- eight
21 hundred and sixty thousand to be
22 exact.
23 This gives you a bar graph of
24 interpretation of our major and minor
25 sources. You can see our major

1 source emissions have gone down over
2 the last ten years and our minor
3 sources have continued to go up.
4 Part of that's because we have more
5 minor sources, but like I said, part
6 of it is because we've got synthetic
7 minors that major sources becomes
8 synthetic minors and minor sources in
9 order to avoid the requirements that
10 major sources have on them.
11 Division workload keeps going
12 up. And this is a big deal for us
13 as far as trying to balance not only
14 the minor revenue but the fact that
15 we continue to have this increased
16 workload from EPA. I want you --
17 I'm not going to go into a lot of
18 detail but these are the big ticket
19 items that we have to address -- or
20 already addressing or will address in
21 the coming months.
22 Since 2005 they've had 24 MACT
23 standards that have been implemented.
24 I think they've got about that many
25 to go. These are federally --

1 federal requirements that are driven
2 by court decisions for the most part.
3 So EPA has to do these. They've
4 dragged their feet on a lot of these
5 for a number of years and it's
6 difficult -- there are so many
7 sources that are caught by this and
8 it's a very difficult thing to get
9 their arms around. It's very
10 technical and how you implement this
11 is very much of a drain on our
12 resources as well as industry that
13 has to do these as well. But the
14 big ones are the reciprocating engine
15 MACT, they've got eighteen thousand
16 engines in the first round. We
17 anticipate another six thousand --
18 seven thousand in the next round.
19 The gasoline dispensing facility
20 service stations, about three
21 thousand stations with 228 bulk
22 terminals that we have to regulate
23 and then the boiler MACT we have
24 somewhere around 820 boilers. That's
25 a guesstimate. That's a pretty good

1 guess.
2 Then we've got greenhouse gas
3 rules and the permitting parts of
4 that. Then we've got the NAAQS, and
5 I'm not even going to go into the
6 NAAQS because each one of those has
7 its own separate set of requirements
8 that requires to do things.
9 So the total of how much we're
10 asking our Council for is 1.23
11 million for the legislative
12 appropriations, cost for our benefits
13 over the next five years is about a
14 million, and total annual operating
15 fees are down about a million but
16 the total is 2.95 million and that
17 was the overall budget request
18 increase that we asked the Council
19 for, for a variety of sources. I'll
20 get to it in just a second.
21 One of the things that we've
22 been concerned about for a number of
23 years is the fact that we don't have
24 a mobile source component for our fee
25 structure. Right now the major

1 sources make up about 80 percent of
2 our budget, fee base. And then 20
3 percent for the minor sources.
4 That's probably about right for the
5 workload, give or take, but it still
6 doesn't do anything for the burden
7 that the mobile source component of
8 our air shed bears and how you
9 spread that cost out. Those are
10 primarily NAAQS driven-things that
11 the mobile sources contribute to.
12 But you also have some toxics as
13 well. But none of that is born by
14 the public, and capacity depending on
15 EPA grant and appropriated dollars to
16 cover that and you've seen that we're
17 losing that, so we're looking for a
18 way to increase that.
19 Just a little bit about area
20 sources, these are the things that
21 we're going to try to levy a fee on
22 for the first time ever. These are
23 the ones that these MACT sources --
24 MACT standards that I talked about
25 apply to, like, gas stations, auto

1 body shops, paint shops, dry
2 cleaners, these are the big ones that
3 we have but they are all sources
4 that are less than 10 tons of
5 pollutant or 25 tons of any
6 combination of and there is a lot of
7 them that are primarily a toxics
8 issue. They are primarily a local
9 issue because of their localized
10 impact as opposed to being what I
11 call statewide and regional impact.
12 But they all have individual
13 requirements and they all require a
14 federal permit of some sort.
15 This is just another outline of
16 the MACTs and what we're having
17 implement and what we're trying to
18 figure out how we can implement that.
19 It gives you kind of a indication of
20 the breath of the sources that are
21 covered and the substances that are
22 covered. But they're all -- MACT is
23 Maximum Achievable Control Technology
24 and it's designed to reduce toxic
25 pollutants -- hazardous air

1 pollutants rather at these small
2 sources.
3 Now to the main part of our
4 presentation; that's the proposal
5 itself. What we proposed to the
6 Council last month was that we would
7 fee the criteria of pollutants the
8 same. The major and minor source
9 fees, Title V fees would stay the
10 same. We proposed a fee for
11 hazardous air pollutants to make up
12 for the loss that we had in
13 appropriated dollars that was funding
14 our toxic program which includes our
15 mercury monitoring program. It was a
16 little bit confusing to Council being
17 that when it says fifty dollars a
18 ton, that doesn't mean we're going to
19 add fifty dollars a ton to the cost
20 of the fee right now. There is a
21 lot of these HAPs or at least some
22 of the HAPs are also VOCs and so
23 they're feed at a criteria pollutant
24 range of about 34 something -- 41
25 per ton. What we're proposing is to

1 raise that to fifty dollars for the
2 -- if it's a hazardous air pollutant
3 which is an increase of $16.00 for
4 the major source, an increase of
5 $25.00 a minor source. So it's not
6 $50.00 on top of what we're already
7 charging for a major and minor
8 source.
9 We're proposing to roundup for
10 sources that have less than one ton
11 of a HAP so that we're feeing at
12 least one ton at a facility if they
13 have a federal requirement that they
14 have to get a permit for. We're
15 proposing to -- we proposed to raise
16 mercury to $100.00 per pound, lead at
17 $50.00 per pound, and the reason for
18 that is because of the toxicity of
19 both of those pollutants and try to
20 encourage those sources to reduce the
21 amount of mercury and lead that they
22 are emitting.
23 We're proposing a flat $250.00
24 per year fee for area sources that
25 aren't subject to a -- they're

1 subject to an air pollution standard
2 which is a federal air pollutant
3 standard but not subject to getting a
4 permit from us otherwise. And then
5 we're also proposing a mobile source
6 component for the first time in a --
7 since the Agency's been formed. And
8 we did this on a sliding scale
9 depending on the throughput of a
10 service station of 250, 500 dollars,
11 and 750 dollars for the big one. We
12 anticipate the bulk of these
13 facilities will fall in the 500 to
14 750 dollar per year category.
15 We did meet -- I met with the
16 Petroleum Marketers Association last
17 week. They are the ones that
18 represent the bulk of these sources.
19 Obviously they are not very thrilled
20 about being feed, but they are going
21 to work with us to look for some
22 alternate sources. I will say this
23 that the proposals that we'll bring
24 to you all, hopefully in February,
25 has a clause in it that says if we

1 get appropriated dollars or if we get
2 fees or funds from another source
3 which would have to be legislative
4 driven -- I'll have a slide on that
5 in just as second -- that we will
6 not fee these sources that we're
7 asking for approval. If we get it
8 in another method we won't fee -- we
9 won't implement this fee source. So
10 I'll talk a little bit about that
11 later.
12 To break it down, and I'll try
13 to hurry up a little bit because I
14 know that I'm taking Shellie's time.
15 But the mercury/lead, and the HAPs
16 all generate about half a million
17 dollars, give or take; service
18 stations are about 1.5 million; the
19 gasoline distributors is 715 million,
20 and all the other area sources and
21 that's a best guess. It could be
22 less than that and it could be a lot
23 more than that. It all comes to
24 about 2.9 million. If it turns out
25 that we have a lot more area sources

than we think we do that are registered then we'll figure out a way to lower the overall fee structure so that we're -- we would have to try to figure out a way to distribute that among everybody because I don't need more than I need to run the program. But if we were somehow able to get this structured the way it is and we collected more than the 2.9 million we'd figure out a way not to fee in the following year some of those sources through a reduction of some sort in order to only collect what we need to run the program.

This would change our fee base from what you saw of the 80/20 structure to a 63 for major sources, area sources would be about 22 percent, and that would include service stations, and 15 percent would be the minor source contribution.

These are some of the

alternatives that we've looked at in the past and what we would work with the petroleum marketers and other industries to try to implement in order to avoid any of these increases for these sources that you've seen usher down. We've proposed some of this stuff in the past. The car tag fee we proposed a few years ago in lieu of doing a Title V fee increase and we didn't get very far with that. But we could raise the gasoline tax, for instance, one-sixth of a cent and generate about three million dollars. About a dollar per car tag statewide. That's the one that seemed to have the most attraction with the petroleum marketers but it's a tough sell with the Legislature. It would be just basically adding about a dollar on to each car tag when you do your renewal and that would get the mobile source part of it and spread it out across the state and it would

generate about 3 million dollars. We could fee carbon dioxide at three-and-a-quarter a ton, may raise our major source fees, raise our major and minor source fees. And the one that we're going to take back to -- we decided not to do any of those because we were beginning to feel like that the major and minor sources are already paying their fair share, and other than the toxics part of it that some of them are -- would have a cent increase on, we don't feel like it fair to come back to them again.

What we'll be taking back to the Council that we didn't the first time is the raising of the construction fees for permitting and operating fees from -- when you get a permit from us, we haven't raised those since I've been here 12 years, and compared to the rest of the region they are quite a bit less. We've had some push-back from the

municipal league and from commerce about keeping these fees low but there is some sense among our regulated community that they would prefer this as opposed to some of the other fees that we proposed on the area sources. So we're going to look at some scenarios to bring to the Council that would offset some of those that you've seen before that we may ultimately bring to the Board.

And that's just a summary of what you've seen before. One of the things that we will not be able to do and it's pretty clear that we're not going to get any more FTEs than what we've got now on our organizational chart. Looking at our workload and projecting out for the next five or ten years, I don't think we're going to need anymore people to implement the greenhouse gas permitting requirement as long as we have the ability to fund the ones that are on the organizational chart

now. Same way with how we're going to implement the area source MACT standards, we have to figure out how to implement what EPA proposes. And to be honest, we have not done that with any of those sources yet. There are so many of them and we're just trying to keep our head above water that we haven't figured out a way to do that. But with fee increase and the ability to add some additional staff that we'll probably -- well, we will have to figure how we would do that. Otherwise EPA is going to come in and do audits of these programs and we don't want them taking enforcement action against these sources when it's our responsibility to regulate them. So we'll figure out a way to do it that's least intrusive as possible because to be honest a lot of these standards don't get a lot of environmental benefit so we're going to try to figure out ways where it

doesn't produce much environmental benefit to do outreach and education, things that are least intrusive as possible. And on the regs that do have an environmental benefit then we'll try to figure out a way to audit those sources that are supposed to be doing certain things under the federal requirement to make sure that they are to satisfy what EPA expects as far as federal oversight.

And I'll be glad to answer any questions.

MS. CANTRELL: Thank you, Eddie. What is the time frame on this? You said that these issues or this presentation was brought to the Air Quality Council, their last meeting. Is it on the Agenda for the January 23rd meeting as well?

MR. TERRILL: Yes, ma'am. We're going to try -- with the adjustments to the construction permitting and operating fees we're going to basically bring the same

proposal back, but we will have some options in there relative to construction permits and then we're hoping to get something passed along from the Council to the Board in February. And that was the reason for doing this now, because you probably don't want to go through all of that. You're going to have several fee proposals I would expect in February, so at least you will have some idea of the need; why we need it and what went in to the thought when the Council considered the recommendations they will have for you in February.

MS. CANTRELL: Thank you.

MR. TERRILL: One thing I would mention, I probably didn't hit hard enough, is we also made a commitment to the Council that -- like I said before, we only have a certain number of FTEs and that's all we're going to get. We're not going to have anymore for the foreseeable

future. But right now we're unable to fund about 12 of those positions. Those are the ones that we would use to address any of the greenhouse gas permitting requirements in the future and also the MACT standards and the requirements we're going to have for the NAAQS, SO2, NOx and ozone. We think if we have the ability to fill those 12 positions that will give us the flexibility to expand as needed to meet that workload. And our commitment was that we would not ask for any kind of a greenhouse gas fee no matter what EPA -- well, assume EPA doesn't do anything more than what they proposed, which I doubt seriously if they do, but let's say they will fully implement that greenhouse gas program to the maximum extent that they've envisioned which is right now five years out, I don't think that we will need to add more than one or two permit engineers in order to evaluate that. Possibly

1 three. My staff will even have to
2 add 10 or 12 but I just don't see
3 it. I think we can do it with some
4 -- making some efficiencies in some
5 other areas, and a lot of this is
6 going to be kind of on the industry
7 to come to us with a good permit
8 application. So we'll be doing some
9 things to try to educate the
10 consultants and the industry as to
11 what we're looking for and maybe get
12 a better job of getting a good
13 product in. Some do good job; some
14 don't do such a good job. And so
15 we're hoping that that will keep us
16 from having to do so much work on
17 our end of it. And hopefully, EPA
18 will also provide a little bit of
19 money to offset some of that too.
20 So that's our commitment is no
21 greenhouse gas fee as part of the
22 Title V program if we got to -- to
23 where it would spread these costs out
24 to include sources that we haven't
25 feed in the past.

1 MR. THOMPSON: Okay.
2 Shellie.
3 MS. CHARD-MCCLARY: Okay.
4 And the good news continues. Some
5 of this I'm going to go really
6 quickly because Eddie covered it.
7 But basically why are we raising
8 fees?
9 Well, general revenue is going
10 down. We're estimating that, based
11 on what we've seen, the Water Quality
12 Division will have no general revenue
13 by 2016. So we're looking at
14 raising about -- a little over 4
15 million dollars in our fees to
16 account for a little over a million
17 dollars in our employee costs and
18 then about 3 million shortfall in
19 general revenue.
20 We also -- you know, some of
21 us at dinner last night were talking
22 about how the State's budget is going
23 to get more and more interesting this
24 year as will ours, because we did
25 have a chunk of ARRA funding for the

1 drinking water SRF program. That's
2 all going to be gone. Employee
3 costs continue to rise and federal
4 mandates are rising at a frightening
5 pace in the water programs right now.
6 These are the really big ones,
7 although they are not all of them.
8 For the wastewater side. The
9 Clean Water Act Action Plan has
10 gotten a lot of attention. It
11 started out as a Clean Water Act
12 Enforcement Implementation Plan and
13 then EPA's office enforcement
14 included the -- program offices got
15 wetlands involved, you have the
16 Office of Water involved and so they
17 are looking at wholesale changes to
18 the way that the states and EPA
19 implement Clean Water Act, including
20 enforcement in the permitting side.
21 We have our meeting with the region,
22 about the 15th or so of December, to
23 find out exactly what they are going
24 to do to us this year under that.
25 Some of the proposals have ranged

1 from quadrupling the number of
2 inspections required in any given
3 year, significantly increasing the
4 number of data elements that the
5 states are required to collect and
6 enter into the federal data system.
7 And their comments to the
8 states once we said, we can't do
9 that; you're killing us; you've got
10 to be kidding me.
11 Oh, that's okay, we're just
12 going to implement it through a new
13 data rule that's going to require the
14 new 300 data elements to be collected
15 and entered. But don't worry we're
16 going to introduce an electronic
17 reporting rule which is going to make
18 it more efficient because we're going
19 to require systems to directly report
20 it to the federal data system and
21 then all the state has to do is
22 QAQC the data and collect the data
23 from all of those sources that don't
24 follow the new federal law and report
25 electronically.

1 The most interesting piece of
2 that is the federal data systems can
3 only collect that data that is
4 currently being reported on DMRs,
5 Discharge Monitoring Reports. The
6 federal data system cannot accept
7 electronics submittals of the array
8 of reports that are required either
9 on a monthly, semiannual or annual
10 basis.
11 And, oh, well we'll just figure
12 that out later, which seems to be a
13 common phrase we're hearing from the
14 EPA. Well we're going to make the
15 rules and we'll figure out how to
16 deal with the words later. Which
17 usually means, well, we're going to
18 punish the states and the regulated
19 community until they come up with a
20 way to comply.
21 One of the other issues of the
22 electronic reporting rule that's
23 going to get interesting, EPA keeps
24 saying that well, it's not a big
25 deal. All you need is high speed

1 internet and a computer that's
2 compatible and everybody has a
3 computer, and if you're the one
4 person in town who doesn't you can
5 go to the public library just down
6 the street.
7 So there's been a lot of,
8 excuse me, have you been in rural
9 America? And, of course, the answer
10 is no. Actually some of the EPA
11 regions are actually helping the
12 states on the electronic reporting
13 rule because they are implementing
14 programs in American Samoa who they
15 pointed out in some places does not
16 even have electricity, let alone
17 computers and high speed internet
18 access.
19 The SSO Wet Weather Rule. All
20 that's old is new again. This rule
21 was actually scheduled for
22 publication and it was George Bush's
23 first act as President to withdraw
24 the publication notice. It was
25 scheduled to be published the next

1 day. With the NRDC's general counsel
2 now being the Deputy Administrator
3 for water -- Chief or Assistant
4 Deputy Administrator, whatever that
5 is, she brought it back from the
6 dead. The last version we saw that
7 requires every SSO, Sanitary Sewer
8 Overflow to be reported. Even a
9 single drop of sewage, a leak, a
10 pipe, a manhole or a pump it must be
11 reported to the state agency and to
12 the federal data system which, you
13 know, is going to be mandated under
14 the electronic reporting rule and
15 have 300 required data elements to
16 create a record and the system can't
17 even accept any of those things yet.
18 They also talk about requiring
19 public notification and basically
20 systems would be doing a consumer
21 confidence report-type document on
22 their wastewater system similar to
23 what they do for drinking water.
24 It's interesting, to say the least.
25 The 316(B) Cooling Water Rule

1 has been really getting a lot of
2 play. Jimmy and I, were discussing
3 this morning that EPA is close to an
4 agreement with certain environmental
5 organizations and industry that may
6 delay implementation of that rule.
7 That's good news and it's bad news.
8 The good news is, okay, so the
9 new provisions don't go into effect.
10 The bad news is when the rule was
11 remanded by the court back to EPA
12 one small piece -- one sentence of
13 the rule remains in effect and that's
14 the piece that EPA is hanging their
15 hat on today and will continue and
16 that is the permit writers shall use
17 best professional judgment in order
18 to address what is necessary by the
19 industry to protect the fish that may
20 be sucked into those cooling water
21 structures. The problem is the last
22 permit we sent down to EPA they sent
23 back ten pages of what they
24 considered best professional judgment
25 requirements which was basically

1 implementing the only rule in its
2 entirety. We negotiated and battled
3 back and forth and have reduced it
4 to about a page and-a-half to two
5 pages but that's not a lot of
6 comfort to some of the larger
7 industries, particularly the power
8 companies that are having to deal
9 with it. So that's just getting
10 more and more interesting.
11 The ELGs for Stormwater
12 Effluent Limitation Guidelines. We
13 typically have operated under general
14 permits for construction sites.
15 General permits are easy to obtain;
16 they are very cost effective; they
17 are very quick and to issue. But
18 basically under the Clean Water Act
19 Action Plan, basically stormwater
20 permits that now have very general
21 requirements, pollution prevention-
22 type actions are going to be
23 requiring individual limits. There
24 will be limits that apply to all of
25 the permits and then individual

1 limits based on the stream segment.
2 So that's going to create a lot more
3 work for the staff having to address.
4 And then the whole effluent toxicity
5 is getting ready to -- there are a
6 lot of changes on that. Steve?
7 MR. THOMPSON: Well I don't
8 -- look, more data is better than
9 less data. Okay. And more public
10 notification is better than less
11 public notification. Okay. But
12 that's in -- you've got all the
13 resources that you would ever want.
14 And what I think this is causing us
15 to do is to make decisions between
16 data and doing. Are we going to do
17 inspections; are we going to fix
18 SSOs; are we going to go down that
19 path; or do all our resources go
20 toward collecting data so that we can
21 be transparent? And I will tell you
22 that you can tell by the tone in
23 Shellie's voice and you tell -- I
24 will tell you that we believe doing
25 is more important for the environment

1 than some of this other stuff.
2 Because we will never be able to do
3 it all. Sorry, Shellie.
4 MS. CHARD-MCCLARY: After
5 last week, Steve and I had a
6 knockdown-drag-out with EPA and we're
7 still shaking our heads saying did
8 they really say that?
9 So it's going to be interesting
10 the next few years.
11 On drinking water Jimmy kind of
12 touched on some of these. Basically
13 what has happened, the drinking water
14 provisions have been expanding at
15 rate that we just could not keep up.
16 We don't have enough time, energy,
17 resources. We could not do all of
18 the things that were required under
19 these new regulations. So EPA was
20 actually implementing these three;
21 the disinfectant byproducts in the
22 (inaudible) service water treatment
23 rule, and groundwater rule. We were
24 playing a support function, helping
25 EPA get maps, helping them find the

1 systems and then they were actually
2 going out and doing the inspections,
3 doing the audits, issuing the
4 enforcement orders. And what we
5 found was they first sent a letter
6 to the congressional delegation which
7 arrived about three days before the
8 system got the letter, and our letter
9 arrived about a week to two weeks
10 later trying to figure out what in
11 the world was going on and why we
12 were having all of these phone calls.
13 So we took time to look at what
14 could we do as these -- some of the
15 preliminary work is getting completed
16 we are working with EPA to transfer
17 the implementation to us. But,
18 again, part of why we're seeing a
19 lot of the fee increases, these
20 things we can't cut and we can't --
21 not do, what are we -- how do we
22 fund them? How are we going to
23 address all of these issues? But we
24 recognize the need to do it because
25 of the confusion that it is causing

1 for communities, particularly smaller
2 communities.
3 And then we have two rules
4 that we will be dealing with from
5 the onset of -- for any logical
6 contaminate rule, it's already out
7 there, been in place for sometime.
8 There's a revised total coliform
9 rule, the final rule was just
10 published in the last -- about 60
11 days.
12 For our Drinking Water State
13 Revolving Fund which is a great
14 program where we get to provide money
15 for systems, try and help them comply
16 with all of these new regulations.
17 EPA is helping us out again. They
18 went from a system where they audited
19 one possibly two facilities in a year
20 to doing twice a year audits of a
21 minimum of eight facilities. That
22 sucks up our staff time instead of
23 working with the communities, helping
24 them through this process, to sitting
25 in our office with an office full of

1 EPA people explaining to them how we
2 did in fact follow all of the
3 federal laws associated with this
4 program.
5 They also have included the
6 green reserve and subsidization
7 percentages that have to be followed,
8 but by American Provisions and the
9 Data State Act Provisions. Basically
10 these were put into the ARRA funding
11 that EPA has now carried them over
12 to all SRF funded projects and it's
13 more documentation, more inspections
14 of the labels that are on pipes and
15 pumps and not on actually helping
16 communities come into compliance with
17 the provision. It drives up costs
18 to communities and it certainly
19 drives up the implementation costs on
20 our part.
21 So we we're talking about this,
22 and the one comment that I kept
23 getting was, really, does an arrow
24 have to be that big? But nothing
25 but a big red arrow kind of

1 symbolizes where we are in this
2 process, unfortunately, in looking at
3 where we are and what we're going to
4 have to do in order to fund a lot of
5 these programs. We have so many
6 different types of programs and types
7 of fees in our structure; I'm not
8 going to go through all of these,
9 just going to get the very in depth
10 detailed version in February. But
11 just to give you an idea of what
12 we're doing to try and eliminate that
13 four million dollar gap. We've added
14 some application fees when we have
15 not had them. Our wastewater fees
16 have been calculated based on a work
17 sheet based on type of wastewater,
18 the types of pollutants, the volume
19 of wastewater. It's been a system
20 that's been in place since the Agency
21 was formed and was actually used at
22 predecessor state agencies, but we
23 are just increasing the dollar per
24 point. We're also looking at in the
25 past we have -- if you had four

1 surface impoundments you only paid
2 for one, basically the highest single
3 fee would have. So we're looking at
4 -- we still have to do all of the
5 work on all of those units, so we're
6 looking at increasing that where it
7 isn't paid by the number of service
8 impoundments. That was something
9 that came out of discussions at the
10 October Council meeting. And also
11 looking at -- we will have a cap so
12 it's not advantageous to build a
13 giant surface impoundment that really
14 should be three or four to try and
15 find some happy medium. But that is
16 something that the Council had asked
17 us to look at.
18 On drinking water, I'm going to
19 talk real specifically about some of
20 those changes and what some of that
21 means, but we are also looking at
22 more of a per capita approach than
23 we have used in the past and our
24 construction plan review fees will be
25 increasing.

1 The existing fee structure was
2 basically -- it rewarded systems that
3 were either very large or did very
4 little treatment. Groundwater did
5 not have to receive the same level
6 of treatment as surface water. Large
7 municipalities obviously it's an
8 economy of scale. So their fees
9 were significantly lower. Ada, up
10 there at eight cents per person, they
11 are a groundwater system. They had
12 significantly less treatment than
13 some other facilities.
14 Oklahoma City, although they
15 had very complicated treatment
16 technology, when you look at the cost
17 based on the number of customers they
18 serve is very low.
19 Again, one of the issues that
20 kept coming back is we need to look
21 at some way to level the playing
22 field. We need to -- we can't just
23 kill Oklahoma City and Tulsa and make
24 them pay the lionshare but they
25 should pay more than some systems.

1 When you look at Ada,
2 McAlester, and Oklahoma City in this
3 example, if we have looked at what
4 we're calling a declining block
5 system on the per capita cost
6 component. So that's where you see
7 some -- you know, Ada goes up
8 significantly that is tied to
9 population even though their
10 treatment is still fairly low, when
11 the two components are added
12 together, then you end up with fees
13 that are more equitable.
14 The structure. Basically what
15 we did is look at, well, we have all
16 of these systems that are very small,
17 so where we have the smallest
18 population served in zero to five
19 hundred it is still 75 cents per
20 capita but it does -- you take the
21 same staff time to drive to the
22 location and inspect, pull the
23 samples, do the things we have to
24 do. But as you see as it goes up
25 the per capita cost does go down,

1 but you also have the treatment cost
2 added to it that we'll talk about in
3 just a minute.
4 But when we apply the whole
5 system that we were looking at, when
6 you take into account the per capita
7 cost and then the actual inspection
8 or the cost of regulating the
9 facility, what we did is we found
10 that by doing this those smaller
11 systems actually pay less of the
12 program than they had been paying
13 before. And then by the time you
14 get to the very large systems,
15 Oklahoma City and Tulsa, have an
16 increase of about a hundred thousand
17 dollars combined between those two
18 systems. The bulk of our systems
19 aren't in those little groups and
20 they do have increases but it is, at
21 least -- the places where we have
22 the most systems are where we have
23 the most increases; not per system
24 but that's where we're generating
25 most of the money. What happens, we

1 don't have to change any statutes to
2 do these increase, which was good.
3 We were not sure if we would be able
4 to do some of this without some
5 statutory increases -- or changes
6 because of language that limits what
7 we have at 30 cents per month per
8 residential user. That is the
9 maximum their fees can increase no
10 matter what we do. And what we
11 found is we have some systems that
12 go down under this proposal and we
13 have some systems that max out at
14 the 30 cents per month per
15 residential connection. But what we
16 also found was, before we were
17 looking at this last item, no system
18 shall pay less than four cents per
19 service connection. Oklahoma City
20 and Tulsa were at that four cents
21 per connection and yet you had
22 several that were in the two, three,
23 four dollar per connection rate. So
24 that's why you saw that one group
25 drop the 30 thousand dollars

1 decrease, but it gets made up in the
2 others.
3 Industrial wastewater fees.
4 These programs have been supplemented
5 by general revenue. We are shifting
6 that general revenue to the municipal
7 systems until it actually goes away
8 by 2016, so that's why you see the
9 large increases there.
10 At 2011, 2012 those go up much
11 more dramatically there, but by 2014
12 they're stable because the general
13 revenue isn't really changing.
14 When you look at what does
15 this mean for some of the fees? The
16 discharge permit fees will generate
17 an increase of about 250 thousand
18 dollars. The state component or the
19 total retention of land application,
20 that's about a 150 thousand increase.
21 The categorical users which are
22 industries that meet the federal
23 definition of a categorical user that
24 discharged to a POTW, they have
25 certain requirements that they have

1 to follow. We don't have a lot of
2 those but they do have about a 13
3 thousand dollar increase into the
4 fees.
5 So in looking, we have
6 significant increases early by the
7 end, some of them you see go up
8 quite a bit. Not quite three times,
9 but when you start looking at some
10 of the smaller facilities they're
11 doubling or a little more than
12 doubling, but that depends on the
13 type of facility, they have the type
14 of wastewater they are generating and
15 which of the various fee structures
16 they fall under.
17 We look at our municipal NPSBs,
18 these are the dischargers. It's
19 about three times what they are
20 paying today. We recognize that
21 that's a problem for the systems.
22 We have invited them to participate
23 in discussions and the Council has
24 asked that the staff do some public
25 outreach. We will be having a

1 couple of public meetings in December
2 and then all of the language will
3 then go back before the Council in
4 January before it comes to you in
5 February.
6 So, those of you who know me,
7 I'm -- you know, my other job is I'm
8 a mom. And my boys now are almost
9 nine. And, you know, I've learned a
10 lot from Dr. Seuss over the years.
11 So what did Dr. Seuss teach us?
12 Well, I'm the Grinch who stole
13 Christmas, and I'm sorry. Are you
14 going to cuff me, beat me up, blind
15 me with pepper spray?
16 You heard him, officer, he
17 admitted it. I'd go with the pepper
18 spray.
19 And the kind officer, so I
20 hope you will be kind to me after
21 hearing all of that bad news and
22 yes, I turn them off at night. He
23 said he was sorry. So I am sorry to
24 be the bearer of such bad news.
25 I also wanted to share with

1 you a little bit, very quickly, some
2 things that the Water Quality
3 Division is doing to kind of help
4 heal the pain and that is we have
5 eliminated two managers positions and
6 consolidated staff and kind of
7 rearranged their work assignments so
8 we're not doing as much of the
9 technical assistance and outreach
10 that maybe we would like to do.
11 Those individuals are focusing more
12 on the permitting and the compliance
13 and enforcement activities that we
14 have to do in order to maintain our
15 grant funding. We have eliminated
16 four clerical positions with another
17 one to be eliminated before the end
18 of the year, which always plays well.
19 And oh, well, everybody doesn't need
20 their own secretary, but actually we
21 recognize that but when we eliminate
22 clerical positions we're having this
23 huge increase in data entry and, you
24 know, we'd rather pay a clerical
25 staff to do data entry rather than

1 an engineer or environmental
2 specialist who we would prefer out
3 doing inspections. So we're trying
4 to figure out how to balance some of
5 those issues.
6 And then we have eliminated
7 some engineering and environmental
8 specialists positions. I think right
9 now we've got four or five that
10 until we increase our funding they
11 will just simply have to remain
12 vacant. And we'll have to try to
13 figure out how we continue to
14 reassign and re-prioritize.
15 With all that good news, does
16 anybody have any questions?
17 MR. JOHNSTON: We can't
18 eliminate our one position in Braman.
19 MS. CANTRELL: Thank you,
20 Shellie.
21 DR. GALVIN: I would just
22 like to thank Shellie and Eddie for
23 putting all that data together. And
24 knowing we're not the bearer of good
25 news but I think that some of the

1 Board Members have indicated earlier
2 that we'd like to know what the
3 impact is or the future as things
4 come. We don't like to be blind
5 sided, no one likes surprises. This
6 is real important for us to know
7 what we have to, unfortunately, look
8 forward to. Thank you. Thank you
9 both.
10 MR. THOMPSON: I would just
11 follow up with a couple of things.
12 The industrial and minor sources have
13 been very good about supporting the
14 Air Quality Program over the past.
15 And in the Air Program what we're
16 trying to find is a way for you to
17 pay for your car which is about a 40
18 percent -- 35 to 40 percent of the
19 emissions, or some other way to fund
20 the necessary increases.
21 Now on these area source
22 requirements, you know, you will have
23 to ask yourself -- people have to
24 ask themselves even at the extra
25 costs, is it better for DEQ to do it

1 than the feds? Because without it
2 we can't do it. It is just that
3 simple.
4 I know that there is some --
5 we're in a period of declining
6 general revenue, but we're also
7 bearing state statutory mandated
8 costs for benefits. If we had
9 general revenue money to cover those
10 costs, those ever increasing costs,
11 we would be millions of dollars
12 better off.
13 And to the extent that we can,
14 we've heard the message about -- it
15 is, I think, fundamentally unfair,
16 particularly in drinking water, if
17 you're talking about protection of
18 the public, that small communities
19 are bearing such a significant per
20 capita cost as opposed to folks in
21 Oklahoma City and Tulsa. So we're
22 trying to look at -- and I think
23 Shellie's presentation reflected
24 that. Our job is to protect
25 drinking water supplies for the

1 entire state and that is not a
2 system issue. That is a global --
3 that is a personal issue of the cost
4 of protecting your water supply. And
5 so we're going more to a per capita
6 -- or trying to -- to the extent
7 that we can reduce those costs to
8 smaller systems and increase it to
9 larger systems by using a -- to the
10 extent that we can, a per capita
11 approach to our needs.
12 So that's sort of what I think
13 you've heard in a nutshell from out
14 folks. But it isn't going to be
15 easy.
16 MS. CANTRELL: Shellie, will
17 these issues be taken to the Water
18 Quality Council meeting, and is that
19 also scheduled in January?
20 MS. CHARD-MCCLARY: Yes.
21 We've already had the first meeting
22 where we we're talking about
23 different options, different
24 approaches and then based on feedback
25 we received at the Council meeting,

1 we went back and we have made
2 adjustments to our thinking and some
3 approaches. And I believe that the
4 date is January 11th, although I
5 can't swear to that. Myrna is
6 nodding at me. So January 11th and
7 at that point we will ask the
8 Council -- you guys are going to
9 hate me by the end of that Board
10 meeting in February because I think
11 we have something like 11 chapters of
12 fee rules or something, because they
13 are broken out by all the different
14 programs. But all of those rules
15 will go to the Council in January
16 and then to you all in February.
17 Also at the Council, we will be
18 doing -- we did, we'll call it,
19 informal presentation of costs and
20 actions we we're taking to contain
21 costs but we will be doing a little
22 bit more formalized presentation to
23 them at that point on those aspects
24 in addition to the actual fee rules.
25 MS. CANTRELL: I wonder, it

1 might be helpful for the Board --
2 for both the Air Quality Council and
3 the Water Quality Council if the
4 Board could receive perhaps emailed
5 transcripts, once those minutes are
6 ready if they happened to be ready
7 in advance of the Board packets. I
8 know the timing is fairly tight but
9 it might be helpful to allow the
10 Board an extra opportunity to read
11 and work through the information
12 prior to the next Board meeting.
13 MR. DARK: I think that
14 would be a great suggestion. Is
15 that meeting on the 11th -- what
16 time is that meeting?
17 MS. CHARD-MCCLARY: At 1:00.
18 The Water Quality Council meets at
19 1:00.
20 MR. DARK: Thank you.
21 MR. THOMPSON: I'm looking
22 at our -- I assume we can get that
23 available?
24 MS. CHARD-MCCLARY: Eddie
25 was asking, do you want transcripts

1 from the previous meeting or do you
2 already have those?
3 MS. CANTRELL: I think it
4 would be helpful to have both since
5 it's all the same topic.
6 MR. THOMPSON: I think if
7 you're going to -- for any meeting
8 that -- now, the informal meetings
9 there won't be transcripts, but the
10 formal meetings -- to the extent that
11 we have those -- and I don't know
12 whether you guys are going to have
13 to have the meetings after the 11th.
14 I mean I don't know that they are --
15 I mean there could be -- continue to
16 be questions that need to be -- so
17 there may be more than -- maybe.
18 I'm not suggesting that we would like
19 there to be.
20 MS. CHARD-MCCLARY: The
21 Water Quality Council is scheduled on
22 the 11th and we counted days just to
23 make sure that if we do need to have
24 a continued meeting that we could
25 possibly do that. We're hoping not,

1 but if that's the case then, I don't
2 know what the timeline is for Myrna
3 and Christy, but we know we can do
4 it as far as meeting the legal time
5 frames. But whatever we have, we
6 will make that available to you and
7 perhaps we can try to get at least a
8 summary of the public meetings.
9 There won't be hearings where we have
10 recorded minutes or a transcript but
11 at least give you some idea. Our
12 intent is to try to have those
13 meetings during the official comment
14 period so that they are considered
15 official comments. Even if they're
16 not, we'll try and get that included
17 for you as well.
18 MS. CANTRELL: That would be
19 great. Thank you, very much.
20 MR. TERRILL: And we do
21 have -- ours is official. We did
22 take comment on our proposal so we
23 do have a record and transcript.
24 The only comments that would have
25 been on there, that aren't, are the

1 petroleum marketers and they knew
2 they were going to -- they didn't
3 get a chance to talk with me before
4 the meeting and cancel, so they met
5 with me last week and they are the
6 ones that want to look for a
7 legislative fix for this whether it
8 be the car tag or something like
9 that. But that won't be captured in
10 the transcript but everything else
11 relative to the fee discussion is in
12 that transcript and we'll get that to
13 you.
14 MR. THOMPSON: I don't know
15 how to say this any other way than
16 to say it. To have a fee, like on
17 the gas stations, in place with a
18 provision that if we find some other
19 source of funding at the Legislature
20 is very inspiring to the people
21 effected by that. They are out
22 there -- the energy they put into
23 trying to find another source of
24 funding is significantly enhanced
25 when you have a fee in place that is

1 going to be mitigated by some other
2 fee. So we're talking with them
3 about that, too.
4 MS. CANTRELL: Steve, do you
5 have any other information?
6 MR. THOMPSON: That's all.
7 No. That's all.
8 MS. CANTRELL: Thank you,
9 very much.
10 The next item on the Agenda is
11 new business, which is any matter not
12 known about and which could not have
13 been reasonably foreseen prior to the
14 time of the posting of this Agenda.
15 Is there any new business?
16 Hearing none, we move on to
17 the next item which is the
18 announcement of the next meeting of
19 the Board which is February 25th,
20 2011. This will be in Oklahoma City
21 at the DEQ in the multipurpose room.
22 And with that, this meeting is
23 adjourned. Thank you all, very much.
24 (Meeting Concluded)

C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand and thereafter transcribed by me; that said meeting was taken on the 16th day of November, 2010, at Stillwater, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 29th day of December, 2010.

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

OKLAHOMA
DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL QUALITY BOARD

Attendance Record

November 16, 2010

Stillwater, Oklahoma

NAME and/or AFFILIATION	Address and/or Phone and/or E-Mail
Myma Bruce	DEQ AITD
Larry Johnston	Board
Lori DRAKE	DEQ
[illegible]	DEQ
Shellie Chandler McCleary	DEQ
Rick Austin	DEQ
John Wendling	DEQ Board
Beverly Schlet-Smith	DEQ
Rob Singletary	DEQ
Brylan McElroy	DEQ
[illegible]	DEQ
Karen Jayne	DEQ
Martha Austin	DEQ
Chris Armstrong	DEQ
[illegible]	DEQ
Keith Fritts / Deflagration Energy	keithfritts@safetyfirstvalue.com
Greg Holsted, Doug Holsted, Chris Robinson	Syntek GHolsted@aol.com
Judith A Dunca	DEQ
Kerry Sublette	TW/DEQ
Mark Hildebrand	DEQ
Jon Roberts	DEQ
Mark Gali	
David Branecky	AQAC
DAVID DYKE	OG&E
CLAYTON EUBANKS	AG
Mike Cassidy	DEQBi

OKLAHOMA
DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL QUALITY BOARD

Attendance Record

November 16, 2010

Stillwater, Oklahoma

NAME and/or AFFILIATION	Address and/or Phone and/or E-Mail
Mike Edwards	ODEQ 702-5226
Sandra Rose	
Laura Lodes	
Brian Cates	ODEQ
Jerry Sanger	DEQ
C M Shaw	DEQ
Jim Bologna	Verallia
Lundy Kiger	AES