

**DRAFT MINUTES  
ENVIRONMENTAL QUALITY BOARD  
FEBRUARY 26, 2010  
DEQ MULTIPURPOSE ROOM  
OKLAHOMA CITY, OKLAHOMA**

EQB APPROVED  
June 15, 2010  
August 24, 2010

**Notice of Public Meeting** The Environmental Quality Board convened for a regular meeting at 9:30 a.m. in the Multipurpose Room at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, 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 February 12, 2010 and was posted at the Department of Environmental Quality on February 24, 2010. Brita Cantrell, Chair, called the meeting to order. Ellen Bussert had announced her departure from the Agency and was honored by the Board and Staff. Roll call was taken and a quorum was confirmed.

**MEMBERS PRESENT**

Brita Cantrell  
Mike Cassidy  
Tony Dark  
Bob Drake  
Jennifer Galvin  
Jerry Johnston  
Steve Mason  
Sandra Rose  
Terri Savage  
Kerry Sublette  
John Wendling  
Richard Wuerflein

**DEQ STAFF PRESENT**

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

**MEMBERS ABSENT**

David Griesel

**OTHERS PRESENT**

Clayton Eubanks, Assistant Attorney General  
Laura Lodes, AQAC Chair  
Jay Stout, SWMAC Chair  
Mike Paque, WQMAC Vice-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 November 19, 2009 Regular Meeting. Mr. Johnston made the motion and Mr. Dark made the second.

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Abstain	Brita Cantrell	Abstain

**Election of Officers** Mr. Drake moved to elect the current officers by acclamation. Mr. Dark seconded. (Brita Cantrell – Chair and Jerry Johnston – Vice Chair)

**Rulemaking – OAC 252:100 Air Pollution Control** Ms. Laura Lodes, Chair of the Air Quality Advisory Council advised that the proposal would amend Chapter 100, Subchapter 17, Parts 1 and 3 (Incinerators) to remove obsolete language and clarify the remaining provisions. And the proposal would revoke Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lb/hr. and Appendix B, Allowable Emissions for Incinerators with Capacities Less than 100 lb/hr. Ms. Lodes stated that Council voted to revoke Appendices A and B and combine the provisions of both in a new Appendix A, Allowable Particulate Matter Emission Rate for Incinerators.

Additionally, DEQ proposed to re-organize and update Appendix Q, Incorporation by Reference, to match the organizational scheme of the federal rules and to incorporate new federal air quality regulations from July 1, 2008 to July 1, 2009. The proposed rulemaking required the revocation of the current Appendix Q and the adoption of the updated Appendix Q.

Questions and comments were fielded then Ms. Cantrell called for a motion. Mr. Mason moved approval with the second by Dr. Galvin.

*transcript pages 13 - 23*

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:515 Solid Waste Management** Mr. Jay Stout, Chair of the Solid Waste Management Advisory Council, advised that staff recommended for Board adoption certain amendments to definitions and permit modification requirements in Subchapter 1, General Provisions, for Construction and Demolition (C&D) landfills and transfer stations; add a permit requirement for transfer stations to have a waste exclusion plan in Subchapter 3, Permit Provisions and Applications; amend Subchapter 15, Methane Gas Monitoring and Control, to remove the monitoring-and-control exemption for C&D landfills; amend Subchapter 19, Operations Requirements, to add a prohibition with exception for the disposal of unsorted, baled municipal solid waste at a disposal facility; amend Subchapter 29, Exclusion of Prohibited Wastes, to add the requirement for transfer stations to have a waste exclusion plan and to remove C&D landfills from certain notification requirements; and to add a new Subchapter 39, E-Waste Recycling, including rules and a fee structure pursuant to the requirements of the Oklahoma Computer Equipment Recovery Act (“Act”) which establishes DEQ’s authority to administer a collection, recycling and reuse program for certain computers and computer monitors and includes the adoption of fees necessary to cover DEQ’s costs of administering the “e-waste recycling” program.

Following discussion and comments, Mr. Johnston moved for approval as presented and Mr. Drake made the second.

*transcript pages 24 - 31*

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards**

Mr. Mike Paque, Vice-Chair of the Water Quality Management Advisory Council, advised that the proposal would amend the OPDES rules to update the incorporation by reference of certain federal regulations from July 1, 2008 to July 1, 2009. Included for the first time in the incorporation is EPA’s “Water Transfer Rule,” which went into effect on August 12, 2008, and exempts the need for an NPDES permit for the transfer of raw water from one watershed to another. After discussion, Ms. Cantrell called for a motion. Mr. Drake made motion to approve the rulemaking with the second by Mr. Johnston.

*Transcript pages 31 - 43*

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Yes	Brita Cantrell	No

**Rulemaking – OAC 252:645 Septage Tank Cleaners**

Mr. Mike Paque, Vice-Chair of the Water Quality Management Advisory Council, advised that the proposal would amend Chapter 645 for four primary reasons. (1) The first is to require training for individuals who are licensed to pump, haul, and store septage, operate a septage land application site, or treat septage as a means of final disposal. Requiring training will ensure that the licensed individuals have actual knowledge of the regulations. Facilities already permitted by DEQ’s Water Quality Division to accept septage would be exempt from having to obtain another license under this regulation. (2) The second reason is to allow the temporary storage of septage when the preferred disposal method is unavailable (e.g., land application site too wet, municipal wastewater treatment plant closed, etc.). (3) The third reason is to allow individuals to operate a treatment facility that specifically treats septage, which will provide another disposal option for septage pumpers and haulers. (4) The fourth reason is to establish a fee schedule that will help cover some of the costs of operating the program, which has historically been entirely supported by appropriated funds. Following discussion and comments, Ms. Cantrell called for a motion. Ms. Rose moved adoption with the second by Mr. Drake.

*transcript pages 44 - 51*

Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Yes	Brita Cantrell	Yes

**Rulemaking – OAC 252:690 Water Quality Standards Implementation**

Mr. Mike Paque, Vice-Chair of the Water Quality Management Advisory Council, advised that the proposal would amend Chapter 690 to update the incorporation by reference of federal regulations from July 1, 2008 to July 1, 2009. The federal rules being incorporated in this Chapter also include the “Water Transfer Rule,” and the proposed changes update the list of federal hazardous waste management rules found in 40 CFR, Parts 260-279, which are also incorporated in Chapter 690. Finally, the DEQ proposes to remove the reference to “EPA, Region 6” from the Technical Acronym “MQL.” Council voted unanimously to recommend to the Board for approval as proposed by the Department. Hearing no questions or comments, Ms. Cantrell called for a motion. Mr. Johnston moved approval and Dr. Galvin seconded.

		<i>transcript pages 51 - 54</i>	
Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Yes	Brita Cantrell	Yes

**Consideration of and Possible Adoption of Resolution in Support of the “Oklahoma Beverage Container Recycling Act”** Ms. Cantrell called upon Mr. Jimmy Givens, Deputy Director, to provide background information on the proposal. Following much discussion, there was support from the Board that the bill could be beneficial but it was decided to table the discussion allowing for staff to provide more details. Mr. Johnston moved to table this item until the next Board meeting. Ms. Rose made the second.

		<i>transcript pages 54 - 81</i>	
Mike Cassidy	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Kerry Sublette	Yes
Jennifer Galvin	Yes	John Wendling	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes
Steve Mason	Yes	Brita Cantrell	Yes

**Executive Director’s Report** – Steve Thompson, Executive Director, had several items to bring to the Board:

- He acknowledged that Steve Mason had been named by the Journal Record as one of Oklahoma’s Most Admired CEO’s
- Identified new leadership changes within the Department
- Reported on the Key Bills Track List
- Provided an update on budget issues
- As requested by EPA, provided a list of the three major high-profile priority issues
- Provided an update on the ARRA Stimulus Bill and DEQ
- Confirmed that the November 16 meeting would be in Stillwater. (There had been discussion as to whether that meeting would be in Tulsa or Stillwater)

*transcript pages 82 - 103*

**New Business** A suggestion was made that the Board start the meetings at 9:00 instead of at 9:30. No change was made.

**Next meetings** June 15, 2010 at 9:30 at Redlands Community College, El Reno  
 August 24, 2010 in Norman  
 November 16, 2010 in Stillwater

**Adjournment** Ms. Cantrell adjourned the meeting at 11:35 a.m.

**The transcript becomes an official part of these Minutes.**

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

OF THE BOARD MEETING

HELD ON FEBRUARY 26, 2010

IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

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

1 BOARD MEMBERS

2

3 BRITA CANTRELL - PRESIDENT

4 MIKE CASSIDY - MEMBER

5 TONY DARK - MEMBER

6 DAVID GRIESEL - MEMBER

7 JERRY JOHNSTON - VICE-CHAIR

8 STEVE MASON - MEMBER

9 SANDRA ROSE - MEMBER

10 RICHARD WUERFLEIN - MEMBER

11 KAROL SAVAGE - MEMBER

12 KERRY SUBLETTE - MEMBER

13 JOHN WENDLING - MEMBER

14 JENIFER GALVIN - MEMBER

15 BOB DRAKE - MEMBER

16

17 STAFF

18 STEVE THOMPSON - DIRECTOR

19 JIMMY GIVENS - ATTORNEY

20 CLAYTON EUBANKS - AG'S OFFICE

21 MYRNA BRUCE - SECRETARY

22 ELLEN BUSSERT

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## PROCEEDINGS

3

MS. CANTRELL: Good morning.

4

Thank you all so much for coming. Before

5

we begin our meeting this morning, we have

6

a special presentation that we want to make

7

just right off the bat. And for this I'm

8

going to turn it over to Steve Thompson.

9

MR. THOMPSON: I think that most

10

of the Board knows by now that you and the

11

Department are suffering a significant

12

loss. Ellen Bussert, who has been with the

13

State of Oklahoma for 19 years, and has

14

been with the Department of Environmental

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Quality since the beginning in a number of

16

different capacities and has served you and

17

us in a manner that has been incredibly

18

excellent over all those years.

19

So, Ellen, come up here a minute, if you

20

would. We have a plaque that says "the

21

Department of Environmental Quality

22

commends Ellen Bussert on behalf of the

23

people of Oklahoma for distinguished and

24

outstanding service in her efforts to

25

provide a better environment for the

1 citizens of Oklahoma over a period of 19  
2 years."

3 So we wanted to present this to you.

4 (Applause)

5 MR. THOMPSON: Because you have  
6 worked, for the most part, out of the  
7 office of the Executive Director that  
8 office wanted to provide you or wanted to  
9 give you this portfolio with your name  
10 engraved at the bottom for your service  
11 also.

12 MS. CANTRELL: Ellen, Jerry and  
13 I, speak on behalf of the entire Board in  
14 wishing you well in this new chapter with  
15 your life as you make the next move, but  
16 it's not without a sense of sadness and  
17 loss because you have been here since the  
18 first Environmental Quality Board meeting  
19 and every meeting has run flawlessly. And  
20 every aspect of the work that Ellen has  
21 done for the Oklahoma Department of  
22 Environmental Quality Board and the State  
23 of Oklahoma has been flawless and superior.  
24 And we can't thank you enough for your  
25 outstanding work and your professional

1 dedication to the State of Oklahoma.

2 MS. BUSSERT: I guess now I'm  
3 responsible for the world.

4 MS. CANTRELL: Thank you.

5 MS. BUSSERT: It says, "Thank you  
6 for your superior work improving Oklahoma's  
7 environmental quality. The ODEQ Board."

8 Thank you, very much. I won't take  
9 long because I know you guys are dying to  
10 go over the rules. But I've actually been  
11 with the State about 24 years. And got  
12 involved in environmental work when I  
13 worked for Governor Bellman, who if you  
14 knew him, know that he really loved the  
15 land and he loved our state, and it was a  
16 privilege to be invited to come and work  
17 for the Health Department in the  
18 environmental programs. And I feel like  
19 you guys are family. And I don't know if I  
20 feel like I am -- I feel like I am leaving  
21 family but I just came to a point in my  
22 life where that turnpike has gotten awfully  
23 old. I've lived out of the metro area for  
24 about seven years and I'm ready not to  
25 drive it every week. I know the people

1 from ECLS don't feel sorry for me. It's --  
2 I've really enjoyed working with all of you  
3 and I know you'll keep up the good work.  
4 And I appreciate Steve, and him being so  
5 understanding, and the flexibility about my  
6 husband moving me around the state every  
7 three or four years, and still allowing me  
8 to work.

9                   So I will treasure my memories of  
10 all of you, and thank you.

11                   MR. JOHNSTON: You make being on  
12 the Board an exceptional experience.  
13 You're super.

14                   MS. CANTRELL: This meeting is  
15 now called to order. And Myrna, would you  
16 please take the roll.

17                   MS. BRUCE: Mr. Cassidy.

18                   MR. CASSIDY: Here.

19                   MS. BRUCE: Mr. Dark.

20                   MR. DARK: Here.

21                   MS. BRUCE: Mr. Drake.

22                   MR. DRAKE: Here.

23                   MS. BRUCE: Dr. Galvin.

24                   DR. GALVIN: Here.

25                   MS. BRUCE: Mr. Griesel is not

1 here yet but he is expected. Mr. Johnston.

2

3 MR. JOHNSTON: Here.

4 MS. BRUCE: Mr. Mason.

5 MR. MASON: Present.

6 MS. BRUCE: Ms. Rose.

7 MS. ROSE: Here.

8 MS. BRUCE: Ms. Savage.

9 MS. SAVAGE: Here.

10 MS. BRUCE: Dr. Sublette.

11 DR. SUBLETTE: Here.

12 MS. BRUCE: Mr. Wendling.

13 MR. WENDLING: Here.

14 MS. BRUCE: Mr. Wuerflein.

15 MR. WUERFLEIN: Here.

16 MS. BRUCE: Ms. Cantrell.

17 MS. CANTRELL: Here.

18 MS. BRUCE: And we have a full

19 house. Thank you all for coming.

20 MS. CANTRELL: Thank you.

21 With that, the February 26, 2010

22 regular meeting of the Environmental

23 Quality Board has been called according to

24 the Oklahoma Meeting Act Section 311 of

25 Title 25 of the Oklahoma Statutes. Notice

1 was filed with the Secretary of State on  
2 December 3, 2009. Agendas were mailed to  
3 interested parties on February 12, 2010 and  
4 posted at this facility and the Department  
5 of Environmental Quality, 707 North  
6 Robinson, Oklahoma City, on February 24,  
7 2010.

8           Only matters appearing on the posted  
9 Agenda may be considered. If this meeting  
10 is continued or reconvened, we must  
11 announce today the date, time, and place of  
12 the continued meeting and the Agenda for  
13 such continuation will remain the same as  
14 today's Agenda. And with that, we will  
15 begin.

16           The first item on today's Agenda is  
17 the Approval of the Minutes of the November  
18 19, 2009 Regular Meeting of the Board.

19           MR. JOHNSTON: Move to approve.

20           MR. DARK: Second.

21           MS. CANTRELL: There's been a  
22 move to approve and a second. Is there any  
23 discussion?

24           Myrna, will you please take the  
25 vote.

1 MS. BRUCE: Mr. Cassidy.  
2 MR. CASSIDY: Yes.  
3 MS. BRUCE: Mr. Dark.  
4 MR. DARK: Yes.  
5 MS. BRUCE: Mr. Drake.  
6 MR. DRAKE: Yes.  
7 MS. BRUCE: Dr. Galvin.  
8 DR. GALVIN: Yes.  
9 MS. BRUCE: Mr. Griesel. Whoops,  
10 he's not here yet. Mr. Johnston.  
11 MR. JOHNSTON: Yes.  
12 MS. BRUCE: Mr. Mason.  
13 MR. MASON: Abstain.  
14 MS. BRUCE: Ms. Rose.  
15 MS. ROSE: Yes.  
16 MS. BRUCE: Ms. Savage.  
17 MS. SAVAGE: Yes.  
18 MS. BRUCE: Dr. Sublette.  
19 DR. SUBLETTE: Yes.  
20 MS. BRUCE: Mr. Wendling.  
21 MR. WENDLING: Yes.  
22 MS. BRUCE: Mr. Wuerflein.  
23 MR. WUERFLEIN: Yes.  
24 MS. BRUCE: Ms. Cantrell.  
25 MS. CANTRELL: Abstain.

1 MS. BRUCE: Motion passed.

2 MS. CANTRELL: Thank you, Myrna.

3 Moving now to Item 4 of the Agenda and

4 Steve Thompson.

5 MR. THOMPSON: I just wanted to

6 mention to the Board that your current

7 officers are ending the first year of what

8 has traditionally been with the Board a

9 two-year stint as President and

10 Vice-President.

11 MR. DRAKE: What does that mean?

12 MR. THOMPSON: That means that

13 you all can do it again another year if you

14 want to, if they don't want to kick you

15 off.

16 MR. DRAKE: As soon as the

17 Director quits speaking, we will go ahead

18 and make the motion. I would move that we

19 elect by acclamation our current officers.

20 MR. DARK: I second that.

21 MS. CANTRELL: Thank you.

22 There's been a motion and a second. Would

23 you please call the roll.

24 MS. BRUCE: Mr. Cassidy.

25 MR. CASSIDY: Yes.

1 MS. BRUCE: Mr. Dark.  
2 MR. DARK: Yes.  
3 MS. BRUCE: Mr. Drake.  
4 MR. DRAKE: You bet.  
5 MS. BRUCE: Dr. Galvin.  
6 DR. GALVIN: Yes.  
7 MS. BRUCE: Mr. Johnston.  
8 MR. JOHNSTON: Yes.  
9 MS. BRUCE: Mr. Mason.  
10 MR. MASON: Yes.  
11 MS. BRUCE: Ms. Rose.  
12 MS. ROSE: Yes.  
13 MS. BRUCE: Ms. Savage.  
14 MS. SAVAGE: Yes.  
15 MS. BRUCE: Dr. Sublette.  
16 DR. SUBLETTE: Yes.  
17 MS. BRUCE: Mr. Wendling.  
18 MR. WENDLING: Yes.  
19 MS. BRUCE: Mr. Wuerflein.  
20 MR. WUERFLEIN: Yes.  
21 MS. BRUCE: Ms. Cantrell.  
22 MS. CANTRELL: Yes.  
23 MS. BRUCE: Motion passed.  
24 MS. CANTRELL: As we're moving  
25 now to the business section of the Agenda,

1 I'd like to introduce a new representative  
2 of the Oklahoma Attorney General, who is  
3 present with us today. We have Clayton  
4 Eubanks, who's been with the Oklahoma  
5 Attorney General as an Assistant Attorney  
6 General for four years. And we are  
7 grateful to have his help on the Board  
8 today. I would just like to introduce  
9 Clayton and ask him if he would like to say  
10 a few words to the Board before we begin.

11 MR. EUBANKS: Just, hi. Clayton  
12 Eubanks. I'd just like to say I'm happy to  
13 be here, look forward to meeting and  
14 working with all of you. This is my first  
15 DEQ Executive Board meeting, so I'm looking  
16 forward to seeing what takes place and  
17 participating in these with you in the  
18 future and try to help in any way that we  
19 can at the AG's office. Thank you.

20 MS. CANTRELL: Thank you,  
21 Clayton. We're glad to have you. We  
22 appreciate your help.

23 Moving to Item 5 of the Agenda, we  
24 have the first rulemaking item on the  
25 Agenda and this comes from the Air Quality

1 or Air Pollution Control Council. Item 5,  
2 I believe will be addressed by presentation  
3 to the Board. We will move now to Item 5.

4  
5 MS. LODES: Madam Chair, and  
6 Members of the Board, the Oklahoma Air  
7 Quality Council on -- in January passed the  
8 changes to OAC 252:100-17, Subchapter 17  
9 for Incinerators, Part 1, General  
10 Provisions; Part 3, General Purposes  
11 incinerators, through a vote of Appendix A,  
12 Allowable Emissions for Incinerators with  
13 Capacities in Excess of 100 Pounds Per  
14 Hour; and Appendix B, Allowable Emissions  
15 for Incinerators with Capacities Less than  
16 100 Pounds Per Hour.

17 And we adopted a new Appendix A.  
18 The change -- the purpose the Department is  
19 proposing to amend Parts 1 and 3 of OAC  
20 252:100-17. This is to remove obsolete  
21 language and clarify the remaining  
22 provisions and mirror federal definitions.  
23 The Department is also proposing to revoke  
24 the Appendix A and Appendix B. Oklahoma  
25 rules on rulemaking dictate the procedure

1 of revoking the old and creating an  
2 entirely new appendix. The current  
3 provisions of both appendices are proposed  
4 to be combined into a new Appendix A,  
5 Allowable Particulate Matter on Emissions  
6 of Incinerators. This new appendices  
7 utilizes that formula to increase precision  
8 in the emissions rate calculation and  
9 eliminates the graph to help reduce  
10 ambiguities.

11 Additionally, we did Appendix Q,  
12 Incorporation by Reference. This was our  
13 annual update of federal regulations that  
14 are incorporated by reference in DEQ's  
15 Chapter 100, Air Pollution Control Rules.

16 Proposed changes to Appendix Q, of  
17 Chapter 100, will remove Appendix S to 40  
18 CFR Part 51 in the list of federal  
19 regulations incorporated by reference. And  
20 Appendix S only comes into play in our  
21 permitting program if we had a non-  
22 attainment area and if the preconstruction  
23 review provisions of our SIP do not meet  
24 EPA requirements. In that event, EPA would  
25 either implement Appendix S, or delegate it

1 to the State. In either case, there would  
2 be no need to incorporate it by reference.

3

4 We also have incorporated by  
5 reference several new rules in Appendix Q.  
6 There -- these have been modified to more  
7 precisely reflect the titles as they appear  
8 in the Federal Regulations. In addition,  
9 the appendices was rearranged to mirror the  
10 Code of Federal Regulations.

11 Are there any questions?

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

14 DR. GALVIN: I have a question.

15 MS. CANTRELL: Yes.

16 DR. GALVIN: And I probably just  
17 missed it. Could you -- I heard you  
18 speaking about Appendix S, could you give  
19 me a little more detail around that,  
20 because I somehow missed that in my packet.

21 MS. LODES: Okay. We removed  
22 Appendix S (inaudible) to Appendix Q would  
23 remove Appendix S to 40 -- which referenced  
24 40 CFR Part 51 from the list of federal  
25 regulations incorporated by reference.

1 Appendix S only comes into play in our  
2 permitting program if we had a  
3 nonattainment area and if the  
4 preconstruction review provisions of our  
5 SIP do not meet EPA requirements. In that  
6 event -- right -- what would happen is EPA  
7 would either implement Appendix S or  
8 delegate it to the State. In either case,  
9 there is no need to incorporate it by  
10 reference the way we have it -- currently  
11 done. It's more that it's repetitive, I  
12 guess, you would say. That's probably not  
13 the right way to describe it.

14 (Inaudible multiple conversations)

15 MR. TERRILL: Actually we adopted  
16 it by accident. We shouldn't have done it,  
17 but it just got caught up in the overall  
18 adoption and nobody caught it. We don't  
19 have any nonattainment areas so there's --  
20 we don't need it. In the event that we do  
21 have nonattainment areas, we anticipate  
22 that we would adopt whatever was necessary  
23 to satisfy EPA's part of our SIP, but if we  
24 didn't, then those part of the federal  
25 regulations they hold that back so if the

1 states don't do what they deem necessary,  
2 they can come in and do it for you.

3 MS. LODES: Yeah.

4 MR. TERRILL: So that's what that  
5 means, and we just did it by accident. But  
6 we wanted to get it out so we start with a  
7 clean slate in the event that we do have  
8 nonattainment areas in the future. It's to  
9 correct our mistake.

10 DR. GALVIN: Okay. I guess that  
11 I don't [inaudible].

12 MS. LODES: As it is, it doesn't  
13 really matter the way it's in there.

14 MS. CANTRELL: Laura, in the  
15 summary of the proposed change, there is a  
16 discussion about language that has been  
17 removed because it's obsolete. You may  
18 have just answered that question, but what  
19 is it that has become obsolete?

20 MS. LODES: This has to do with  
21 Subchapter 17 which had more to do with the  
22 incineration rules.

23 MR. TERRILL: This started with -  
24 - the previous rule writer felt like that  
25 some of the language we had in our existing

1 rule was more redundant than it was  
2 obsolete because it's contained in other  
3 federal regulations that we adopt by  
4 reference as part of this. So in order to  
5 eliminate confusion, and to clarify, we  
6 hope clarify for those that this section  
7 applies to, they struck it - the obsolete  
8 language, the part that's been struck in  
9 the --

10 MS. LODES: Subchapter 17

11 MR. TERRILL: Right. But it  
12 doesn't change anything at all, it just --  
13 there are things that are better explained  
14 in other parts that are adopted by  
15 reference and so we just took the parts out  
16 that were no longer needed.

17 MS. LODES: Some of the -- well,  
18 some of the definitions are in Subchapter  
19 1. And we have been taking those out of  
20 all the chapters as we open them up so that  
21 they are not in two separate places.

22 MR. TERRILL: It's sort of a mini  
23 rewrite/dewrong as we go along.

24 MS. CANTRELL: Thank you. Any  
25 other questions from the Board?

1                   MR. MASON:    I have one question.  
2   This nonattainment Rule S, is it in this  
3   packet?

4                   MR. TERRILL:    No.

5                   MR. MASON:    Is that what we are  
6   voting on?

7                   MR. TERRILL:    No.    What you are  
8   doing -- it's incorporated by reference in  
9   that Appendix.    So we just removed -- take  
10  that out and that will effectively remove  
11  it, but it's just because it's listed as  
12  incorporated by reference.

13                   MS. CANTRELL:    Any other  
14  questions from the Board?

15                   MS. LODES:    The reference to  
16  Appendix S should be on Page 1, where it  
17  says Appendix Q.    As I try to remember  
18  where it is.

19                   MR. TERRILL:    We provided a cheat  
20  sheet to our Council.    There's where it was  
21  -- in our existing rule.    So it's not in  
22  your -- the federal rule.

23                   MR. MASON:    Thank you.

24                   MS. CANTRELL:    Any further  
25  questions from the Board?

1                   Mr. WUERFLEIN:    Madam Chair?    I  
2    just - the two equations they were using  
3    for under 100 pound incinerators and over,  
4    there was a gap or a pretty good  
5    discrepancy.    I mean difference between --  
6    the bigger incinerators had a lot lower  
7    particulate matter emission standard than  
8    if you were just under it.    Is there a -  
9    are there any incinerators in that class,  
10   say, between small and very large that this  
11   would effect or would it encourage people  
12   to put up multiple small incinerators to  
13   get around the emission rule as to -

14                   MS. CANTRELL:    Are you asking  
15   between the 75 and 100?

16                   MR. WUERFLEIN:    If you are at a  
17   100 pound emission rate with the one  
18   equation, you are allowed to -- it's about  
19   five times more emissions than if you were  
20   emitting at a 100 pound rate on the larger  
21   size formula.

22                   MS. CANTRELL:    Eddie, can you  
23   speak to that?

24                   MR. TERRILL:    I can't speak to  
25   the equation, I would have to take a look

1 at it, but let me just answer the bigger  
2 question. Is this going to encourage more  
3 of the smaller incinerators by what we are  
4 doing? It absolutely won't, because there  
5 are so many requirements, federal  
6 requirements, that have been implemented.  
7 What it has effectively done is, we've got  
8 the one big incinerator that is in Tulsa,  
9 the Municipal Waste Incinerator, and just  
10 about everything else is gone. We have a  
11 medical waste incinerator in Stroud that  
12 has been there for quite a while and we  
13 believe there might be -- the OU Medical  
14 Center might have a small medical waste  
15 incinerator but there are no incinerators.  
16 I mean that really doesn't --

17 MR. WUERFLEIN: Very few, anyway.

18 MR. TERRILL: Right. And there  
19 is no way -- because of the liability and  
20 the other stringency that's applied to the  
21 one (inaudible) incinerator, we don't think  
22 there will be any constructed, unless it's  
23 for a specific purpose that goes beyond  
24 what you would normally think they would  
25 use. We used to have a lot of small

1 incinerators all over the state but these  
2 federal rules have effectively shut those  
3 down, and by consequence we have very few  
4 complaints. In fact, we have no complaints  
5 anymore, we used to have them all the time;  
6 because you're right, there used to be  
7 these small incinerators everywhere.  
8 They're gone.

9 MR. WUERFLEIN: Okay. Thank you.

10 MS. CANTRELL: Any questions from  
11 anybody who has joined us for this meeting  
12 today regarding the proposal? Do I have a  
13 motion.

14 MR. MASON: I move approval.

15 MS. CANTRELL: Thank you.

16 Mr. Mason has moved approval. Do we  
17 have a second?

18 DR. GALVIN: I second.

19 MS. CANTRELL: Myrna, will you  
20 please poll the Board?

21 MS. BRUCE: Mr. Cassidy.

22 MR. CASSIDY: Yes.

23 MS. BRUCE: Mr. Dark.

24 MR. DARK: Yes.

25 MS. BRUCE: Mr. Drake.

1 MR. DRAKE: Yes.

2 MS. BRUCE: Dr. Galvin.

3 DR. GALVIN: Yes.

4 MS. BRUCE: We have notice that

5 Mr. Griesel is not going to come, so I will

6 try to not call his name every time we go

7 around. Mr. Johnston.

8 MR. JOHNSTON: Yes.

9 MS. BRUCE: Mr. Mason.

10 MR. MASON: Yes.

11 MS. BRUCE: Ms. Rose.

12 MS. ROSE: Yes.

13 MS. BRUCE: Ms. Savage.

14 MS. SAVAGE: Yes.

15 MS. BRUCE: Dr. Sublette.

16 DR. SUBLETTE: Yes.

17 MS. BRUCE: Mr. Wendling.

18 MR. WENDLING: Yes.

19 MS. BRUCE: Mr. Wuerflein.

20 MR. WUERFLEIN: Yes.

21 MS. BRUCE: Ms. Cantrell.

22 MS. CANTRELL: Yes.

23 MS. BRUCE: Thank you. Motion

24 passed.

25 MS. CANTRELL: Moving now to Item

1 6 on our Agenda is proposal from Solid  
2 Waste Management. Presentation to be made,  
3 I believe, by Jay Stout. Is Mr. Stout  
4 present today?

5 MR. STOUT: Good morning. At our  
6 July '09 meeting, the Solid Waste Advisory  
7 Council discussed several concepts for  
8 future rulemaking including but not limited  
9 to, waste screening requirements for  
10 transfer stations, waste screening  
11 requirements for construction demolition  
12 landfills, the need to monitor for methane  
13 gas at construction demolition landfills as  
14 already required at other landfills; and  
15 the need to establish rules and fee  
16 structure for implementation of the  
17 computer waste recycling program as  
18 required by the Oklahoma Computer Equipment  
19 Recycling Act.

20 The Council asked the DEQ staff to  
21 develop information and draft a proposal  
22 for future discussion at future meetings  
23 and public input. And at both meetings,  
24 the July meeting and the January meeting,  
25 just recently, we did not receive any

1 public input.

2           The Council met again in September  
3 to review draft language on these topics,  
4 and solicit public input. Staff also  
5 suggested clarifying the definition of the  
6 term "citizens collection station". As  
7 requested by Council, the DEQ staff  
8 initiated formal rulemaking prior to the  
9 January 2010 meeting. This time as  
10 detailed in your Executive Summary, the DEQ  
11 did receive a few written comments and the  
12 Council received a few oral comments.

13           The Council considered these  
14 additional points of view and voted  
15 unanimously to recommend that you adopt the  
16 proposals that are before you.

17           Madam Chairman.

18                   MS. CANTRELL: Thank you, Mr.  
19 Stout.

20                   MR. STOUT: The proposals are  
21 ready for you to approve.

22                   MS. CANTRELL: Thank you, Mr.  
23 Stout. Any questions from the Board?  
24 I have a question. In reading through the  
25 materials that the Board received, there

1 was quite a bit of discussion lead by a  
2 commentator named Peggy Gastin regarding  
3 the mixing in - mixing in yard waste  
4 composting sites of paper and other food  
5 waste that was raising concern by a number  
6 of folks who were present at the Council  
7 meeting. Can you address whether or not  
8 that actually was resolved by the Council  
9 or what has transpired since that  
10 discussion took place?

11 MR. STOUT: I have my legal  
12 assistant here with me, Fenton Rood.  
13 Fenton, would you respond please?

14 MR. ROOD: Madam Chairman, an  
15 additional concept that the Council has  
16 been working on is relating to composting  
17 facilities. As you noted, we have received  
18 a number of comments, and at the last  
19 meeting the Council deferred action on the  
20 composting language and so that is not  
21 before you today. The Council continues to  
22 work on that issue.

23 MS. CANTRELL: Thank you. I just  
24 wanted to make sure that we were not  
25 addressing that issue today. Any other

1 questions?

2                   MR. DARK: I have a question or  
3 maybe it's clarification. In the  
4 definitions you strike -- in definitions  
5 you strike out the domestic septage as used  
6 in this Chapter, it doesn't include  
7 industrial or commercial. How is that  
8 handled? Is it just not - do you just  
9 consider that not a part of any system that  
10 (inaudible) haulers associated with it or  
11 what?

12                   MR. ROOD: Sir, if your question  
13 is about domestic septage, that would be  
14 regulated by our Water Quality Division and  
15 sewage.

16                   MR. DARK: So any haulers from  
17 that division would be regulated by their  
18 rules? That's what I don't understand is  
19 how --

20                   MR. ROOD: These rules no longer  
21 include rules for septic tank pumpers.  
22 That is covered in another Chapter.

23                   MR. DARK: Thank you.

24                   MS. CANTRELL: Any other  
25 questions from the Board? Any questions

1 from those who are in attendance today  
2 regarding this proposal?

3 MR. STOUT: In the back of the  
4 room.

5 MS. CANTRELL: Yes.

6 MR. CANT: I am trying to get the  
7 rules on this --

8 MS. CANTRELL: Sir, if you don't  
9 mind going to the podium so that we can all  
10 hear you. Thank you.

11 MR. CANT: I am Jim Cant with WCA  
12 of Oklahoma. I am the General Manager of  
13 Landfill Operations. I feel little  
14 embarrassed because I'm late on these rules  
15 and stuff. I have only been here, like,  
16 six months. I was working in Florida. And  
17 I got this on the methane gas for the C and  
18 D landfills. Obviously, I have the C and D  
19 landfill, and two MSW landfills I take care  
20 of.

21 I am all for safety and  
22 environmental control, believe me. My  
23 thing is that I am hoping that since we  
24 don't have any capping on C and D  
25 landfills, we can do an assessment instead

1 of every quarter maybe once a year. Save  
2 me a little bit of aggravation. Obviously,  
3 if we have any hits or anything like that,  
4 then we have to do other assessments, but  
5 I'm hoping we can just do once a year for  
6 notice, to start out with, if that would be  
7 all right.

8 MR. STOUT: No.

9 MR. CANT: I tried. I tried.

10 MR. ROOD: Well, while there may  
11 be a difference of opinion about the  
12 necessity or frequency of monitoring for  
13 gas, if you would look in your rule  
14 package, to the existing rules, 252:515-15-  
15 1, it gives any facility that's regulated  
16 the opportunity to present a case to the  
17 Department that a different monitoring  
18 frequency would be appropriate. So I think  
19 his concerns are already covered in  
20 existing rules. Anything else?

21 MR. CANT: Not as far as anything  
22 else, that was the only thing I was really  
23 worried about. Thank you.

24 MS. CANTRELL: Thank you for  
25 coming.

1                   MR. THOMPSON:    Let me suggest to  
2   you that after the meeting, you sit down  
3   with Fenton and visit about your concern.  
4   I think he has a way that may be able to  
5   solve your problem.    So if you would visit  
6   with him maybe we can help you with that.

7                   MR. CANT:        Thank you.

8                   MS. CANTRELL:    Any other  
9   questions regarding this proposal?

10                  MR. JOHNSTON:   Move for approval.

11                  MS. CANTRELL:   We have a motion  
12   for approval.    Do we have a second?

13                  MR. DRAKE:        Second.

14                  MS. CANTRELL:   Thank you.    Myrna,  
15   I guess we are ready for a vote.

16                  MS. BRUCE:        Mr. Cassidy.

17                  MR. CASSIDY:     Yes.

18                  MS. BRUCE:        Mr. Dark.

19                  MR. DARK:        Yes.

20                  MS. BRUCE:        Mr. Drake.

21                  MR. DRAKE:        Yes.

22                  MS. BRUCE:        Dr. Galvin.

23                  DR. GALVIN:     Yes.

24                  MR. JOHNSTON:   Yes.

25                  MS. BRUCE:        Mr. Mason.

1 MR. MASON: Yes.

2 MS. BRUCE: Ms. Rose.

3 MS. ROSE: Yes.

4 MS. BRUCE: Ms. Savage.

5 MS. SAVAGE: Yes.

6 MS. BRUCE: Dr. Sublette.

7 DR. SUBLETTE: Yes.

8 MS. BRUCE: Mr. Wendling.

9 MR. WENDLING: Yes.

10 MS. BRUCE: Mr. Wuerflein.

11 MR. WUERFLEIN: Yes.

12 MS. BRUCE: Ms. Cantrell.

13 MS. CANTRELL: Yes.

14 MS. BRUCE: Motion passed.

15 MR. STOUT: Thank you.

16 MS. CANTRELL: Thank you very

17 much, Mr. Stout.

18 Item 7, the Oklahoma Pollutant

19 Discharge Elimination System Standards is

20 now on the floor and we have a presentation

21 for rulemaking.

22 MR. PAQUE: Thank you, Madam

23 Chair. Our Chairman, Lowell Hobbs,

24 couldn't be here today. As Vice-Chair,

25 I'll be assuming that role for this one

1 meeting.

2 My name is Mike Pague and I am the  
3 Vice-Chair of the Water Quality Council.  
4 The first Item Number 7 is Title 252  
5 Department of Environmental Quality,  
6 Chapter 606, Oklahoma Pollutant Discharge  
7 and Elimination System, or OPDES, as we  
8 call it.

9 The Oklahoma Department of  
10 Environmental Quality proposes these  
11 changes to the Water Quality Management  
12 Advisory Council to update its rules  
13 concerning Oklahoma Administrative Code  
14 252.

15 The Department proposes to update  
16 its rules concerning the date of the  
17 incorporation by reference of certain  
18 federal regulations. The change updates  
19 the publication date of the federal rules  
20 from July 1, 2008 to July 1, 2009.  
21 Included for the first time, in the  
22 incorporation, is EPA's Water Transfer Rule  
23 at 40 CFR Section 122.3 which went into  
24 affect August 12, 2008. This Water  
25 Transfer Rule exempts the need of an NPDES

1 permit for the transfer of raw water from  
2 one watershed to another.

3           The Department didn't receive any  
4 oral or written comments concerning these  
5 proposed changes and voted - the Council  
6 voted unanimously to recommend to the Board  
7 that you approve these changes to Chapter  
8 606, as proposed by the Department.

9           MS. CANTRELL: Thank you, Mr.  
10 Paque. Are there any questions from the  
11 Board?

12           I have a question. What if there is  
13 a difference, and have you monitored for a  
14 different -- or any different in water  
15 quality from one watershed to another prior  
16 to transfer?

17           MR. PAQUE: I am glad you asked  
18 that question. I'm just going to ask Don  
19 Maisch to respond to some of that. One of  
20 the reasons for this is there is a  
21 difference between the requirements from  
22 EPA Region 6 and what EPA Headquarters  
23 requires, and the details of that  
24 difference lies in the some of the reason  
25 for this change. Don.

1                   MR. MAISCH:    Ms. Cantrell, can  
2 you repeat your question, please?

3                   MS. CANTRELL:    Yes.    In  
4 discussing a proposal regarding  
5 transferring from one watershed to another,  
6 how do you monitor, or is there a  
7 requirement for monitoring, if there is any  
8 difference in water quality between the two  
9 watersheds?

10                  MR. MAISCH:    As far as I know,  
11 there is no requirement for monitoring at  
12 this time, to monitor water that close from  
13 one watershed to another watershed.    They  
14 do monitor the flow and the amount of water  
15 but additional monitoring beyond that is  
16 not required.

17                  MS. CANTRELL:    Was there any  
18 concern considered regarding, perhaps,  
19 transferring from a watershed of lesser  
20 water quality to a watershed of higher  
21 water quality?

22                  MR. MAISCH:    At this time, that  
23 was not an issue that was raised in the  
24 water transfer rule.    I can tell you that,  
25 that, is a part of litigation at this time.

1 The Transfer Rule litigation has been filed  
2 concerning the rule, and that is making its  
3 way through the court system. That is one  
4 of the claims and arguments that is made,  
5 it concerns the fact that -- whether it's  
6 lesser quality or greater quality or there  
7 is different constituents between the  
8 water, that is something that is currently  
9 going through the court system at this  
10 time.

11 MS. CANTRELL: And is this  
12 litigation on the Federal level involve  
13 EPA?

14 MR. MAISCH: Yes. Yes it does,  
15 and I believe it is coming out of Florida  
16 at the present time.

17 MS. CANTRELL: And is it  
18 regarding the very rule that we are  
19 considering today?

20 MR. MAISCH: Yes, it is. In  
21 other words, there had been previous  
22 litigation filed, EPA stepped in,  
23 promulgated the Water Transfer Rule, which  
24 eliminated the litigation that was going on  
25 at that time. Litigation has since been

1 re-filed.

2 MS. CANTRELL: Was any thought  
3 given to postponing this proposal until  
4 after litigation had been concluded?

5 MR. MAISCH: There was some  
6 thought given to that, but given the fact  
7 that we do have certain water transfers  
8 going on in Oklahoma at this time, the  
9 belief was that we needed to promulgate the  
10 Rule for those specific water transfers  
11 here in Oklahoma at the present time to  
12 cover them, and to demonstrate that those  
13 specific water transfers did not need a  
14 permit at the present time.

15 MS. CANTRELL: What would be the  
16 risk to -- regarding those water transfers,  
17 what would be the risk of postponing this  
18 Rule to see how the Federal litigation  
19 results?

20 MR. MAISCH: It could open up  
21 those specific water transfers to  
22 litigation in and of itself, to -- through  
23 citizen suit or other provision to require  
24 them -- or to require the Agency to issue  
25 them an NP or an OPDES permit, a State

1 discharge permit, for those specific water  
2 transfers.

3 MS. CANTRELL: Tony? You need to  
4 push the button.

5 MR. DARK: Based on what I'm  
6 hearing, and what little I know about this  
7 permitting process, I believe what staff is  
8 trying to do is a proper direction, as long  
9 as -- I have confidence the staff is going  
10 to track that Federal legislation and see  
11 that we promulgate the rules pursuant to  
12 whatever may come of that suit. We don't  
13 know how long the suit is going to take.

14 Me, I would hate to see something  
15 stopped in Oklahoma because someone's  
16 following our rules and all of the sudden  
17 because of some legislation at the federal  
18 level, we've changed what we do in the  
19 State. I think we are probably better  
20 served to, do as staff suggests, at least  
21 in my opinion, because of what's involved  
22 in these rules, and what can come of them,  
23 as long as we track what happens pursuant  
24 to that lawsuit. I believe that is  
25 probably our safest way to go.

1                   MS. CANTRELL:    Thank you, Mr.  
2   Dark.    In picking up on that, Mr. Dark's  
3   comments, has the staff considered - does  
4   the staff have an opinion as to the benefit  
5   of this rule that is being proposed?   Or I  
6   should say, benefit, as far as the impact  
7   on Oklahoma's environmental protection  
8   efforts.

9                   MR. MAISCH:    I think Mr. Thompson  
10   wants to --

11                  MR. THOMPSON:    I think the -- I  
12   would say that the Agency has been somewhat  
13   conflicted by this rule.   We are not sure  
14   that - we are truly not sure that there is  
15   a benefit to the rule.   Although, we could  
16   see in some watersheds where that would be  
17   the case, might be the case.   We haven't  
18   monitored, so we don't know that.   But the  
19   administrative burden of beginning to issue  
20   MPD as permits on water transfers, is  
21   significant.   And given the current fiscal  
22   situation, might well be outside the scope  
23   of the capacity of the Agency, which means  
24   it would fall then to EPA anyway, who has a  
25   current rule for the transfer.   So I think

1 it is -- we are tracking both in Water  
2 Quality and out of my office, the progress  
3 on this lawsuit. It may be that the  
4 current administration may, absent a ruling  
5 by the court in favor of not exempting  
6 these transfers, EPA may come forward with  
7 rulings to that effect. But it's just a  
8 pretty high administrative bar for us to do  
9 it now. And given the fact that this is an  
10 EPA rule that exempts those things, if we  
11 didn't do it, it would fall to the federal  
12 government and they wouldn't do it either.  
13 It's a tough call.

14 MS. CANTRELL: Any other  
15 questions? Any other questions from the  
16 Board?

17 MR. JOHNSTON: Did I  
18 misunderstand or did the Region 6 and EPA  
19 not even agree on this rule? Is that what  
20 somebody said or was it just something --

21 MR. MAISCH: No. EPA Region 6 --  
22 Region 6 does follow the Water Transfer  
23 Rule at the present time.

24 MR. THOMPSON: It may be fair to  
25 say that the current EPA may be awaiting

1 the outcome of this litigation also, and  
2 may act depending upon what the court  
3 decides. But we are just tracking to see  
4 what is going to happen.

5 MS. CANTRELL: One follow up  
6 question on the fiscal issue. Would there  
7 be any significant burden to postponing the  
8 rulemaking on this topic until the next  
9 Board meeting?

10 MR. THOMPSON: Well, I don't  
11 think that there would be a burden -- there  
12 wouldn't be a burden to the Agency if we  
13 were not required to do permit transfers,  
14 and we are not doing that at the current  
15 time. So absent the requirement to permit  
16 those transfers, there would be no burden.  
17 What we were concerned about was -- I mean  
18 we would not - we cannot physically do the  
19 work. So as far as the burden is  
20 concerned, the burden then falls to, should  
21 we not -- should the Board fail to address  
22 this issue, the question of whether we  
23 should be permitting those transfers  
24 remains open. I think that is the problem.

25 MR. MAISCH: Number one. But

1 number two, we are under our Delegation  
2 Agreement, required to keep our rules up to  
3 at least those minimum standards as put  
4 forth by EPA to maintain our delegation of  
5 the NPDES Programs. Failure to update our  
6 rules, while this appears to be the only  
7 rule of significance that was changed from  
8 2008 to 2009, that could cause us a problem  
9 with EPA and our Delegation Agreement. And  
10 may lend to non-fiscal, but other concerns  
11 that might arise from that as well.

12 MS. CANTRELL: One final  
13 question. If this rule is exempting the  
14 need for an NPDES permit, is this rule then  
15 in affect placing Oklahoma in a more  
16 stringent category than federal rules?

17 MR. MAISCH: No. Not at the  
18 present time. Well, in other words, are  
19 you saying that if we fail to adopt the  
20 Water Transfer Rule, could it be placing us  
21 in a position that is more stringent than  
22 the Feds? If we did not adopt the Water  
23 Transfer Rule, as Steve said, that would be  
24 delegated back to EPA to enforce that  
25 program, and then EPA would not be willing

1 to -- would have the rule and fall back on  
2 that. Could it then lead to some sort of  
3 litigation concerning the Agency for  
4 failing to issue such a permit? And could  
5 a court then render a decision that said  
6 under State law a permit would be required?  
7 The answer to that is, that would be a  
8 possibility. And if that were the case,  
9 then, yes, we would be more stringent at  
10 this time, if that were to occur, EPA  
11 current -- than current EPA policy.

12 MS. CANTRELL: Thank you. Any  
13 further questions? Any questions from  
14 anybody who has joined us today regarding  
15 this proposal?

16 MR. DRAKE: I would move that we  
17 follow the work that has been done and  
18 approve - move to approve the rulemaking.

19 MR. JOHNSTON: Second.

20 MS. BRUCE: Mr. Cassidy.

21 MR. CASSIDY: Yes.

22 MS. BRUCE: Mr. Dark.

23 MR. DARK: Yes.

24 MS. BRUCE: Mr. Drake.

25 MR. DRAKE: Yes.

1 MS. BRUCE: Dr. Galvin.  
2 DR. GALVIN: Yes.  
3 MS. BRUCE: Mr. Johnston.  
4 MR. JOHNSTON: Yes.  
5 MS. BRUCE: Mr. Mason.  
6 MR. MASON: Yes.  
7 MS. BRUCE: Ms. Rose.  
8 MS. ROSE: Yes.  
9 MS. BRUCE: Ms. Savage.  
10 MS. SAVAGE: Yes.  
11 MS. BRUCE: Dr. Sublette.  
12 DR. SUBLETTE: Yes.  
13 MS. BRUCE: Mr. Wendling.  
14 MR. WENDLING: Yes.  
15 MS. BRUCE: Mr. Wuerflein.  
16 MR. WUERFLEIN: Yes.  
17 MS. BRUCE: Ms. Cantrell.  
18 MS. CANTRELL: No.  
19 MS. BRUCE: Motion passed. Thank  
20 you.  
21 MS. CANTRELL: Thank you, Myrna.  
22 And thank you, Mr. Paque.  
23 MR. PAQUE: Madam Chair, I may  
24 have gotten ahead of myself on that  
25 reference to EPA, I apologize. I had major

1 eye surgery a week ago and my eyes aren't  
2 what they were before that. So my  
3 apologies, I think I may have caused some  
4 confusion there.

5 The next item, Item 8 on your  
6 Agenda, Title 252, Department of  
7 Environmental Quality, Chapter 645, Septage  
8 Pumpers and Haulers.

9 There are four primary reasons for  
10 the Department to propose this rulemaking.

11

12 The first is to require training for  
13 individuals who are licensed to pump, haul,  
14 and store septage, operate a septage land  
15 application site, or treat septage as a  
16 means of vital disposal. Requiring  
17 training will ensure that the licensed  
18 individuals have actual knowledge of the  
19 regulations. Facilities already permitted  
20 by DEQ's Water Quality Division to accept  
21 septage, would be exempt from having to  
22 obtain another license under this  
23 regulation.

24 The second reason for the proposed  
25 rulemaking, is to allow the temporary

1 storage of septage when the preferred  
2 disposal method is unavailable.

3 For example, land application site  
4 is too wet, municipal waste water treatment  
5 plant is closed, et cetera.

6 The third reason for the proposed  
7 rulemaking is to allow individuals to  
8 operate a treatment facility that  
9 specifically treats septage, which will  
10 provide another disposal option for septage  
11 pumpers and haulers.

12 The fourth reason for the proposed  
13 rulemaking is to establish a fee schedule  
14 that will help cover some of the costs of  
15 operating the program which has  
16 historically been entirely supported by  
17 appropriated funds.

18 The Department did receive written  
19 and oral comments concerning the proposed  
20 rule modifications. A summary of those  
21 comments and responses to the comments are  
22 contained in the Executive Summary for  
23 Chapter 645. Changes to the proposed rule  
24 modifications were recommended by the  
25 Department pursuant to these oral and

1 written comments.

2           After discussion at the Council  
3 meeting, the Council voted unanimously to  
4 recommend that the Board approve the  
5 changes to Chapter 645 as amended.

6           MS. CANTRELL: Thank you, Mr.  
7 Paque. Any questions from the Board?

8           MR. DARK: Yes, I do. First, I  
9 want to say that if Ellen was the one  
10 giving us all the packets all these years,  
11 then someone needs to follow suit there,  
12 because I was spoiled. My packet is in  
13 perfect order. A good friend of mine got  
14 me what I thought was a full packet, and I  
15 had the wrong rule a moment ago when I was  
16 asking a question.

17           So here is the question I had a  
18 minute ago in regards to septage. It says  
19 that we have stricken the entire sentence  
20 about domestic septage as used in this  
21 chapter. It seems as though unless -- I am  
22 sure confused here. I just need someone to  
23 explain to me how these pumpers and  
24 transporters, how they address things  
25 outside of domestic sewage. Because I am

1 certain that it pumped and then hauled.

2 Where is that addressed?

3 MR. PAQUE: I going to ask the  
4 staff to answer. I did want to make one  
5 comment. The Water Quality Management  
6 Council has done what I think is kind of a  
7 -- made a good change. And as we think  
8 that something is going to be controversial  
9 or have a lot of public comment, we have a  
10 policy that was adopted in the last few  
11 years where we hear something at one  
12 meeting and then defer the action to  
13 another to allow more people to comment.  
14 And it's a system that allows the public a  
15 better discussion at our meetings.

16 This particular item we discussed in  
17 October and because things are resolved  
18 quicker than we thought they were, it was  
19 originally scheduled for this Board meeting  
20 and we thought we would be hearing in  
21 January. Because of that, in my memory and  
22 I think I have slept at least three times  
23 since then, I am going to ask the staff to  
24 answer your question. But I did want to  
25 point out that there was a time-lag between

1 our decision and recommendation to you, but  
2 I think it is for a very good reason.

3 MR. HUBER: Good morning. My  
4 name is Robert Huber. To your question, we  
5 did delete the part about domestic septage.  
6 We did that because we included the  
7 definition of sewage in the rule to provide  
8 us a better general overall description.

9 MR. DARK: So sewage is in now  
10 for all of this?

11 MR. HUBER: Right. You will  
12 notice as you go through, you will see we  
13 made separate distinctions between what we  
14 considered sewage, raw for what they pump  
15 versus the actual septage that receives the  
16 treatment.

17 MR. DARK: So everyone's treated  
18 the same, irrespective of whatever they are  
19 putting in the system?

20 MR. HUBER: Pardon me?

21 MR. DARK: Everyone is treated  
22 the same, irrespective of what's put in the  
23 system, correct?

24 MR. HUBER: Provided it is not an  
25 industrial or commercial-type waste. They

1 are restricted by that.

2 MR. DARK: And those pumpers and  
3 haulers have different rules they have to  
4 abide by?

5 MR. HUBER: Commercial waste by  
6 this rule doesn't apply to it. And  
7 typically would be an industrial waste  
8 water. We have grease pumpings that go  
9 through water quality for permitting. And  
10 the industrial -- I believe would be under  
11 the hazardous (inaudible) waste management  
12 rules.

13 MR. DARK: My question is, beyond  
14 these rules, there are other rules that  
15 address those pumpers and haulers?

16 MR. HUBER: I believe so.

17 MR. DARK: Okay. Thank you.

18 MS. CANTRELL: Any further  
19 questions from the Board? Any other  
20 questions regarding this proposal? Do we  
21 have a motion?

22 MS. ROSE: I move to accept this.

23

24 MS. CANTRELL: We have a motion.

25 MR. DRAKE: Second.

1 MS. CANTRELL: And a second.  
2 Thank you. Myrna, would you please poll  
3 the Board.  
4 MS. BRUCE: Mr. Cassidy.  
5 MR. CASSIDY: Yes.  
6 MS. BRUCE: Mr. Dark.  
7 MR. DARK: Yes.  
8 MS. BRUCE: Mr. Drake.  
9 MR. DRAKE: Yes.  
10 MS. BRUCE: Dr. Galvin.  
11 DR. GALVIN: Yes.  
12 MS. BRUCE: Mr. Johnston.  
13 MR. JOHNSTON: Yes.  
14 MS. BRUCE: Mr. Mason.  
15 MR. MASON: Yes.  
16 MS. BRUCE: Ms. Rose.  
17 MS. ROSE: Yes.  
18 MS. BRUCE: Ms. Savage.  
19 MS. SAVAGE: Yes.  
20 MS. BRUCE: Dr. Sublette.  
21 DR. SUBLETTE: Yes.  
22 MS. BRUCE: Mr. Wendling.  
23 MR. WENDLING: Yes.  
24 MS. BRUCE: Mr. Wuerflein.  
25 MR. WUERFLEIN: Yes.

1 MS. BRUCE: Ms. Cantrell.

2 MS. CANTRELL: Yes.

3 MS. BRUCE: Motion passed.

4 MS. CANTRELL: Thank you.

5 MR. JOHNSTON: I appreciate the

6 extra step that the Council has done on

7 this, to make it more safe for the public.

8 MS. PAQUE: Thank you. Madam

9 Chair, next.

10 MS. CANTRELL: Yes. Thank you,

11 Mr. Paque.

12 MR. PAQUE: Okay. Next item is

13 Item 9 on your Agenda, Title 252,

14 Department of Environmental Quality Chapter

15 690, Water Quality Standards

16 Implementation.

17 The Department proposes to update

18 the publication date of the Federal Rules

19 adopted by reference from July 1, 2008 to

20 July 1, 2009. Included for the first time

21 in the incorporations EPA's Water Transfer

22 Rule at 40 CFR Section 122.3, which went

23 into effect on August 12, 2008. The Water

24 Transfer Rule exempts the need of an NPDES

25 permit for the transfer of raw water from

1 one watershed to another.

2           Initially, the proposed change was  
3 to update the list of incorporated  
4 Hazardous Waste Management rules found in  
5 40 CFR Parts 260 to 279, as the list had  
6 become outdated. Finally, the Department  
7 proposes to remove the reference to EPA  
8 Region 6 from the technical acronym MQL.  
9 The Department did not receive any written  
10 or oral comments concerning the proposed  
11 changes.

12           Council voted unanimously to  
13 recommend to this Board approval of the  
14 changes to Chapter 690 as proposed by the  
15 Department. Any questions?

16           MS. CANTRELL: Thank you, Mr.  
17 Paque. Any questions from the Board?

18           MR. DARK: Is this just a cleanup  
19 of delegation?

20           MR. PAQUE: That's right.

21           MS. CANTRELL: Any other  
22 questions regarding this proposal? Do we  
23 have a motion?

24           MR. JOHNSTON: Move to approve.

25           MS. CANTRELL: Thank you, and do

1 we have a second?

2 DR. GALVIN: Second.

3 MS. CANTRELL: Thank you.

4 MS. BRUCE: Mr. Cassidy.

5 MR. CASSIDY: Yes.

6 MS. BRUCE: Mr. Dark.

7 MR. DARK: Yes.

8 MS. BRUCE: Mr. Drake.

9 MR. DRAKE: Yes.

10 MS. BRUCE: Dr. Galvin.

11 DR. GALVIN: Yes.

12 MS. BRUCE: Mr. Johnston.

13 MR. JOHNSTON: Yes.

14 MS. BRUCE: Mr. Mason.

15 MR. MASON: Yes.

16 MS. BRUCE: Ms. Rose.

17 MS. ROSE: Yes.

18 MS. BRUCE: Ms. Savage.

19 MS. SAVAGE: Yes.

20 MS. BRUCE: Dr. Sublette.

21 DR. SUBLETTE: Yes.

22 MS. BRUCE: Mr. Wendling.

23 MR. WENDLING: Yes.

24 MS. BRUCE: Mr. Wuerflein.

25 MR. WUERFLEIN: Yes.

1 MS. BRUCE: Ms. Cantrell.

2 MS. CANTRELL: Yes.

3 MS. BRUCE: Motion passed. Thank  
4 you.

5 MS. CANTRELL: And thank you, Mr.  
6 Paque.

7 MR. PAQUE: Thank you all.

8 MS. CANTRELL: We have come to  
9 the end of our -- the work done by the  
10 Councils and I want to thank all three of  
11 you for coming today. And also for the  
12 excellent work of the Councils wrestling  
13 with these issues that you have put forward  
14 to solve problems. We appreciate your work  
15 and appreciate your time today. Thank you.

16 We are moving now to Item 10 on the  
17 Agenda. And this item originated with one  
18 of our Board Members, David Griesel, who  
19 unfortunately, is not able to be with us  
20 today. But the spirit of the proposal is  
21 alive and before us. I thought that what  
22 we might do, if I may -- Jimmy, would you  
23 mind if I called on you to speak a little  
24 bit to the history of this proposal because  
25 I think you have the background.

1                   MR. GIVENS:    Madam Chair, Members  
2   of the Board, as the Chair mentioned, this  
3   was a proposal that was originally brought  
4   by David Griesel.   We were asked in our  
5   role as administrative support for the  
6   Board to draft a Resolution.   We presented  
7   it to David a few weeks ago, he was  
8   satisfied with the result.   That particular  
9   Resolution is what is in your packet.   The  
10  reason I wanted to give you just a little  
11  bit of background is because, as of  
12  yesterday, the committees in both the House  
13  and the Senate passed the deadline.  
14  Yesterday was the deadline for the House,  
15  and the week before was the deadline for  
16  the Senate committees to act on pieces of  
17  legislation.   And if they had not received  
18  a favorable recommendation from the  
19  Legislative Committee by yesterday, then  
20  they are dead for the Session.

21                   The three Bills that specifically  
22  are the subject of the Resolution, in your  
23  packet, all died as of yesterday.

24                   So what we did this morning is to  
25  re-draft the Resolution slightly to

1 recognize that those three Bills, that had  
2 been pending, are dead. And what that  
3 practically means is that if such a Bill  
4 were to receive consideration in this  
5 Session, it would have to be upended to  
6 another Bill. And so, we prepared a  
7 Resolution this morning recognizing the  
8 developments of the past day. And it is  
9 before you now to consider whether you want  
10 to forward a Resolution that would  
11 encourage the Legislature to consider  
12 making this sort of concept a part of  
13 another Bill.

14 MS. CANTRELL: Thank you, Jimmy.

15 And to relay to the Board, David Griesel's  
16 work and interest in this Bill - David  
17 described this as a win-win for Oklahoma.  
18 It's a way to - for the Board to set forth  
19 a concept that recycling and bottle cleanup  
20 can be done with a private initiative  
21 across the state, and felt that the  
22 initiative itself, the concept of it, was a  
23 positive for Oklahoma's environment.

24 Does anybody have any questions or  
25 thoughts? Those of you who have spoken

1 with David, or who have considered this  
2 proposal, might have some more information  
3 to share.

4 MR. CASSIDY: I haven't spoken  
5 with David, but can you explain the cost of  
6 this?

7 MR. GIVENS: I'll begin, and  
8 Steve can help me out. I am going on  
9 recollection here, but the Bills that were  
10 pending did have a mechanism for collection  
11 of administrative costs as well as the  
12 deposit itself.

13 As I recall, the administrative  
14 costs were phased-in beginning with a  
15 quarter per container and going up to a  
16 penny per container over the course of a  
17 few years. That would have been used for  
18 the administrative costs of both the DEQ  
19 and the Tax Commission, who would have been  
20 responsible for administering the Bills.  
21 And our initial impression was the  
22 administrative costs probably would suffice  
23 to allow us to administer that program.

24 MR. THOMPSON: If I could, the  
25 Bills that were introduced, in my mind,

1 were very different than the traditional  
2 Bottle Bills that had been introduced over  
3 the years, all of which had failed.

4           The first one was that this had a -  
5 this Bill has a corporate sponsor. All of  
6 the glass manufacturers in the State of  
7 Oklahoma are very interested in glass  
8 recycling as a business - as a way to save  
9 money on their glass in the manufacturing.  
10 This company, and I think another glass  
11 company in the state, has joined with them  
12 now at about 300 employees. So they are  
13 very interested in this Bill.  
14 Particularly, related to glass.

15           Secondly, the traditional opposition  
16 to Bottle Recycling Bills in the state has  
17 been the petroleum marketers and that means  
18 convenience stores. And to some extent,  
19 grocery stores because of what they  
20 consider the administrative burden of  
21 handling bottles as they come back.

22           These Bills had the beginnings of  
23 some very, I think, inventive ideas to ease  
24 the concerns of grocers and convenience  
25 stores, in that it anticipated that there

1 might be something like a reverse pop  
2 machine, where you put the glass bottle in  
3 and you get a nickel back out. There were  
4 convenience centers that were going to be  
5 considered independent of just returning it  
6 to the convenience store or to the grocer.  
7 So there was a recognition of the  
8 traditional opposition to these Bills.  
9 There was an effort to create situations  
10 that would ease that opposition. But I  
11 think what happened here, was that because  
12 these Bottle Bills had come up in the past,  
13 and there had been this traditional  
14 opposition, that they were just unable to  
15 have enough discussion with those folks to  
16 ease their concerns. And maybe they won't  
17 anyway, but what they decided to do is then  
18 take another year, work with these folks,  
19 explain what these other opportunities are  
20 that ease their burdens, and see if they  
21 can't get them on board.

22           It is, in my mind, as close as I  
23 have seen to getting a Bottle Recycling  
24 Bill, ever, in the state. I just think  
25 they ran into a situation, and probably

1 understandably so, where there was this  
2 traditional opposition.

3           So they are going to take a year.  
4 They are going to work with them. We will  
5 work with them, and hopefully in another  
6 year they can come back with a different  
7 bill that has some opportunity to receive  
8 their support.

9           MR. DRAKE: I have talked to  
10 David at some length. And just since our  
11 last visits, which was what, December or so  
12 -- November or December. You know, the  
13 work is being done nationally on plastic  
14 bottles and some of the concerns that  
15 groups were having about plastic bottles.

16           I know my wife won't buy them any  
17 more, and that gets inconvenient. I would  
18 love to have a reason to take those other  
19 bottles back. But I think that this is  
20 well formed. It's going to give them more  
21 time to do what we used to do when I was  
22 young - we did that, then, and it didn't  
23 cause anybody too much problem. But I  
24 think that anything that would help us  
25 decrease the plastic going into our

1 landfills, and decrease the use of the  
2 plastics, would certainly be helpful. And  
3 I hope that we will pass this Resolution  
4 and carry it forward.

5 MS. CANTRELL: Thank you, Mr.  
6 Drake.

7 MR. DARK: In the same light, we  
8 were speaking just a moment ago, I would  
9 like to see if there is a possibility that  
10 staff can actually look into it, and give  
11 this Board a position on plastic.

12 The Bottle Bill is one thing,  
13 plastics is another. I realize we are  
14 talking about two different things. As far  
15 as this Resolution, I am in favor of it,  
16 but to further that, I really would like a  
17 position statement on plastics, I really  
18 would.

19 MR. THOMPSON: Probably be pretty  
20 easy for us since nobody knows more about  
21 this stuff than Fenton Rood. So we will  
22 get you something.

23 MR. CASSIDY: Does this include  
24 everything from milk cartons to water  
25 bottles?

1                   MR. THOMPSON:    It was amended -  
2    it started out with bottles, glass bottles,  
3    plastic bottles, there was some exemptions  
4    to that like milk bottles.

5                   MR. GIVENS:    The answer is mostly  
6    yes, but I do believe there was an  
7    exemption for dairy products, milk bottles,  
8    et cetera.

9                   MR. THOMPSON:    But I do think  
10   that there was the notion of this thing, as  
11   they discussed it, got tighter.    There were  
12   more exemptions.    I don't know where they  
13   left that.    But that issue will be  
14   addressed in the legislation that comes  
15   back next year, and then we will be able to  
16   report to you what's going on.    I don't  
17   think there is going to be anything in this  
18   Legislative Session.    So, in their  
19   negotiations with folks that have an  
20   interest in this thing, they may broaden  
21   what's included in the recycling, and they  
22   may constrict it.    We just don't know at  
23   this point.    It depends on what all those  
24   interests are.

25                   DR. SUBLETTE:    Can I ask a

1 question? In the bills that are existing  
2 now, I haven't read them but let's suppose  
3 these bottles are returned to a convenience  
4 store or a grocer, what would the  
5 provisions for what was to be done with  
6 those? I assume that was addressed in the  
7 Bill? Whose responsibility is it now, they  
8 have been returned, the deposit has been  
9 returned, now what happens to the bottles?  
10 Whose responsibility is that, where they  
11 go?

12 MR. THOMPSON: I think there are  
13 a number - I think to answer your question  
14 as for the glass, there are a number of  
15 glass plants that are very anxious to be a  
16 part of this, and have that glass come to  
17 their facilities for recycling. There are  
18 a number of recycling centers throughout  
19 the state that are interested in recycling.  
20 Now the details of that, I don't know. But  
21 the folks that were preparing the Bill were  
22 working through that, and I think Fenton  
23 was working through that with them. But to  
24 give you specifics of that, other than this  
25 broad notion that there is recycling

1 available in the state, I don't --

2 DR. SUBLETTE: I understand  
3 ultimately where the material will go. But  
4 I am curious about whose responsibility is  
5 it to sort, to transport? The comment was  
6 made about how we all used to return  
7 bottles when we were kids, and I remember  
8 that. But the grocer always had stacks of  
9 wooden cartons and sorted the bottles by  
10 manufacturer, and the manufacturer came and  
11 picked those up when they delivered new  
12 products. So that wasn't much of a burden.  
13 But I am just curious as to - I mean,  
14 accepting the bottles and paying a deposit  
15 is one thing, but I can see that they might  
16 be very concerned about what their costs  
17 are going to be in terms of sorting,  
18 handling, transporting, et cetera. I think  
19 that is where most of the burden is.

20 MR. THOMPSON: Do you know,  
21 Jimmy? Do you know whether that was  
22 addressed in the Bill or do you recall?

23 MR. GIVENS: My recollection is  
24 -- and we may be able to get some help from  
25 Scott or Fenton on more specifics. My

1 recollection is that the Bill simply  
2 specified, that whoever received these  
3 would process them, and then transmit them  
4 on to someone who would be responsible then  
5 for using them or recycling them,  
6 ultimately. I don't think it went into  
7 great detail about how that was suppose to  
8 happen.

9                   MR. THOMPSON: I would suggest to  
10 you, that maybe, that was part of the  
11 problem with the Bill. That, that, was a  
12 detail that needed to be worked out with  
13 folks prior to the Bill moving on. That  
14 may have been an issue also.

15                   Scott may have better information.

16                   MR. SCOTT THOMPSON: Okay. I  
17 remember some of the details, although it  
18 is a little bit vague. Basically, the Bill  
19 set up recycling centers which could be a  
20 variety of places. Could be a convenience  
21 store, could be a grocery store, it could  
22 be somebody set up just for recycling, like  
23 an existing recycling center in a city; or  
24 a private company that is set up to take  
25 recyclables.

1                   And then there was another tier  
2    player that was a processor, who would then  
3    receive the materials from the recycling  
4    centers, or I think the recycling center  
5    could also be a processor.    And it was a  
6    five cent deposit per bottle, and five cent  
7    return per bottle, and then it was a one  
8    cent administrative fee -- it was a quarter  
9    of a cent, up to one cent, to start off  
10   with.    So I would think the glass plants  
11   would probably be the processors because  
12   they would want to receive the waste -

13                   DR. SUBLETTE:    You think they  
14   would come pick it up and sort it from all  
15   the other --

16                   MR. SCOTT THOMPSON:    Yes.    There  
17   are provisions in there for the recycling.  
18   You know, like a grocery store wouldn't  
19   have to be a recycling center. (1:15:07)  
20   This wasn't, like, a mandate that everybody  
21   who sold them had to be a recycling center,  
22   it just set up -- that some people could  
23   set up and become recycling centers.    So it  
24   is voluntary to some extent.

25                   They had to collect the money when

1 they sold it and submit that to the Tax  
2 Commission, the way it was structured. But  
3 then the Tax Commission would reimburse the  
4 recycling centers and processors. There  
5 were also some provisions for market value  
6 as it moved from a recycling center to a  
7 processor.

8 DR. SUBLETTE: So is there any  
9 financial incentive for a processor? Or a  
10 convenience store or grocery store? Do  
11 they have any financial incentive? I mean  
12 could you charge five cents per bottle and  
13 refund for it?

14 MR. SCOTT THOMPSON: No. The  
15 refund was based on if you got a full  
16 refund, it was refunded. But there could  
17 be money in there for the handling. Be  
18 reimbursed from the fund. Basically, these  
19 Bottle Bills work on -- not everybody --  
20 not one hundred percent of the bottles come  
21 back. So there is some margin there that  
22 is usually significant, even though it is a  
23 small percentage of the containers. Plus,  
24 you have this administrative fee on top to  
25 make sure you've got enough money to run

1 the program. And so there would be money  
2 that would go to you as a recycling center.  
3 I think they structured it -- it was hard  
4 to follow completely, where the process was  
5 for somebody in this. But if you are a  
6 glass plant as a processor, you made a  
7 profit if you get cheaper feed stock. But  
8 if you are a recycling center, then I think  
9 there is an opportunity to be reimbursed  
10 for some of your handling costs. But you  
11 can market the material to the processor  
12 and work out a separate arrangement for  
13 cost there. At times, depending on market  
14 prices, there might not be value to the  
15 material and the processor might just be  
16 picking it up. At times, if it has enough  
17 market value, there might actually be  
18 profit from the recycling centers selling  
19 it to a processor. It's pretty detailed.  
20 It's - I am not sure that we fully  
21 comprehend exactly how it would work, but  
22 it seemed like a pretty reasonable  
23 approach.

24 DR. SUBLETTE: Well I just hope  
25 there is some financial incentive in there

1 somehow, somehow, to compensate somebody  
2 for sorting and transporting. I mean I can  
3 see if there was, someone who wanted to add  
4 that as a component of their business, but  
5 if they're losing money, and they are  
6 losing time, they are not going to be happy  
7 participants.

8 MR. STEVE THOMPSON: I think  
9 there was this - there was recognition of  
10 that. That's why this Bill anticipated  
11 some convenience centers and recycling  
12 centers and these reverse pop machines that  
13 would be set up by those who would be doing  
14 this business, and that the business model  
15 was such that there was a profit in doing  
16 that. And it took the burden off of the  
17 convenience stores as the place that you  
18 must return it. But that was based on a -  
19 apparently what they believed was a viable  
20 business model that was not ours.

21 DR. SUBLETTE: If the convenience  
22 store is a place to return it, it is by  
23 definition a convenient place to return it;  
24 a place you are going anyway.

25 MR. STEVE THOMPSON: I

1 understand.

2                   MR. DARK:    Madam Chair, in  
3 support of this Bill, I think that the Bill  
4 in general, as a policy setting Board, by  
5 policy, we are taking a right direction in  
6 saying, hey, no risk and probably would  
7 benefit the Bottle Bill.    I have to have  
8 confidence in capitalism to see that it  
9 probably wouldn't -- if it didn't work, it  
10 wouldn't go and we saw an opportunity to  
11 pass this Bill now.    But it would be nice  
12 to have it out there.    I think if the  
13 opportunity avails itself and it was a  
14 win-win, and our job is not to get into  
15 those details, at least not at this point.  
16 And probably would have an opportunity to  
17 comment on those if it does happen.    So  
18 with that, I'd make a motion.

19                   MS. CANTRELL:   Thank you, Mr.  
20 Dark.

21                   MR. DRAKE:    I'll second it.

22                   MS. CANTRELL:    We have a motion,  
23 and we have a second by Mr. Drake.

24                   MR. MASON:    I have some  
25 discussion.

1 MS. CANTRELL: Yes.

2 MR. MASON: And it may be an  
3 observation. What is really weird to me  
4 here is as a child, economic forces were  
5 able to do, but for some reason we have to  
6 legislate now and pay someone a penny a  
7 bottle to do for us. So in my world, we go  
8 back to how we did it when I was a kid.

9 MR. DRAKE: We didn't have a  
10 choice. We had to do it because that's the  
11 way it was. We had the stores we -

12 MR. MASON: My point is though  
13 that returning empty bottles that someone  
14 wants to come and pick up is very different  
15 than what we are talking about here.

16 MR. WENDLING: You know I am just  
17 listening to the details we are talking  
18 about, and from a resolution standpoint, it  
19 seems like we are supporting a certain  
20 mechanism, okay, paying a deposit  
21 mechanism. The question I would have, are  
22 we getting into too much details here, with  
23 something that is still in the works?  
24 Maybe at another session we will be better  
25 suited to support something that is a

1 Recycle Bill to reduce waste and not be  
2 specific about calling out a deposit  
3 mechanism or something like that, just a  
4 general comment.

5 MS. CANTRELL: Thank you, Mr.  
6 Wendling. We had before us, and this goes  
7 to Mr. Wending's question. We had before  
8 us the redline version which takes into  
9 consideration the fact that the Bill as  
10 proposed, did not make it out of committee.  
11 Do we want to, as a Board, do we want to  
12 consider the motion that is on the table or  
13 do we want to accept a - or propose any  
14 friendly amendments to the motion that is  
15 on the table. Mr. Dark.

16 MR. DARK: If I may, in response  
17 to your comment, I agree, I am exactly  
18 where you are at. And had it not been for  
19 Steve watching this Bill pass, and he has  
20 watched a lot of these things die, and we  
21 see one that might have a breath of life in  
22 it. Only for that reason, would I actually  
23 go opposed to what you are saying, and say  
24 we need to, at least, provide some idea of  
25 a mechanism. I certainly wouldn't want to

1 dictate the mechanism. Because as I said,  
2 when it comes back up, we will have a  
3 chance to talk about it, I am certain.

4 MR. STEVE THOMPSON: Fenton, I'm  
5 struggling here. Come here. The question  
6 is - the concern is, there are a couple of  
7 concerns. Does the Resolution have too  
8 much detail relative to an existing Bill,  
9 one? I mean related to a Bill that is not  
10 going forward, I guess.

11 And two, what is the mechanism that  
12 once the material is collected somewhere,  
13 it gets ultimately to the processor that  
14 uses the material?

15 MR. ROOD: Well first of all, let  
16 me point out that this proposal is being  
17 advanced by the glass industry. Because it  
18 represents a cheap source of raw material  
19 for the three plants that are operating in  
20 Oklahoma. And they would be the first to  
21 tell you that they are still negotiating  
22 the proposed provisions with their chief  
23 opponents which are especially the  
24 convenience store operators that don't want  
25 to be the ones that handle the containers.

1                   Secondly, in regards to your  
2 question of how does it get to the  
3 recycling end use? I would argue first and  
4 foremost, economic self-interest. Because  
5 what the deposit mechanism does, is it  
6 aggregates very clean well-separated  
7 materials, and once those materials are  
8 aggregated, whoever is holding them has an  
9 economic interest then in selling them to  
10 the recycling market.

11                   MR. CASSIDY: Madam Chairman, I  
12 just don't understand how we, as a Board,  
13 can pass a Resolution on, first of all, a  
14 Bill that is already dead. And second of  
15 all, we don't know what's in it. Or what's  
16 going to be in it. If we are going to do  
17 it in the future. I don't understand why  
18 we are even taking this much time on it.

19                   MS. CANTRELL: Well, Mr. Cassidy,  
20 thank you. And to answer your question,  
21 what we have on the floor is a motion to  
22 propose a conceptual Resolution to go  
23 forward from the Board saying that in  
24 concept that a Bottle Bill is beneficial to  
25 Oklahoma's environmental initiatives, and

1 is a positive from the Board's perspective  
2 for a number of reasons. And that is the  
3 proposal that is on the floor. The  
4 proposal recognizes that there is no  
5 current Bill before the Legislature, but  
6 there could be opportunities before the  
7 Legislative Session ends, for a proposal to  
8 make its way to the Legislature. Is that  
9 correct? And the proposal that is on the  
10 floor today for consideration by the Board,  
11 is for the Board to be on record saying  
12 that, in concept, it is our perspective  
13 that a Bottle Bill is a positive for  
14 Oklahoma. It is beneficial for the  
15 environment of Oklahoma. Does that answer  
16 your question?

17 MR. CASSIDY: Yes.

18 MS. CANTRELL: Maybe answers your  
19 question, but you still have a - okay.  
20 Any other questions by the Board?

21 MS. SAVAGE: I hope this is not a  
22 non-sequitur, but we think -- when we say  
23 Bottle Bill, we automatically think of soda  
24 pop and glass containers. And very few  
25 people drink soda pop in glass containers.

1 And I did talk to David about this, and  
2 when he first proposed it, when he came up  
3 with the idea, and he told me about that it  
4 was supported by glass manufacturers.

5           The thing is, you know, when we  
6 think of Bottle Bill, you think of taking  
7 your coke bottle back and getting a nickel  
8 back for it. But nobody drinks soda pop -  
9 I shouldn't say nobody, but the vast  
10 majority of people who drink soda pop get  
11 it out of cans, or they get it in plastic  
12 containers. This speaks to what Tony said,  
13 we need something that addresses plastic.  
14 Because plastic is our problem.

15           And the glass factory that wants the  
16 glass, for the most part, if you think of  
17 glass you are thinking of liquor, you are  
18 thinking of Miracle Whip jars, and ketchup  
19 jars, and all kinds of glass. And I am so  
20 in favor of recycling, and I just almost  
21 don't want to sound like I am being  
22 negative here, but I agree that we could  
23 get in trouble if we are talking about a  
24 Bottle Bill without, especially something  
25 that would benefit the -- it's the glass,

1 you know, glass manufacturing wants it. I  
2 think we have to be very careful about what  
3 we are supporting. Because we don't know  
4 in - in the macro, I am in (inaudible)  
5 favor of anything for recycling. But if  
6 it's for, to help support, a company that  
7 is being supported by a specific industry  
8 or corporation, and we don't know all the  
9 facts, I don't know. I don't know if -  
10 these are just my thoughts. I just see  
11 this big container full of really filthy  
12 glass jars being taken to 7-11, and this is  
13 something we supported, so I don't know.

14 MS. CANTRELL: Thank you, Ms.  
15 Savage. Mr. Thompson I believe has some  
16 thoughts on that.

17 MR. STEVE THOMPSON: Again, we  
18 are talking about the prospect of a Bill  
19 that won't be introduced until next  
20 February. So maybe what we can do, with  
21 your approval, is one, go back and -- since  
22 this change has just occurred, work on some  
23 language with David for a Resolution that  
24 sort of addresses these needs.

25 The second thing maybe we can do is

1 to, at the forum at the next Board meeting,  
2 have Fenton talk about the recycling  
3 process and the recycling effort in the  
4 state to give more context to any  
5 Resolution that might come forward. Maybe  
6 if we can educate ourselves about this  
7 issue and then produce a Resolution that  
8 the Board is more comfortable with, for an  
9 issue that won't be addressed for probably  
10 a year. Maybe that is the way to move  
11 forward. That's just a suggestion.

12 MR. DARK: Madam Chair. I would  
13 like to withdraw my motion regarding  
14 approval as it is written, in light of what  
15 Steve and everyone has discussed here. I  
16 still want to see that the staff does  
17 address the plastics issue, and I am not  
18 talking about recycling plastics. I am  
19 talking about a position on plastics. That  
20 is a big piece of paper. That is what I  
21 would like.

22 MR. STEVE THOMPSON: Would you  
23 like for us to work on the Resolution and  
24 provide a forum presentation by Fenton,  
25 too?

1                   MR. DARK:    I think that would be  
2   fantastic, if staff is willing to do it,  
3   that would be great.

4                   MR. DRAKE:    I withdraw my second.  
5   I thought this was so bland that even I  
6   could support it.    But certainly I didn't  
7   anticipate that we would have a conference  
8   on it.    So I will withdraw my second, with  
9   the understanding that we will have some  
10  additional information coming at our next  
11  Board meeting.

12                  MS. CANTRELL:   Thank you.

13                  DR. SUBLETTE:   Just to be clear,  
14  I want to make sure everybody understands  
15  my comments were not negative with regard  
16  to this particular Resolution.    I do see it  
17  a conceptual Resolution, and it basically  
18  says that the Board is in favor of giving  
19  attention to this particular problem.    My  
20  only point is the devil is in the details.  
21  And I am hoping that even if it does become  
22  a Bill, that all these economic factors  
23  that we are talking about here, are going  
24  to be addressed.    Otherwise, it will be  
25  dead in the water when it hits the street.

1 MR. STEVE THOMPSON: And I think educating  
2 ourselves, including me, about this issue  
3 is important. Because you may well see a  
4 provision in a Bill that gets passed that  
5 says something like, based on rules  
6 determined by the Board. So if you are  
7 going to be in rulemaking on this thing,  
8 you need to understand the dynamics of  
9 recycling and we should educate -- Fenton  
10 should educate all of us.

11 MS. CANTRELL: I think that is a  
12 great idea. And where we are now, we have  
13 had motion and second withdrawn. We still  
14 have the Agenda Item.

15 Is there a motion by the Board to  
16 table this Item to our next Board meeting,  
17 with the request that staff be able to talk  
18 to us or speak to the issues that have been  
19 described as Mr. Dark had requested.

20 MR. JOHNSTON: So moved.

21 MS. ROSE: Second.

22 MS. CANTRELL: There is a motion  
23 and a second. Is there any further comment  
24 or questions from the Board?

25 I believe we are ready for our vote

1    then.    Thank you, Myrna.

2                    MS. BRUCE:    Mr. Cassidy.

3                    MR. CASSIDY:    Yes.

4                    MS. BRUCE:    Mr. Dark.

5                    MR. DARK:     Yes.

6                    MS. BRUCE:    Mr. Drake.

7                    MR. DRAKE:    Yes.

8                    MS. BRUCE:    Dr. Galvin.

9                    DR. GALVIN:    Yes.

10                   MS. BRUCE: Mr. Johnston.

11                   MR. JOHNSTON:    Yes.

12                   MS. BRUCE:    Mr. Mason.

13                   MR. MASON:     Yes.

14                   MS. BRUCE:    Ms. Rose.

15                   MS. ROSE:     Yes.

16                   MS. BRUCE:    Ms. Savage.

17                   MS. SAVAGE:    Yes.

18                   MS. BRUCE:    Dr. Sublette.

19                   DR. SUBLETTE:    Yes.

20                   MS. BRUCE:    Mr. Wendling.

21                   MR. WENDLING:    Yes.

22                   MS. BRUCE:    Mr. Wuerflein.

23                   MR. WUERFLEIN:    Yes.

24                   MS. BRUCE:    Ms. Cantrell.

25                   MS. CANTRELL:    Yes.

1                   MS. BRUCE:    Motion passed.

2                   MS. CANTRELL:   Thank you.    And  
3   thank you, Fenton, and thank you for all  
4   the - Jimmy, for all the work that you  
5   have been doing in this effort.    And we  
6   look forward to working with you on the  
7   next Board meeting.

8                   Our next Item on the Agenda is the  
9   Executive Director's Report.

10                  MR. STEVE THOMPSON:   Thank you,  
11   Madam Chairman.

12                  First of all, I want to let the  
13   Board know, acknowledge, one of our Board  
14   Members, Steve Mason, who is the CEO of  
15   Cardinal Engineering, has been named by the  
16   Journal Record, a newspaper in the state,  
17   as one of "Oklahoma's Most Admired CEO's".  
18   So we should congratulate Steve.

19                                            (Applause)

20                  MR. STEVE THOMPSON:   Secondly,  
21   since we met, I think we have made you  
22   aware of a number of changes that are going  
23   on in the leadership of the Agency.   With  
24   the retirement of Jon Craig, Shellie Chard-  
25   McClarey has moved to become the Division

1 Director of the Water Quality Division.  
2 And she moved from the position of Director  
3 of Administrative Services for the Agency.

4           So Wendy Caperton, who was  
5 previously the Director of Planning and  
6 Policy for the Agency, has moved into the  
7 position of Director of Administrative  
8 Services.

9           Catherine Sharp, who was the  
10 Assistant Division Director for the Land  
11 Protection Division, has moved to become  
12 the Assistant Division Director for  
13 Administrative Services.

14           And as Wendy has left the  
15 responsibilities for the Directorship of  
16 Planning and Policy, she has taken with her  
17 some of the annual planning activities that  
18 she was doing in that job. She has taken  
19 with her some of the strategic planning  
20 related to our budget requirements for the  
21 state, with her. And so, she has taken  
22 part of that activity with her.

23           Jennifer Wright, who has been the  
24 Agency's Executive Secretary, has now moved  
25 into a position that we renamed Special

1 Assistant to the Executive Director; and  
2 she, along with some of her previous  
3 duties, has taken over the Legislative  
4 Constituent issues for the Agency. A very  
5 vital role, very important thing, that  
6 Wendy has done in the past. So she has  
7 taken on that responsibility.

8           They are all in place and have been  
9 for a few months. I would suggest that all  
10 of these folks are doing an extraordinary  
11 job, and have gotten their feet on the  
12 ground and taken off running in their new  
13 responsibilities. One of the most  
14 important things that they do, is make me -  
15 - try to make me look good. And we all  
16 understand what a high bar that is.

17           So anyway, we've done some  
18 realignment in the Agency, and I believe  
19 they are working out extremely well.

20           You should have at your place, the  
21 Key Bills that we are tracking. It looks  
22 like this. I want to go over those very  
23 quickly with you.

24           As Jimmy mentioned previously, this  
25 was updated last night, and this morning.

1 We have passed the deadline for Bills to  
2 move out of Committee of the House of  
3 Origin. And so, you will see that a lot of  
4 the Bills, particularly Shell Bills, have  
5 died.

6 The next major deadline is March  
7 11th, where Bills have to be through the  
8 House of Origin, and so we are looking  
9 forward to that next deadline. So if you  
10 will go down the page with me.

11 The first one, the Clean Air Act  
12 Bill is dead because it was a Shell Bill.  
13 The Senate Bill 1678 is our Bill that was  
14 approved by the Board. This is to allow  
15 mutual recognition for Laboratory  
16 Certification Programs that come under the  
17 National Environmental Laboratory  
18 Accreditation Program, national  
19 accreditation. This was really a  
20 recommendation by the Lab Council. The  
21 industrial members and laboratory members  
22 believe that there was a cost saving with  
23 these, to them, with this mutual  
24 recognition in other states. So that Bill  
25 has been through committee, then come off

1 the floor in the Senate, and has gone to  
2 the House for consideration.

3           House Bill 2310, would consolidate  
4 the financial services, including all the  
5 accounting services and all the requisition  
6 services of all the agencies of the state  
7 government, into one group. We find that  
8 idea intriguing.

9           If you will move down, past the  
10 Bills that are dead, to House Bill 3219,  
11 another Bill that I find personally  
12 intriguing, and so should you. This is a  
13 Bill that anticipates that if a Federal  
14 Official takes an action in the state of  
15 Oklahoma, or if a State official takes an  
16 action related to Federal Law in the state  
17 of Oklahoma, they are subject to fine and  
18 imprisonment. If this Bill passes, I am  
19 retiring, and I would strongly recommend to  
20 you, that you resign your position here.  
21 That Bill is - we are tracking it very  
22 closely.

23           The next Bill limits the terms of  
24 Boards and Commissions. It's a Bill, that  
25 in my conversations with the folks that

1 make appointments, invoke the House, and  
2 the Senate, and the Governor have indicated  
3 that it's already somewhat difficult to get  
4 good people to fill these positions, and  
5 maybe shouldn't make it any more difficult.  
6 Another Bill we find intriguing and we  
7 continue to follow.

8           If you move down to House Bill 2844,  
9 this is -- a couple of years ago, the  
10 Legislature passed a Bill for the licensing  
11 of companies that do remediation --  
12 hazardous waste remediation along our  
13 highways. That Bill limited our ability to  
14 license those people to people within the  
15 state of Oklahoma. When that happened, I  
16 came back to Jimmy and said, that is a  
17 violation of Interstate Commerce Laws. And  
18 Jimmy said, well, that's none of your  
19 business, you are just suppose to - I  
20 pouted for a few minutes and then realized  
21 he was right.

22           Anyway, in this particular case,  
23 this expands the opportunity to be licensed  
24 in the state of Oklahoma beyond our  
25 borders.

1           Senate Bill 1695, is a Bill that is  
2   our Bill.   And that Bill now simply  
3   excludes Homeowners Associations from  
4   operating shared sewer systems.   I have a  
5   list in my office of 40 developments in the  
6   state that have as their operating body,  
7   the homeowners association for these shared  
8   systems, all of them in non-compliance, and  
9   all of them with nobody to take care of the  
10  problem -- effectively taking care of the  
11  problems.   Homeowners are sometimes shocked  
12  to find that they are responsible for that  
13  lagoon out there.   And we worked  
14  municipally rural water -- they have to  
15  become a public entity, or a known private  
16  utility, in order to carry out that  
17  function.   And we worked with everybody,  
18  including the Homebuilders Association, and  
19  we have them on board.   So we anticipate  
20  moving forward.

21           Senate Bill 1765 requires a  
22  certification for the construction of  
23  sewage treatment facilities, so that there  
24  is an accountability in the system.   A Bill  
25  that is pretty - no one is opposed to.

1 That Bill has moved through the Senate and  
2 is awaiting action of a Committee by the  
3 House.

4           This next group of Bills requires  
5 the affirmative approval of your rules. In  
6 other words, by the Legislature. Always  
7 before, the Legislature had to  
8 affirmatively disapprove a rule. This  
9 means, that they have to affirmatively  
10 approve the rule. So every rule that goes  
11 before every Board, or Council, in the  
12 state has to come up, I guess, on the  
13 Agenda in the House, or the Senate. And  
14 have to be actively approved by those  
15 bodies. I guess, if they can stand it I  
16 can. They are going to have to look at all  
17 those rules and vote on them. And I just  
18 - we get 2,500 Bills introduced in the  
19 Legislature now, and I don't know how many  
20 rules are going to have to be approved. So  
21 it will be interesting to see. They are  
22 going to have some late nights if that  
23 passes.

24           As we mentioned the Beverage  
25 Container Recycling Act Bills are all dead.

1 There was a move, if you look down to House  
2 Bill 3416, that was a Bill to get tax  
3 credit for Brownfields, a really fine idea.  
4 But I will tell you that anything that has  
5 to do with a tax incentive or a tax credit,  
6 is dying in the Legislature because of the  
7 fiscal issues. I haven't seen one move  
8 forward yet and I don't anticipate they  
9 will. I think the Speaker and the Pro Temp  
10 have said, none of that.

11           If you look at Senate Bill 441, that  
12 is a really simple Bill that allows Ag  
13 tires, on a voluntary basis, to be in the  
14 waste tire recycling program. As with all  
15 Tire Bills, it has become a nightmare.  
16 Because of - this is a subsidy. The tire  
17 program is a subsidy program. And what it  
18 anticipates is that if you live at  
19 Fredrick, or if you live at Bremen, or if  
20 you lived out of the metropolitan areas,  
21 you are going to pay five or six dollars a  
22 tire to get your tire picked up. If you  
23 live in Oklahoma City, it will cost you a  
24 buck. Or a quarter. And what this does,  
25 is equalize the ability to equalize the

1 cost of getting a tire recycled across the  
2 state. And as such, it is a subsidy  
3 program. And as such, it always has a  
4 dozen interest -- interested in getting  
5 some share of the pie. So we are trying to  
6 help the author of this Bill along and work  
7 with processors. I think it will probably  
8 move forward, but as with all Tire Bills,  
9 it will be interesting.

10           If you move to Senate Bill 2241,  
11 this requires you to set meth lab clean up  
12 standards. If I were you, I wouldn't be  
13 too concerned about this Bill because the  
14 meth lab clean up standards are in the  
15 statutory language. So it seems a little  
16 redundant. And we are - I have had some  
17 conversations with the author of the  
18 authors, and so we will see where that gets  
19 us.

20           On the back of the page, they have  
21 recreated the Geologic Carbon Dioxide  
22 Storage Task Force. I am Co-Chair of that  
23 task force along with Lori Rotenberry of  
24 Corporation Commission. There was a  
25 gathering of that group yesterday. There

1 are a couple of ideas that will go forward  
2 as legislation. Some of the issues that  
3 dealt with incentives, and some of the more  
4 controversial issues, I think, there has  
5 been a decision to wait for it another day.

6 And then the rest of these Bills are  
7 Appropriation Bills. Questions about any  
8 of those things?

9 MS. SAVAGE: Could we return just  
10 a moment to 3219?

11 MR. STEVE THOMPSON: No. Of  
12 course, we can.

13 MS. SAVAGE: I have a couple of  
14 questions. We had a discussion in the last  
15 ten years about the definition of an  
16 environmental agency. And everyone thinks  
17 of the DEQ as an environmental agency, but  
18 the Department of Ag is an environmental  
19 agency too, correct?

20 MR. STEVE THOMPSON: This is  
21 directed specifically to our environmental  
22 agencies that operate federal programs.

23 MS. SAVAGE: Do we have meat  
24 inspectors?

25 MR. STEVE THOMPSON: Yes.

1                   MS. SAVAGE:    Is that not a  
2 federal --

3                   MR. STEVE THOMPSON: Yes.

4                   MS. SAVAGE:    And if that comes  
5 under Ag, isn't Ag an environmental agency?  
6 Is she saying --

7                   MR. STEVE THOMPSON:    I don't -  
8 well maybe and maybe not.    If you are a  
9 meat inspector, that is probably food  
10 safety rather than the environment.    But  
11 they do --

12                   MS. SAVAGE:    I thought that was  
13 the USDA, or something, but it's not USDA?

14                   MR. STEVE THOMPSON:    Not  
15 necessarily.    But let me assure you that  
16 there are activities with the Department of  
17 Highways, Department of Transportation,  
18 relative to endangered species.    There are  
19 activities -- the Department of Agriculture  
20 does have cooperative agreements to operate  
21 the CAFO Program with EPA.    It has been my  
22 experience, that if you tell EPA that they  
23 can't do something, they will show you.    So  
24 if you are in the regulated community, that  
25 one of the folks mentioned that -- one of

1 the regulated community that produces a  
2 product that powers our automobiles,  
3 mentioned that the fuel blending is  
4 inspected by the Environmental Protection  
5 Agency, and so what does that mean for that  
6 company, if you can't have a Federal  
7 Inspector review your fuel pumps?

8                   So as I say, we find this intriguing  
9 and we are working with any number of other  
10 people to -

11                   MS. SAVAGE: Well, that's kind of  
12 what I was wondering, are there other  
13 people who -

14                   MR. STEVE THOMPSON: Yes. Yes.

15                   MS. SAVAGE: Okay, that is what I  
16 wanted to know.

17                   MR. STEVE THOMPSON: Questions?

18                   MR. WUERFLEIN: Steve, would you  
19 review for me the difference between a  
20 Title being on or off? That always  
21 confuses me.

22                   MR. STEVE THOMPSON: Oh, yes.  
23 Jimmy probably does a better job of this,  
24 but really what taking the Title off is  
25 just a parliamentary activity that says

1 that this Bill can't ultimately pass until  
2 you have an amendment to restore the Title.  
3 So often, what you have is a work in  
4 progress. Something that is a work in  
5 progress or something that may not  
6 necessarily -- may not end up being a  
7 Statute. They take the Title Off, people  
8 do work on the Bill - let's say it's a  
9 work in progress.

10 MR. WUERFLEIN: So early in the  
11 Session, it really doesn't have a whole lot  
12 of bearing on the progress itself.

13 MR. STEVE THOMPSON: But  
14 ultimately, there are different interests  
15 on a Bill, and you don't satisfy all of  
16 those interests. You have to actively have  
17 a vote to restore the Title before the Bill  
18 becomes law. So it's a way of giving  
19 comfort to people that this bill - the  
20 Title has to come back on it, before it  
21 moves forward.

22 MR. DARK: After a Shell Bill  
23 that -- this is a next step -

24 MR. STEVE THOMPSON: That is  
25 right. Is that a fair assessment of it,

1 Jimmy?

2 MR. GIVENS: I think the simplest  
3 way to explain it is that typically, a  
4 Title is stricken in the House of Origin.  
5 Starting in the Senate (inaudible) --  
6 starting in the House, it will be stricken  
7 in the House. And it's a way to guarantee  
8 to that body, that, that, Bill will come  
9 back to them.

10 MR. STEVE THOMPSON: So it's just  
11 a way to let people work on a bill and give  
12 comfort that it is -- a lot of things have  
13 to happen with the Bill before it actually  
14 becomes law.

15 Any other questions about that?.  
16 Okay.

17 Moving to the budget. We, I guess -  
18 - it has been determined that our budget  
19 cut for this year will annualize be seven  
20 and a half percent, unless we have a  
21 shortfall. But it will be seven and a half  
22 percent for this year, which is what I  
23 think we anticipated when we met in  
24 November, we talked through those issues.  
25 The 2011 budget, we believe will be worse.

1 We still have some funds that they can use  
2 -- unless there is a significant upswing in  
3 the economy, there is some money, stimulus  
4 money, rainy day money, that can still be  
5 used in 2011 budget. We just will continue  
6 to work with the Legislature to see where  
7 we are for the coming budget year. Things  
8 are really going to have to change, or it  
9 will be beyond what we've taken. I would  
10 assume that it will be beyond what we have  
11 taken so far.

12 I will also tell you that we made a  
13 commitment. The Agency made a commitment  
14 that we would not make fee cases for the  
15 Councils and for you because I think  
16 everybody in this economy is probably  
17 struggling. And we have made a commitment  
18 to struggle along with them. But if this  
19 budget cut becomes significant in the out  
20 year, then we may have to think about some  
21 fee cases. Just a heads up to everybody  
22 about that.

23 We have been asked by the  
24 Environmental Protection Agency to list our  
25 three major - three issues, high profile,

1 or priority issues for us. We have named  
2 -- EPA is moving to -- is revisiting the  
3 Ozone Standard. They are revisiting based  
4 on the notion that EPA should follow the  
5 advise of the Clean Air Science Advisory  
6 Committee who when this -- when the  
7 standard was set at .075, recommended a  
8 standard between .060 and .070. We don't  
9 know where they are going to set that  
10 standard, but we are -- they are guessing,  
11 I guess, based on the conversations we have  
12 had with them, that will either be .066,  
13 .068, or .070.

14 In any event, absent an act of God,  
15 both Oklahoma City and Tulsa will be in  
16 nonattainment. It's on a schedule -- the  
17 most interesting piece of this schedule, I  
18 think, will be the fact that the Governor  
19 will need to designate the areas of  
20 nonattainment in January of next year. You  
21 might recall that in November, we are going  
22 to have an election. And we are going to  
23 have a new Governor. So sometime between  
24 the election of that Governor, and January  
25 of 2011, we have got to get to the new

1 Governor and say, you have got to designate  
2 these areas. And the guidance for that is  
3 very much delayed, and we are working with  
4 EPA on this issue. But that is going to be  
5 a big thing for us. We thought at .0752,  
6 we would be in nonattainment, and we were  
7 very fortunate to have good weather, and a  
8 lot of things. But we are at -- even at  
9 .070, we are done.

10 The other issue that we are working  
11 with is the Illinois River, TMDL, that is  
12 being done by EPA.

13 Third item is related to the budget.  
14 We have said to EPA, there isn't any money  
15 for program administration, so how are we  
16 going to solve that problem?

17 MR. JOHNSTON: (Inaudible).

18 MR. STEVE THOMPSON: We are going  
19 to try to elevate that issue.

20 I wanted to call particular  
21 attention to the work that has been done on  
22 the American Recovery and Reinvestment Act  
23 or the Stimulus Funding. That Bill was  
24 passed on February 17th, or signed by the  
25 President on February 17, 2009, and gave us

1 and the Water Board one year to distribute  
2 the 31.4 million dollars in drinking water  
3 money and the 31.4 million dollars in Clean  
4 Water Act money in that year. Well not  
5 only did we do that, the people in Water  
6 Quality did that. They did it a month and  
7 a half ahead of schedule. The relatively  
8 small state, by leveraging money that was  
9 in the existing revolving account, the  
10 relatively small state of Oklahoma, was  
11 seventh in the country in the amount of  
12 infrastructure financing that occurred in  
13 the state. And we, along with Alabama, and  
14 Maryland, were the first state in the  
15 country to get the work done. And that is  
16 incredible. But it is indicative -- in my  
17 mind, it is indicative of the work that  
18 goes on by the employees of the Department  
19 of Environmental Quality. It is an  
20 extraordinary thing, but it is indicative  
21 of the work that gets done here.

22           And I am going to pay for this one,  
23 but when I see bills that say we can make  
24 government better. I don't know how in  
25 the world you make it better than what we

1 are doing right here. Of course, my job, I  
2 do my job well too, these people do all  
3 that work and I get to run around taking  
4 all the credit for it. Which I am very  
5 good at, but I think what those folks did  
6 is extraordinary and I am very proud of  
7 that.

8 (Applause)

9 MR. STEVE THOMPSON: Okay. A  
10 couple more things. You gave us the option  
11 that we should have, in November, a Board  
12 meeting in either Tulsa or Stillwater.  
13 That is what you told us. So we were all  
14 set to have a meeting in Tulsa, and then  
15 somebody in the Agency popped up and said,  
16 well, you know, you are having the meeting  
17 in Norman this year. So we will be meeting  
18 in Stillwater for our November meeting.

19 And the other thing is, that over  
20 the past several years, we have not had a  
21 meeting in June. We received some money to  
22 distribute to folks for Brownfields work.  
23 But because of the inclement weather, the  
24 Hazardous Waste Council that had to develop  
25 rules for us giving away the money, hasn't

1 had a chance to meet. So they are meeting  
2 in April and the deadline for getting this  
3 work done is July. So we will have to have  
4 a meeting in June. That meeting happens to  
5 be in El Reno. I will tell you in advance,  
6 that the people in El Reno will not always  
7 tell the truth. Particularly, about the  
8 way I acted in my youth. So if you hear  
9 anything like that, you should just ignore  
10 it. But we will be having meetings on June  
11 the 15th in El Reno, and on November the  
12 16th in Stillwater.

13 Jimmy, is there anything I have  
14 forgotten?

15 MR. GIVENS: Just to clarify, we  
16 do have the August meeting.

17 MR. STEVE THOMPSON: Oh, yes, we  
18 will have that one too. That is the one in  
19 Norman, we're not going to miss that one.

20 DR. GALVIN: I have a quick  
21 question, I just want to make sure that the  
22 Stillwater meeting, that we are having that  
23 on campus at the ConocoPhillips Alumni  
24 Center. I get a double hit or double  
25 points for that.

1 (Multiple inaudible conversations)

2 MR. STEVE THOMPSON: It has been  
3 reserved and we are staying at the --  
4 whatever that hotel is, motel or whatever  
5 it is you have there. I plan to be there  
6 for the meeting.

7 (Multiple inaudible conversations)

8 MR. STEVE THOMPSON: Madam  
9 Chairman, I probably have said more than I  
10 should have.

11 MS. CANTRELL: Thank you, Mr.  
12 Thompson. Well, we are now down to Item 12  
13 which is new business, defined as any  
14 matter that is not known about, and which  
15 could not have been reasonably foreseen  
16 prior to the posting of the Agenda. Any  
17 new business today for the Board?

18 MR. WUERFLEIN: Madam Chairman.  
19 It was brought to my attention last night  
20 that this Board meets at 9:30 in the  
21 morning because one of the earliest  
22 Chairmans couldn't make it at 9:00 o'clock.  
23 Why don't we start at 8:30 or 9:00 and be  
24 done by noon, as we always seem to be  
25 dragging past the lunch hour. I just

1 thought I would bring that up for future  
2 scheduling consideration.

3 MS. CANTRELL: Well, while we  
4 have everybody present, is there anybody  
5 opposed to starting at 9:00 as opposed to  
6 9:30?

7 (Multiple inaudible conversations)

8 MR. CANTRELL: Okay, thank you,  
9 Mr. Wuerflein. Let's move then now to the  
10 -- I think Steve has already reminded  
11 everybody, the next meeting is in El Reno;  
12 August, Norman; November, Stillwater; and  
13 with that, I believe we are adjourned.  
14 Thank you all for joining us today. We do  
15 not have anybody signed up for the Public  
16 Forum. Nobody signed our list, so there  
17 will be no Public Forum today in Oklahoma  
18 City.

19 Thank you all very much for coming.

20 (February 2010 Board Meeting Concluded)

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